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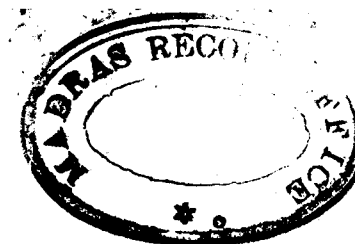
Government of Madras.

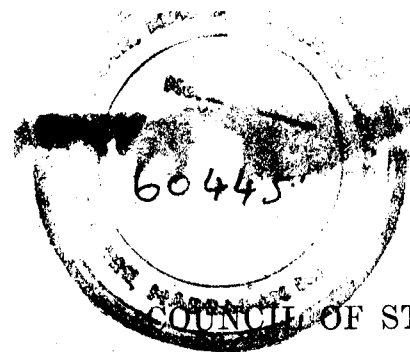
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Wednesday, the 24th January, 1922

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President (Sir ALEXANDER MUDDIMAN, Kt., C.S.I., C.I.E.) was in the Chair.

MEMBERS SWORN:

- The Honourable Mr. Purshotamdas Thakurdas, C.I.E., M.B.E. (Bombay: Nominated Non-Official).
- The Honourable Mr. David Thomas Chadwick, C.I.E. (Commerce Secretary).
- The Honourable Mr. Henry Telford Stonor Forrest (Bihar and Orissa: Nominated Official).
- The Honourable Mr. James Crerar, C.S.I., C.I.E. (Home Secretary).
- The Honourable Mr. Montagu Sierard Dawes Butler, C.B., C.I.E., C.V.O., C.B.E. (Education Secretary).

DEATH OF THE HONOURABLE MAUNG PO BYE.

The HONOURABLE THE PRESIDENT: I regret to have to report to the Council that since we last met we have sustained a loss by the death of the Honourable Maung Po Bye, who was the representative in this Council of the Burma Province. Till he was prevented from attending this Council by ill-health, I think he was probably one of our most popular Members. His burly figure, his picturesque attire, his considerable power of eloquence, which was always seasoned by a sense of humour, made him a distinct personality, and the Council is poorer for the loss of his genial presence. Before he joined us on the Council he was an officer in the service of Government, and he gave up his well-earned rest on retirement to come forward and take part in public life at a time when to do so in Burma required a certain amount of courage. A further real sacrifice was the voyage from Burma, which he often told me was a source of extreme discomfort to him. Apart from his work on this Council he served as a member of Sir Frederick Whyte's Committee which framed the new constitution for Burma. In fact, I think I am justified in saying that his latter years were entirely devoted to the prosecution of the best interests of the Province of which he was so proud. It may be within the recollection of some of you that on the last occasion when he addressed this Council he made what I think we all felt to be a very powerful appeal on behalf of

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Burma. He made it, as you may remember, under circumstances of great physical distress; in fact he had to obtain the special permission of the Chair to address the Council while seated. I cannot help thinking he himself would have liked to have thought that this was his last action in this Council. I am sure it is the unanimous wish of this Council that I should cause to be communicated to his widow and children our sincere sympathy in their sad loss.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): This is a sorry occasion and I feel that I should associate myself, as I believe everybody in this House does, with what has fallen from the Honourable President. The Honourable Mr. Maung Po Bye came a long distance and he used to have to travel a full week before he got to Delhi, and in the state of his health the fact that he undertook this long journey was itself a subject of admiration to me. I had the honour to sit very near to him, and in his failing health he was unable to say much, yet he managed to make that appeal to which the Chair has graciously referred. I think we really are poorer for his departure in this respect that he brought to us a great deal of his personal experience both from the inside the administration and outside the administration. He was a very careful critic and also a very careful student on both sides, and therefore I suppose we shall always feel the loss caused by his passing on. I hope this message of grief will be communicated to his family.

The HONOURABLE THE PRESIDENT: I think I may take it that it is the unanimous wish of the House that I should act in the direction I indicated.

GRANT OF HONOURS TO MEMBERS.

The HONOURABLE THE PRESIDENT: Before we proceed to the business of the day there remains one duty of a pleasant character, and that is to convey the congratulations of the Council to those of its Members who have been honoured by the King-Emperor on the 1st of January. In that connection I first mention the officer of the Finance Department who so ably assists us in the many financial discussions we have in this House, I refer to the Honourable Mr. Cook. I am sure the House will wish to congratulate the Honourable Mr. Cook on his well-earned C.S.I. (Applause.) There is another Honour, but unfortunately the recipient is not here. I refer to the dignity of Nawab which was conferred on the Honourable Major Muhammad Akbar Khan of Hoti Mardan. We are all pleased to see his services have been rewarded. Last but not least is the Knighthood conferred on our Secretary. I have every reason to know how well deserved that is. Not only from his work in connection with this Council, but from association with him for many years in another sphere of activity. Sir Henry Moncrieff Smith commands the respect and regard of all those who have ever worked with him. I am sure the Council will desire to congratulate him most heartily. (Applause.)

The HONOURABLE MR. E. M. COOK (Finance Secretary): Mr. President, among the many congratulations I have received, there are none that I value more highly than those of you, Sir, and my Honourable Colleagues here.

QUESTIONS AND ANSWERS.

CONTRACT FOR PRINTING POSTAGE STAMPS.

1. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (i) What were the original rates paid to Messrs. De la Rue and Company for their ten years' contract from 1915, for printing postage stamps?

(ii) In what years did Messrs. De la Rue and Company apply for increased rates and what increases did they ask for?

(iii) From what month and year were the increases sanctioned and what percentage of increase was given?

(iv) What is the approximate value of the contract?

The HONOURABLE MR. D. T. CHADWICK: (i) The rates are embodied in three schedules to the contract with Messrs. De la Rue and Company, the reprinting of which in the official report will involve considerable expense to which I am sure the House will not wish the Government of India to go. But the contract is available in my office for inspection by the Honourable Member or any other Honourable Member of this House.

(ii) In July 1917 and again in December 1919, Messrs. De la Rue and Company asked for such increased rates as, in view of the great rise in the prices of materials and labour, would make their contract just remunerative.

(iii) It was agreed to pay Messrs. De la Rue and Company the proved extra cost of paper and packing cases from the beginning of the war (less £1,000 a year) and to make an allowance in respect of the extra cost of labour and materials (other than paper) in respect of all articles supplied subsequent to the 1st January 1919. These extra payments amount to an increase of 57 per cent. over the original rates.

(iv) The annual value of the contract for the last three years is as follows:

	£
1 20-21	369,346
192 -22	338,805
1922-23 (Budget)	285,500

The HONOURABLE LALA SUKHBIR SINHA: Is it not possible to have these postage stamps printed in India?

The HONOURABLE MR. D. T. CHADWICK: There is an officer at present inquiring into this matter and the cost thereof.

SANDHURST AND DEHRA DUN MILITARY COLLEGES.

2. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will Government kindly lay on the table of the Council the present rules for the selection of candidates for admission to the Royal Military College, Sandhurst, and the new Military College opened in Dehra Dun?

(b) Will they also kindly lay on the table such rules for the selection of candidates for admission to different military schools newly opened in India?

(c) Will they state what is the present number of students in the Dehra Dun Military College and in the different military schools?

(d) For what offices are students passing out of Dehra Dun Military College and military schools likely to qualify?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) The Honourable Member will be furnished separately with a copy of the "Provisional regulations for the admission of Indian gentlemen to the Royal Military College, Sandhurst". The conditions for the admission to the Prince of Wales' Royal Indian Military College, Dehra Dun, have been published in a memorandum, a copy of which I place on the table of the House.

(b) No new military school, other than the one at Dehra Dun, has recently been opened in India. As my Honourable friend must be aware, however, His Royal Highness the Prince of Wales laid the foundation stones last year of certain schools which are intended to provide special educational facilities for the sons of Indian officers and soldiers. The construction of these schools is for the time being delayed by financial difficulties.

(c) The number of students at present in the Dehra Dun College is 37. It is hoped that this number will shortly be increased to 52.

(d) Cadets passing satisfactorily out of Dehra Dun will proceed to Sandhurst in order to qualify for King's Commissions in the Indian Army.

In the interests of candidates who may fail to secure entrance to Sandhurst, it is under consideration to negotiate with Indian universities for the recognition of the Dehra Dun college leaving certificate as the equivalent of the Matriculation Examination but the education at Dehra Dun is not intended to qualify students for any special employment other than an army career.

Information respecting conditions of admission to the Prince of Wales's Royal Military College, Dehra Dun.

I.—METHOD OF OBTAINING COMMISSIONS IN THE INDIAN ARMY.

1. Indian candidates for King's Commissions in the Indian Army are at present required to pass through the Royal Military College, Sandhurst, England.

2. To enable them to profit fully from a course of study at the Royal Military College and so to qualify for commissions, it is necessary that their preparation for entry to the College should be of a kind that it is difficult at present to obtain in India.

3. During the Delhi session, 1921, of the Legislative Assembly, His Excellency the Commander-in-Chief accepted, on behalf of the Government of India, a resolution proposing "that adequate facilities should be provided in India for the preliminary training of Indians, to fit them to enter the Royal Military College, Sandhurst."

4. The Government of India accordingly, with the sanction of the Secretary of State for India, have established at Dehra Dun a college designed to provide the necessary preliminary training for entry to the Royal Military College, Sandhurst.

II.—PRINCE OF WALES'S ROYAL INDIAN MILITARY COLLEGE.

5. His Majesty the King-Emperor has been graciously pleased to approve the proposal that the institution shall be known as the Prince of Wales's Royal Indian Military College.

6. The College will be under the direct control of His Excellency the Commander-in-Chief in India.

7. The College will provide a public school education on English lines for Indian youths who desire subsequently to enter the Royal Military College, Sandhurst, with a view to obtaining commissions in the Indian Army. It is intended for those who wish to make the Army their profession in life, and parents or guardians of candidates will be required to furnish a declaration to this effect. The course of study at the College will, however, be such that, should a boy fail in the examination for entrance to the Royal Military College, Sandhurst, he will be in as good a position to pass the university entrance examination as if he had been educated at an ordinary school.

III.—REGULATIONS FOR ADMISSION.

8. The College was formally opened by His Royal Highness the Prince of Wales on March 13th, 1922. The total number of students who can be in residence the first year is 40, thereafter more will be admitted as accommodation becomes available.

The number of students who will be admitted to the College each term will be notified to Local Governments and Administrations.

The limits of age for admission to the College will be from 12 to 13 years.

No candidate over 13 years of age will be admitted, and preference will be given to those candidates who are not over 12½ years of age.

Candidates will be accepted from:—

(a) Provinces of British India.

(b) Indian States (nominated by His Excellency the Commander-in-Chief).

(c) Sons of Indian Officers of good service specially nominated by His Excellency the Commander-in-Chief.

9. The allotment of vacancies will be determined mainly in consideration of the numbers of the male population of each province and of its contribution in man power to the Army from the outbreak of the Great War to the present time.

10. No students from the College will be sent up for the Sandhurst Entrance Examination until April 1923, when the senior candidates will appear for examination.

11. Applicants for vacancies under 8 (a) and 8 (c) must submit their applications to the Local Government or Administration within whose jurisdiction they ordinarily reside. Applications for the vacancies under 8 (b) must be submitted to the Local Political Officer.

12. For vacancies under 8 (a) the nominations will rest with the Local Government or Administration concerned; for vacancies under 8 (b) and 8 (c) the nominations will be made by His Excellency the Commander-in-Chief on the recommendation of the Local Government or Administration or the Political Officer, as the case may be.

13. The local authorities referred to in rule 11 should forward all applications received by them, together with their nominations or recommendations, as the case may be, to the Secretary to the Government of India, Army Department, so as to reach him not later than 1st July and 1st December annually. It will be necessary for the local authorities to fix a date by which all applications should reach them.

14. The nominating or recommending authority should satisfy itself that the scholastic attainments of those applicants whom it nominates or recommends are such as to justify an expectation that, if they were to continue their present course of studies, they would pass the University Matriculation, High School Leaving Certificate Examination, Chiefs' College Diploma Examination, or any examination that is officially recognised as the equivalent of the above, by the time they attain the age of 17 years. Special attention should be paid to the attainments of candidates in English and Mathematics. Their general intelligence should, if possible, be tested by a few questions in their mother tongue. For the purpose of these tests, it would be desirable to take into consultation an officer of the Indian Education Service or of the Staff of a Chiefs' College. No written entrance examination will be held.

15. The nominating authorities, before making their final nominations, should consult one or more responsible unofficial Indians who may be in a position to give useful advice, and also an officer of the Indian Army, preferably the General Officer Commanding a District, and in any case an officer not below the rank of Lieutenant-Colonel.

16. A Political Officer, when forwarding applications received by him for vacancies under paragraph 8 (b), should make his own recommendations and, in case he is able to recommend more than one applicant, should state the order of preference in which he recommends them.

17. Local Governments and Administrations should, before submitting their recommendations for vacancies, under paragraph 8 (c), obtain the opinion of the General Officer Commanding the Military District in which the applicant ordinarily resides as to the applicant's merits and suitability, and should forward this opinion with their recommendations.

18. No candidate should be nominated or recommended unless he is certified by a fully qualified medical practitioner to be physically fit in all respects.

19. A student may at any time be removed from the College by order of His Excellency the Commander-in-Chief if it is considered that he is not making satisfactory progress in his studies.

20. The fees for students admitted under rule 8 (a) and 8 (b) will be Rs. 1,500 for each school year. This is a privileged rate and is liable to enhancement hereafter, if circumstances require. No enhancement, however, will be made in the fees payable by the first batch of candidates. These fees will include tuition, messing, school servants, washing and mending, and medical attendance of the ordinary kind, and, as initial provision, one suit of the uniform to be worn by students when at the College.

21. The fees to be paid by students admitted under rule 8 (c) will be determined by His Excellency the Commander-in-Chief in each particular case.

IV.—MISCELLANEOUS.

22. *Messing*.—One general mess will be maintained. All students will be required to mess together. Special care will be taken that no food is served in the mess which could, in any way, offend the religious susceptibilities of any student.

HIGH COMMISSIONER FOR INDIA.

3. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will the Government kindly state whether or not they have filled up the vacancy in the post of High Commissioner for India in England caused by the death of Sir William Meyer?

(b) If not, will they kindly state whether they contemplate the filling of the post by an Indian?

The HONOURABLE MR. D. T. CHADWICK: The Government of India are not yet in a position to make an announcement.

The HONOURABLE SAIYID RAZA ALI: Are the Government aware that Mr. Montagu contemplated that the successor of Sir William Meyer should be an Indian?

The HONOURABLE MR. D. T. CHADWICK: I am not aware of the exact portion of the Right Honourable Mr. Montagu's speech to which the Honourable Member refers, but the Government of India are well aware of the feeling in this country that an Indian should be appointed to the post.

INDIAN COMMERCIAL SERVICE.

4. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) With reference to question No. 78, asked by me on 13th February, 1922, will Government kindly state whether the formation of the proposed Indian Commercial Service has been decided upon?

(b) Will they kindly state what are to be the functions of this service and how is it to be recruited?

The HONOURABLE MR. D. T. CHADWICK: (a) and (b). The formation of an Imperial Commercial Service has been deferred owing to the present financial stringency.

PUBLIC SERVICE COMMISSION.

5. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government kindly state whether it is under contemplation to appoint a new Public Service Commission?

The HONOURABLE MR. J. CRERAR: Government hope to be in a position to make a statement on the matter in connection with the Resolutions which are in the List of Business for to-morrow.

HOME DEPARTMENT CIRCULAR re IMPERIAL SERVICES.

6. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government kindly state whether replies of Local Governments to the circular letter of the Home Secretary to Government of India, regarding the eventual stoppage of recruitment to Imperial Services in Great Britain, have been received? If so, will they kindly lay them on the table of the Council?

The HONOURABLE MR. J. CRERAR: The replies of all the Local Governments have not yet been received. Government cannot at present give any undertaking to lay the correspondence on the table of the Council.

PETROL TAX.

7. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government kindly state whether no tax is levied on petrol exported from ports in the Indian Empire? If the answer be in the affirmative, will the Government kindly state why export duties have not been levied on the export of petrol?

The HONOURABLE MR. D. T. CHADWICK: I would refer the Honourable Member to the reply given to the Honourable Mr. Sethna's question, No. 9, dated the 6th September 1922.

WORKMEN'S COMPENSATION BILL.

8. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government be pleased to state if the Insurance expert, who helped at the deliberations of the Committee in connection with the Workmen's Compensation Bill, was sent out by any Insurance Association or he came on the invitation of the Government of India? If the latter, will Government please state the amount paid in connection with his visit?

The HONOURABLE MR. D. T. CHADWICK: The expert was sent out by the Accident Offices Association. He received no payment from Government for the assistance which he rendered.

RAILWAY CONCESSION TICKETS.

9. The HONOURABLE LALA SUKHBIR SINHA: In view of the fact that railway fares have recently been increased by 25 per cent., will Government be pleased to state whether it is under their contemplation to introduce the system of return tickets of six-monthly and other return and concession tickets on reduced rates that was stopped during the war?

The HONOURABLE MR. D. T. CHADWICK: The introduction of concessions of this kind is within the competence of Railway Administrations and the Government have no doubt that these Administrations are fully alive to the desirability of restoring them as soon as circumstances permit. They will bring the matter to the notice of Agents of Railway Companies.

CENTRAL COTTON COMMITTEE.

10. The HONOURABLE LALA SUKHBIR SINHA: Will the Government be pleased to state whether it is a fact that there is a permanent Central Cotton Committee and, if so, to mention the names of members and their duties which they have to perform?

The HONOURABLE MR. B. N. SARMA: Yes. The attention of the Honourable Member is invited to the Government of India, Department of Revenue and Agriculture Resolution No. 404-22, dated the 31st March 1921, announcing the formation of a Central Cotton Committee with headquarters at Bombay. The Resolution is reproduced in Appendix I to the first annual report of the Secretary to the Committee, copies of which have been supplied to all Members of the Council of State and the Legislative Assembly. Four representatives of the cotton growers in Madras, the Central Provinces, United Provinces and the Punjab have recently been added to the Committee. The Committee is intended to be a permanent institution and its functions are indicated in paragraph 3 of the Resolution mentioned above and on page 6 of the Secretary's Annual Report. A list of the names of the members of the Committee is laid on the table.

List of Members of the Indian Central Cotton Committee.

1. S. Milligan, Esq., M.A., B.Sc., Agricultural Adviser to the Government of India, Pusa, President.
2. C. G. Freke, Esq., Director General of Commercial Intelligence, Calcutta.
3. The Honourable Mr. Lalubhai Samaldas, C.I.E., Co-operative Representative.
4. C. A. H. Townsend, Esq., I.C.S., Director of Agriculture, Punjab.
5. Dr. D. Clouston, C.I.E., Director of Agriculture, Central Provinces.
6. Dr. H. H. Mann, Director of Agriculture, Bombay, Poona.
7. T. F. Main, Esq., Deputy Director of Agriculture, Sind.
8. A. McKerral, Esq., Deputy Director of Agriculture, Burma.
9. Dr. H. M. Leake, M.L.C., Director of Agriculture, United Provinces.
10. G. R. Hilson, Esq., Cotton Specialist, Madras, Coimbatore.
11. V. A. Grantham, Esq., Deputy Chairman, Bombay Chamber of Commerce.
12. J. A. Kay, Esq., Chairman, Bombay Millowners' Association.
13. The Honourable Mr. Purshottamdas Thakurdas, C.I.E., M.B.E., Indian Merchants' Chamber, Bombay.
14. W. Ellis Jones, Esq., East India Cotton Association, Limited, Bombay.
15. Seth Mangaldas Girdhardas, M.L.C., President, Ahmedabad Millowners' Association.
16. F. G. Travers, Esq., Karachi Chamber of Commerce.
17. S. B. Mehta, Esq., C.I.E., Central Provinces Commercial Representative.
18. N. A. Dravid, Esq., M.L.C., Central Provinces Commercial Representative.
19. H. P. M. Rae, Esq., Madras Commercial Representative.
20. G. Z. Meli, Esq., Tuticorin Chamber of Commerce.
21. H. Horsman, Esq., Upper India Chamber of Commerce.
22. Rai Bahadur Seth Prabhu Dayal, M.B.E., Punjab Commercial Representative.
23. B. K. Lahiri, Esq., Bengal Representative.
24. Mazhar Husain, Esq., Director of Agriculture, Hyderabad.
25. Shankarrao Madhavrao Pagar, Esq., M.A., Ph.D., Director of Commerce and Industries, Baroda.
26. A. Howard, Esq., C.I.E., Imperial Economic Botanist, nominated by the Rajputana and Central Indian States.
27. Dr. R. L. Pendleton, B.Sc., Ph.D., Representative, Gwalior State.
28. W. Roberts, Esq., Representative of the Empire Cotton Growing Corporation.
29. Rao Sahib V. G. Kulkarni, M.L.C., Representative of Cotton Growers, Central Provinces.
30. The Honourable Sardar Jogendra Singh, Representative of Cotton Growers, Punjab.
31. M. R. Ry. R. Appasami Nayudu Garu, M.L.C., Representative of Cotton Growers, Madras.
32. The Honourable Khan Bahadur Nawab Muhammad Muzammil Ullah Khan, Q.B.E., Representative of Cotton Growers, United Provinces.
33. B. C. Burt, Esq., B.Sc., M.B.E., F.C.S., Secretary.

SACRED OXEN.

11. The HONOURABLE LALA SUKHBIR SINHA: (a) Will Government be pleased to state whether there are any rules for the prohibition of

slaughter of sacred bulls and buffaloes dedicated by the Hindus and for not using them in carts or ploughs by any body or individual?

(b) If so, will Government be pleased to lay them on the table?

The HONOURABLE MR. B. N. SARMA: The answer to both parts of the question is in the negative. So far as the Government of India are aware, the sacred animals referred to are never slaughtered or used in the manner indicated.

INCOME TAX PAYMENTS.

12. The HONOURABLE LALA SUKHBIR SINHA: (a) In connection with my question asked in the meeting of the 6th September 1922, will Government be pleased to state the total number of returns Nos. 7 and 6 filed by the assessee, and how many out of them were accepted by the Income-tax Officers as correct for assessment in each province?

(b) Is any importance attached to these returns in making assessments even after declaration of the assessee on oath that it contains the correct information to the best of his knowledge?

(c) Is it a fact that when an assessee fails to make a return or produce account he is assessed arbitrarily at double or three times the original amount on which the assessment stood in the previous year, and, if so, in how many cases in each province this procedure has been followed?

The HONOURABLE MR. E. M. COOK: (a) The total number of returns of income in each province is not known. Inquiries are, however, being made and information will be duly communicated to the Honourable Member. It is not proposed to call for any information regarding the number of such returns that were found to be correct, as this would involve an examination of every income-tax file in India.

(b) Yes.

(c) There is no such general practice as the question implies.

PAY AND ALLOWANCES ON O. AND R. RAILWAY.

13. The HONOURABLE LALA SUKHBIR SINHA: (a) Will the Government be pleased to state if it is a fact that in the Oudh and Rohilkhand Railway the permanent running staff gets double pay and double allowance for gazetted holidays, casual as well as privilege leave, while the permanent station staff gets none even when it has to go about on duty?

(b) Whether it is a fact that the running staff is allowed rest rooms in place of quarters allowed to the permanent station staff?

(c) Do Government propose to remove these inequalities?

The HONOURABLE MR. D. T. CHADWICK: (a) The Traffic Running Staff on the Oudh and Rohilkhand Railway do not get double pay and double allowances while on duty on gazetted holidays and on casual as well as on privilege leave. They get the same leave privileges as the station staff. But they are allowed an extra day's pay for working on Sundays and on certain specified holidays, viz., Christmas Day, New Year's Day, the King-Emperor's Birthday and Good Friday, in consideration of the fact that they have to be away from their homes on these special occasions while the station staff are always at their own headquarters.

(b) The Running Staff are not allowed rest rooms in place of quarters. At stations forming the end of a run certain rooms known as "Running Rooms" are provided where Running Staff stop for the time they have to wait to work back trains to their headquarters. On the other hand the Running Staff have to pay rent for residential quarters if provided with residential quarters while such of the station staff as are liable to be called to duty at any hour are provided with rent-free quarters.

(c) From the facts which have just been mentioned it will be seen that there is no inequality or unfair treatment accorded to the station staff.

The HONOURABLE SAIYID RAZA ALI: With reference to the reply given to part (a) of the question, are Indian members of the Running Staff allowed any allowances for working on Hindu and Mussulman Holidays?

The HONOURABLE MR. D. T. CHADWICK: I believe that the extra day's pay is restricted to the days which I have mentioned in order that those who perform those duties should be treated in the same manner.

MILITARY DAIRIES.

14. The HONOURABLE MR. LALUBHAI SAMALDAS: Will Government be pleased to state—

- How many dairies are there under the control of the Quarter Master General?
- The income and expenditure per year of all these dairies from establishment till 1921?
- Whether this expenditure includes interest on capital expended and depreciation and sinking funds on buildings and plants?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) The number of dairies is as follows:

Permanent dairies	25
Temporary dairies	8
Young stock farms	3
Creamery	1

(b) Previous to the year 1912-13, Grass and Dairy Farms were run as combined institutions and departmental accounts for the period prior to that year are not now in existence. With effect from the year 1912 the present system of accounts was started, all stocks, buildings, etc., were re-valued, and the value brought on to the books. The income and expenditure of the dairies from 1912-13 are given in the statement which I hereby lay on the table of the House.

(c) The expenditure does not include interest on capital, but does include the capital value of all sums written off, i.e., the cost of all articles of capital value expended, the value of casualties in the stock, etc. It also includes the depreciation on all live stock, buildings, plant, as well as the rent for lands occupied, all administrative charges, together with a proportion of the cost of the staff employed at Army Headquarters.

Statement showing income and expenditure on military dairies since 1912-13.

Year.	Income.	Expenditure.
	Rs.	Rs.
1912-13	26,58,535	31,77,486
1913-14	28,45,861	32,21,908
1914-15	29,77,045	33,98,216
1915-16	32,74,730	36,55,033
1916-17	72,39,302	72,25,600
1917-18	82,22,068	86,58,422
1918-19	97,4,572	1,07,70,938
1919-20	89,64,714	1,05,49,045
1920-21	95,46,271	90,74,678
1921-22	76,64,217	83,39,020

DAIRY PRODUCE.

15. The HONOURABLE MR. LALUBHAI SAMALDAS: Will Government be pleased to say if the price of milk and milk products was raised by about 50 per cent. in the year 1919-20, that is, the only year the military dairies have showed a profit?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: No increase was made in the price of products in 1919-20. In 1920-21, the prices were raised by approximately 43 per cent. In that year the profit amounted to over Rs. 4,70,000.

COST OF MILITARY DAIRIES.

16. The HONOURABLE MR. LALUBHAI SAMALDAS: Will the Government be pleased to say by what per cent. does the cost now incurred on military dairies exceed the pre-war cost, i.e., 1913-14?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The cost of the dairies in 1913-14 and now will be apparent from the figures given in the statement which has been laid on the table in response to a previous question by the Honourable Member.

MILITARY DAIRY FARMS—DUTIES ON.

17. The HONOURABLE MR. LALUBHAI SAMALDAS: Will the Government be pleased to say whether they have received any representation recommending that Imperial Agricultural Department should take over Military Dairy Farms and use them as educational centres and bull-breeding farms and, if so, what action they propose taking in the matter?

The HONOURABLE MR. B. N. SARMA: A suggestion to this effect has been made and is under consideration.

ROYAL AIR FORCE.

18. The HONOURABLE MR. LALUBHAI SAMALDAS: Will Government be pleased to say if they have noticed a special cable—'Times' (London) Service published in the 'Times of India' of the 31st August 1922 under the heading of "Bitter 'Times' Attack" regarding the administration and equipment of the Royal Air Force in India, and will they be pleased to say how much truth is there in the statement?

[24TH JAN. 1923.]

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The Government of India have seen the newspaper article in question, and the allegations contained therein have been carefully investigated, with the following results:

(1) During the year 1921-22, there was a very considerable shortage in the spare parts and equipment required for maintenance by the Royal Air Force in India. For a time the deficiencies were met by the consumption of reserves but in the course of the year certain categories of the reserves were themselves exhausted. The effect was to diminish the number of machines serviceable for flying. On the other hand, no machine which was known to be in an unserviceable condition was permitted to be flown. When the facts regarding the internal condition of the Royal Air Force came fully to the knowledge of the Government of India, steps were immediately taken to set matters right, and the restoration of efficiency to the Royal Air Force in India has been in progress for some time and will shortly, I hope, be completed. This result has been achieved mainly by the allotment of additional funds for the purchase of equipment and spare parts, and to some extent also by the introduction of improvements in the internal administration of the Stores Branch of the Royal Air Force.

(2) The criticisms which appeared in the same newspaper article in regard to the tactical disposition of the Royal Air Force formations employed in connection with the occupation of Waziristan are not well founded, and the Government of India are satisfied, with my concurrence, that the arrangements adopted in regard to this matter were necessary.

(3) The failure of bombs to explode—another matter dealt with in the newspaper article—cannot be entirely prevented; but the officers who from time to time have commanded the forces employed in Waziristan have never reported the bombs used as being inefficient to the extent which might be inferred from the statement communicated to the "Times".

ZOOLOGICAL SURVEY OF INDIA.

19. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state if there has been any recent increment in the salaries of the officers of the Zoological Survey of India, and also—

- the increment sanctioned to each officer; and
- the reasons of the increment?
- Do the European officers of the Survey get any additional overseas allowance, besides the recent increment of the salary?
- Is it a fact that, while increments have been granted to the Director and the Superintendent of the Survey, the initial pay of the Indian Assistant Superintendents has been reduced, and that of the European Assistant Superintendents kept practically the same?

The HONOURABLE MR. M. S. D. BUTLER: (a) (b) (c) and (d). With a view to attract and retain the services of officers possessing the requisite scientific knowledge and ability the pay of officers of the Zoological Survey

of India has been revised recently as shown below:

	OLD SCALE.	NEW SCALE.	
		Pay.	Overseas allowance.
	Rs.	Rs.	Rs.
1. Director	1,000—80—1,400	1,750—50—2,000	Nil
2. Superintendent	700—40—900	1,000—50—1,500	250
3. Assistant Superintendent	500—40—700	850—50—950	150—250

Overseas pay is granted to officers of non-Indian domicile holding the post of Superintendent or Assistant Superintendent. The pay has been revised of the service as a whole and not of any particular post or individual. Existing officers will not draw less in the new scale than what they drew under the old scale.

EMPLOYMENT OF ANGLO-INDIANS AND DOMICILED EUROPEANS.

20. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Has the attention of the Government been drawn to a statement made in a letter of the President of the Anglo-Indian and Domiciled European Association asking the Government "for a pledge, in plain and unequivocal terms, to the effect that there is not only no intention on the part of the Government to exclude the members of (his) community from a fair share of appointments in the public services to which by reason of birth, tradition and loyalty to the State, they are justly entitled, but that Anglo-Indians and Domiciled Europeans may, with confidence, look to the Government stoutly to resist the attempts which are being made in certain quarters to discourage their increased employment in departments of the State"?

(b) Will the Government be pleased to lay on the table the reply sent to the above points of the letter of the President of the Anglo-Indian and Domiciled European Association?

The HONOURABLE MR. J. CRERAR: (a) Yes.

(b) I place a copy of the reply on the table of the House.

Letter No. F. 420/I. Ests., dated the 19th January 1923.

From—The Deputy Secretary to the Government of India, Home Department, Delhi,

To—The President in Chief, Anglo-Indian and Domiciled European Association, India.

I am directed to invite a reference to your letter dated the 1st September 1922 in which you refer to the question of Indianisation, and its possible bearings on the employment of Anglo-Indians and domiciled Europeans.

2. In reply I am to invite attention to section 99 of the Government of India Act, to article 37 of the Civil Service Regulations and to the answer given to the question put by Mr. K. Ahmed in the Legislative Assembly on the 6th September 1922 in regard to the employment of domiciled Europeans in the Railway Services. Domiciled Europeans or Anglo-Indians who come within the definition of Native of India in article 37, Civil Service Regulations, are and have been at least since the passing of the Government of India Act, 1870, eligible for practically all appointments for

which Indians are eligible, and no change in this respect is contemplated by the Government.

3. I am to inquire whether you have any objection to a copy of your letter of the 1st September 1922 and of this reply being laid on the table of the Council of State in reply to a question in that Chamber. As the question is to be asked on 24th January a very early reply is requested.

ANGLO-INDIANS AS STATUTORY INDIANS.

21. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state whether they recognise Anglo-Indians as statutory Indians for the purpose of appointments in the public services in this country?

The HONOURABLE MR. J. CRERAR: Yes.

CONTRIBUTIONS TO LEAGUE OF NATIONS.

22. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to lay on the table a statement of the contributions made by the different European and Asiatic Members of the League of Nations in 1921 and 1922, respectively?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: A statement giving the information asked for is placed on the table.

Statement showing the contributions made by the different European and Asiatic Members of the League of Nations in 1921 and 1922, respectively.

States.	1921. Gold Francs.	1922. Gold Francs.
Albania	41,666	4,453
Austria	208,333	202,267
Belgium	625,000	606,801
British Empire	1,041,666	1,011,335
Bulgaria	28,333	22,267
China	1,041,666	1,011,335
Czechoslovakia	625,000	606,801
Denmark	41,666	404,533
Estonia		121,300
Finland	416,666	404,533
France	1,041,666	1,011,335
Greece	208,333	202,267
India	1,041,666	1,011,335
Italy	1,041,666	1,011,335
Japan	1,041,666	1,011,335
Latvia		202,267
Lithuania		121,300
Luxemburg	25,000	12,300
Netherlands	625,000	606,801
Norway	41,666	404,533
Persia	125,000	121,300
Poland	1,041,666	1,011,335
Portugal	416,666	404,533
Roumania	625,000	606,801
Serb-Croat-Slovene State	41,666	404,533
Siam	125,000	121,300
Spain	832,834	800,000
Sweden	625,000	606,801
Switzerland	625,000	606,801

RETIRED SURPLUS OFFICERS.

23. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the total amount so far paid to the various surplus officers whose retirement has been approved under Royal Warrant, dated April 25, 1922:

- in the shape of allowances, bonuses, gratuities, etc., and
- the total average amount per capita?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) The total amount paid up to the end of October in India to surplus officers was Rs. 48,00,000 approximately. In addition, a sum of £198,651 had been paid in England by the Secretary of State up to the same date.

(b) The average amount of gratuity paid, as calculated from a number of actual payments, is—

	£
Captains	1,585
Lieutenants	1,188

To calculate the average total amount paid, including miscellaneous expenses, would involve a special compilation of figures being made and this could not be justified.

ARMY OFFICERS IN I. C. S.

24. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the reasons for confining sixteen appointments in the Indian Civil Service exclusively to Army Officers—both surplus and permanent?

The HONOURABLE MR. J. CRERAR: The Honourable Member's attention is invited to the Press Communiqué of the 12th October, 1922. There is still a shortage of European recruitment to be made good for the years 1915 to 1921. As service candidates were no longer available it was decided that appointments might suitably be offered to officers of the Indian Army whose date of Commission for promotion to the Indian Army fell between the 1st January, 1915 and 31st December, 1918. The Government of India in consultation with the Secretary of State were of the opinion that some of them who possessed the requisite educational qualifications which will of course be tested could be selected for appointment to the Indian Civil Service.

RAILWAY FREIGHTS.

25. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state if they contemplate taking any measure for reducing the Railway freights in India in keeping with the considerable reduction of shipping freights recently effected between England and India?

The HONOURABLE MR. D. T. CHADWICK: Government see no reason at present to make any change in the schedules of maxima rates laid down for railways in India.

The HONOURABLE SAIYID RAZA ALI: Is it true that similar rates have been introduced in England?

The HONOURABLE MR. D. T. CHADWICK: That may be, Sir; but I am not aware that the conditions in India and England are similar in this matter.

PROTECTION OF INDIAN INDUSTRIES.

26. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state if they have in view any anti-dumping legislation to protect Indian industries, especially the steel industry?

The HONOURABLE MR. D. T. CHADWICK: Not at present. Obviously a decision must first be taken on the main question of policy raised by the Fiscal Commission's report.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: When do Government expect to bring this up before this House?

The HONOURABLE MR. D. T. CHADWICK: The matter is under the very urgent consideration of Government, but I am not aware that they have any fixed dates at present.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Is it likely to come up in the course of this Session, Sir?

The HONOURABLE MR. D. T. CHADWICK: That I am not in a position to say.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: May I ask one more question, Sir? In view of the great importance of the final consideration of this, would Government be pleased to make a pronouncement on this subject in the course of this Session?

The HONOURABLE MR. D. T. CHADWICK: I am perfectly certain that in a matter of such great importance as this the Government will give it their most urgent and rapid attention that it is possible for them to do.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: My question, if I may be permitted to point out, was, would they be pleased to do so in the course of this Session?

The HONOURABLE THE PRESIDENT: The Honourable Member has already answered.

MARKING OF FOREIGN GOODS.

27. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state if they have in view any legislation to enforce the marking of all foreign goods with the name of the country of their origin?

The HONOURABLE MR. D. T. CHADWICK: The question of undertaking legislation with a view to securing compulsory marking of the country of origin on all foreign goods imported into India has for some time past been receiving the consideration of Government, and commercial opinion has been consulted in the matter. No final decision has, however, yet been reached as to the desirability or otherwise of taking such a step, and it is not possible at present to say what action, if any, will be taken in the matter.

WAZIRISTAN OPERATIONS.

28. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state how much the

Waziristan operations have cost the Indian Government during the past three years?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Prior to the year 1920-21, 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, Waziristan expenditure amounted to approximately Rs. 14,40,00,000 and in 1921-22 to approximately Rs. 6,93,00,000.

The HONOURABLE SAIYID RAZA ALI: Is it true that the question of the permanent occupation of the whole or any part of Waziristan is under consideration of the Government of India?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The whole question is under the consideration of the Government of India and, I think the whole question includes what the Honourable Member has referred to.

SPECIAL APPOINTMENTS IN I. M. S.

29. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the reasons for the appointment of thirty Indian Medical Service Officers by special notification on special terms?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The measure is designed purely and simply to remedy the very serious, but it is hoped temporary, deficiency in the current recruitment of European officers for the Indian Medical Service.

LLEWELYN SMITH COMMITTEE'S REPORT.

30. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the date when the Llewelyn Committee's Report was submitted and why it has not yet been published?

The HONOURABLE MR. J. CRERAR: The Llewelyn Smith Committee's Report was submitted to the Government of India on the 20th December, 1919. As parts of it deal with matters of a confidential nature the whole report has not been published. The decisions of the Government of India on the various recommendations made were announced in a Resolution of the 15th September, 1920, and a copy of the report omitting the confidential portions has been placed in the library of the Indian Legislature.

INCHCAPE COMMITTEE'S REPORT.

31. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the probable time when the report of the Inchcape Committee is likely to be submitted, and if it is the intention of the Government to place their recommendations before the Indian Legislature before any action is taken on them?

The HONOURABLE MR. E. M. COOK: The exact date cannot at present be stated but Government hope to receive the report in the course of next month. They regret that the course suggested in the latter part of the Honourable Member's question is not practicable.

CHIN HILLS AND PAKOKKU HILLS TRACTS.

32. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state if the cost of the annexation of the Chin Hills and the Pakokku Hills Tracts has been charged against Indian Revenue and, if so, what is the exact amount of their cost respectively?

The HONOURABLE MR. J. P. THOMPSON: Yes. Inquiry has been made from the Local Government as to the exact amount and a reply will be furnished to the Honourable Member in due course.

FISCAL AND INCHEAPE COMMITTEES—COST OF.

33. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the total cost of the Fiscal Commission and the estimated cost of the Incheape Committee?

The HONOURABLE MR. D. T. CHADWICK: The total cost of the Indian Fiscal Commission was Rs. 3,26,500. The Incheape Committee is estimated to cost about Rs. 80,000.

INDIANS IN IMPERIAL SERVICES.

34. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will Government be pleased to state how many Indians have been recruited for Imperial Services ever since January 1st, 1921, and how many of them belong to the rural and urban classes, respectively?

The HONOURABLE MR. J. CRERAR: Information as to the number of Indians recruited to the Imperial Services since January, 1921, is being collected and will be supplied to the Honourable Member as soon as available. The Government of India doubt whether it will be practicable to state how many belong to the rural and urban classes respectively.

RURAL CLASSES IN IMPERIAL SERVICES.

35. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will Government be pleased to state its policy in filling up vacancies in Imperial Services with regard to safeguarding the interests of the rural classes in general and backward communities in particular?

The HONOURABLE MR. J. CRERAR: The Government of India do not consider that it would be practicable to frame special provisions for recruitment to the Imperial Services on the basis of a distinction between rural and urban classes. Endeavours are, however, made, where this is feasible, to secure some equilibrium in the matter of Provincial and Communal representation. Thus, in the case of the Indian Civil Service the rules provide that nomination shall be resorted to in certain circumstances to correct possible inequalities in communal and provincial representation which may be brought about by the system of Competitive Examination.

CANDIDATES FROM RURAL AND URBAN AREAS.

36. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will Government be pleased to state:

- (a) How many vacancies have been filled up by the Staff Selection Board up to now and how many of them have gone to men drawn from rural areas and how many to urban candidates?

- (b) Is there some one on the said Board to represent the interests of the rural classes and has he raised any protest against the majority of these posts going to urban classes?

The HONOURABLE MR. J. CRERAR: The Board in nominating passed candidates to vacancies keep in view the desirability of securing adequate representation of the leading communities but it is not practicable to discriminate between candidates on the ground of their coming from rural or urban areas.

RETIREMENTS AND MILITARY PENSIONS.

37. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will His Excellency the Commander-in-Chief be pleased to state for the information of this Council:

- (i) the number of persons that have retired from military service since the war was over; and
- (ii) the number of pension cases still remaining undisposed of by the Army Department?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Government regret that it is impracticable to furnish the Honourable Member with the figures for which he asks. In order to do so it would be necessary to undertake a special compilation, the labour and expense of which would not be justified by the result.

PENSION CASES UNDISPOSED OF.

38. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Are Government aware that very great discontent prevails among the military classes on account of a very large number of pension and gratuity cases remaining undisposed of?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Government are aware that there is unfortunately some ground for the complaint that delays occur in the disbursement of pensions and gratuities to the military classes. Amongst the special causes which have contributed to these delays may be mentioned:

- (1) The very great volume of the work involved.
- (2) The disbandment of regiments and the consequent difficulty experienced by the administrative authorities in keeping touch with pensioners.
- (3) Changes of residence on the part of pensioners.
- (4) Casualties amongst pensioners.
- (5) Ignorance on the part of pensioners as to the correct procedure in obtaining payment.

Government have devised and are devising all possible measures to reduce these delays to a minimum, and, as a special concession, orders have recently been issued for the grant to every pensioner of an advance of six months' pension before he leaves his regiment on retirement.

MILITARY COLLEGE, DEHRA DUN.

39. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: (a) How many boys have been admitted to the Military College at Dehra Dun and how many of them are sons of Indian soldiers?

(b) Are Government aware that there is a strong feeling among the retired Indian Officers against the said College, on account of the heavy expenses and the fact that boys of non-military classes are also being admitted to that College?

(c) If so, what steps do Government propose to take to ensure that it is made easy for an ordinary Indian Officer to send his son to the above College and that strict regard shall be had to the claims of military classes in the selection of candidates for this College?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) The number of cadets so far admitted to Dehra Dun College is 38, of whom 17 are the sons of Indian officers, including two whose fathers are serving in the Indian State Forces.

(b) The answer is in the negative.

(c) On my nomination, the sons of Indian officers who have rendered distinguished service may be admitted to the college on the payment of reduced fees. I can assure the Honourable Member that, in selecting cadets, full regard is had to the claims of military classes.

STUDENTS IN DELHI COLLEGES.

40. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will the Honourable Member in charge of Education be pleased to state:

(a) If it is a fact that the majority of resident students in Delhi Colleges belong to Ambala Division of the Punjab?

(b) If so, what provision has the Delhi University made for keeping itself in touch with the High Schools of that Division?

The HONOURABLE MR. M. S. D. BUTLER: (a) The answer is in the affirmative.

(b) The Delhi University is precluded, under section 5 of the Act, from associating itself with any educational institution outside the ten mile radius within which its limits of jurisdiction are confined.

PUNJAB UNIVERSITY SCHOLARSHIPS.

41. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Has the Punjab University allowed students from Ambala Division to draw their Punjab University and Government scholarships in Delhi Colleges and, if not, in what way does Delhi University propose to compensate these boys for the loss of the above-mentioned stipends?

The HONOURABLE MR. M. S. D. BUTLER: The answer to the first part of the question is in the negative. The Delhi University pays for such scholarships out of its own funds.

DELHI UNIVERSITY BOARD.

42. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Is there a representative of the resident students on the Board of Delhi University?

The HONOURABLE MR. M. S. D. BUTLER: The question is not understood, but if the Honourable Member is referring to a Residence, Health and Discipline Board it may be mentioned that such a Board has not yet been constituted.

MILITARY TRAVELLING ALLOWANCES.

43. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will His Excellency the Commander-in-Chief be pleased to state:

(a) whether an Indian Officer is entitled to anything over and above the Railway Warrant while travelling by rail;

(b) what action, if any, has been taken by Government on the recommendations of the Army in India Committee, contained in paragraph 58 of Part V, regarding status and allowance of Indian Officers when travelling?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Nothing is admissible over and above the railway warrant which authorizes—

(i) in the case of permanent duty moves, free 2nd class conveyance for the officer himself, his wife and his family and 3rd class conveyance for one servant. In addition, 3 maunds of baggage are allowed for the officer, 1½ maunds for his wife and ¼ maund for each child;

(ii) in the case of temporary duty moves, the warrant authorises free 2nd class conveyance for the officer and 3rd class accommodation for one servant; 2½ maunds of baggage are allowed.

Indian officers with honorary King's commissions, receive travelling and detention allowances on the same scale as British officers of corresponding rank, when travelling on duty at public expense. When accompanying troops, these officers receive 1st class accommodation, as in the case of British officers.

(b) The Esher Committee recommended that Indian officers travelling on duty should be permitted to travel 2nd class while Indian officers with honorary King's commission should receive 1st class accommodation, their families receiving corresponding concessions. This, it will be observed from the reply I have just given to part (a) of the question, has been sanctioned.

The Esher Committee also recommended that the rate of detention allowance at present admissible to Indian officers should be increased from Re. 1 to Rs. 2. This proposal is at present under consideration as a part of the general question of the revision of the existing travelling allowances.

EDUCATION OF SONS OF INDIAN SOLDIERS.

44. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will His Excellency the Commander-in-Chief be pleased to state:

(a) What action has been taken on the recommendations of the Army in India Committee, contained in paragraph 59 of Part V, regarding the educational facilities for sons of Indian soldiers in order to qualify them for (i) Civil, and (ii) for Military services?

(b) What action has been taken by Government in order to secure preferential treatment for the sons and relatives of Indian soldiers in the Civil Departments of the country as recommended in paragraph 59 mentioned above?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) As the Honourable Member is aware, the Government of India have established a college at Dehra Dun which is intended to provide a public school education on English lines for Indian youths who desire to enter the Royal Military College, Sandhurst. The sons of Indian officers who have rendered distinguished service may be admitted to the Dehra Dun College at reduced fees. In addition His Royal Highness the Prince of Wales, during his visit to India, laid the foundation-stones of two military boarding schools, each of which is intended to accommodate 200 pupils who are to be the sons of Indian soldiers. The education to be provided at these schools will be of an Anglo-Vernacular Middle type.

His Royal Highness also laid the foundation of the "Kitchener College," which it is contemplated will be a high school, conducted as a military institution, for the sons of Indian officers.

Further, officers and non-commissioned officers of the Indian Army Education Corps are being posted to Army units, and their duties will include the education of the children of Indian officers and men.

(b) The Esher Committee did not recommend that preferential treatment should be accorded to the sons and relatives of Indian soldiers in civil departments. They expressed the opinion that the sons of Indian soldiers should be given educational facilities which would enable them to compete on more or less equal terms with the sons of the wealthier classes and the reply which I have given to the first part of this question shows the steps which the Government are taking to this end.

"ORDER OF BRITISH INDIA."

45. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will His Excellency the Commander-in-Chief be pleased to state what action has been taken by Government on the recommendations of the Army in India Committee, contained in paragraph 68 of Part V, regarding the increase in the number of Order of British India?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: A final decision has not yet been taken by the Government on the recommendation mentioned.

INDIAN OFFICERS OF THE "ORDER OF BRITISH INDIA."

46. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: (a) Is the Government aware that there is some discontent in the junior ranks of Indian officers who do not generally get an Order of British India?

(b) If so, what steps does Government propose to take in order to remove this grievance?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) and (b). There is no cause for discontent among junior Indian officers of the Indian Army. In order that the claims of such officers may not be overlooked, commanding officers have been instructed to submit the names of three officers annually for admission to the Order of British India. Selections are made according to an authorised system of marks, and it is not possible, therefore, for the claims of a junior officer with services in no way inferior to those of senior officers to be overlooked.

ARRANGEMENT OF QUESTIONS.

The HONOURABLE THE PRESIDENT: Before we proceed, I should like the Honourable the Leader of the House to consider and let me know whether he thinks any improvement can be made in the system of arranging questions. The House will observe that His Excellency the Commander-in-Chief has had to reply to a long string of questions which happen by chance to follow one another in the list. If this could be avoided by arranging the order differently it might relieve Members of Government of an undue strain. Perhaps the Leader of the House will consider the matter and let me know what can be done.

QUESTIONS AND ANSWERS.

AGRICULTURAL SERVICE OFFICERS.

47. The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Will Government be pleased to state:-

- (a) the number of miles travelled by *pacca* roads by each of the Imperial Agricultural Service Officers during the year 1921-22;
- (b) the number of miles travelled by the above officers during the above period on *kacha* roads?

The HONOURABLE MR. B. N. SARMA: It is doubtful whether this information can be obtained, and any attempt to collect it would certainly involve an amount of labour wholly out of proportion to any usefulness which it would possess. I therefore regret that I cannot supply it.

STABILISATION OF EXCHANGE.

48. The HONOURABLE MR. V. G. KALE: Will Government be pleased to state if it is to be inferred from the policy apparently underlying the present resumption of the sale of Council drafts that Government intend to try to stabilize exchange at the rate of 16d the rupee?

The HONOURABLE MR. E. M. COOK: The answer is in the negative. The Communiqué of the 4th January states the whole facts, namely, that the resumption of sale of Council drafts was necessitated by the need for strengthening the Secretary of State's sterling resources.

The HONOURABLE MR. V. G. KALE: By waiting to see the rate of Council drafts rise will not Government be gaining on their remittances to the Secretary of State in the near future?

The HONOURABLE MR. E. M. COOK: I take it the Honourable Member implies that if we had waited a little longer, we might have got our money home cheaper?

The HONOURABLE MR. V. G. KALE: Yes.

The HONOURABLE MR. E. M. COOK: Yes, it is always possible to gamble in exchange.

PROFESSOR HORNE'S MISSION TO U. S. A.

49. The HONOURABLE MR. V. G. KALE: Will Government be pleased to state what has been the total cost of Professor Horne's mission to the United States of America to the Indian treasury?

The HONOURABLE MR. J. CRERAR: The information is being obtained and will be laid on the table in due course.

PROFESSOR HORNE'S REPORT.

50. The HONOURABLE MR. V. G. KALE: Will Government be pleased to state if Professor Horne has submitted to it a report of his work in America and if it will place a copy of that report on the table of the House?

The HONOURABLE MR. J. CRERAR: Professor Horne was not required to submit any formal report.

The HONOURABLE MR. V. G. KALE: Will not the public be given an opportunity of knowing exactly how the country's money has been spent in America and whether the country has obtained an adequate value for the money which has been spent?

The HONOURABLE MR. J. CRERAR: I shall be much obliged if the Honourable Member will give notice of that question and I shall consider it in connection with the preceding question which was before the House.

PUBLIC MONUMENTS AT HAMPI.

51. The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: (i) Are the Government of India aware of the public dissatisfaction that exists in connection with the conservation of public monuments at Hampi, (near Hospet, Bellary District, Madras Presidency), which mark the site of the ancient Empire Kingdom of Vijayanagar?

(ii) Has the attention of Government been drawn to the representations in the Press of the Kannada Academy, Bangalore, in this matter?

The HONOURABLE MR. M. S. D. BUTLER: The Government of India have no information regarding these complaints and are making inquiries.

COMMUNICATION BETWEEN INDIA AND CEYLON.

52. The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: Will the Government of India be pleased to state if they have under contemplation any scheme for opening direct channel communication between India and Ceylon? If so, will the Government be pleased to make a statement on the question?

The HONOURABLE MR. D. T. CHADWICK: The Government of India have been considering in consultation with the Government of Madras a scheme for the construction of a Ship Canal through the island of Pamban (Rameswaram). It is presumed that this is the scheme to which the Honourable Member refers. The project has recently been subjected to a detailed investigation by the Harbour Engineer of the Government of Madras. As a result of this investigation, it appears that the cost of constructing the proposed canal would be very much greater than was originally anticipated, and for the present it is understood that the scheme is in abeyance.

SEPARATION OF EXECUTIVE AND JUDICIAL FUNCTIONS.

53. The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: (i) Will the Government be pleased to state if it has laid down any settled

policy for Local Governments and Administrations to follow in the matter of the separation of executive from judicial functions? If so, will the Government be pleased to lay the papers on the table?

(ii) Will the Government be pleased to state whether it is part of its policy in this connection to appoint Honorary Magistrates vesting them with first class magistrate's powers and withdrawing the magisterial powers of even Divisional Officers in the districts?

(iii) Will the Government be pleased to state the Local Governments and Administrations which have adopted this policy in working out this scheme?

(iv) Will the Government be pleased to consider the desirability of laying down the general principles on which benches of Honorary Magistrates of the kind in question should be appointed, including the one of consultation of suitable local non-officials of position and standing?

The HONOURABLE MR. J. CRERAR: The subject is a provincial one. The Honourable Member is referred to Home Department Resolution No. F.-196-Judicial of the 7th December 1921.

TERRITORIAL FORCE.

54. The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: (a) Will the Government be pleased to state in how many districts in the Madras Presidency, Territorial Force is formed and is working?

(b) What are the reasons for not starting as yet the force in other districts of the Presidency?

(c) How many Zamindars or near relatives of Zamindars of the Presidency have enlisted themselves in the force till now?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) and (b)—Under Section 4 of the Indian Territorial Force Act, 1920, units are constituted for Provinces. Four units, exclusive of the University Training Corps, have been constituted for the Madras Presidency. Those enrolled have been recruited from a number of districts, but details of the numbers obtained from each district are not available. Recruitment is not restricted to any particular areas.

(c) The information is not available.

TREE TAXATION.

55. The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: Will the Government be pleased to state whether they have directed Local Governments and Administrations to undertake a revision of their tree taxation principles with a view to augment their local revenues?

The HONOURABLE MR. D. T. CHADWICK: No. I may remind the Honourable Member that Excise is a provincial transferred subject in all provinces except in Assam where it is provincial reserved.

DUTY ON MOTOR SPIRIT.

56. The HONOURABLE MR. G. S. KHAPARDE: (a) Will the Government be pleased to state whether motor spirit produced in India and Burma and consumed in India and Burma has to pay a duty of six annas per gallon?

(b) Is it true that petrol exported to foreign countries from India and Burma has to pay no such duty?

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(c) Is it true that Government has lost something like four crores and a half by not taxing the exports of petrol from India at six annas per gallon?
 (d) If the answer to the above three questions be in the affirmative, will the Government be pleased to indicate the reason why the exports of petrol from India and Burma are not taxed?

The HONOURABLE MR. D. T. CHADWICK: (a) Yes.

(b) and (d). I would refer the Honourable Member to the reply given to the Honourable Rai Bahadur Lala Ram Saran Das's question No. 7 of to-day's date.

(c) It is impossible to answer this question, as Government is unable to gauge with any accuracy what effect the imposition of an export duty of six annas per gallon would have had on the quantity of petrol actually exported.

REPORT OF COMMITTEE ON PUBLIC PETITIONS.

57. The HONOURABLE MR. G. S. KHAPARDE: (i) Will the Government be pleased to state what action has been taken on the Report of the Committee on Public Petitions, dated 21st February 1922?

(ii) If no action has been taken, will the Government be pleased to indicate the action which it proposes to take?

The HONOURABLE MR. J. CRERAR: Government do not propose to take any further action beyond publishing the Report which has already been done.

They are grateful for the work performed by the Committee which was so ably presided over by you, Sir, and it is now open to any Member who desires to do so to give notice of a motion under Standing Order 53.

REPORTS LAID ON THE TABLE OF JOINT COMMITTEES ON BILLS.

The SECRETARY OF THE COUNCIL: Sir, I lay on the table reports of the Joint Committees on the following Bills:

- A Bill to provide for the restriction and control of the transport of cotton in certain circumstances.
- A Bill further to amend the Cantonments (House-Accommodation) Act, 1902.
- A Bill to consolidate and amend the law relating to Steam Boilers.
- A Bill to amend and consolidate the law relating to the regulation and inspection of mines.

GOVERNOR GENERAL'S ASSENT TO BILLS.

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 Indian Extradition (Amendment) Act, 1922
- The Indian Museum (Amendment) Act, 1922.
- The Negotiable Instruments (Amendment) Act, 1922.
- The Court-fees (Amendment) Act, 1922.
- The Parsi Marriage and Divorce (Amendment) Act, 1922.
- The Official Trustees and Administrator General's Acts Amendment Act, 1922.
- The Police (Incitement to Disaffection) Act, 1922.
- The Indian Transfer of Ships Restriction (Repealing) Act, 1922.

STATEMENT OF EXCHANGE GAINS AND LOSSES.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I lay on the table a Memorandum on Exchange Gains and Losses during the five years 1917-18 to 1921-22, which the Council asked for in a Resolution passed on the 22nd March, 1922. I must apologise for being so long in complying with the Council's request. The memorandum was not quite ready for laying on the table at the Simla session; Honourable Members who read it will see that its preparation has involved a great deal of labour.

Memorandum on Exchange Gains and Losses during the five years 1917-18 to 1921-22.

The following Resolution moved by the Hon'ble Mr. Kale was adopted by the Council of State on the 22nd March 1922:—

"This Council recommends to the Governor General in Council that he may be pleased (a) to place on the table of this House a full statement showing the gains and the losses that have accrued to Government since the year 1917-18 on Capital as well as Revenue account, in connection with the sale of Council drafts and Reverse Councils, the revaluation of sterling securities and gold in the Currency Reserve, the purchase and sale of gold, the purchase of silver and the coinage and the issue of rupees to the public, the repayment by the British Government in London of funds disbursed on its behalf in this country, and the remittance transactions between India and other countries generally and showing how the losses have been met and the gains have been disposed of; and (b) to consider the desirability of re-examining the basis of the exchange value of the rupee on which the accounts are being kept, particularly with reference to remittances to and from this country".

This memorandum is prepared and laid on the table with reference to part (a) of the Resolution.

2. The memorandum is in three parts. Part I gives an account of the gains and losses actually brought to account in each year from 1917-18 to 1921-22 according to the basis of conversion in force for the accounts of the Government of India in each of these years, viz., Rs. 15 per £ from 1917-18 to 1919-20 and Rs. 10 per £ in 1920-21 and 1921-22, and how the net gain or loss in each of these years was actually dealt with. Part II shows how the account of exchange gains and losses would have stood in the last two years if the basis of conversion for the accounts had remained at Rs. 15 per £ instead of Rs. 10 per £. Part III attempts an estimate of the real exchange losses incurred during the five years under consideration as distinguished from accounting losses. The accounts of the year 1921-22 have not yet been closed; the actual figures of the accounts for that year are not therefore available, and the Revised estimates have been used instead.

PART I.

3. Statement I appended to this memorandum shows the difference representing exchange in respect of remittance transactions between India and England actually brought to account in each year since 1917-18 on the basis of the conversion rates in force in each year. Statements II and III furnish details of the loss on rupee coinage and the gain and loss on the purchase and sale of gold, and Statement IV brings together the credits and debits under the Exchange head in respect of all these and similar transactions in each year during this period.

4. It will be useful to give here an explanation of the more important transactions in respect of which gains and losses on account of exchange arise and the nature of these gains and losses. In the years 1917-18 to 1919-20, the rate of conversion of rupees into £ sterling and *vice versa* for the accounts was Rs. 15 per £, while the exchange value of the rupee stood at above 16d. Accordingly, the rupees paid in India on account of Council Bills sold by the Secretary of State were less than the equivalent of the sterling received in England at the rate of Rs. 15 per £, and a gain was therefore brought to account in respect of these sales. The war disbursements made in India on behalf of the Home Government and supplies of funds in

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India to Colonial and other Governments were repaid in sterling in London at current rates of exchange, and when these varied from day to day, at rates fixed for each month in consultation between the British Treasury and the India Office on the basis of the market rates of exchange prevalent at the time; the recoveries effected in sterling were, therefore, when expressed in rupees at the conventional rate of Rs. 15 per pound, in excess of the rupees actually disbursed in India, and here again there was a gain to be brought to account. On the other hand, when sterling bills were sold on London at rates above 16d. per rupee, the rupees received in India fell short of the rupee equivalent at Rs. 15 per pound of the sterling paid in London, and the difference represented a loss on account of exchange. There was again a loss on rupee coinage owing to the rupee outturn of the silver coined in the greater part of this period being less than its purchase price reckoned at Rs. 15 per pound together with miscellaneous expenditure connected with purchase and coinage. Similarly, there was a loss on the purchase and sale of gold owing to the rupees realised from the sale of gold in India being less than the sterling paid for the gold converted at Rs. 15 per pound. In the case of money order transactions with countries having a sterling currency, there was a gain or a loss according to the direction in which the remittance flowed. If, for instance, the money order exchanges between India and the United Kingdom resulted in a net remittance by the public from the former to the latter country, the rupees received in India would fall short of the sterling paid in the United Kingdom turned into rupees at the conventional rate, and there would be a loss on exchange as in the case of sterling bills sold on London. In the converse case, there would be a gain by exchange as in the case of Council Bills sold by the Secretary of State.

5. The rate for the conversion of sterling into rupees and *vice versa* for the purpose of the accounts was altered to Rs. 10 per pound with effect from the 1st April 1920; the actual exchange value of the rupee in the years 1920-21 and 1921-22 was, however, less than 24d. per rupee. The relation between the account and current rates in these years was thus the reverse of that in the preceding three years, and the remittance transactions which resulted in an exchange gain in the earlier period resulted in a loss in the latter period and *vice versa*.

6. The average rates of exchange on the sale of Councils by the Secretary of State in 1917-18 and 1918-19 were 16.5315d. and 17.5441d. respectively, the rate for immediate Councils during this period having risen from 16d. to 17d. on the 29th August 1917 and to 18d. on the 11th April 1918. Inclusive of a loss on rupee coinage of 16.95 lakhs and 6.18.01 lakhs respectively, the exchange account showed a net gain of 4.71.78 lakhs in 1917-18 and 7.25.15 lakhs in 1918-19, and these gains were credited to the revenue account of the Government of India as an item of revenue; the former figure is included in the Imperial surplus of 12.13.05 lakhs which the accounts for 1917-18 showed, while the Imperial deficit of 5.73.06 lakhs disclosed by the accounts for 1918-19 would have been correspondingly higher but for the gain from exchange amounting to Rs. 7.25.16 lakhs which was credited to the Imperial revenue account in that year.

It should be mentioned here that, out of the sale of Council Bills in 1918-19, a sum of 5.01 lakhs related to Councils sold at favourable rates in the following circumstances. Under an agreement with the Secretary of State, the British Exchange Banks undertook during the war to devote their resources to the fullest extent possible to the financing of War exports, and in return received a guarantee that such funds as might in discharge of this undertaking be transferred to London in excess of remittances in the opposite direction would be retransferred to India through Council Bills at the rate at which the overbuying had taken place. A beginning was made in the year 1918-19 of the retransfer to India of the funds so transferred by the Exchange Banks; and Council Bills to the extent of 5.01 lakhs were accordingly sold to them at favourable rates for this purpose.

7. There were several sharp rises of exchange in 1919-20, the rate for immediate telegraphic transfers having risen to 20d. on the 13th May, 22d. on the 12th August, 24d. on the 16th September, 26d. on the 25th November and 28d. on the 16th December. The last rate remained in force till the beginning of February and was exceeded during the rest of the year when as a result of the policy adopted on the Report of the Babington Smith Committee on Indian Exchange and Currency, reverse Councils were sold on the basis of a ratio of Rs. 10 to the sovereign, allowance being made for the depreciation of sterling with reference to the latest current rate for the dollar-sterling exchange. The average rate of exchange for the year accordingly worked out as high as 23.8778d. Sales of Councils were heavy in the first

three quarters of the year, while in the last quarter reverse Councils and gold bullion were sold in pursuance, as stated above, of the policy adopted on the Currency Committee's report. As in 1918-19, special Councils were sold to Exchange Banks in liquidation of the overbuying guarantee to the extent of 5.38 lakhs. After taking into account the exchange adjustments in connection with war disbursements on behalf of the Home Government and other remittance transactions and the losses on rupee coinage, and on the purchase and sale of gold, the net exchange gains during the year amounted to 9.18.48 lakhs, the basis of conversion for the accounts still remaining at Rs. 15 per £. Owing to the large rise in the exchange value of the rupee in 1919-20, it was decided that the portion of the exchange gains attributable to capital outlay in England on Railways, irrigation works and Delhi should be credited to the capital account. Accordingly, out of the net credit of 9.18.48 lakhs, a sum of 3.95.41 lakhs was credited to the capital heads, and the balance of 5.23.07 lakhs was not appropriated to revenue, but was retained under a suspense head in order to provide in part for meeting the deficiency which would arise on the revaluation of the sterling securities and gold held in the Paper Currency Reserve at the new ratio of Rs. 10 per £ recommended by the Currency Committee. Eventually, however, the credit balance of 5.23.07 lakhs was not devoted to meeting the deficiency referred to as other resources were earmarked for that purpose when legislation was carried out giving effect to the new ratio; it remained under the suspense head and was wiped off by the exchange losses which were brought to account in subsequent years.

8. There was no sale of Council Bills in either 1920-21 or 1921-22, but the sale of reverse Councils continued during part of the former year. The average of the Telegraphic Transfer rates on London for these years worked out to 20.657d. and 15.848d. respectively, or very much less than the accounting rate of 24d. which was introduced as stated above from the 1st April 1920. The entries in the Exchange account in both these years were thus the reverse of those in the account for 1919-20.

Two entries in Statement IV and one in Statement I relating to the year 1920-21 require some explanation. Firstly, in consequence of the introduction of the new conversion rate of Rs. 10 per £, the loss on the sale of reverse Councils is distributed in Statement I over two items, the difference between the rupee equivalents at the old and new conversion rates appearing against item (iii), and the difference between the rupee equivalent at Rs. 10 and the rupees actually received appearing against item (ii). Secondly, the new ratio of Rs. 10 per £ was legalised from the 1st October 1920 and this entailed the revaluation of the gold and sterling securities held in the Paper Currency Reserve on that date on the basis of the new ratio. The deficiency on revaluation amounted to 17.47.36 lakhs and this amount was made good to the Paper Currency Reserve by the deposit of Indian Treasury Bills of a corresponding value in the reserve by charging the amount to a special suspense head "Adjustment of exchange on revaluation of gold and sterling securities in Paper Currency Reserve." This head was to be cleared by the gradual appropriation of interest from investments of the Paper Currency Reserve and the excess in the assets of the Gold Standard Reserve over £40 millions but as the transaction is of the same nature as other exchange adjustments under consideration, it has been included in Statement IV. The last entry relates to the payment of 1.68.85 lakhs made to the British exchange Banks in settlement of the overbuying guarantee. As stated in paragraph 6, the liability arising from this guarantee was discharged in part in 1918-19 and 1919-20 by the sale of Councils at favourable rates to the Exchange Banks; the remaining portion of the liability was liquidated in 1920-21 by weekly payments to the Banks of the difference between the rupee equivalent at the guaranteed rate and at the average of the maximum and minimum rates for Telegraphic Transfers on London on the date of liquidation.

The next exchange loss brought to account in the years 1920-21 and 1921-22 inclusive of the above special items amounted to 53.09.18 lakhs and 10.47.80 lakhs respectively; of the former amount, however, 17.47.36 lakhs was shown in the accounts under the special suspense head mentioned above, the balance of 35.61.82 lakhs only appearing under the Exchange head. A further change was made with effect from the 1st April 1920 in the method of allocation of exchange gains and losses. Under the new procedure, the portion of these gains and losses attributable to the revenue and capital accounts in respect of outlay incurred in England was to be calculated on the basis of the average Telegraphic Transfer rate from Calcutta on London and transferred to those accounts; and it was to be considered with reference to the circumstances of each year whether the balance of exchange gains and losses remaining after the above transfers are made should be written off to the revenue or kept in suspense against the possibility of opposite results in succeeding years.

Of the net exchange loss of 35,61.82 lakhs in 1920-21, sums of 2,97.65 lakhs and 4,56.21 lakhs respectively, were accordingly transferred to the capital and revenue accounts, and the balance of 28,07.96 remained unappropriated under the suspense head. Similarly, against the net exchange loss of 10,47.80 lakhs in 1921-22, the transfers to the capital and revenue accounts amounted to 22,35.77 lakhs, leaving 16,19.99 lakhs at debit of the suspense head for the two years together.

Inclusive of the credit balance of 5,23.07 lakhs which remained under the suspense head at the end of the year 1919-20 as stated in paragraph 7 above, the balance of unappropriated exchange losses awaiting clearance in subsequent years amounted on the 31st March 1922 to 10,96.92 lakhs, apart from a sum of 17,47.36 lakhs on account of the revaluation of gold and sterling securities in the Paper Currency Reserve held under a special suspense head.

9. Taking the period 1917-18 to 1921-22 together, the position therefore is that the net exchange loss brought to account in these years amounted to 42,41.57 lakhs; of this, gains amounting to 11,96.93 lakhs were credited to revenue in 1917-18 and 1918-19, a loss of 17,47.36 lakhs due to the revaluation of gold and sterling securities in the Paper Currency Reserve was charged to a special suspense head, resources being definitely earmarked for the clearance of this head, and losses amounting to Rs. 25,94.22 lakhs were charged to the revenue and capital accounts in the years 1919-20 to 1921-22, leaving a debit of 10,96.92 lakhs on the 31st March 1922 under the suspense head for Exchange to be cleared in subsequent years.

PART II.

10. Statement V shows the exchange adjustments in respect of remittance transactions in the years 1920-21 and 1921-22 as they would have stood if the basis for conversion in the accounts had remained at Rs. 15 per £ instead of Rs. 10 per £. Statement VI brings together the entire credits and debits to the Exchange head in these years on the same basis and their distribution between the revenue, capital and suspense accounts. The entry of 17,47.36 lakhs in Statement IV relating to the deficiency on the revaluation of gold and sterling securities in the Paper Currency Reserve finds no place in Statement VI as there would have been no revaluation and no deficiency if there were no change in the ratio between the £ and the rupee. It will be seen that on this basis there would have been an exchange loss of 12,74.23 lakhs in 1920-21 and a gain of 1,59.23 lakhs in 1921-22 making for the five years under consideration a net exchange gain of 10,00.41* lakhs.

If, however, the existing method of allocation of exchange adjustments between the revenue, capital and suspense accounts is assumed to have remained in force in these two years, the unappropriated balance under the Suspense head at the end of the year 1921-22 would have amounted to a debit of 21,34.88 lakhs as shown in the margin.† The larger outstanding arrived at by this method is due to the fact that, while in the year 1920-21 the exchange account would under this method have shown an actual loss, substantial credits are assumed to be transferred to the revenue and capital accounts on the basis of the average of the Telegraphic Transfer rates from Calcutta on London, leaving a large amount of loss under the Suspense head.

PART III.

11. An approximate calculation is made in this part of the portion of the exchange gains and losses dealt with in the preceding paragraphs which can be regarded as representing real as distinguished from accounting losses.

(a) The loss resulting from the revaluation of gold and sterling securities in the Paper Currency Reserve should be regarded as real except to the extent of any compensatory gain through an appreciation of these holdings which would result if an exchange rate lower than Rs. 10 per pound were eventually adopted.

(b) The loss which arose from the coinage of rupees was the result of the high prices which ruled for silver; but the rate at which Council Bills were sold and in consequence also that at which funds were provided for the Home and other Governments

against recoveries in London were raised from time to time so that the provision of rupees at the prices ruling for silver should not result in a loss to Government. As the aggregate amount of Council Bills and funds supplied to the Home and other Governments at increased rates of exchange far exceeded the rupees coined during this period, the loss which resulted from rupee coinage was more than made up by recoveries effected at higher rates of exchange.

(c) As regards the purchase and sale of gold, the payments made in sterling for the purchase of gold totalled £34,507,000, and this sum was practically provided in full by remittances during the year 1919-20. Assuming that the funds required for the purchase were provided at the average rate of exchange obtained on remittances during that year, there was a real gain on the gold transactions amounting to 4,05.85 lakhs.

(d) The loss on the liquidation of the overbuying guarantee to Exchange Banks consists of two parts: (i) the loss arising from the sale of Councils to them in 1918-19 and 1919-20 at rates more favourable than the current market rates of exchange, and (ii) the cash payments made to them in 1920-21 in final discharge of the guarantee. The latter payments totalled 1,68.85 lakhs, and the loss under head (i) is calculated to amount to 1,87.44 lakhs, making a total loss on this item of 3,56.29 lakhs.

(e) As regards other remittance transactions between India and England, a real or avoidable loss can arise only from one of the following causes:—

- (i) Owing to a delay in securing a correspondence between the current rate of exchange and the rates at which particular transactions are carried out;
- (ii) owing to particular transactions being carried out for special reasons at rates which are unfavourable to Government as compared with current market rates; or
- (iii) owing to the re-transfer at unfavourable rates of funds remitted in one direction at favourable rates.

As regards (i), such delays occurred mainly in connection with postal remittances prior to 1921, when some time intervened between a change in the market rate and the revision of foreign money order rates on the basis of the changed market rate. The loss on this account, was, however, small and is not capable of calculation without a considerable amount of labour; moreover, the delays operated in both directions, resulting at times in a gain also.

The only important transaction of the kind referred to at (ii) is the sale of Councils at favourable rates to Exchange Banks in connection with the overbuying guarantee which has already been dealt with.

Under item (iii) fall the sales of reverse Councils in the three years 1918-19 to 1920-21. Details of these sales are given in Statement VII. The total sales during this period amounted to £60,847,000, of which £14,114,000 was paid from the Secretary of State's treasury balances and the balance of £46,733,000 by the sale of sterling investments on behalf of the Paper Currency Reserve. Out of the payments made from Treasury balances, £5,315,000 was found from remittances to England made in 1918-19 and £8,799,000 from remittances made in 1919-20, while the funds for the investments in the Paper Currency Reserve which were withdrawn for paying sterling bills were remitted to England to the extent of £20,680,000 in 1918-19, £8,658,000 in 1917-18 and £17,395,000 in 1916-17. Assuming that these remittances were effected at the average rate of exchange which obtained in the year of remittance, the real loss on the sale of sterling bills on London during this period works out to 28,91.79 lakhs.

12. Thus apart from the loss arising from the revaluation of the Paper Currency Reserve, the real loss due to the exchange operations of the quinquennial period under consideration may be estimated at 28,42.23 lakhs. This figure is gross and does not allow any set off for the gains which were obtained from the provision of funds by Councils or otherwise at high rates of exchange.

STATE

Statement showing the difference on account of exchange in respect of remittance to 1921-22, the basis of conversion being Rs. 15 per £ in 1917-18

(Figures in thou-

	1917-18.				1918-19.			
	Sterling received or paid in Eng. land.	Rupees paid or received in India.	DIFFERENCE REPRESENTING		Sterling received or paid in Eng. land.	Rupees paid or received in India.	DIFFERENCE REPRESENTING	
			Excess receipt.	Excess payment.			Excess receipt.	Excess payment.
	£	Rs.	Rs.	Rs.	£	Rs.	Rs.	Rs.
(i) Council Bills sold by the Secretary of State.	33,453	48,57,32	1,61,37	...	20,946	28,65,41	2,76,54	...
(ii) Reverse Councils on London sold in India (a).	...	...	...	...	5,315	7,08,02	...	89,23
(iii) Difference due to realisation of sterling securities in P. C. R. for payment of reverse Councils on London.	...	...	...	...	...	...	...	...
(iv) War Expenditure recoverable from Home Government and miscellaneous military and marine transactions.	61,348	89,05,71	2,90,54	...	67,263	90,86,01	10,03,47	...
(v) Postal and money order transactions with foreign countries having a sterling currency (d).	...	...	9,25	...	...	...	67,53	...
(vi) Remittance transactions with Ceylon, East Africa, Hong Kong and other Governments (b).	...	...	29,76	...	...	...	67,15	...
(vii) Transfers from Currency in England for treasury requirements against payment to it in India.	...	...	...	...	...	...	...	...
(viii) Remittances to Mesopotamia recoverable in London (c).	...	...	...	...	...	...	...	...
(ix) Miscellaneous transactions (b).	...	...	...	8,19	...	...	17,70	...
			4,96,92	8,19			14,32,39	89,23
			+ 4,88,73				+ 13,43,16	

- (a) For details of the rates at which reverse
(b) For details of these transactions see No. 88-C. of the Finance and Revenue
(c) The similar remittances in years previous
(d) Only the entries relating to exchange have

MENT I.

transactions between India and England brought to account in each of the years 1917-18 to 1919-20 and Rs. 10 per £ in 1920-21 and 1921-22.

sands of £ and Rs.)

	1919-20.				1920-21.				1921-22 (Revised).			
	Sterling received or paid in Eng. land.	Rupees paid or received in India.	DIFFERENCE REPRESENTING		Sterling received or paid in Eng. land.	Rupees paid or received in India.	DIFFERENCE REPRESENTING		Sterling received or paid in Eng. land.	Rupees paid or received in India.	DIFFERENCE REPRESENTING	
			Excess receipt.	Excess payment.			Excess receipt.	Excess payment.			Excess receipt.	Excess payment.
	£	Rs.	Rs.	Rs.	£	Rs.	Rs.	Rs.	£	Rs.	Rs.	Rs.
31,226	34,54,93	12,28,95	...	...	...	...	...	...	...	...	...	...
24,544	18,57,73	...	18,23,87	30,958	28,55,80	...	2,43,00	...	...	...	...	...
...	...	...	...	34,000	51,00,07	...	17,00,03	...	...	...	...	...
74,902	82,94,05	29,41,25	...	50,476	62,18,79	...	11,71,15	10,681	16,91,25	...	6,23,16	...
...	...	...	92,05	...	...	...	83,25	...	...	...	76,15	...
...	...	88,93	...	...	...	...	18,26	...	...	...	36,64	...
...	...	...	...	...	...	...	...	...	2,498	3,72,45	...	1,32,60
...	...	...	...	...	...	...	...	...	5,629	8,42,20	...	2,79,25
...	...	...	2,66,26	...	...	...	11,46	...	...	...	...	1,52,79
		42,59,13	21,82,18				11,46	32,15,69			...	12,90,59
		+ 20,76,95					- 32,04,23				- 12,90,59	

Councils were sold, see Statement VII.
Account No. 45 of the Finance and Revenue Accounts for 1917-18, 1918-19 and 1919-20, and account Accounts for 1920-21.
to 1921-22 are included in Item (iv).
been shown against these items

[24TH JAN. 1923.]

STATEMENT II.

Statement showing the loss on rupee coinage brought to account in each of the years 1917-18 to 1921-22.

	1917-18.	1918-19.	1919-20.	1920-21.	1921-22 Revised.
(i) Purchase price of Silver taken up for coinage during the year £	2,361	36,657	28,540	4,573	...
(ii) Equivalent of (i) in Rs. at £1 = Rs. 15 Rs.	3,542.22	55,485.50	42,809.8	6,859.02	...
(iii) Charges connected with purchase and coinage in England £	20	1,135	407	3	...
(iv) Charges connected with purchase and coinage in India Rs.	6.96	1,05.31	75.2	12.17	...
(v) Total of (iii) and (iv) at Rs. 15 = £1 Rs.	9.97	2,75.55	1,36.89	12.47	...
(vi) Total purchase price and other charges (ii, and (v) Rs.	3,641.9	58,19.16	44,17.88	6,984.9	...
(vii) Out-turn value of silver Rs.	3,47.24	52,01.15	37,44.28	6,06.01	...
(viii) Difference representing loss (vi-vii) Rs.	16,95(b)	6,18.01	6,73.59	92.48	...
(ix) Write-back of loss adjusted in excess during 1918-19 to 1920-21 Rs.	...	...	...	...	-2,61.08(a)

(a) The correctness of this write-back is under examination and a further adjustment is likely to be necessary.
 (b) There was a gain in respect of the bulk of the rupee coinage carried out in 1917-18; this was as usual credited to the Gold and Standard Reserve and is not therefore included in this statement.

STATEMENT OF EXCHANGE GAINS AND LOSSES.

STATEMENT III.

Statement showing the gains and losses on the acquisition, purchase, and sale of gold in each year from 1919-20 to 1921-22. (Figures in thousands of Rs. and £ except where otherwise stated.)

	1919-20.	1920-21.	1921-22.
(a) T. T. sold on India against the deposit of gold to the credit of the Government of India in Ottawa and New York—			
(i) Quantity of gold received	469,237 oz. fine	...	...
(ii) Value of the same at Rs. 15 per £	2,98,98	...	...
(iii) Rupees actually paid for the gold	2,27,81	...	...
(iv) Difference between (ii) and (iii) representing gain	+71,17	...	...
(b) Imported gold—			
Difference between (i) the value of gold imported into India and acquired by Government under the Gold Import Act at rates fixed from time to time up to 2nd February 1920 and after that date at Rs. 10 = £1 or Re. 1 = 11 30016 grs. of fine gold and (ii) the value at which it was placed in the Paper Currency Reserve (i.e., Rs. 15 = £1 or Re. 1 = 7 53344 grs. fine gold).	+2,57.09	+13.71	...
(c) Indian mines gold purchased—			
(i) Quantity of gold received	198,287 oz. fine	282,350 oz. fine	63,087 oz. fine
(ii) Value of the same paid in India	1,20.22	1,29.53	34.09
(iii) Value of the same paid in England at Rs. 15 per £ in 1919-20 and Rs. 10 per £ in 1920-21 and 1921-22.	...	47.36	11.00
(iv) Total value paid	1,20.22	1,76.89	45.09
(v) Value at which gold was placed in the Paper Currency Reserve (i.e., Rs. 15 per sovereign in 1919-20 and Rs. 10 in subsequent years).	1,26.54	1,50.08	26.80
(vi) Difference between (iv) and (v) representing gain (+) or loss (—).	+6.12	-26.81	-18.39
(d) Gold purchased by the Secretary of State—			
(i) Quantity of gold received	5,170,850 oz. fine	1,163,587 oz. fine	...
(ii) Value paid for the same	£27,448 = 41,17.22	£6,470 = 6,46.97	...
(iii) Value at which gold was placed in the Paper Currency Reserve.	32,78.90	7,72.94	...
(iv) Difference between (ii) and (iii) representing gain (+) or loss (—).	-8,38.32	+1,25.97	...
(e) Sale of gold in India—			
(i) Quantity of gold sold	3,361,732 oz. fine	4,698,722 oz. fine	...
(ii) Rupee proceeds of sale	21,49.10	27,70.01	...
(iii) Value at which gold was held in the Paper Currency Reserve.	21,80.04	29,79.14	...
(iv) Difference between (i) and (iii) representing gain (+) or loss (—).	+10.06	-2,09.13	...
(f) Total gain (+) or loss (—)	-4,84.88	-96.26	-18.39

STATEMENT IV.

Statement showing the net gain or loss adjusted under the head "Exchange" in each of the years 1917-18 to 1921-22.

[Figures in thousands of Rs.]

	1917-18.	1918-19.	1919-20.	1920-21.	1921-22 (Revised).
	Rs.	Rs.	Rs.	Rs.	Rs.
(i) Difference on account of exchange in respect of remittance transactions between India and England as in Statement I	+4,88,73	+13,43,16	+20,76,95	-32,04,23	-12,90,50
(ii) Loss on rupee coinage as in Statement II	-16,95	-6,18,01	-6,73,59	-92,48	+2,61,08
(iii) Net gain or loss on gold purchases and sales as in Statement III	...	...	-4,84,88	-93,26	-18,19
(iv) Difference due to re-valuation of securities and gold in the Paper Currency Reserve on the 1st October 1920 at the new ratio of Rs. 10=£1	...	...	...	-17,47,36 (a)	...
(v) Loss in connection with the cancellation of overbuying guarantee to Exchange Banks	...	...	...	-1,68,85	...
Total credit (+) or debit (-) under the Exchange head	+4,71,78	+7,25,15	+9,18,48	-53,09,18	-10,48

(a) This amount was actually adjusted in the accounts under a special Suspense head "Adjustment of exchange on revaluation of gold and sterling securities in Paper Currency Reserve" and was to be cleared by the gradual appropriation of interest from investments in the Paper Currency Reserve and excess in assets of the Gold Standard Reserve above £40 millions as announced at the time of the Paper Currency legislation of September 1920. As it is however of the same nature as the other transactions included in this statement, it has been included here.

STATEMENT V.

Statement showing the difference on account of Exchange in respect of remittance transactions between India and England that would have been brought to account in each of the years 1920-21 and 1921-22 if the basis of conversion had been Rs. 15 instead of Rs. 10 per £.

[Figures in thousands of rupees.]

	1920-21.		REVISED 1921-22.	
	DIFFERENCE FOR EXCHANGE REPRESENTING		DIFFERENCE FOR EXCHANGE REPRESENTING	
	Excess receipt.	Excess payment.	Excess receipt.	Excess payment.
(i) Council Bills	Rs.	Rs.	Rs.	Rs.
(ii) Reverse Councils on London	...	...	...	...
(iii) Recoverable war expenditure and miscellaneous military and marine transactions	...	17,92,42	...	...
(iv) Postal and money order transactions	13,52,67	...	...	89,11
(v) Remittance transactions with Ceylon, East Africa, Hong Kong and other Governments	...	2,01,63	...	1,65
(vi) Transfers through Currency	43,85	...	8,19	...
(vii) Remittances to Mesopotamia	...	...	2,33	...
(viii) Miscellaneous transactions	28,20	...	2,22	...
	11,24,72	19,94,13	11	...
	-5,69,31	...	12,85	90,76
	...	...	-77,91	...

STATEMENT VI.

Statement showing the adjustments under the head Exchange in the years 1920-21 and 1921-22 as they would have stood if the rate of conversion for the accounts had been £1=Rs. 15 and the distribution thereof among the Commercial undertakings and the Central and Provincial expenditure head "Exchange."

[Figures in thousands of rupees.]

	1920-21.	1921-22.
	Rs.	Rs.
(i) Difference on account of exchange in respect of remittance transactions as per Statement V.	-5,69,31	-77,91
(ii) Loss in connection with the cancellation of overbuying guarantees to Exchange Banks.	-1,68,85	...
(iii) Net loss in connection with the purchase, acquisition and sale of gold.	-4,43,44	-23,79
(iv) Loss on rupee coinage	-92,63	+2,60,93
TOTAL	-12,74,23	+1,59,23
Adjusted as follows:—		
Amount transferred to—		
Railway Capital	+6,10,32	-19,20
Railway Revenue	+3,51,04	-1,35
Irrigation Capital and Revenue	+5,27	-3
Delhi Capital	+6,95	-8
Posts and Telegraphs Revenue	+29,58	-8,10
General Expenditure Head "Exchange"—		
Central	+5,66,36	+4,52
Provincial	...	-2,33
Total transfers	+15,69,52	-26,57
Net amount, debited or credited to Suspense	-23,43,75	+1,85,80

STATEMENT VII.

Statement showing the Reverse Councils on London sold in the years 1918-19 to 1920-21.

Date of sale.	Rate of immediates.	Amount sold at each sale. (In thousands of £.)	Difference between rupees received and equivalent of sterling paid at Rs. 15 per £. (In thousands of Rs.)
		£	Rs.
1918-19.	1s.-5 31/32d.	1,000	...
14th November 1918	1s.-5 31/32d.	2,000	...
21st November 1918	1s.-5 31/32d.	560	...
28th November 1918	1s.-5 31/32d.	20	...
12th December 1918	1s.-5 31/32d.	50	...
19th December 1918	1s.-5 31/32d.	25	...
9th January 1919	1s.-5 31/32d.	20	...
30th January 1919	1s.-5 31/32d.	400	...
6th February 1919	1s.-5 31/32d.	585	...
13th February 1919	1s.-5 31/32d.	125	...
20th February 1919	1s.-5 31/32d.	105	...
27th February 1919	1s.-5 31/32d.	110	...
6th March 1919	1s.-5 31/32d.	135	...
13th March 1919	1s.-5 31/32d.	120	...
20th March 1919	1s.-5 31/32d.	60	...
27th March 1919	1s.-5 31/32d.	...	...
TOTAL	...	5,915	89,32

STATEMENT VII—contd.

Statement showing the Reverse Councils on London sold in the years 1918-19 to 1920-21.

Date of sale.	Rate of immediates.	Amount sold at each sale. (In thousands of £.)	Difference between rupees received and equivalent of sterling paid at Rs. 15 per £. (In thousands of Rs.)
		£	Rs.
1919-20.			
3rd April 1919	1s.-5 31/32d.	125	...
10th April 1919	1s.-5 31/32d.	25	...
2 d January 1920	2s.-3 29/32d.	770	...
8th January 1920	2s.-3 29/32d.	990	...
15th January 1920	2s.-3 29/32d.	300	...
22nd January 1920	2s.-3 29/32d.	2,000	...
29th January 1920	2s.-3 29/32d.	1,334	...
5th February 1920	2s.-8 15/16d.	2,000	...
12th February 1920	2s.-10 27/32d.	5,000	...
19th February 1920	2s.-10 7/32d.	2,000	...
26th February 1920	2s.-10 5/16d.	2,000	...
3rd March 1920	2s.-10 1/32d.	2,000	...
11th March 1920	2s.-8 3/32d.	2,000	...
18th March 1920	2s.-7 5/16d.	2,000	...
25th March 1920	2s.-5 31/32d.	2,000	...
TOTAL	...	21,544	18,28,87
1920-21.			
1st April 1920	2s.-4 13/16d.	1,988	...
8th April 1920	2s.-4 3/32d.	2,000	...
15th April 1920	2s.-4 7/16d.	2,000	...
22nd April 1920	2s.-4 17/32d.	2,000	...
29th April 1920	2s.-5 7/8d.	1,000	...
6th May 1920	2s.-5 3/16d.	1,000	...
13th May 1920	2s.-5 11/32d.	1,000	...
20th May 1920	2s.-5 1/2d.	1,000	...
26th May 1920	2s.-5 13/32d.	1,000	...
3rd June 1920	2s.-5d.	1,000	...
10th June 1920	2s.-4 27/32d.	1,000	...
15th June 1920	2s.-4 5/8d.	1,000	...
24th June 1920	1s.-11 19/32d.	1,000	...
1st July 1920	1s.-11 19/32d.	1,000	...
8th July 1920	1s.-11 19/32d.	1,000	...
15th July 1920	1s.-11 19/32d.	1,000	...
22nd July 1920	1s.-11 19/32d.	1,000	...
29th July 1920	1s.-11 19/32d.	1,000	...
5th August 1920	1s.-11 19/32d.	1,000	...
12th August 1920	1s.-11 19/32d.	1,000	...
19th August 1920	1s.-11 19/32d.	1,000	...
26th August 1920	1s.-11 19/32d.	1,000	...
2nd September 1920	1s.-11 19/32d.	1,000	...
7th September 1920	1s.-11 19/32d.	1,000	...
13th September 1920	1s.-11 19/32d.	1,000	...
21st September 1920	1s.-11 19/32d.	1,000	...
28th September 1920	1s.-11 19/32d.	1,000	...
TOTAL	...		17,92,40

COMMUNICATIONS IN FRONTIER PROVINCE.

The HONOURABLE MR. J. P. THOMPSON (Political Secretary): Sir, I lay on the table the information promised in reply to question No. 148 asked by the Honourable Rai Bahadur Lala Ram Saran Das on the 20th September 1922, regarding measures adopted to improve communications in the settled districts and in the trans-border areas of the Frontier Province, and names of civil roads and railways built during the last seven years.

(a) Government are fully alive to the necessity of maintaining and improving communications in the settled districts as well as in the trans-border areas of the North-West Frontier Provinces and have only been compelled by the existing financial stringency to postpone consideration of a comprehensive scheme of road construction and improvement. In the meanwhile the most important work under construction in the settled Districts is a road from Draban in the Dera Ismail Khan District to Ghazni Khel in Bannu, which is being metalled, and in the trans-frontier, roads within Waziristan a road from Thall on the Kurram in the Kohat District to Idak on the Tochi.

(b) Civil and military roads built during the last seven years.

1. Kam Shilman-Loi Shilman section of the Landi Kotal Kam Shilman-Loi Shilman road.
2. Two miles of road on the Peshawar-Michni section of the Peshawar-Michni-Shabkadar-Abazai road.
3. Kaur-Khargi-Jandola-Kotkai-Sararogha road.
4. Charsadda Tangi road.

Railways.—Railways in the Frontier Province are included in the North Western Railway System and for particulars of the railways built during the last seven years the Honourable Member is referred to the History of Indian Railways corrected up to the 31st March 1921, a copy of which is available in the Library of the Council of State.

MUSLIMS, HINDUS, ETC., IN GOVERNMENT OF INDIA SECRETARIAT.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I lay on the table the statement promised in reply to question (No. 89, dated 11th September 1922), by the Honourable Khan Bahadur Sir Ahmedthamby Maricair regarding the number of Muslims, Hindus, etc., employed in the Government of India Secretariat.

[24TH JAN. 1923.]

(1) Officers holding posts above the grade of Superintendent.

Department.	EUROPEANS.		ANGLO-INDIANS.		HINDUS.		MUHAMMADANS.		SIKHS.		INDIAN CHRISTIANS.		OTHERS.		TOTAL.		REMARKS.
	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	
Home	6	3	..	..	..	1	..	..	..	..	..	..	..	..	6	4	
Foreign and Political	7	..	..	..	..	..	1	..	..	..	..	..	..	..	8	..	
Finance	4	2	..	..	2	..	..	..	..	..	..	..	..	..	6	2	
Legislative	4	3	1	..	2	1	..	..	..	..	..	..	..	..	7	4	
Army	4	2	1	1	..	..	..	..	..	..	..	..	..	..	5	3	
Public Works	3	..	1	1	..	..	..	..	..	..	..	..	..	..	4	1	
Revenue and Agriculture	4	1	1	..	..	..	..	..	..	..	1	..	..	..	6	1	
Education and Health	1	..	..	..	1	..	2	..	..	..	1	..	..	..	5	..	
Commerce	5	1	..	..	..	..	..	..	..	..	..	..	..	..	5	1	
Industries	4	..	..	..	2	..	..	..	..	..	1	..	..	..	7	..	
Railway Board	11	..	..	..	..	..	..	..	..	..	..	..	..	..	11	..	
Office of Financial Adviser (Military Finance).	10	3	..	..	1	..	..	..	..	..	..	..	..	..	11	3	

*Excluding officiating officers.

(2) Superintendents.

Department.	EUROPEANS.		ANGLO-INDIANS.		HINDUS.		MUHAMMADANS.		SIKHS.		INDIAN CHRISTIANS.		OTHERS.		TOTAL.		REMARKS.
	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	
Home	..	..	3	1	..	..	..	..	..	..	..	..	..	..	6	1	
Foreign and Political	6	..	3	..	..	..	..	..	..	..	..	..	..	..	9	..	
Finance	1	..	..	..	3	..	1	..	1	..	..	..	..	..	6	..	
Legislative	2	..	..	1	1	1	..	..	..	..	..	..	..	..	3	2	
Army	1	..	2	1	2	1	..	..	..	..	..	..	..	..	5	2	
Public Works	1	..	3	..	1	..	..	..	..	..	..	..	..	..	5	..	
Revenue and Agriculture	4	..	..	..	..	..	..	..	..	..	..	..	..	..	4	..	
Education and Health	..	..	1	..	2	..	..	..	..	..	..	..	..	..	3	..	
Commerce	1	..	..	..	1	..	2	..	..	..	..	..	..	..	4	..	
Industries	2	..	1	..	3	1	..	..	..	..	..	..	..	..	6	1	
Railway Board	..	..	4	..	1	..	1	..	..	..	1	..	..	..	7	..	
Office of Financial Adviser (Military Finance).	1	..	..	..	4	..	..	..	..	..	..	..	..	..	5	..	

*Excluding officiating officers.

[24TH JAN. 1923.]

(3) Assistants.

Department.	EUROPEANS.		ANGLO-INDIANS.		HINDUS.		MUHAMMADANS.		SIKHS.		INDIAN CHRISTIANS.		OTHERS.		TOTAL.		PERCENTAGE OF MUHAMMADANS TO NON-MUHAMMADANS.		REMARKS.
	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	
Home.	4	5	5	1	7	1	2	1	1	1	1	2	..	..	20	3	11	Nil	+ Parsee.
Foreign and Political Affairs.	16	1	13	1	6	4	1	1	1	1	..	..	..	..	37	3	9	8	
Legislative.	3	1	4	..	12	..	..	..	..	..	..	..	..	..	23	1	9	Nil	(a) American. (b) Including 1 Sikh, Head draftsman.
Army.	2	3	6	4	10	15	..	2	..	..	1	..	..	..	18	5	9	9	
Public Works.	..	..	8	1	10	1	2	1	..	..	..	..	..	..	31	4	10	100	..
Revenue and Agriculture.	8	..	2	..	3	..	..	..	..	..	..	..	..	..	14	..	27	Nil	
Education and Health.	..	..	5	..	6	..	3	..	..	..	..	..	..	..	13	..	27	Nil	..
Commerce.	1	..	5	1	4	6	..	2	..	..	1	..	..	..	18	2	12	28	
Industries.	2	..	3	..	11	2	1	..	..	..	..	..	..	..	12	3	12	25	..
Railway Board.	1	..	12	..	13	1	1	..	1	..	..	..	..	..	30	2	3	100	
Office of Financial Adviser (Military Finance).	4	..	2	..	18	6	..	..	..	..	..	..	..	..	24	6	Nil	Nil	..

* Excluding officiating officers.

(4) Clerks.

Department.	EUROPEANS.		ANGLO-INDIANS.		HINDUS.		MUHAMMADANS.		SIKHS.		INDIAN CHRISTIANS.		OTHERS.		TOTAL.		REMARKS.
	Permanent.	* Temporary.	Permanent.	* Temporary.	Permanent.	* Temporary.	Permanent.	* Temporary.	Permanent.	* Temporary.	Permanent.	* Temporary.	Permanent.	* Temporary.	Permanent.	* Temporary.	
Home	..	..	5	6	19	47	8	..	2	1	..	..	..	..	34	14	+ Excludes Hindu photographer in office of Director, Central Bureau of Information.
Foreign and Political	3	..	5	2	28	9	6	5	2	1	2	..	..	..	46	17	
Finance	..	..	..	..	28	3	4	..	..	..	2	1	..	..	34	4	
Legislative	1	..	..	1	18	6	9	2	1	..	1	..	..	..	30	9	
Army	..	..	..	3	22	53	2	7	2	..	..	1	..	..	29	71	
Public Works	1	..	..	2	18	4	6	..	..	1	..	..	..	..	7	5	
Revenue and Agriculture	..	..	..	2	15	2	10	..	4	..	..	..	..	..	31	2	
Education and Health	..	..	..	1	11	11	6	..	1	..	..	..	..	..	29	11	
Commerce	..	..	..	2	24	7	3	2	..	2	..	..	..	..	..	..	
Industries	..	..	..	1	19	2	8	..	..	2	3	..	..	..	31	4	
Railway Board	..	..	5	2	36	8	10	3	5	..	1	..	..	..	(a) 57	(a) 13	(a) Including 13 draftsmen, i.e., 8 Hindus, 7 Muhammadans and 3 Sikhs.
Office of Financial Adviser (Military Finance).	1	1	..	..	30	4	5	1	1	..	..	..	..	..	37	6	

* Excluding officiating officers.

[24TH JAN. 1923.]

(5) Stenographers.

Department.	EUROPEANS.		ANGLO-INDIANS.		HINDUS.		MUHAMMADANS.		SIKHS.		INDIAN CHRISTIANS.		OTHERS.		TOTAL.		REMARKS.
	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	Permanent.	*Temporary.	
Home	..	..	3	..	2	2	..	..	..	..	..	..	..	..	5	2	
Foreign and Political	..	..	1	..	3	..	..	..	..	..	..	..	..	..	4	1	
Finance	..	..	1	..	3	..	..	..	..	..	..	..	..	..	6	1	
Legislative	..	..	2	..	(a)6	1	..	..	..	..	..	..	..	..	15	1	(a) Council porters. (b) Jews.
Army	..	..	..	..	1	1	..	..	..	..	..	..	..	..	2	1	
Public Works	..	..	..	..	2	..	..	..	..	..	..	..	..	..	3	..	
Revenue and Agriculture	..	..	..	..	3	..	..	..	..	..	..	..	..	..	3	..	
Education and Health	..	..	..	..	..	..	..	..	..	..	..	..	..	..	3	..	
Commerce	..	..	..	..	..	..	..	..	..	..	..	..	..	..	3	..	(c) One Parsee and one Jew.
Industries	..	..	..	..	4	1	..	..	..	..	..	..	..	..	4	1	
Railway Board	..	..	..	..	6	..	..	..	..	..	..	..	..	..	6	..	
Office of Financial Adviser.	..	..	..	..	5	1	..	..	..	..	..	..	..	..	5	1	
Military Finance.	..	..	..	..	6	..	..	..	..	..	..	..	..	..	6	..	

* Excluding officiating officers.

(ii) Proportion of Muslims to non-Muslims in each Department (including temporary appointments)—

Home	13 per cent.	21 per cent.
Foreign and Political	12 "	36 "
Finance	11 "	13 "
Legislative	15 "	15 "
Army	7 "	15 "
Public Works	14 "	7 "

(iii) Total proportion of Muslims to non-Muslims in all the Departments of the Government of India—About 13 per cent.
 (b) Total number of permanent assistants in the Railway Department (Railway Board) 30 and not "about 40."

POLICY OF HIS MAJESTY'S GOVERNMENT WITH REFERENCE TO THE GOVERNMENT OF INDIA ACT.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I lay on the table a copy of a Despatch from His Majesty's Secretary of State for India, No. 62-Public, dated the 2nd November 1922, regarding the policy of His Majesty's Government with reference to the Government of India Act.

INDIA OFFICE, LONDON,

2nd November 1922.

Public,
No. 62.TO HIS EXCELLENCY THE RIGHT HONOURABLE THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.

MY LORD,

More than a year has elapsed since Your Excellency's Government forwarded to my predecessor the report of a debate which took place in the Legislative Assembly in September of last year, as a result of which a motion was carried recommending that the Secretary of State should be informed that the Assembly was of opinion that the progress made by India on the path to responsible government warrants a re-examination or revision of the constitution at an earlier date than 1929. On the 28th February last my predecessor stated, in reply to a question put to him in the House of Commons, that he intended to address a Despatch to Your Excellency's Government in reply to this motion, which would follow generally the lines of his speech in the course of the debate on the address a fortnight earlier. Circumstances, however, prevented the fulfilment of this intention, and since it has fallen to myself to make the reply which it is desirable that the Assembly should receive, I do not imagine that Your Excellency's Government will have expected that I should address myself to so large and important a question without mature consideration, even though some further delay was involved.

2. The result of my consideration is that I have little to add to, and nothing to qualify in, the statement of the case made by my predecessor in the concluding portions of his speech in the House of Commons on the 14th February last. The policy deliberately adopted by Parliament in enacting the Act of 1919, and recently reaffirmed by the present head of His Majesty's Government, was to provide an instalment of self-government, but at the same time to make further progress in that direction dependent upon experience of the practical results achieved in the working of the new constitution as a whole. It would have been a matter for surprise had any speaker in the Indian debate of September of last year attempted to prove as the result of six months' experience of a new constitution that its possibilities were exhausted and that nothing remained to be learned from further experience of its operation. No such attempt was made, and the arguments used in support of the motion consequently lose some of their cogency in my view, for three reasons. In the first place, they assumed that progress is impossible under the existing constitution, and can be achieved only by further amendment of the Government of India Act. This assumption I believe to be fundamentally erroneous.

3. The outstanding feature of the change made by the Act of 1919 was that it provided British India with a progressive constitution in place of an inelastic system of government, and that consequently there is room within the structure of that constitution for the Legislatures to develop and establish for themselves a position in conformity with the spirit of the Act.

4. In the second place, however great the merits shown by the Legislatures as a whole and by individual members (and I am far from wishing to underrate them), the fact remains that the merits and capabilities of the electorate have not yet been tested by time and experience. The foundation of all constitutional development must be the presence of a vigorous and instructed body of public opinion operating not only in the Legislatures, but—what is even more important—in the constituencies. Until this foundation has been firmly laid, progress would not be assisted, and might indeed be retarded, if fresh responsibilities were added to those with which the electors have so recently been entrusted.

5. Thirdly, the new constitutional machinery has to be tested in its working as a whole. Changes have been made as the result of the Act of 1919 in the composition, powers, and responsibilities not only of the Legislatures, but also of the executive Governments. No estimate of the success of the new system could pretend to completeness which was not based upon proof of the capacity of these bodies, as now constituted, to administer the duties entrusted to them—duties which, from the point of view of the public welfare, are at least as important as those of the Legislatures; and trustworthy proof of such capacity can only be established by experience of the extent to which the increased association of Indians in the sphere of executive responsibility has justified itself in practice.

6. I would add that, even were these reasons for patience less cogent, an opinion based upon six months' experience of its working that a new constitution, in the elaboration of which over two years were occupied, stands in need of revision, is hardly likely to commend itself to Parliament, since it is clear that sufficient time has not elapsed to enable the new machinery to be adequately tested. It would, in fact, be without precedent if a constitution, deliberately framed to provide a basis for development in whatever directions experience may indicate, were to be brought under review within a few months of its inauguration; and indeed any such process could hardly fail to deprive the constitution of a large element of its value, by determining prematurely the precise directions in which further progress is to be made.

7. I shall be glad if Your Excellency's Government will cause copies of this Despatch to be laid on the Table of both Chambers of the Indian Legislature.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble Servant,

(Signed) PEEL.

EMIGRATION TO THE STRAITS SETTLEMENTS AND MALAY STATES.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I lay on the table, in pursuance of the provisions of sub-section (2) of section 10 of the Indian Emigration Act, 1922, a draft notification specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to the Straits Settlements, the Federated Malay States and the Unfederated Malay States.

No.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

(EMIGRATION.)

Delhi, the January 1923.

NOTIFICATION.

In exercise of the powers conferred by section 10 of the Indian Emigration Act, 1922 (VII of 1922), hereinafter referred to as "the Act", the Governor General in Council is pleased to issue the following Notification in the form in which it has been approved by both Chambers of the Indian Legislature:—

Emigration to the Straits Settlements, the Federated Malay States of Perak, Selangor, Negri-Sembilan and Pahang and to the Unfederated Malay States of

EMIGRATION TO THE STRAITS SETTLEMENTS AND MALAY STATES.

Kedah, Perlis, Johore, Kalantan, Trengganu and Brunei for the purpose of unskilled work shall be lawful on the following terms and conditions, namely:—

(1) The emigrant shall

(a) have been recruited by a person licensed for that purpose by and responsible to an officer (hereinafter called the Emigration Commissioner) appointed by the Government of the Straits Settlements and by the Governments of the Federated and Unfederated Malay States, or

(b) have applied direct to the Emigration Commissioner for an assisted passage and have been accepted by him.

(2) The emigrant shall not before leaving British India, have entered into any engagement to labour for a period exceeding one month.

(3) Engagements to labour entered into by an emigrant in Malaya for a period exceeding one month shall be void.

(4) The Government of the Straits Settlements shall at any time when so desired by the Governor General in Council admit and give all facilities to an Agent appointed under section 7 of the Act.

(5) Within one year of his arrival in the Colony any emigrant who has been assisted to emigrate at the cost of the Indian Immigration Fund shall, on satisfying the Agent appointed under section 7 of the Act that his return to his home is desirable either on the ground of the state of his health or on the ground that the work which he is required to do is unsuitable to his capacity, or that he has been unjustly treated by his employer or for any other sufficient reason, be repatriated free of cost to the place of recruitment and the costs of such repatriation shall be defrayed by the Government of the Federated Malay States and Unfederated Malay States.

(6) If at any time there is no Agent appointed under section 7 of the Act, the Government of the Straits Settlements shall appoint a person to perform the duties of the Agent as set forth in Clause 5.

(7) There shall be no evasion of the provisions of the Act by the conveyance through foreign ports in the Peninsula of India of persons who would be emigrants for the purpose of unskilled work if they departed from British ports.

(8) The Government of the Straits Settlements shall furnish such periodical reports and returns as may be required from time to time by the Government of India in respect of the welfare of the persons emigrating to the colony in accordance with this Notification.

EMIGRATION TO CEYLON.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I lay on the table, in pursuance of the provisions of sub-section (2) of section 10 of the Indian Emigration Act, 1922, a draft notification specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Ceylon.

No.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

(EMIGRATION.)

Delhi, the January 1923.

NOTIFICATION.

In exercise of the powers conferred by section 10 of the Indian Emigration Act, 1922 (VII of 1922), hereinafter referred to as "the Act", the Governor General in

Council is pleased to issue the following Notification in the form in which it has been approved by both Chambers of the Indian Legislature:—

"Emigration to Ceylon for the purpose of unskilled work shall be lawful on the following terms and conditions, namely:—

- (1) The emigrant shall—
 - (a) have been recruited by a person licensed for that purpose by and responsible to an officer (hereinafter called the Emigration Commissioner) appointed by the Government of Ceylon, or
 - (b) have applied direct to the Emigration Commissioner for an assisted passage and have been accepted by him.
- (2) The emigrant shall not, before leaving British India, have entered into a contract of service for a period exceeding one month.
- (3) Within six months from the issue of this Notification, or within such further period as the Governor General in Council may by notification appoint, the Legislature of Ceylon shall have enacted that any contract or service for a period exceeding one month entered into by an emigrant shall be void.
- (4) No part of the cost of his recruitment, subsistence during transport, or transport shall be recoverable from any emigrant and all expenses in this connection shall be defrayed from a common fund to be raised in such manner and managed by such agency as may appear suitable to the Colonial Government.
- (5) The Government of Ceylon shall at any time when so desired by the Governor General in Council admit and give all facilities to an Agent appointed under section 7 of the Act.
- (6) Within one year of his arrival in Ceylon any emigrant who has been assisted to emigrate at the cost of the common fund referred to in clause (4) shall, on satisfying the Agent appointed under section 7 of the Act that his return to his home is desirable either on the ground of the state of his health or on the ground that the work which he is required to do is unsuitable to his capacity, or that he has been unjustly treated by his employer, or for any other sufficient reason, be repatriated free of cost to the place of recruitment, and the costs of such repatriation shall be defrayed by the Government of Ceylon or the Ceylon Planters' Association.
- (7) If at any time there is no Agent appointed under section 7 of the Act, the Government of Ceylon shall appoint a person to perform the duties of the Agent as set forth in clause (6).
- (8) Within six months from the issue of this Notification, or within such further period as the Governor General in Council may by notification appoint, the Legislature of Ceylon shall have enacted that no payment made in India by a recruiter to an emigrant to enable him to pay off debts before emigrating shall be recoverable.
- (9) The Government of Ceylon shall furnish such periodical reports and returns as may be required from time to time by the Government of India in respect of the welfare of persons emigrating to Ceylon in accordance with this Notification.

BUSINESS OF THE HOUSE.

The HONOURABLE THE PRESIDENT: The Council will take unofficial business to-morrow. I will now ask the Honourable the Leader of the House if he can make a statement in regard to the course of official business.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, I understand that the next meeting of this Council for official business will be held on the 29th January. The only item of official business at present ready for that date is the motion that the Bill further to amend the Criminal Tribes Act, 1911, as passed by the Legislative Assembly, be taken into consideration. On the 31st January, which is I understand the next official day, Government will give time for the resumption of the discussion on the Hindu Ceremonial Emoluments Bill. The course of further business in this Chamber will be determined by the progress made in another place with the Bill to amend the Code of Criminal Procedure.

The Council then adjourned till Eleven of the Clock on Thursday, the 25th January 1923.

COUNCIL OF STATE.

Thursday, the 25th January, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

REPORT OF JOINT COMMITTEE ON THE WORKMEN'S COMPENSATION BILL.

The SECRETARY OF THE COUNCIL: Sir, I lay on the table the Report of the Joint Committee 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.

THE HINDU CEREMONIAL EMOLUMENTS BILL—REQUEST FOR POSTPONEMENT.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): May I request, Sir, that the Bill in connection with Hindu Priests' Emoluments which was to have been taken up on the 31st should be taken up at some later date?

The HONOURABLE THE PRESIDENT: I should like the Honourable Member to give his reasons for wishing to postpone the consideration of this Bill. It is in the recollection of the Council that the debate on the Bill was postponed last session; and I was informed that Government had given time for it on the 31st.

The HONOURABLE MR. V. G. KALE: The reason why the consideration of the Bill was postponed was that most Members did not know exactly what the Bill was and I find that many of my Honourable colleagues have not yet arrived; I should therefore like that they should know the details of the Bill before it is taken into consideration.

The HONOURABLE THE PRESIDENT: Has the Honourable the Leader of the House anything to say on this?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): I think it will be better, Sir, if my Honourable friend were to repeat his request at the next sitting; I will be then in a position to say what the views of the Government are with respect to this Bill.

The HONOURABLE THE PRESIDENT: The Bill, I understand, is down for the 31st.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: It would be very difficult to find time for the Bill again because there is such a lot of work this Session.

The HONOURABLE THE PRESIDENT: I think the Honourable Member will see that Government have given time for this Bill and as the Honourable the Leader of the House says, he cannot expect the Government to

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[The President.]
 give him a second day. If he likes to take the risk of not bringing it up on the 31st and taking his chance later, it is for him to consider. It is quite obvious that I cannot require him to move his Bill if he does not wish to do so. These sorts of arrangements are generally made with the object of promoting the despatch of business in the House and just at present owing to legislation in another place there is a good deal of spare time here. I must leave it to the Honourable Member to say whether he is willing to take the risk or not. I think he must tell the House now whether he will move it or not.

The HONOURABLE MR. V. G. KALE: I think I should like to have it postponed.

RESOLUTION RE PURCHASE OF STORES IN ENGLAND.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I beg to move:

"That this Council recommends to the Governor General in Council to place on the Council table all the correspondence which has passed between the Government of India and the Secretary of State for India relating to the Resolution passed by this Council on 29th September, 1921, with regard to the purchase of stores in England."

Sir, it may be asked why, instead of asking a question to the Government to put the papers on the table, I am moving a Resolution on the subject, and I think it right to give my reasons for doing so. This question is a very important one, not only for the industrial development of the country but also for financial reasons which, I think, are paramount just now. I think, Sir, it is better that the House should be put in possession of the views of the Indian commercial community on the subject and also that Government should have an opportunity of explaining their position to the House on this crucial question. Before I say anything in support of this Resolution, may I with your permission, Sir, make a reference to the sad and untimely death of Sir William Meyer who was High Commissioner for India at the time of his death and whose services, as one of the ablest Finance Members India had ever had for a number of years, we all appreciate. His death, Sir, has removed a man who was a true friend of India, and if he had been living, the necessity for such a Resolution as this would probably not have arisen. It is because of his death, and because of the uncertainty as to who is going to fill his place that I thought it my duty to bring forward this Resolution.

In this connection I may mention, although it does not strictly arise out of this Resolution, that representations have been made to Government for appointing an Indian in the place of Sir William Meyer as High Commissioner. Many of us however feel that, whether an Indian or an Englishman is appointed to the post, so long as the High Commissioner is staying in England and is amenable to the influence of financiers and manufacturers in England, he is likely to be influenced to a certain extent by them; he will be more amenable to their influence than if he were staying in India and taking orders directly from the Government of India. I know the difficulties in the way of transferring him and his whole department here. We—the Indian Merchants Chamber and Bureau—had certain discussions with the Honourable Member in charge on the subject, and he placed before us the difficulties in the way of transferring the whole of the department to India just at present. I shall refer to them later on.

The HONOURABLE THE PRESIDENT: I would remind the Honourable Member that this is certainly not exactly relevant to the subject-matter of the Resolution which he is moving. The Resolution asks that the correspondence which has passed between the Government of India and the Secretary of State with regard to the purchase of stores in England should be placed on the table. Now the Honourable Member is contending that the High Commissioner should reside in India. I think that is a matter outside the scope of this Resolution.

The HONOURABLE MR. LALUBHAI SAMALDAS: I am sorry, Sir, if I strayed away from the subject. We want these papers to be placed on the table of this House so that we may know exactly what action the Government of India has taken in the matter and what reply the Secretary of State has given thereon, because we know that whenever orders are placed outside England, there have been questions asked in the House. Deputations from Sheffield have gone and visited the Secretary of State, but we in India have not got those facilities which the Sheffield manufacturers have. We unfortunately till now have no direct representation in the House of Commons, nor have we the facilities to approach the Secretary of State as the Sheffield manufacturers have. Therefore, we want to know what action the Secretary of State has taken in this matter, specially because we find that for various reasons the High Commissioner has been obliged to place orders in England at a higher price than was quoted by other countries. Various reasons have been given for doing so. One ground is that in some cases the delivery by the English manufacturers was quicker; another ground is that the lowest tenderer was not on the King's Roll, and there is yet another, which is rather funny in a way, that as the order had to be executed within the allotment of the year it had to be placed in England, that is, because the Finance Department cannot carry forward the allotment they had to place orders with English manufacturers although the tender was higher. Then there is also the question of special specifications. All these are very important questions, but we want that orders should, as far as possible, be placed in India by the Government of India, that the tenders should be in rupee currency and the delivery should be in India. The difficulties which the Honourable Member has placed before us . . .

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): May I rise to a point of order, Sir? The Resolution asks us to lay on the table all the correspondence which has passed between the Government of India and the Secretary of State for India with regard to the purchase of stores in England. It has nothing to do with the purchase of stores in India. Our instructions related solely to the procedure to be adopted by the High Commissioner when he received orders from India. They did not relate to the question whether orders should be sent from India to England at all. I submit, Sir, that the Honourable Member is out of order.

The HONOURABLE THE PRESIDENT: I think the Honourable Member is rather inclined to stray away from the main purpose of his Resolution which asks that all the correspondence which has passed between the Secretary of State and the Government of India should be laid on the table.

The HONOURABLE MR. LALUBHAI SAMALDAS: I am sorry, Sir, if I have strayed away from the subject matter. Let me make it clear that I do not want to refer to orders placed in India for Indian goods. I am merely referring to orders placed in foreign countries and what I meant

[Mr. Lalubhai Samaldas.]

was that orders for these goods should be placed from this country. I hope the Honourable Member will see that that at least was one of the questions raised in the Stores Purchase Resolution. I do not want to refer to the other question of placing orders in India. That is being considered by a small Committee called the Railway Industries Committee and I do not want to bring that question before the House at this stage. I may do so later on if there is any necessity for doing so, but for the present I am merely referring to orders placed in England by the High Commissioner for goods manufactured in England or other foreign countries. Sir, I want that the Government of India should place the orders for these goods from here direct, and not through an officer who is more likely to be under the influence of English manufacturers than he would be if he were residing in India. That is the sole reason why I want that orders should be placed here.

I will now refer only to one matter arising out of a statement that was laid on the table of the other House and a copy of which was supplied to my Chamber. Amongst other items orders for which were placed in England although quotations from other countries were lower, one is about pugree cloth. We cannot understand why the orders for pugree cloth should have gone to England. We in India thought that we could manufacture pugree cloth, but somehow the orders were placed in England. An explanation may be useful to remove any doubt in the minds of many of us as to why orders for an article that is usually manufactured in India were sent to England. As regards the larger question of organizing a complete Stores Purchase Department, I hope that the Government of India will see their way to do so as early as possible. As regards the final goal, I think the Secretary of State, the Government of India and the Indian mercantile community are at one. They all want that the orders should be placed in India by the Government of India through their special organisations. The difference between us is about the period within which this organization should be completed. If the Government of India really want to adopt this policy immediately, there ought not to be any difficulty in the way. They have started one branch for orders for piece-goods required by the Army Department, and if they are in earnest, they can do the same as regards other materials required by Railways and other Departments. I hope therefore that the Honourable Member in charge will in his reply give us the assurance that orders for all materials will be placed in India as far as possible.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, as a new Member speaking for the first time, I claim the indulgence of this House which I know it will extend to any one in my position. The debates in this House, I know, are maintained on a high level, and I trust that in time, the Members of this House will kindly educate me till I approach somewhere near the level consonant with its traditions.

First of all, I should like to say that we from the Government Benches associate ourselves very closely with the Honourable Member's kind references to Sir William Meyer. He worked for India with singleness of purpose literally till his death. His abilities and strength of character are well known, but still more, we treasure the memory of his kindness and thoughtfulness. May I say, Sir, that in him I personally lost a Chief whom I respected and loved?

Coming to the Resolution, I am rather in difficulties because the Honourable Member has covered an extremely wide field. In asking for the papers to be laid on the table of this House, the Honourable Member has also asked for a declaration of policy. This question of stores has frequently been debated, and it is perfectly well known to the House how it arose. Sir William Meyer with his usual frankness in his evidence before the Railway Commission mentioned perfectly openly that he was in certain circumstances giving a certain amount of preference to British manufacturers. Later the matter was thoroughly discussed and the result was the issue of the Government of India Resolution dated December 22nd, 1921. A copy of that has been laid on the table of the House, and, as far as I know, no real exception has been taken to the terms of those orders which definitely bind the High Commissioner with hoops of iron that he should deal with these tenders on strict business principles, that is, on the same principles on which any businessman would deal with them giving due weight both to the initial cost, to prompt delivery, to reliability and to the suitability of the firm which is tendering. Naturally one would have expected the matter to end there. Yet the Industries Department welcomes this Resolution because there still seems to be a feeling that, in spite of those instructions laid down, they had by some secret or underhand or unknown method whittled them away, that the Secretary of State or some other body or bodies had endeavoured to make those orders of no effect. I wish to say here as categorically as ever I possibly can that no instructions have been issued either officially or demi-officially, either secretly or privately, or by any other means, detracting from the orders which followed that Resolution of September 1921, and were issued in the following December.

Now, Sir, what about the request to lay on the table the papers relating to the correspondence with the Secretary of State, about that Resolution? The Resolution was come to by the Government of India and a copy was forwarded to the Secretary of State for his information. I am in a difficulty because there is nothing practically to put on the table. The House is in possession of all the information.

The next point the Honourable Member has raised is this interview with the Sheffield manufacturers. There was nothing wrong in the Sheffield manufacturers or any other manufacturers going to the Secretary of State. They had an interview and it was agreed, to begin with, that the details of that interview should be kept private. That is a perfectly common occurrence in the work of any Government and of any business. The information about the meeting was forwarded to the Government of India for their information. There was nothing whatever objectionable in the interview that took place. The full gist of what happened has already been communicated to the House in answer to a question and I think the Honourable Member is aware of it. I don't think he wishes me to read it out again. I assure him, and I hope he will accept my assurance, that there is nothing more to be said. I trust he will accept that. I am glad he does. And what was the result? The Government of India told the High Commissioner that they had seen the notes of this interview and they told him and also replied to the Secretary of State that they saw nothing therein which should cause them to alter in any way the orders which they had already issued. That in fact covers the whole of the request raised in this Resolution. I know there is a sort of feeling in some quarters—it would be interesting to know how it arose—that, if any orders are placed in England, it must be as a result of some occult or secret influence. That is ridiculous. Possibly that idea has arisen from

[Mr. D. T. Chadwick.]

the fact that England has been so long a manufacturing country or by the strident claims made by other competing countries that British manufacturers must be both more expensive and out-of-date. Well, I don't need to go into that. There is all the evidence of the war and the development that then took place, the inventiveness and resource then shown by the British manufacturers and labour to disprove that. As for prices, we all know that shareholders in many companies in England have been foregoing dividends, Directors and others have been reducing profits, and labour has been accepting lower wages in order that their goods may be sold at competitive rates. And everyone of you must know that British manufacturers can and do quote in many instances superior goods at very competitive prices. There is no basis for the suspicion I alluded to. I am glad to see the Honourable Member agrees that had Sir William Meyer continued as High Commissioner he would have had no anxiety whatever over this matter of stores. I do not think he need have any fear for his successors. Sir William Meyer started the tradition and that, with the orders already issued, is sufficient to guide and protect any High Commissioner in the future. They protect him completely. As for the other items mentioned, I hardly think they arise in this connection—for instance as to what happened to a particular order for pugri cloth. My information is that that question was raised by the Upper India Chamber of Commerce and it was pointed out to them that that exact cloth was not made in India, and that Chamber of Commerce was quite satisfied with the reply. Had my Honourable friend raised the point on the returns which he and his Chamber get every few months, he would have got exactly the same details.

The Honourable Member asked us also to lay down the papers, I suppose, about organising the Department in future. There is nothing to lay on the table, Sir. He himself says the matter is before the Railway Industries Committee. I do not think the Railway Industries Committee has as yet reported, so how can we have any correspondence with the Secretary of State? I submit, Sir, that there is really nothing to lay on the table and that as far as conditions to be observed by the High Commissioner in the purchase of stores the Government of India have not moved one inch from the position they took up in this Chamber in September 1921, and which they elaborated in their orders of December 1921.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): I just want to say one thing, Sir. As the name of Sir William Meyer has been mentioned, would it not be well to send a letter of condolence?

The HONOURABLE THE PRESIDENT: If the House feels so disposed, the matter can be raised after the question time at any meeting.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, in view of the lucid explanation given by the Honourable Mr. Chadwick and of his assurance that there are no papers to be laid on the table, I cannot press him to lay on the table papers that do not exist, but the House will have felt that this debate has removed certain misapprehensions in the minds of many of my colleagues who are still under the impression that, though, as the Honourable Mr. Chadwick said, no official orders, private or demi-official, were issued, the High Commissioner, being under the influence—social influence if I may say so—of the manufacturers, may place orders with Englishmen. But, in view of what has fallen, I hope

that that misapprehension will disappear and I hope the new officer, whoever he may be, I personally hope he will be an Indian, will be able to carry on the traditions so well set by Sir William Meyer.

The HONOURABLE THE PRESIDENT: Do I understand that the Honourable Mr. Samaldas has asked permission to withdraw his Resolution or does he wish to put it to the vote?

The HONOURABLE MR. LALUBHAI SAMALDAS: It must be withdrawn, Sir, since there are no papers to lay on the table.

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

APPOINTMENT OF PUBLIC SERVICES COMMISSION.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): Sir, before the next Resolution is moved, I pray for your permission to make a statement to the Council. Indeed, if I had not taken the opportunity of asking that permission, and of making such a statement, I should have felt that I lay under the imputation of discourtesy both to the Council and to the Honourable Member, the Mover of this Resolution.

The Council will remember that a short time ago, in answer to certain reports in the press that it was the intention of His Majesty's Government to appoint a Royal Commission on the public Services, we issued a communiqué stating that those remarks were unauthorised and inaccurate. That they were unauthorised is certain. That they were inaccurate in terms I shall shortly be able to convince the House for they referred in definite but incorrect terms to the scope of the work of the Commission, if appointed. Since then the matter has proceeded further, and I now have a definite announcement to make to the House that His Majesty's Government have decided on the appointment of such a Commission. It will be better, I think, that I should read to the House the exact terms of the announcement authorised by His Majesty's Government. If I may, I would invite a careful attention to the terms of the announcement since they define the scope of the Commission's inquiry and to some extent anticipate its terms of reference. This is the announcement:

"His Majesty's Government have decided to appoint a Royal Commission on the Services in India. The precise terms of reference to the Commission have not yet been definitely settled, but will be wide in their scope. It is contemplated that the Commission will be required, having general regard to the necessity of maintaining a standard of administration in conformity with the responsibilities of the Crown for the Government of India and to the declared policy of Parliament in respect of the increasing association of Indians in every branch of the administration and having particular regard to the experience now gained by the operation of the system of government established by the Government of India Act, to inquire into the organisation and the general conditions of service, financial and otherwise, of the superior Civil Services in India and the best methods of ensuring and maintaining the satisfactory recruitment of such numbers of Indians and Europeans respectively as may now be decided to be necessary in the light of the considerations above referred to."

That is the announcement, and I have only to add that it is not the intention of Government to ask the permission of the Secretary of State to publish any correspondence that may have taken place between us on this subject.

The HONOURABLE THE PRESIDENT: I allowed the Honourable the Home Member to make a statement to the House because it may have a

[The President.]

very material bearing on a Resolution which may be moved to-day. I think the House will agree with me that when the Government are prepared to make a statement giving the House information of this kind, such a statement should always be allowed.

RESOLUTION REGARDING THE INDIAN CIVIL AND OTHER IMPERIAL SERVICES.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, the Resolution which I have to move runs as follows:

"That this Council recommends to the Governor General in Council that he may be pleased to place on the table of the Council all the correspondence that has recently passed between the Government of India and the Secretary of State for India on the question of the improvement of the conditions and prospects of the Indian Civil Service and other Imperial Services, especially in connection with the appointment of a Commission to inquire into the matter."

The announcement which has just been made on behalf of Government in one way facilitates my task and in another increases my difficulties. We have just now been told that the Government of India will not be in a position to ask the Secretary of State for India for permission to publish the correspondence which has ensued between the Secretary of State and the Government of India. Sir, I do not see any sound reason why this permission should not be sought. On the contrary, I feel that there is every strong reason why this correspondence should be published. A Royal Commission is going to be appointed to inquire into the question of the recruitment, the organisation and the maintenance of the higher Civil Services in this country. Now, it may be asked "What was the necessity for the appointment of a Royal Commission?" This question has been discussed at great length in the press in England and in this country. Apart from the fact that a Royal Commission is a very costly affair, there is involved another consideration, namely, that a Commission which will make inquiries on a wide scale is sure to embitter racial and political feelings, especially in the present mood of the country. Sir, after all, what is the Royal Commission going to inquire into? Is it going to raise the whole question of the Public Services which is intimately associated with the Reforms? So far as I see, there are certain grievances of the Services which they want to see redressed. And, I may here remind Honourable Members of the debate that we had in this House in September last on a Resolution I moved on the Premier's speech. In the course of that debate it was made quite clear that we on this side of the House were prepared to agree that any legitimate grievances the Services had, should certainly be looked into, and if necessary, redressed. At the same time, it was made equally clear, first, that the process of Indianisation must go on with reasonable rapidity, and secondly, that no improvements in the conditions and prospects of the Services could be effected, which would be calculated to maintain intact the prestige, the functions and the powers of the Services, in the near future, if the Reforms were to be a real success. Subject to these conditions, I say, we were quite willing that the grievances should be inquired into. But there is another factor in the situation and that is the most important factor, namely, financial. I need hardly remind the House of the parlous situation in which the finances of the country stand at the present moment, and no reform with regard to the Services can be undertaken or can be

contemplated which is likely to add very seriously to the burden of expenditure and of taxation. Take the Civil Service. Is it not a fact that already important improvements have been made in the conditions and prospects of that Service? I think it is a fact which would be admitted by all that so far as the junior members of the Service are concerned, liberal increases in salary have already been granted. Then again, there have been increases made in the salaries of certain specific appointments. If I am correctly informed, the salaries of Commissioners in some provinces have been so raised. Then further, there is the consideration of the contribution that the members of the Service made to the Pension Fund. A remission of their contribution to this Fund is practically an addition to their salaries. Then there is the time scale applied to all members of the Service. This also means an addition to the emoluments of the Service. I also learn that in the case of certain high appointments increased pensions have been granted. (*The Honourable Sir Malcolm Hailey*: "No.") I am contradicted and I stand subject to correction in this matter. But my information is that for servants who have put in a service of 21 years, pensions have been increased, but if that is not correct, certainly I will not advance that argument. Then the leave rules have been liberalised and one serious grievance of the Service has been removed. Then there is the overseas allowance which also means a steady and substantial addition to the salaries. Then, in the case of many officers a consolidated travelling allowance means some addition to the salary. But in spite of all these items of improvement, it has been contended that on account of high prices which have prevailed in England and in India, a further improvement of salaries and emoluments has become necessary. But may I point out that prices have been declining both in England and in this country? Passages to England also have become cheaper and are likely to become cheaper still in the near future. There are, therefore, several weighty considerations on the one side which would certainly not encourage the idea of any substantial increases in Service salaries and emoluments. In the case of new entrants into the Imperial Services, in particular, I do not see why that question should be considered at all from either the financial or the political point of view. It will have to be admitted that candidates for the Indian Civil Service will have to take the country as it is and with the political situation as it will develop in the near future. They will have to make up their minds as to what the Reforms will bring and consequently that is not a consideration which can be taken into account in increasing the salaries. So that, we come back to the financial aspect.

The HONOURABLE THE PRESIDENT: I do not wish to interfere unduly with the Honourable Member at this stage, but I must really ask him to approach more closely the actual subject of this Resolution, which is the publication of certain correspondence.

The HONOURABLE MR. V. G. KALE: Sir, I wish that the correspondence between the Government of India and the Secretary of State should be published because I feel that all these considerations must have been present to the mind of the Government of India when they had been communicating with the Secretary of State. So much has been written and said about the famous O'Donnell circular issued by the Government of India. Critics have made that circular a peg to hang all their diatribes of the Government on, so that the correspondence, we feel certain, must have contained references to all these points before they arrived at their conclusions with regard to the terms of reference and the

[Mr. V. G. Kale.]
scope of inquiry by a Royal Commission. All the matters I have referred to, must have been investigated, and the Indian public will certainly like to know what attitude the Government of India have taken in this regard. I am aware, Sir, that it is exclusively in the power of the Secretary of State to regulate the conditions of recruitment and service, especially of the Imperial Services in India, but the Government of India, fortunately or unfortunately, occupy the position of a buffer. They have no doubt ultimately to be amenable to the control of the Secretary of State, but we can and must take hold of the Government of India and ask them to represent our views to the Secretary of State who, if he chooses, may ultimately decide these matters over the head of the Indian Government and the Indian public. I am confident that the Government of India must have placed all those views which Indian public opinion has from time to time emphasised, before the Secretary of State, and if the correspondence is published, the public will get an idea as to how the Secretary of State tried to meet the arguments on the other side. I contend, Sir, that the appointment of a Royal Commission must have been, if not opposed, discouraged by the Government of India. I have already dwelt on the question of the present conditions and prospects of the Imperial Services. The Government of India could have easily formulated their own views on the facts well known to them, and the Secretary of State might have taken such action as he thought fit upon them. No Commission of inquiry, and no Royal Commission in particular, was needed for this purpose and I am afraid the object of the appointment of a Royal Commission will not be fulfilled. The feelings in this country and also in England, which are already sore, the feelings of the friends of the Services and of their critics, will only be embittered and the situation is not likely to be improved by the appointment of a Royal Commission. These questions should have been decided certainly not without inquiry, but they could have been decided by such representations as the Government of India would have made after consulting the Local Governments and Indian public opinion, and then the Secretary of State should have taken action upon the representations of the Government. For these reasons, Sir, I wish that the correspondence between the Government of India and Secretary of State on the question of the present conditions and prospects of the Imperial Services should be placed upon the table of the House.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): I do not propose to follow the Honourable Mr. Kale through the whole of his argument. His specific demand is that we should lay on the table of the House such correspondence as has taken place between us and the Secretary of State on the subject of the appointment of a Royal Commission. I shall deal only with the reasons which he advanced for the necessity of such a course. He has, in arguing his case, brought into discussion the necessity or otherwise of any improvement in the terms of pay and allowances of the Civil Services; I shall not follow him there, for debate on that point is not strictly germane to his motion. I note only that he admits, as other Members of this House have admitted in a previous discussion, that the Services are labouring under certain economic difficulties, and he fully concedes that those difficulties should have been the subject of an inquiry of some kind. The list he gives of recent improvements in pay of one Service, the Indian Civil Service, is a long one; but it is not so imposing in fact as it seems in recital, and he must allow me to inform

him that it has been calculated that the total increase in emoluments of that Service amounts altogether to something between 8 and 13 per cent., whereas, of course, the prices in India which affect the Services have risen certainly something over 65 per cent., and by some calculations to 75 or 85 per cent. But that is by the way, and I merely give it for the Honourable Member's information. The real question raised by him is whether that inquiry should have taken place on the part of the Government of India or through the agency of a Royal Commission. He asks us to lay the papers on the table because he is convinced that, if we did so, it would show that the Government of India had in its mind the many considerations which he has put forward against the appointment of a Commission. He proposes himself to be convinced that we have represented these to the Secretary of State; he is anxious to know what the Secretary of State said in reply, and why in spite of such considerations he has made up his mind that a Royal Commission should be appointed. I am afraid that I am rather too experienced a bird to fall into the net of Mr. Kale, charm he never so wisely. Mr. Kale's kind and sympathetic suggestions of the arguments which he is sure we adduced, cannot make me break that confidence which we always preserve as between the Secretary of State and ourselves equally in the case of assent or difference, and I will not tell him what were the discussions between the Secretary of State and ourselves, or even if such discussions took place at all. As a matter of fact, I do not think that the placing of papers on the table of the House would really add anything to the information of the Honourable Member, or give him the assistance he seeks in pursuing the argument that a Royal Commission is not the proper instrument for conducting such an inquiry. It might be satisfactory to him to see what we have had to say on the subject, and what the Secretary of State had had to say in reply; but, Sir, the essential facts are, first, that a Royal Commission has been decided on; and second, that the scope of its inquiry goes far beyond what Mr. Kale suggests. It does not deal merely with the questions of pay and conditions of service. He tells us that the House on a previous occasion agreed that it was necessary that any consideration of this question should take full account of the fact that the process of Indianisation must be continued without interference. But what are the terms of my announcement this morning? It is laid down in the preamble that the Commission is to take account of the declared policy of Parliament in respect of the increasing association of Indians in every branch of the administration. In considering that principle, the Commission will have to apply the experience we have already gained of the working of the Government of India Act, and it will finally be necessary for it to decide as a primary part of its recommendations what numbers of Indians and Europeans will be required in the future in the light, first, of the major consideration arising out of the preamble to the Government of India Act and secondly, out of the particular application due to the experience we have gained of the working of that Act. Clearly and obviously, its scope goes very far beyond what the Honourable Mr. Kale suggested. In truth, I think that Mr. Kale and his friends would be well advised to welcome the Commission now that they know the terms on which it is to be appointed, and the liberal scope of its operations. They will realise that so far from their having to face an inquiry merely into the question whether the pay of this or that officer is sufficient, or whether increased emoluments should be given to this or that Service, they will now have an inquiry on the most liberal terms of reference, on such changes on the Services which are a necessary corollary to the introduction and the working of the Government of India Act. The

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[Sir Malcolm Hailey.]

successful working of that Act and the progress of reforms depends on the maintenance of an administration on the lines laid down in the preamble to that Act. Many close observers have indeed expressed the opinion that that inquiry might well have taken place at the same time that Parliament was inquiring into the terms of our Reform Act. But if it has been delayed, it is all to the good, since it will not base its views on a *priori* considerations, but on experience actually gained of nearly three years' working of the Act. I must apologise if like Mr. Kale I have been led into straying somewhat beyond the immediate purpose of the Resolution. But I think I have made it clear to him that very little would be gained by pursuing his desire that the papers should be laid on the table, that it is far better that he and those of his friends who have started with an initial dislike to a Royal Commission, should accept the fact of its appointment on the terms announced as on the whole beneficial rather than otherwise. I suggest to him that he might withdraw his Resolution in view of what I have said as to the wide and liberal scope of the inquiry which will be undertaken by the Commission and of the essential necessity of such an inquiry if we are to pursue the path of reforms, with services so organized as to be in a position to aid in the consistent progress of such reforms.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I entirely agree with my friend, the Honourable Mr. Kale, that it was not necessary in order to redress the grievances of the Imperial Services to have recourse to a Royal Commission. Those grievances, Sir, could very well have been removed and the question of pay, allowances and pension duly considered and if necessary the prospects of such pay, allowances and pension improved by the appointment of a mixed committee of official and non-official Members of this Council by the Government of India. In spite of all that our detractors might say, there is no doubt that on the whole the system of handling important questions through committees has worked during the past two years on the whole successfully, and there is no reason to doubt that in fact a Committee of the representatives of various Imperial Services and the representatives of the Indian Legislature would have been far more competent to deal with this problem than any Royal Commission. But, Sir, when I have said that

The HONOURABLE THE PRESIDENT: I would point out to the Honourable Member that this is not a discussion on the question whether a Royal Commission should or should not be appointed, but the issue is whether certain information be placed on the table of the House. No doubt the tendency has been for speakers on both sides of the House to go beyond the question, but the main point that should be kept before the House is the question of publication of papers.

The HONOURABLE SAIYID RAZA ALI: In fact, Sir, my remarks towards that point had just begun. As I was saying—but when I have said that I have not said all that I can say on this subject. It may be that the latter course was unfortunate. All the same, an announcement has been made that a Royal Commission is going to be appointed to inquire into this matter. It may be, Sir, that from our point of view such a Commission is unnecessary because there are other methods of dealing with the question. After all, we know the unfortunate fact, the accomplished fact, so far as we are concerned is, that a Royal Commission is coming out to this country to make, I believe, full inquiries into this subject. That being so, I would suggest to my friend

the Mover of this Resolution whether really any purpose that is near and dear to his heart would be served if the correspondence between the Secretary of State and the Government of India was published just on the eve of the Royal Commission entering on its labours. My Honourable friend went on to give a number of weighty considerations against the appointment of the Royal Commission and expressed the hope that the Government of India did put these considerations before the Secretary of State. Now I agree with my Honourable friend, and I have every reason to believe, that those weighty considerations were put before the Secretary of State by the Government of India. But if so, is the request to have the correspondence published, when we have every right to presume that weighty considerations against the appointment of the Commission were urged by the Government of India, a reasonable request? If the arguments advanced by my Honourable friend, with which I agree, are correct, the result would be this, that the publication of the correspondence would lead to disclosing differences of opinion between the Government of India on the one side and the Secretary of State on the other which would be conducive neither to the smooth working of the Commission nor to placing our point of view strongly before this Commission. I entirely agree that my friend was perfectly justified in moving this Resolution as it expressed the almost unanimous feeling of the Members of this House till the announcement had been made by the Honourable the Home Member, but as I have pointed out, as it is, fortunately or unfortunately a decision has been taken on the question, and therefore I would suggest whether my Honourable friend, the Mover, does not think that the proper procedure under the circumstances would be to withdraw his Resolution. By withdrawing the Resolution, of course, he does not weaken his point in any way. It would be open to all of us to place our view-point before the Commission; but to me it seems, Sir, that a request for the publication of the correspondence for the reasons given by the Honourable Mover himself is not a proper request after the announcement made by the Honourable Sir Malcolm Hailey.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, it is a very difficult task to refrain from making any remarks on the necessity or otherwise of the Royal Commission, but I will try to obey your ruling, as far as possible. The fact that the terms of reference are very wide or will be very wide, as indicated in the statement made by the Honourable the Home Member, is very important. The objections to a Royal Commission are greatly weakened by that fact. Nevertheless, the appointment of the Commission is so much at variance with public sentiment in India that it might be helpful to publish the papers as requested by the Honourable the Mover of this Resolution. I am not by any means sure that along with the papers which will be submitted to the Royal Commission the papers now asked for would be published as a matter of course; perhaps they would be. Nevertheless, the point of the Honourable the Mover is of some significance in itself. The Honourable the Home Member took up the very natural position that he would not be justified in disclosing any differences that might have arisen between the Secretary of State and the Government of India in the course of that correspondence. Avowedly or otherwise, the mere publication would disclose these differences, and the Honourable the Home Member with admirable self-restraint resisted the temptation of enlisting the sympathy of the Indian public on the side of the Government of India. But the public of India have a somewhat different point of view

[Right Honourable V. S. Srinivasa Sastri.]
 from the Honourable the Home Member, because the development of the Indian constitution hereafter will necessitate a complete discrimination made between the Secretary of State for India and the Government of India in India. We cannot afford to overlook that distinction any longer. It is of supreme significance to us that the Government of India should, as soon as possible, rise to its full stature as a Government over three hundred millions armed with almost unlimited authority, but crippled constitutionally by having to consult a higher authority at the beginning, during the whole course, and at the end of any important measure, either of legislation or of administration. It is a thousand pities that the growth of the Government of India and its constitution should be delayed and hampered by the necessity of continued references to England, and we, who represent the public of India, have every right to ask on all possible occasions that the Government of India should be set fully upon its feet and should be able in a regular constitutional manner to set the wishes of the people of India above even the wishes of the Secretary of State in so far as their own views indicate that such course is proper. Why, Sir? This distinction, repudiated with just emphasis for his own part by the Honourable the Home Member between the Secretary of State for India and the Government of India, is itself recognised by the declaration of August, 1917. For it is there clearly stated, although in my view quite unnecessarily, it is there clearly stated that the future development of the Indian constitution depends on the satisfaction afforded by the progress here both to the authorities in England and to the authorities in India, thus recognising the distinction between the Government of India and the Secretary of State and even the co-ordination of the Government of India with the Secretary of State for India. But our interests lie somewhat deeper in this question. We desire, in expressing our disapprobation of the appointment of a Royal Commission, that that disapprobation should take effect, but it cannot take any effect if we beat the air and attack anybody and everybody indiscriminately. We have got to concentrate on the party which we consider to have gone the more decisively against the wishes of the Government of India, and we should like to know certainly what position the Government of India took up and how far the Secretary of State for India either overrode their decision or was in agreement with it. We cannot afford to let these facts lie under a veil. They must be exposed to the public gaze of India.

It has been, Sir, recently stated over and over again that the Secretary of State for India is trying to set at naught a principle which was asserted by the Joint Committee that sat on the Bill of 1919, to the effect that, where the legislative and executive authorities in India were in concurrence on any important subject, the Secretary of State should not as a rule interfere unless imperial interests were involved. We should like to know whether that principle has been upheld or has been given the go-by in the conduct of the negotiations regarding the Royal Commission. It is for that purpose largely and not for the purpose of inquiring into the necessity of the Royal Commission itself that we are concerned to ask that these papers be published. It is of importance to us to know whether this is also to be added to the list of cases in which the Secretary of State has set at naught that all-important principle of non-interference in cases of concurrence between the Legislature and the Executive in India. I am not, Sir, going into the other question of the Royal Commission itself. As you have just ruled, it is not for us to raise the merits

of the Royal Commission itself, and I do not do so, but I would rest my case for the publication of papers upon this ground that the public of India are interested in knowing how far in this particular matter the wishes of the people of India, as represented by the press and by public bodies who have given expression to their views—how far the wishes of the public of India have been represented in the negotiations either by the Government of India or by the Secretary of State.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): I originally sent in an amendment to this Resolution but I find that, as the Secretary of State has made up his mind to appoint a Commission, I do not wish to propose my amendment.

As regards the Resolution, I want to make a submission and that submission is that I think that, as a long correspondence has taken place between the Government of India and the Secretary of State, that is really a proper and a good reason why it should be laid before this House because we like to follow out the history of this transaction as to how it began, how it developed and how it has culminated in the appointment of the Royal Commission. To my knowledge there have been two Royal Commissions on this subject before and they went all over the country and made long inquiries but unfortunately the results were not anyway commensurate with the time and trouble spent over it. And this third Royal Commission, I have my doubts as to what it will accomplish, but my own idea was and still is that I should like to see on what grounds the Secretary of State thought fit to appoint it before the matter was discussed here or ripe for being discussed. So I support the Resolution, though I wish it may be withdrawn because it is not likely to lead to anything now.

The HONOURABLE MR. V. G. KALE: Sir, much that I had to say in reply, has already been anticipated by my Right Honourable friend on the right and therefore I will not detain the Council with any more remarks of my own. There is one thing, however, which fell from the Honourable the Home Member with respect to the character and scope of the Royal Commission, which according to his opinion might lead me to ask for leave to withdraw the Resolution. I was surprised and agreeably surprised to know from him that this Royal Commission has been necessitated by the desire of Government to find out how the Government of India Act is working and it is to be tested by our past experience—the experience that we have had during the last two years. I am glad to find that this argument has been seriously urged in favour of the Royal Commission. Sir, many appeals have been made to Government to inquire into the working of the Reforms Act.

The HONOURABLE SIR MALCOLM HAILEY: May I remind the Honourable Member, that what I said was, that it was necessary to test the working of the Government of India Act in respect of the Services. I did not say that the Government admitted that a Royal Commission was necessary at this moment in order to judge of the success or otherwise of the working of the Government of India Act generally.

The HONOURABLE MR. V. G. KALE: So, the Royal Commission is going, in the light of the experience of the last two years, in any case to examine the progress of Indianisation and the relation of the appointment of Indians in the various high services in connection with the working of the Reforms Act. If this same argument were to be applied in other fields, I am afraid Government will not accede to the request for similar inquiries. But that is the very reason which discourages me from withdrawing the Resolution.

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[Mr. V. G. Kale.]

The Royal Commission is going, we are told, beyond the scope of the considerations I have advanced and that is the greater reason why we ought to know what has led to the widening of the scope of the Royal Commission. People in this country thought that the higher services had certain grievances and those grievances required redress but now we know that the scope of the Royal Commission is much wider than the mere redress of these service grievances. It might affect, I am afraid, the very foundation of the Reforms, for aught we know. That strengthens me in my desire to ask Government for the publication of the papers. I very much regret, Sir, that I do not feel myself in a position to withdraw my Resolution.

The HONOURABLE SIR MALCOLM HAILEY: I have already placed our position before the Council, Sir.

The HONOURABLE THE PRESIDENT: The question is:

"That this Council recommends to the Governor General in Council that he may be pleased to place on the table of the Council all the correspondence that has recently passed between the Government of India and the Secretary of State for India on the question of the improvement of the conditions and prospects of the Indian Civil Service and other Imperial Services, especially in connection with the appointment of a Commission to inquire into the matter."

The Council then divided as follows:

AYES—10.

Jaffer, Mr. I. H.
Kale, Mr. V. G.
Khaparde, Mr. G. S.
Lal Chand, Lieut.
Lalubhai Samaldas, Mr.

Nandy, Maharaja Sir Manindra.
Ram Saran Das, Mr.
Raza Ali, Mr.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.

NOES—15.

Amin-ul-Islam, Mr.
Baker, Mr. C. M.
Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. E. M.
Crerar, Mr. J.
Forrest, Mr. H. T. S.

Froom, Sir Arthur.
Muzammil-ullah Khan, Nawab.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Thompson, Mr. J. P.
Zahir-ud-din, Mr.

The motion was negatived.

RESOLUTION RE CONDITIONS OF SERVICE OF FUTURE ENTRANTS TO I. C. S.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I have a very strong desire indeed to move my Resolution*

* "This Council recommends to the Governor General in Council to recommend to the Secretary of State and His Majesty's Government the desirability of regulating the conditions of service, pay, allowances and pension of all persons admitted to the Indian Civil Service from a certain future date on the following lines:—

(a) the pay of persons so recruited serving in any capacity, except when appointed to the office of Governor, shall be 25 per cent. less than the present scale of pay;

(b) the pay of persons whose home is in any place in the United Kingdom of Great Britain and Ireland, so employed, shall be the same as that of a person mentioned in clause (a) above plus an overseas allowance of 25 per cent. per mensem and such passage concession as may be absolutely necessary; and

(c) the persons so recruited, if serving in any of the transferred departments, shall be subordinate to the Minister in the same way as they were subordinate to the authority corresponding to the Minister before the Government of India Act, 1919, came into force."

but if I were to do so, I believe I would be preaching one thing and practising another inasmuch as I advised my Honourable friend, Mr. Kale, to withdraw his Resolution. Mine of course is more complicated still. Therefore, Sir, in view of the announcement made by the Honourable Sir Malcolm Hailey, though I am personally inclined to move it, I think it safer to beg leave to withdraw the Resolution.

The HONOURABLE THE PRESIDENT: There is no need for the Honourable Member to ask for leave to withdraw the Resolution if he does not move it. I must point out to him that he is not entitled to make a speech explaining why he does not wish to move a Resolution. If he moves a Resolution and afterwards wishes to withdraw it, then he must ask the leave of the Council to do so. If he does not wish to move he is only entitled to make a statement to that effect.

The Resolution having been withdrawn that disposes of the business on the list.

The Council then adjourned till Eleven of the Clock on Monday, the 29th January 1923.

COUNCIL OF STATE.

Monday, the 29th January, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

MEMBER SWORN:

The Honourable Major-General Robert Charles MacWatt, C.I.E., M.B.E., I.R.C.S., K.H.S. (Director-General, Indian Medical Service).

QUESTIONS AND ANSWERS.

PRESS EMPLOYEES DISMISSED.

58. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the total number of piece-workers and men on the salaried staff, respectively, whose services have been dispensed with during the year 1922 in Calcutta, Delhi and Simla Presses, respectively?

RE-CLASSIFICATION OF PIECE WORKERS.

59. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Will the Government state the results of the annual re-classification of piece-workers as to indicate—

(i) how many men's class have been increased; and
(ii) how many men's class reduced,

during the year 1922 in the Calcutta, Delhi and Simla Presses, respectively?

(b) In how many cases have the class of piece-workers been reduced in Calcutta, Delhi and Simla Presses, respectively, during the years 1919, 1920 and 1921?

(c) Is it a fact that since the inauguration of piece-system in the Government Presses till 1921, not a single piece-worker's class has been reduced? If the answer to the above be in the affirmative, what is the reason for the reduction in the classes at the present moment?

(d) Is it a fact that the re-classifications, which are made on the strength of average yearly income, are being carried out in the present year on the average income of a period of three months only?

PRINTING CLEARING OFFICE, DELHI.

60. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Do the Government propose to establish a Printing Clearing Office at Delhi to regulate distribution of work in its various Presses as suggested in the Piece-Workers' Committee's Report?

SUPERVISING STAFF OF PRESSES.

61. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Do the Government propose any reduction in the supervising Staff of its various Printing Presses?
If so, to what extent?

PRESS FINE FUNDS.

63. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) What was the total amount of the Fines Fund from April to December 1922, in the Calcutta, Delhi and Simla Presses, respectively?

(b) Will the Government state as to how the fines realised from its Presses were utilised before the inauguration of the said fund in April 1922?

SUPERVISION CHARGES IN PRESSES.

68. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the cost of supervision charges in the Calcutta, Delhi and Simla Presses, respectively, for the year 1920-21?

PRESS PROVIDENT FUND.

64. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Has the Provident Fund, promised in the Government Resolution of July 1920, been inaugurated in the presses and given effect to?

PENSIONS OF PIECE-WORKERS.

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

(a) how many piece-workers on the temporary list with approved service in Calcutta, Simla and Delhi Presses, respectively, have applied for pension since July 1920;

(b) how many of the above men have been given the benefit of a pension in the above presses, respectively, according to Government promise;

(c) what is the highest and lowest amount drawn as pension by the piece-workers?

CALCULATIONS OF PRESS COMPUTERS.

66. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: In view of the statements made by Mr. Jagadisan, the Examiner of Press Accounts, before the Piece-Workers' Committee to the effect that no two computers would arrive at identical calculations and that, in his experience, cases of excess calculations were at least as frequent as deficient payment, do Government propose to take any action to meet them? If so, what?

MACHINERY IN PRESSES.

67. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Is it the intention of the Government to supplant hand labour by machinery in its printing presses?

COST OF PRESS MACHINERY.

68. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the cost of the machinery installed in the various printing establishments at Calcutta, Delhi and Simla for the year 1919 to December 1922?

PROMOTIONS IN MONO SECTION.

69. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) How are the promotions of the compositors in the Mono Section of the Government Press determined?

(b) Is it a fact that not a single member of the Mono Section in the Calcutta Press has received any promotion for several years past?

PRESS COMPOSITORS AND DISTRIBUTORS.

70. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the lowest class rates of compositors and the highest class rates of the distributors in Calcutta, Delhi and Simla Presses, respectively, before and after the introduction of the new scale in 1920?

PAY OF PRESS STAFF.

71. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the pay under the old and new scale, respectively, of Superintendents, Deputy Superintendents, Overseers, Accountants, Head Readers, Readers, Copy-holders, Cashiers, Checkers and Computers, separately in its printing presses?

COST OF PRESS STAFF.

72. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: What was the annual cost the Government had to incur in maintaining the Superintendents, Deputy Superintendents, Accounts and Office Sections of the Presses in Calcutta, Delhi and Simla, respectively, in the years 1918, 1919, 1920 and 1921, respectively?

"CONTINGENCIES" AND "AUXILIARIES."

73. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government please explain the terms "Contingencies" and "Auxiliaries" which occur in the Piece-Workers' Committee's Report in connection with the Press budget figures?

PIECE-WORKERS' COMMITTEE'S REPORT.

74. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state what action they propose to take on the recommendations of the Piece-Workers' Committee's Report and when?

"TALLING" MACHINES.

75. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Is it a fact that Government have imported two "talling" machines for its Calcutta Press recently?

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

(i) their price;

(ii) cost of their monthly upkeep;

(iii) what amount of hand labour, in terms of rupees and annas, they have replaced since their installation; and

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

(i) their price;

(ii) cost of their monthly upkeep;

(iii) what amount of hand labour, in terms of rupees and annas, they have replaced since their installation; and

- (iv) what is now being done with the services of those men whom these machines have replaced?

The HONOURABLE MR. D. T. CHADWICK: The information required by the Honourable Member is being collected and will be placed on the table.

THE CRIMINAL TRIBES (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill further to amend the Criminal Tribes Act, 1911, as passed by the Legislative Assembly, be taken into consideration."

As this is the first occasion on which it has fallen to me to address the House, since I have had the honour of being a Member, I must ask, and I venture to think that I shall obtain, that measure of indulgence and forbearance which this House has invariably granted to its new Members, in accordance with that high tradition of regard for the amenity as well as the dignity and authority of public deliberation which it has established for itself. I crave that indulgence, though I think I may say, without prejudice to the discussion which will ensue, that the measure which I submit for consideration is neither complex nor, if I may again say so with the utmost deference to the views of any Honourable Member who may still consider that the Bill is in need of some improvement, controversial. Since the passing of the Criminal Tribes Act, 1911, which was carefully framed with a view to the two principal objects it had in view,—firstly, the amelioration of the condition of the criminal tribes, and secondly, the protection of the public, some defects and inconveniences in its operation have been experienced. To consider these and to devise remedies, a Conference of officials and non-officials engaged in the administration of the Act and of representatives of various Indian States, who were also concerned, was called by the late Honourable Home Member, Sir William Vincent, in 1919. The Conference made certain proposals some of which were capable of being carried out by executive order, and this has been done, and many improvements in the administration of the Act have been brought into effect. Other recommendations, however, required a definite amendment of the Act. Proposals of this nature had also been made in the light of the experience gained from time to time by various Local Governments. Further consideration was given to the subject by the Indian Jails Commission, who likewise submitted recommendations on the subject. These proposals were all carefully considered, and they were then referred for advice and opinion to the Local Governments who are primarily concerned in the administration of the Act, and they have received practically universal approval. These proposals have now been incorporated in the amending Bill, which after careful consideration by the Select Committee has been passed by the Legislative Assembly and which I now move should be taken into consideration by the House. I shall not detain the House very long, and I shall in the first instance merely enumerate some of the principal features of the Bill. In clause 2 provision has been made for the extension of the Act to Presidency towns and to Rangoon, and for consequential arrangements. In clause 5 provision has been made for certain necessary delegations to an officer specially so empowered by the Local Government to vary notifications under section 11 and section 13 of the Act by directing the restriction of a criminal tribe to another area, or, as the case may be, its settlement in another place, in the same district, or the discharge of

any person confined in any settlement under section 18. Sections 6 and 7 make provision for transfer between Presidencies and provinces of criminal tribes whose original home has been in one province, though they have migrated or wandered into another. Clause 8—and it is of considerable importance—prescribes a formal inquiry before any orders of restriction under section 11 or of settlement under section 16 are passed. Clause 11 provides for the cognizability of certain offences under the Act or rules thereunder, and clause 27A makes provision of a permissive character for the transfers of criminal tribes to Indian States. The rest of the Bill for the most part consists of purely drafting amendments or amendments for the removal of doubt, and I will not trouble the House at this stage with any detail in commenting upon them. Sir, there is one point in particular, taking the Bill as a whole, of general principle which I should like, before I resume my seat, to emphasise. The House will observe that the amendments proposed in the Bill, and indeed the Act itself, are to a large extent of a penal or preventive character. The point which I desire to emphasise is this, that one of the principal objects of the Act and of the Bill to amend it is, undoubtedly and properly, the protection of the public. That is an important object. But its ulterior object is really in many respects more important. It is the emancipation of the criminal tribes: and the provisions which already exist in the Act and the further provisions which are now submitted for the consideration of the House are, I should desire to urge, merely instruments and expedients for the main, the ulterior object of the Bill, and that is, I venture to say, one of the most humane and one of the most benevolent enterprises in India. There are probably few executive officers of Government who have not been concerned from time to time in measures which have been taken by Government either with or without non-official co-operation for the relief of distress caused by flood, famine or epidemic. Those measures are of a kind calculated to invite, and indeed to demand, the co-operation of all right-thinking men. But, after all, the effects of catastrophes of that kind are fortunately to a large extent temporary, as their causes are to a large extent physical. The evils with which this Act and the Bill to amend it are intended to deal are of a different character. The causes are moral and social, and the effects, if proper remedies are not quickly applied, are permanent and may be almost irreparable. There is therefore a great responsibility resting upon the public and upon the Legislature, not only in the general interests of the public to protect its person and its property, but to remove or to do our best to remove what I am afraid I must say is a stigma upon our society so long as or so far as it is left unremedied. I have said, Sir, that the principal object of this Bill is to improve an Act the main, the ulterior purpose of which is the reclamation of the criminal tribes. I have seen something personally of the working of this Act. I do not think it is entirely due to predilection for my own Presidency, though that might be a predilection which the House would be very ready to pardon, that I should like to refer more particularly to work in this direction which is now being done in the Bombay Presidency under the immediate direction of an officer, Mr. Starte, who has devoted a large part of his service and the whole of his great abilities to this noble task. I think there are Honourable gentlemen present here who have visited settlements of the criminal tribes in the Bombay Presidency, and I do not think any of them can have failed to be struck, to be very deeply impressed, by the extraordinary changes in the moral, in the conduct, almost in the physiognomy, of members of the criminal tribes which have spent even a short period in one of these settlements. I refer to the Bombay Presidency, though I have read very

[Mr. J. Crerar.]

closely reports which have been made from other provinces, not because I wish to give any special precedence or priority to Bombay but simply and solely because conditions in that Presidency have come more immediately under my personal notice and observation. Any one who has followed the literature of this exceedingly interesting and important subject will be aware that work of the most splendid character has been carried out in nearly every Presidency and Province in India. I should like to add but one thing; that work has not by any means been restricted to official agencies. We owe, and I desire to emphasise it now and here, a very great debt of gratitude to non-official agencies such as the Salvation Army and various Missionary Societies who have co-operated with us in this grave and important task. This, Sir, is the consideration which I wish to impress most strongly on the House. The purpose of this Bill is to add to our resources to effect the liberation of the criminal tribes from the lives of misery, squalor and crime to which they have for many generations been condemned by circumstance, custom and heredity and their restoration to society as honest, industrious and useful citizens. It is to attain that object, Sir, that I venture to seek the co-operation of this House in placing on the Statute Book a measure which will aid us in this great work of redemption.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, the object of this Bill is most laudable, and I congratulate the Government in bringing forward this measure before the Assembly and this Honourable House. The criminal tribes have been a great source of danger to the public, and I quite agree with the Honourable the Home Secretary that it is the duty of the public, of the Legislature and of the Government to reclaim these criminal tribes and to make them good members of society. Sir, in my district of Muzaffarnagar there is a criminal tribe called Bhauriya. They number about 1,000 or a little more, and the part of the district where they live is almost without any other population. They do not allow any man to settle there; they rob all the cultivation if there is any and take away the cattle. Besides this they go as far afield as Madras and Mysore on criminal depredations. The local authorities have been trying their best to reclaim them, sometimes by establishing industrial schools for them, and sometimes by trying to settle them in one place for agriculture; but their efforts have not been successful. I think this Bill will give power to local officers to settle them in one place and introduce some industry among them. Therefore it is possible that in the course of time they will leave their criminal profession and become useful members of society.

But, Sir, on this occasion I may mention one fear that I find existing here and there. The Honourable the Home Secretary has referred to the Salvation Army and the fear is in that connection. Although we are very thankful to the Salvation Army for doing their best to reclaim these criminal tribes, yet there is a fear that they will use their influence to turn these tribes to their religion. What we want is that the Salvation Army should do their best to reclaim these people, but they should not try to convert them to Christianity or whatever religion they may hold. If Government money is given to the Salvation Army for the reclamation of criminal tribes, it should be made a condition that they will not turn the people from their religion. The Salvation Army is no doubt doing a great deal of work in this respect; I know that in my province they have started settlements, especially in the Aligarh district, and are doing good work. But I think the

Local Governments should do their best in this direction, and when they themselves cannot take any other steps, they may give over the work to the Salvation Army, but only on the condition that the religion of these criminal tribes will not be interfered with.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): I congratulate the Honourable the Home Secretary on the lucid manner in which he has put the purport of this Bill before the House. I would not have intervened in this debate, as I knew that it would be carried unanimously, had it not been for the remarks made by my Honourable friend Lala Sukhbir Sinha. He admitted that the Salvation Army has done good work. We are all agreed as to that; and yet he wants us to lay down the condition that the Salvation Army should be debarred from attempting to convert these people to Christianity. I do not think we can lay down any condition of that kind. The Salvation Army believe that Christianity is the best religion, and if that is their belief, it would be asking them to go against their belief to insist on their not teaching their religion to these people. If, of course, they were to force their religion on any of these people, then we would certainly have the right to protest. But if they merely do missionary work we have no right to protest. I wish my Honourable friend had seen the work which, not only the Salvation Army, but missionaries, both ladies and gentlemen, have done among these tribes. I have seen them moving about among them in places where very few of us—I mean Hindus and Muhammadans—would care to go: mixing with them, talking to them, trying to improve and uplift them. It is not for us to sit here and criticise and belittle that very noble work being done by these people. It is for us to go and see how the status of the criminal tribes has improved under this treatment. If we do that, I am quite sure that even my Honourable friend Lala Sukhbir Sinha will realize that we have no business to criticise the good work done by the missionaries and the Salvation Army. In a place where I have a small factory, the settlement officers asked me if I would give them a plot of land on which some criminal tribes people could be settled. I was there only a few days ago and I went over the settlement. Their condition had been so much improved that nobody, unless he was informed, would have said that they belonged to a criminal tribe. They were as good as anybody else and doing honest work. That is the kind of good work done by the missionaries and the Salvation Army. Instead of criticising their work we ought to congratulate them and feel deeply grateful to them for what they have done. With these words, I support the Bill brought forward by my Honourable friend.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I join issue with my Honourable friend on my left. I think there is no disagreement in the House as to the noble and splendid work which the Salvation Army has been doing. But what my friend the Honourable Lala Sukhbir Sinha pointed out was that if the Salvation Army or any other body of people try to force its religion upon members of the criminal tribes, Government should see to it that this does not take place. My friend pointed out that the Salvation Army believes in a certain religion. No body objects to its so believing in its own religion. He also said that it has a right to preach what religion it thinks best. We agree also with this. But the question is whether any body of persons should be allowed to take advantage of the position of a people like the criminal tribes and to try to convert them to any religion other than the one to which they belong. There is a very strong suspicion in the minds of the Indian public in this

[Mr. V. G. Kale.]

connection (*The Honourable Mr. Lalubhai Samaldas*: "Unjustifiable"), and I think that something should be done to remove it. My friend says that it is an unjustifiable suspicion. Perhaps he does not feel for cases of conversion which may take place; but there are others who do feel that these conversions should not take place, and that they ought to be prevented. I am not here criticising the humanitarian work of the Salvation Army and nobody here wants to take exception to the actual philanthropic work that is being done by them. The only point which has been raised here is this. Should not the Government and should not the public do something to see that the Salvation Army or any other missionary body does not try to force its own religion upon the members of these tribes? (*The Honourable Mr. Lalubhai Samaldas*: "Why not start an association?") My friend says, why should not the Hindus and Muhammadans start their own associations to do the work of the Salvation Army? My answer to this is that that is not the question under discussion. The question under discussion is, should the Salvation Army be allowed to force its religion upon the members of the criminal tribes? (*The Honourable Lala Sukhbir Sinha*: "Quite so.") If my Honourable friend starts an association, I shall certainly be the first to assist that body. Nobody, of course, stands in the way of the Hindu or the Muhammadan community or any other community starting an association for ameliorating the condition of the criminal tribes. But my Honourable friend is here drawing a red herring across the trail.

As regards the general principles which were given expression to by the Honourable the Home Secretary, I am in perfect agreement with him. I devoted some of my attention to this question both from the social and economic point of view, and my Honourable friend Mr. Lalubhai Samaldas, who is a large employer of labour, will certainly find that in the criminal tribes there is a very large source of labour power which may be advantageously tapped. From the point of view of the economic progress of the country it must be said that so much labour is going to waste to-day. That labour has to be properly exploited. But apart from this economic standpoint, there is the social, there is the ethical and there is the spiritual point of view. These Criminal Tribes have been allowed to carry on their nefarious trades for generations together. The habits of thieving and making depredations upon innocent people living in villages have become, as it were, traditional and hereditary with them. It is very difficult to shake them off from the members of these Criminal Tribes. This is a very difficult work. If you try to bring the members of these tribes into civilised life, they remain there for a short time and then go back to their old habits. In the Bombay Presidency, to which a reference was made, there are settlements which have been started for them, and I know that they are doing very good work. Many of the members of the Criminal Tribes are at the present moment being employed in factories, we are told, in Sholapur and in other places. In almost all parts of the Bombay Presidency there are these Criminal Tribes. If you go and ask the members of these tribes what their profession is, they will tell you, it is begging or thieving, and there are many villages reputed to be the haunts of these thieves. The condition of people living in villages which are pestered by the thieves and the perpetrators of various crimes is deplorable. All sorts of immoral activities are carried on by the criminal tribes. So, society has got to be protected from them and at the same time they have themselves to be raised from the fallen and depraved condition in which they have

been allowed to lie by ourselves. No doubt it is the fault of the community that it has done nothing up to this time in that connection. I, therefore, support the motion that has been placed before the House by my Honourable friend opposite.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I did not propose to make any speech whatsoever at this stage, but in view of the remarks that have been made by my Honourable friend Lala Sukhbir Sinha, I, as one who has had some opportunities of coming in contact with the Salvation Army people and their methods, deem it my duty to say a few words. Sir, as the saying goes, you cannot examine a gift horse too closely in the mouth. The Salvation Army people are undoubtedly doing work which it is the sacred duty of the people and the representatives of the people—I mean both Hindus and Mussalmans—to perform. I do not wish to dwell on the very unfortunate condition of the criminal tribes in this country. Suffice it to say, Sir, that in spite of the lapse of centuries, we did not raise—I think I am justified in saying—even our little finger to ameliorate the condition of these classes. We should therefore be very grateful—and I have no doubt that the people of this country are very grateful—to those who have made it their business to help these classes in their onward march and wean them from the habits to which they have been addicted for centuries. I think, Sir, that if the remarks of my Honourable friend are allowed to go unchallenged, that might be taken as a sort of reflection on the very noble work that this agency, *viz.*, the Salvation Army, has been doing for the past twenty years. So far as I know, Sir, they do not profess it as any part of their propaganda to convert people to Christianity. That, I take it, will satisfy my friend the Honourable Lala Sahib. Sir, there is absolutely no evidence that these people force their own religion on those whom they take under their charge. But, speaking for myself and for nobody else, I am prepared to say this much, Sir, that if by persuasion or even by methods which have no element of force the Salvation Army people succeed in converting these people to Christianity, I, for one, Sir, have no doubt, being as I am I hope a true Mussalman, in saying that the religion which some of these people are converted to represents a higher, a much higher, form of morality than the religion (or the absence of religion) which is the religion of these unfortunate people. I must again say, Sir, that I do not want to encourage the Salvation Army people in thrusting their religion on these people. But all the same I think we should not raise this issue at the present juncture, and if the patriotic Hindus and Mahomedans, the leaders of the people, the possessors of large purses, those who have dedicated their lives to the cause of this country, if they do not come forward and address themselves to the task of improving and ameliorating the condition of these people, I think it is a very wrong step indeed in the course of the discussion on a measure like this to raise the issue which might be taken in some quarters as evincing a desire on our part to detract from the good work that is being performed by this agency.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): I am afraid, Sir, that this question has been discussed from a wrong point of view. The Criminal tribes, as they are spoken of and of whom it has been said that they are hereditarily committing crime and whom it has been said that they are specialised in crime, require to be reclaimed at once. I have so far to say specialised in crime, require to be reclaimed at once. I agree so far, but the question has not been discussed from the real point of view. India is a big country and we have our caste of thieves, people who do nothing but thieving. How was it tolerated in those days? It

[Mr. G. S. Khaparde.]

is said that we have a very great and very ancient civilisation. How is it that we allowed this caste of thieves and house-breakers to arise and allowed them to continue to exist? A reflection has also been made that the Hindus and Muhammadans have not formed themselves into a society to reclaim those people. How is that phenomenon to be explained? I explain it in this way. As history will show, in those days there were constant wars among kings. What they did was this. On the border of each kingdom they settled a certain race of people who would prevent others from coming and these people were allowed to make predatory excursions on the neighbouring people. That was the idea in those days. Therefore these small tribes consisting of one thousand or two thousand people were the border tribes maintained by each small king in order to protect itself from invasion from the neighbour. The proper policy would have been this. As we settled down and India got consolidated and we established an empire from Cape Comorin to the Himalayas, these tribes should have been moved to our frontiers and in that case there would not have been the Waziristan war. Nor would there be these raids, and people paying tribute and all that kind of thing. That policy was not carried out by the present Empire for various reasons or whatever the reasons may be. Therefore it is that these people have remained in various provinces more or less on the border land and naturally freed from the occupation of harassing the enemy they are now harassing the people themselves. That is how it comes about. We in those days exterminated the Thugs and destroyed all those people. If we had taken measures to move those people to these Afghan frontiers, probably we should not have got all these Afghan wars and all those things. However, that explains why they exist. That also explains that these people notwithstanding their bad trade, notwithstanding the fact that they do things which nobody would do, still they had loyalty to their king and preserved his small kingdom from being invaded. If we utilise them better and settle them on the large frontier, we shall have a force there which will be very useful. They are expert scouts, they are expert people to bring information. They are people who can find their way where even small animals such as goats cannot. These fellows will climb up hills perpendicularly. No blame attaches either to the Hindu Government nor to the Muhammadan Government for not having converted these people. If they are useful and I had the power, I would take them all away and settle them along the frontier where there is a great deal of trouble. Then the question of the Salvation Army has been raised and I think correctly raised, and in this respect I associate myself with my friend Lala Sukhbir Sinha and the Honourable Mr. Kale. However misguided these people may be and however misconceived ideas they may have about committing theft in the enemy country as their duty, now they are being reclaimed. They are being weaned from their habits of thieving and we should not necessarily put them under people whose business is evangelisation. (A Voice: "No.") We should not make them over bodily to others who have of course the good of humanity primarily at heart but still more primarily the spreading of their own religion and carry their own gospel as they call it. I believe this society came to India within my life time, and I have watched its progress. I have admired its good work and I have also seen that they are doing the work of evangelisation, though in humanitarian interests, though naturally I should do the same if I were one of them. They preach the goodness of their own religion and try to impose it on those who come in contact with

them. Our concern as Members of Government is not to discourage anybody from spreading his religion, nor to discourage anybody from doing anything good that he is doing. But at the same time, as our Government observe strict neutrality, we might as well make it sure that these gentlemen will not use their power to spread their religion or to force it upon them. Nobody in this twentieth century goes to a man and says, "Here is a stick. You take up my religion or I will break your head". Such a thing is impossible in India. We must also see that accusations against Government are not made by people who may say, "Look here, under the guise of these humanitarian principles these people are spreading their own gospel". I do not like our Government to have this charge brought against them and therefore I say that some safeguards may be provided and that some measures be taken to see that this philanthropic work is not used for the purpose of evangelisation. That is what my friend on my left meant. That is, I believe, what my friend Professor Kale meant. We should not give a ground for this kind of suspicion being raised. With these observations I still believe that this Act is intended for the good of people and it should be encouraged and should be carried. I support the motion with this reservation that something may be done to see that this measure is not used for evangelisation or facilitating evangelisation.

THE HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-official): Sir, I fully support the measure and I heartily agree with my Honourable friend Saiyid Raza Ali in supporting this Act. It has been said that religion is imposed on these people. I got a little experience of this work when I was Secretary in the Aligarh College. A settlement of a great number of Baherias was started at Aligarh Fort under the supervision of the Salvation Army. We have also a settlement of our own, one thousand fine strong and noble Aligarians, and Aligarh Fort being in the near vicinity of our dear old college, there used to be sometimes a little conflict between the two extreme examples of good and bad and so I used to go to the Fort now and then and see what progress was being made in the moral of those fierce criminal tribesmen. I was really astonished to see the good influence of the Salvation Army people upon them. I have never seen a single instance when religion was forced upon them. In fact those tribes know no religion except to commit dreadful crimes. If that was the religion they belonged to, I am sure that no Honourable Member of this House would desire to see that religion followed. They were not Mussalmans, neither were they Sikhs nor Parsis and surely they were not Hindus—it would be a great stigma on the Hindu religion to say that those criminal tribes belong to that illustrious and noble religion. This being so, there is no question of enforcement on them of any religion, and therefore to make such a condition will mean, as my Honourable friend has said, that it will be a sort of stigma on the noble work which the Salvation Army are doing. I myself, being a small humble Zamindar, have got some few tenants on my estate and once my brother took to reforming these people. But as we possessed no legal force, we utterly failed in controlling them. Of course so long as we were awake, they were asleep but naturally we had to sleep sometime, and when our men slept they were awake following their old profession in the pitch dark night. So we must give legal support to the people who want to reform these tribes, and it is a great opportunity to save them from this inhumanity. With these few remarks, and with my apologies to the House for my very inferior power of expressing myself in the English language, I support the Bill.

[29TH JAN. 1923.]

The HONOURABLE MR. J. CRERAR: Sir, this measure has been received by the House with so gratifying a degree of unanimity that there is very little left for me to say. The only note, I will not say of dissent, but of apprehension, was that struck by my Honourable friend Lala Sukhbir Sinha, and the Honourable Members who concurred with him. They expressed the apprehension that when criminal tribes are handed over to the care of missionary societies, attempts are made, or may be made, to interfere with their religious beliefs. That point has already been dealt with by my Honourable friend Mr. Raza Ali, my Honourable friend Mr. Samaldas, and also in his lucid and interesting remarks by my Honourable friend Nawab Mohamed Muzammil-ullah Khan. There is therefore little left for me to say and I would simply say this: I would ask the Honourable gentlemen who entertain these apprehensions whether they have ever visited a criminal tribes settlement; whether, if they have done so, any complaint has been made to them of the character which they suggest, and whether, if no such complaint has ever been made, there are any practical grounds for the apprehensions which they express. Personally, I may say that I have for a considerable number of years followed the administration of the criminal tribes in my own Presidency very closely and attentively, and I can assure the House that I have never on a single occasion received any complaint, heard of any complaint, or even heard of any ground for such complaint in the whole course of my experience. It appears therefore to me that the Honourable gentlemen who refer to this matter are dealing with purely *a priori* grounds, entirely academic and theoretical considerations. I should like to ask the House to deal with this question on practical considerations. There is another question that arises, likewise of a practical character. I am not aware whether the Honourable gentlemen to whose remarks I am now referring have ever as a matter of fact visited a criminal tribes settlement, or seen a criminal tribe. But I venture to suggest as a preliminary question whether they would not find it exceedingly difficult, as was indicated by my Honourable friend Saiyid Raza Ali, to discover what religious beliefs, if any, many of these criminal tribes practise and entertain. However, Sir, there is one solution, even if there are grounds for these apprehensions,—there is one solution to which I venture to invite the very serious attention of my Honourable friend Lala Sukhbir Sinha, and of my Honourable friend Mr. Kale. It is highly desirable there should be non-official agencies ready and willing to take up this great work; and if my Honourable friend Lala Sukhbir Sinha and the gentlemen who supported him will form a Hindu society qualified and capable of taking over the charge of a criminal tribe whose tenets they regard as being Hindu, then I am confident that the local authorities concerned would be most gratified, most ready and most willing to accept their immediate and direct co-operation in a manner which will finally remove all ground for the apprehensions which have been uttered. I have only this further to say that, the measure having been received with so gratifying a degree of support and indulgence by the House, I feel no doubt that the motion will be unanimously accepted.

(The Honourable Lala Sukhbir Sinha rose to speak again.)

The HONOURABLE THE PRESIDENT: The Honourable Member cannot speak twice on one motion. If he wishes to make a personal explanation, I will allow him to do so.

The HONOURABLE LALA SUKHBIR SINHA: The Honourable Mr. Crerar has referred to me personally and asked if I would open a Hindu institution to reclaim these criminal tribes. As I said before, in Muzaffarnagar there

are some criminal tribes, and I am ready to do what I can if the local authorities will help.

The HONOURABLE MR. J. CRERAR: As I said the local authorities would be only too delighted to accept his co-operation in the matter.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Criminal Tribes Act, 1911, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of this Bill. We will, as usual, reserve the Preamble till the end.

The HONOURABLE THE PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: Clause 5. The Honourable Mr. Raza Ali.

The HONOURABLE SAIYID RAZA ALI: Sir, it appears that there is a vital point which I must at once place before this House, and the point is this, that this clause seeks to add certain words to section 13 in order to give certain powers to officers appointed by the Local Government.

Now, Sir, in the words which are proposed to be added, we find a reference to section 11 and section 13: which means that if there is any notification issued by the Local Government under section 11 or section 13, then an officer might be appointed to perform certain functions. On referring to the original Act, the Honourable Member in charge of the Bill will find that no authority whatsoever has been given to any Local Government to issue any notification under section 11. That authority is given only under section 12. The original Act (III of 1911) refers more than once to the issue of notifications under sections 12 and 13.

The HONOURABLE THE PRESIDENT: Has the Honourable Member got a corrected copy of the Act before him? I do not wish to interfere with his argument, but I think he is reading from the Act as unamended.

The HONOURABLE SAIYID RAZA ALI: It may be so, Sir, I have the edition of 1914 before me.

The HONOURABLE MR. J. CRERAR: I think I can explain the matter to the satisfaction of the Honourable Member. I think his difficulty is that under the unamended Act the powers under section 11 were given to the Government of India. The Act as amended in 1920 delegated to or rather conferred upon Local Governments power to issue notifications under that section.

The HONOURABLE THE PRESIDENT: I only interrupted the Honourable Member in order that he may have an opportunity of considering his argument. I think—referring to what the Honourable Mr. Crerar said—that he is reading from the unamended Act. The Act was amended in 1920. Perhaps he would like to consider that before he proceeds.

The HONOURABLE SAIYID RAZA ALI: I find, Sir, that this Act was amended, but the amendment slip has not been put into the copy which I have.

The HONOURABLE THE PRESIDENT: Does the Honourable Member wish to pursue his argument?

The HONOURABLE SAIYID RAZA ALI: No Sir, I do not think I should.

The HONOURABLE THE PRESIDENT: The question is that clause 5 stand part of the Bill.

The motion was adopted.

Clauses 6 and 7 were added to the Bill.

The HONOURABLE SAIYID RAZA ALI: Sir, I propose the following amendment:

"That in clause 8 the words 'Governor General in Council or the' be omitted."

Clause 8 deals with section 16 of the Criminal Tribes Act, Act III of 1911. The section itself reads as follows:

"The Governor General in Council or the Local Government may establish industrial, agricultural or reformatory settlements and may place therein any criminal tribes or any part thereof, in respect of which a notification has been published under section 12."

Now, the Bill which is under the consideration of the House proposes that the words "Governor General in Council or the" should be omitted. The effect of this will be that the power which at present is vested concurrently in the Governor General in Council and the Local Government will vest in the Local Government to the exclusion of the Governor General in Council: that is, if the provision mentioned in the Bill finds acceptance at the hands of this House. On referring, Sir, to the report of the Select Committee, I find that the justification for doing away with the authority which vests in the Governor General in Council is because the administration of Act III of 1911 is a provincial subject. It was therefore thought desirable to entrust that authority to the Local Governments alone. Now, on examining the Act carefully, it will be found that though no doubt the Local Government is primarily charged with the administration of the Act, yet, unless the copy of the Act which I have before me has been amended in this respect too, certain powers have been reserved to the Government of India under sections 11 and 12. The copy which I have got with me surely gives certain powers to the Governor General in Council.

(The Honourable the Home Secretary at this stage passed his copy of the Act to the Honourable Saiyid Raza Ali.)

Sir, this is perhaps not the time to bring this matter to your notice or the notice of the House, but I do hope the library people will keep their editions up to date. Now, I find, Sir, that the amendment slip has not been pasted and that all the three sections to which I have referred have been amended. I therefore think, at this stage, I must beg leave of the Council to withdraw this portion of my amendment, namely, that the words "Governor General in Council or the" be omitted. I might at the same time be permitted to withdraw the second part of the amendment* to clause 8.

The amendments were, by leave of the Council, withdrawn.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): Sir, I will undertake that it is brought to the notice of the Department in charge to see that copies of the Acts in the Library are amended. I am sure that we all sympathise with the Honourable Mr. Raza Ali in the troubles caused by the fact that the Library is defective in this respect.

The HONOURABLE THE PRESIDENT: Before I put further amendments, I will just say a few words. I would suggest to Honourable Members who consult an Act the advisability of seeing whether any amending Acts have been passed since the Act was passed. This Act was passed in 1911 and amended in 1920. It will be impossible to require every copy of an Act that is printed to have correction slips pasted on. Members will find always that after every Session there is issued a Table of Acts passed by the Legislature. They will be well advised when bringing forward amendments to consult that.

The HONOURABLE THE PRESIDENT: The question is that clause 8 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 9 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 10 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: Clause 11. The Honourable Mr. Raza Ali.

The HONOURABLE SAIYID RAZA ALI: I do sincerely hope, Sir, that here again the Government of India did not forestall me in the year 1920 and that this section 22 has not been amended.

The HONOURABLE THE PRESIDENT: It appears that a new sub-section has been added to this clause. I think the Honourable Member is on safe ground.

* "That in the proviso to section 16 of the Act, after the words 'to the satisfaction of' the words 'the Governor General in Council or' be inserted and after the words 'Local Government' the words 'as the case may be' be inserted."

The HONOURABLE SAIYID RAZA ALI: I hope so, Sir. Whatever may be the respective duties of the custodians of the records of the Government of India, I find that even in the copy kept by the Home Department the amendments have only been jotted down and they have not been printed. I submit that the amendment* that is before the House raises a somewhat important question. On referring, Sir, to the proceedings of the other House when this measure was before them, I find that the whole Bill was put *en bloc*. I do not want to say one word as to how far that procedure was justifiable. All the same it appears, Sir, that this point, though it did draw the attention of some of the provincial Governments that were consulted by the Government of India, was not present to the minds of the Members who dealt with this section. Now, briefly stated, Sir, the point is this. The Bill, the consideration of which is before this House, seeks to enlarge the powers of the police and to make breaches of certain rules cognizable, so that the police should be able to arrest a man who has committed a breach of any of these rules without a warrant. That, Sir, is a very important question. The Honourable Mr. Crerar observed in his opening speech—and observed very rightly—that one of the objects of the measure was to reclaim these tribes and to improve their condition and position. That, Sir, is an object with which every member of this House, I doubt not, will sympathise. It is, therefore, Sir, all the more necessary that we should give that measure of protection to these classes which is extremely necessary in the case of those who either have undergone a sentence of imprisonment for having committed offences against property or those who are suspected by the police of having committed certain offences. I must at once say that I do not want to run down our police. Considerable improvement has been made during the past 12 or 15 years and the police to-day as a preventive agency and as a detective agency is much more competent than it was 12 or 15 years back. But there is at times, Sir, a tendency—and that tendency is accentuated in certain cases—to have recourse to the speedy methods that were not unknown to the police in times gone by. The clause, as it is before the House, gives, I fear, too large a power to the police, *viz.*, if a member of a criminal tribe either commits an offence or even is reasonably suspected of having committed an offence, it will be open to certain classes of police officers to arrest him. I submit, Sir, that while fully alive to the necessity of giving the police greater powers to deal with members of these tribes than they have in dealing with the ordinary public, we should be very careful not to vest them with that measure of power which is likely—and very likely—to be abused in certain cases. As it is, Sir, for a breach of the rules committed by members of the criminal classes, they are liable to be prosecuted, but they cannot be arrested, as the law stands, without an authority from a Magistrate. Sir, I propose now to move the first amendment to clause 11, *viz.*, that the proposed sub-clause (c) be

The HONOURABLE THE PRESIDENT: Before the Honourable Member moves his first amendment, I wish to point out that if he commits himself to the first amendment, I shall have to put to the House that the sub-clause "do stand part of the Bill." That will have the effect of defeating his other amendments. He will not be able to move the other amendments for which probably he might get greater support than for the omission of the whole clause. I leave the matter to the Honourable Member. I only wanted to explain before he moved his first amendment that if he did so it might prevent discussion of his other amendments.

* In clause 11 sub-clause (c) be omitted.

The HONOURABLE SAIYID RAZA ALI: I must thank you, Sir, for the information that you have been pleased to give me. In fact the reason why I was going to move this amendment was that I did not know that you were going to put it in the form which you have mentioned. Therefore I would propose the second amendment that stands in my name, namely:

"That in clause 11, in new sub-section (3) the words 'or is reasonably suspected of having committed' be omitted."

The object I have in bringing forward this amendment is this. By inserting in the clause not only the words "Whoever commits an offence" but also by providing that "if a member of a criminal tribe is reasonably suspected of having committed", etc., he may be arrested without a warrant by certain officers of the police, I submit you will be dangerously widening the scope of the law. It may be that difficulties have been experienced in getting warrants in all cases from Magistrates. So far as that goes, it may be that the Government find that it is necessary to have a more speedy procedure and to provide for the arrest of these offenders without a warrant, but I submit that if you give the police the power of arresting even on reasonable suspicion, you would be more amply widening the scope of this provision than is justifiable. I therefore move that the words "or is reasonably suspected of having committed" be removed. The effect of this, as I have already pointed out, will be that if a member of the criminal tribes has actually committed an offence, he may be arrested by certain police officers without a warrant from a Magistrate, but surely it would be wrong to give larger power to the police. The Code of Criminal Procedure in fact already gives ample power to the police to arrest certain persons under section 54 and section 55, but this power we are giving to the police is in addition to that. And the power should not be dangerously excessive. I therefore move that the words "or is reasonably suspected of having committed" be omitted.

The HONOURABLE THE PRESIDENT: The question is:

"That in clause 11, in new sub-section (3) the words 'or is reasonably suspected of having committed' be omitted."

That question is now under discussion of the House.

The HONOURABLE MR. J. CRERAR: In view of the generous support which was accorded by my Honourable friend Saiyid Raza Ali to the Bill in its general terms and principles, I hope I shall not be accused of ingratitude if I find myself unable to accept the amendment he has now moved. From the fact that the Honourable Member himself has submitted proposals in alternative forms, I hope it would not be unfair on my part to infer that the Honourable Member was himself in some doubt and hesitation about the merits of his proposal. If that is so, I am bound to say that I think the Honourable Member had very good ground for investigating further the reasons for his hesitation. Now, Sir, although I understand the Honourable Member has moved that the words "or is reasonably suspected of having committed" be omitted, I understand that he has not at present moved the first part.

The HONOURABLE THE PRESIDENT: The only discussion is the discussion on the amendment which I read to the House.

The HONOURABLE MR. J. CRERAR: Although the amendment is of a more restricted character, I am afraid I must take Honourable Members very briefly into the general question, that is to say, the reasons which make it desirable and expedient that there should be more extended provisions relating to cognizability. I should like to endeavour to make clear to the House that this Bill, like the Act which it amends, is only intended

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to lay down certain general principles. A very great deal of the actual administration of this Act is carried out either by statutory rules or by executive orders. Now, the Local Governments have extensive powers of framing statutory rules and it is very necessary that they should have very wide discretion in this matter because the circumstances of particular criminal tribes in different parts of India vary enormously, as Honourable Members will realise, and if the measures taken for their reformation are to be successful, they must be adapted to the peculiar circumstances of each tribe or group of tribes. There must therefore be very extensive rule-making power in the hands of the Local Government. And as these rules, many of them, are for the purpose of discipline and control, it is very desirable, indeed it is necessary for the efficient working and administration of the Act, that they should be made really effective. I would appeal to the House to remember throughout this discussion the principle which I endeavoured to lay down in moving that the Bill be taken into consideration. It is this—that though one important object of the Act and of this Bill is to protect the public, the ulterior object and the most important object is to secure the emancipation of the criminal tribes and I think that that spirit does really pervade the whole body of the Act and the whole body of this Bill. I therefore deprecate any suggestion that what we propose to do is in any way an act of severity or of undue rigour directed against the criminal tribes. Our main object is to reclaim the criminal tribes from their hereditary predatory criminal habits and our main purpose in asking for some extension of the principle of cognizability in their case is to give us wider powers for the prompt reclamation of individuals who have infringed the conditions of control and discipline which we find necessary. It is therefore in no ordinary sense a punitive measure of criminal law. It is really a measure of discipline and control and I do think that the House will appreciate that in this matter, in which the Local Governments and their executive officers have a very responsible duty to perform, they should be armed with corresponding powers. The object of the amendment which is embodied in the Bill was to give extended powers, subject however to certain very definite safeguards. Those safeguards provide that no member of a criminal tribe may be arrested without warrant except by an officer in charge of a police station or by any police officer not below the rank of a sub-inspector. I think to any one who has been intimately acquainted with the actual working of this Act it will be clear that some measure of this kind is necessary and there is really little chance of its being open to abuse. The police officer effecting the arrest must, as soon as practicable, bring the apprehended person before a Magistrate and he must report the fact of his having effected the arrest to the District Magistrate or the Sub-divisional Magistrate. Now, Sir, these are general propositions with regard to the merits of the whole question of extending the cognizability of offences for this particular purpose. I will now in the concluding remarks I have to make restrict myself entirely to the specific amendment before the House. The Honourable Member objects to the words 'or is reasonably suspected of having committed.' Now, Sir, I venture to invite the attention of the House to the fact that this involves no new principle at all. If we admit the principle of cognizability as laid down in the Criminal Procedure Code,—that wider enactment which lays down the general principles of procedure, we are now merely concerned with one aspect of its detailed application. Section 54 of the Criminal Procedure Code, as the House is doubtless aware, specifically prescribes the conditions under which an arrest may be made and lays down the precise conditions: "Any person who has been concerned in a cognizable offence or against whom a reasonable complaint has been made or credible

information has been received or a reasonable suspicion exists of his having committed a cognizable offence." So, Sir, if the House is disposed, as I trust they will be, to accept the necessity for some slight extension of cognizability in its detailed application to a particular case, it can hardly take exception to the embodiment in our amendment of the Bill of the precise principle which is a part of the general criminal law of the land. With these remarks, I oppose the motion for the amendment.

The HONOURABLE THE PRESIDENT: The question is:

"That in sub-section (3) of the clause under consideration the words 'or is reasonably suspected of having committed' be omitted."

The motion was negatived.

The HONOURABLE SAIYID RAZA ALI: Sir, I beg to move:

"That in new sub-section (3) the words 'or by any police officer not below the rank of a sub-inspector' be omitted."

Sir, the Bill as it is before the House seeks to enlarge the powers of the police by making a provision, on the one hand, for the arrest of a member of a criminal tribe who has committed or is reasonably suspected of having committed an offence, and on the other hand; by giving the power of arrest to every officer in charge of a police station and to any police officer not below the rank of a sub-inspector. The effect of the House giving its acceptance to the insertion of the words that I propose to remove is to considerably increase the powers of the police. It will be open to them now not only to arrest a man who has actually committed an offence but also to put under arrest those who, they think, have committed an offence or against whom in their view a reasonable ground for such suspicion exists. Sir, it is very necessary that the power to make an arrest should be confined to responsible officers and responsible officers alone. In fact I do not take up the position that no sub-inspector should be allowed to act under this section. There are cases under certain laws in which the power of arrest is limited to an officer not below the rank of an inspector. I do not say this is a case in which a reservation should be made on those lines. But, Sir, I think the House will seriously take it into consideration whether it would not be running an undue risk by giving this power to every sub-inspector. In a police station in some provinces there are as many as 5 to 6 sub-inspectors; to give this power to every one of them would not, I submit, Sir, be a safe course to adopt. The officer in charge of a police station is a responsible officer, and he knows how to deal with the situations that arise in the course of police administration. He is generally an experienced man, and he is a man who is not very fond of making a show of his authority. Therefore, if the power is confined to an officer of that calibre, I do not think any serious objection can be taken. But when you unduly enlarge the scope by giving it indiscriminately to every sub-inspector, the danger, Sir, I think becomes rather serious. We know that in a number of provinces in India there are training schools for this class of officers, namely, sub-inspectors. Now, people who have passed certain examinations, and in some cases even people who have not passed any examinations, are admitted to these schools, and after a period of training which varies from province to province—it does not generally extend to beyond 10 months—they come out full-fledged sub-inspectors and are generally posted to outlying police stations. Now, it is in the case of officers of this class, Sir, that real danger might be expected. I think, Sir, that if a young man who has not had much education—in some cases that education is of a very inferior type—is made a sub-inspector after undergoing a training of 10 months or so, he may want to make a display of his power. In the case of the ordinary public who require to be protected, it would be extremely unsafe to withdraw the safeguards which are given by

[Saiyid Raza Ali.]

law. But in the case of these unfortunate members of society, to give this power indiscriminately to police youngsters would be a real danger. I think, Sir, that if the Honourable Member in charge of the Bill will visualize the future risks, he also will realise that this power should not be entrusted to inexperienced hands. As I have submitted, it may be that an officer in charge of a police station is not a very highly educated man but generally he is a man with a large experience behind his back and is not likely to abuse the power which the law seeks to give to him. To withdraw, Sir, the protection which every member of society enjoys of not being arrested without a warrant except in very serious cases which are embodied in section 54 of the Criminal Procedure Code, is a very serious matter. I ask, Sir, is it because a man happens to have the misfortune to be born a Nut, or a Habura, a Bhatoo or a Dom—is that a reason why the law should withdraw all the protections or many of them which it extends to other members of society? I submit, Sir, that if the Honourable Member has the reclamation of these unfortunate tribes at heart—and I have no doubt that he has—then he might consider whether we should not turn down the proposal embodied in the Bill which is before the House. Reclamation of course implies the conferment of equal opportunities. One of them is that the individual should have the full protection of the law extended to him. I submit, Sir, that the mere fact that these men belong to criminal tribes should not alone be a reason for subjecting them to disadvantages to which other members of society are not subject. All members of society should occupy the same position in the eye of the law. Considerable improvement has been made by these classes. I think, Sir, that to put a provision like this in the law will be placing undue temptation in the way of young and inexperienced police officers.

The HONOURABLE MR. J. CRERAR: Sir, I confess, though I have no doubt the fault is entirely mine, that I had considerable difficulty in following the precise grounds which induced my Honourable friend to move this motion. In the first place, I am not sure that it was fully appreciated that in the great majority of cases the officer in charge of a police station is a Sub-Inspector, and it is very difficult from any practical point of view, as far as I can see, to make any distinction between Sub-Inspectors discharging different duties. I do not see that the mere fact that a Sub-Inspector is in charge of a police station invests him with a degree of judgment and discretion which we would not be justified in attributing equally well to his colleagues in the same grade who happen to be discharging duties of a somewhat different character. We have gone to very considerable lengths in providing the safeguards which my Honourable friend considers necessary. In the case of cognizable offences in the widest sense of the term, any police officer may arrest without a warrant. We propose in this particular case to provide a very specific safeguard, namely, that arrests cannot be effected by any one below the rank of Sub-Inspector. I think, Sir, that that is a very reasonable safeguard, and I should like to point out that if this amendment is accepted there would be very definite inconveniences and difficulties experienced in the working of the Act. For instance, suppose a Sub-Inspector is put on special duty in connection with criminal tribes work. That not infrequently happens, and I need hardly say that the officer is specially selected for his discretion, his judgment and for his capacity for handling in a sensible and sympathetic way the peculiar problems of the criminal tribes. Now Sir, if my Honourable friend's amendment is accepted, an officer in that position will be unable to do one of the things for which he is specially fitted, on which he is most particularly qualified to exercise good sense,

sound judgment, sympathy—all those very qualities which my Honourable friend rightly says are qualities which should as far as possible be applied to this particular work. In view of these considerations, I think the House will agree with me that the safeguards which the Bill provides against any abuse of this power to arrest without warrant are quite adequate for the purpose. I must oppose the motion.

The HONOURABLE THE PRESIDENT: The question is:

"That in new sub-section (3) the words 'or by any police officer not below the rank of a sub-inspector' be omitted."

The motion was negatived.

Clause 11 was added to the Bill.

The HONOURABLE SAIYID RAZA ALI: Sir, I move the following amendment to clause 12:

"That in new section 27A for the words 'Local Government, if it' the words 'Governor General in Council if he' be substituted, and in the proviso for the words 'Local Government' the words 'Governor General in Council' be substituted."

Sir, it appears to me that the amendment which I have moved before this House involves the consideration of a principle which seems to have been recognized by the Government of India in spite of the amendments that were made in this Act in the year 1920 and which are to be found in the copy which is the exclusive property of the Home Department and which is not accessible to any one else without application. We find, Sir, that no departure has been made from the established principle and that established principle is that, in dealings with Ruling Chiefs or Indian Princes, the Government of India should not delegate its powers to local agents, or, if occasions arise, then the Government of India might delegate only a very minor portion of its duty to the Local Governments. We find, Sir, that the theory has been put forward—I feel tempted to say—almost in season and out of season before us and the fullest advantage has been sought to be taken of that theory. Strange to say, Sir, we find now that when the Government of India consider it convenient, they themselves want to break that law; and so far as these unfortunate classes are concerned, the Government of India propose to put in their own place the Local Governments and instal the Local Governments on the *gadi* to deal with these people. That, Sir, I say raises a question of principle, and in addition to other reasons, this is one of the main reasons why I for one would not give that power to the Local Governments, but would keep that power where it has remained for the last 100 years or more. The House can easily picture to its mind's eye the difficulties of a Local Government if it is asked to deal with Indian States. Those difficulties, Sir, have been very much aggravated by the peculiar drafting of clause 27A. This I simply mention with a view to strengthening the arguments that I am placing before this House, if Honourable Members will carefully read the proposed section 27A, they will see that the practical effect of this loosely worded clause would be to enable one Local Government not only to deal with one State but in fact with more than one State. The clause as it is worded, Sir, could enable, for instance, the Chief Commissioner of the North-West Frontier Province by arrangement with the Government of Travancore to send the criminal tribes that are living for the time being in the North-West Frontier Province and who really belong to Kashmir, to Travancore, so that the law seeks to give the Chief Commissioner of the North-West Frontier Province the power to arrange with His Highness the Maharaja of Travancore to take the criminal tribes, whose home is in Kashmir and who for the time being are living in the North-West Frontier Province. This, no doubt, Sir, may be a case of killing two birds with one stone. I submit this provision is a very peculiar provision and I do

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not think there is any precedent for giving to Local Governments powers of this description. In fact, the last thing that should have been provided for was to enable a Local Government to send to one Ruling Chief (with his consent, of course) the people of another Indian State. That, however, we find, Sir, has not been taken into consideration by the Government of India. In fact, Sir, it is rather a remote case, but it is not at all impossible that a Local Government might relieve one State of all its undesirable population and send that undesirable population to another Indian State. According to the wording here, it is not improbable or unlikely. At least that is a point which should be taken into consideration by the House. I simply wish to show that the phraseology of this clause is rather defective and by accepting the amendment which I have proposed I have no doubt that the House would be considerably improving the existing language. Now, Sir, I have already illustrated some of the defects with which an unwilling Ruler of an Indian State might find himself confronted. I think, Sir, to safeguard against all these contingencies, the best course would be to give this power to the Government of India who no doubt would be in contact and correspondence with all the Indian Chiefs and who would not for obvious reasons inflict the undesirable element of the population of one Ruling Chief's State upon the State of another Ruling Chief. Honourable Members will see that among other grounds this is the ground which makes it highly desirable that the delegation of power in this case should not be allowed to take place, and the consideration of a higher principle also points in the same direction. It cannot be said that any practical difficulties would be experienced if this power were to remain with the Government of India. In fact, the power will be capable of being exercised all the more readily and conveniently by the Government of India than would be the case if it were given to a Local Government. Therefore, I submit, Sir, that both from the point of view of practicability as also from the point of view of higher administration and also from the point of view of those sacred principles which have found acceptance at the hands of the Government of India and which have been acted upon by the Government of India for the past many many years, it is very important that this power of transporting the subjects of one Ruling Chief to another Ruling Chief's State and relieving to that extent the former Ruling Chief, should not be given to a Local Government but should continue to be vested in the Government of India. Therefore, Sir, the words "Local Government" should be replaced, as I propose, by the words "Governor General in Council."

The HONOURABLE THE PRESIDENT: To clause under consideration amendment moved:

"That in section 27A for the words 'Local Government, if it' the words 'Governor General in Council if he' be substituted, and in the proviso for the words 'Local Government' the words 'Governor General in Council' be substituted."

The HONOURABLE MR. J. CRERAR: Sir, it is with the utmost reluctance that I rise for the third time to oppose a motion by my Honourable friend Saiyid Raza Ali. I do not know whether it is quite a fair surmise on my part, but I am inclined to surmise that the difficulties which the Honourable Member was unfortunately involved in on his first motion, owing to the neglect on the part of the Librarian or other officer responsible for the correction of the copies of the Act, have still left him with the impression that certain powers are still exercised by the Central Government; and possibly that has induced him to suggest that in this instance also the Central Government should retain these powers. It is a pure surmise on my part, but I submit it as a possible ground which has induced the Honourable Member to make this motion. I must, however, deal with it on its

merits. I do not understand the Honourable Member objects, or if he objects, it is, as I understand, only to a subsidiary extent, to the principle enunciated in the clause and he was specially concerned as to the agency of the Local Government for carrying out that principle. I shall deal with that point first. It is very important for the House to realise that the subject of criminal tribes is a subject expressly defined as a Provincial subject in Part II of the Schedule to the Devolution Rules. Since the Criminal Tribes Act of 1911 was passed, there has been a very important constitutional change and my Honourable friend's proposal, I venture to say, raises a very important constitutional issue. I therefore propose to address myself to that. Is it desirable *prima facie* that a question which by an Act of Parliament has been expressly transferred to a Provincial Government should by an Act of this Legislature be once more resumed, in one of its aspects at any rate, by the Central Government? Would not that be a very serious derogation from the principle of Provincial Autonomy as laid down by the Government of India Act? I would submit that to the judgment of the House. The Honourable Member in criticising the proposals embodied in this clause adopted a course which I think is usually adopted by the advocate of a measure, when he has no solid argument to support his point of view. He quoted an extreme case for the purpose of his criticism, so extreme that he took us from the most northern portion of India to the most southern portion. He suggested that the Chief Commissioner of the North-West Frontier Province would transfer

The HONOURABLE SAIYID RAZA ALI: I said 'could,' not 'would.'

The HONOURABLE MR. J. CRERAR: "Could transfer." But unless the Honourable Member is prepared to suggest that he would transfer, his argument fails. The Honourable Member suggested that the Chief Commissioner of the North-West Frontier Province could transfer a colony of those exceedingly enterprising and frequently violent communities, with which the Chief Commissioner is only too familiar, to Travancore. Well, Sir, the Chief Commissioner might conceivably desire to do that but I would point out that it would be necessary for him to obtain the permission of His Highness the Maharaja of Travancore and from my estimate of His Highness, who is a very sagacious Prince, I have not the slightest hesitation in saying that the answer would very decidedly be in the negative. I merely dwell on this point as an indication that my Honourable friend has got to postulate very extreme cases. Accumulation of power has sometimes been represented as likely to lead to falling off in judgment. Men who are too powerful sometimes lose their sense of proportion. But surely, Sir, it is rather an exaggerated application of that possibility to suggest that in conferring a power of this kind you will deprive the officer on whom that power is conferred of all judgment whatsoever. And that, I venture to say, is the conclusion to which my Honourable friend's argument would inevitably lead to.

As a matter of fact I would consider this from a purely practical point of view. My Honourable friend, I take it, objects to the principle of Local Governments having any kind of dealings whatsoever with the Governments of Indian States, and in his statement on that point, I think my Honourable friend went very considerably beyond the actual facts of the situation. However, I am not concerned to deal with that at present. What I would like to point out is this. There are certain Acts, certain provisions of law which do contemplate some degree of communication, necessary communication and negotiation, between Governments in British India and the Indian States, and powers are exercised by Local Governments in these respects. I take the very analogous instance of the Extradition Act which deals with the case of extradition from and to British India and Indian

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States of offenders. Now, that Act, as my Honourable friend will discover if he consults it, expressly confers upon the Local Government powers of a very analogous character, indeed of a much more extensive character than the proposed clause in this Bill. I do not think that my Honourable friend's objections are really substantial and I think there is one very substantial objection to his own proposal and that is the one which I referred to, namely, the constitutional issue. On that point I think it will be highly undesirable that this House should lend the weight of its authority to a provision which I venture to say is not only administratively unsound, because the Central Government cannot as a matter of fact enter directly into the questions raised by this clause and must rely on information supplied by the Local Governments and the officers of the Local Governments concerned: I think this House should not lend the weight of its authority to a measure which is not only unduly centralising in its effect but is also a very distinct breach in the principle of provincial autonomy involved in the definite assignment by the rules under the Government of India Act to the Provincial Governments.

The HONOURABLE THE PRESIDENT: The question is:

"That in new section 27A for the words 'Local Government, if it' the words 'Governor General in Council, if he' be substituted and in the proviso for the words 'Local Government' the words 'Governor General in Council' be substituted."

The motion was negatived.

The HONOURABLE THE PRESIDENT: The question is that clause 12 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: That closes the detailed consideration of the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I have the honour to move:

"That the Bill further to amend the Criminal Tribes Act, 1911, as passed by the Legislative Assembly, be passed."

The motion was adopted.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received.

The HONOURABLE THE PRESIDENT: Let the Message 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 29th January 1923, 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 creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton 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 twelve members.'

The Council then adjourned till Eleven of the Clock on Tuesday, the 30th January 1923.

COUNCIL OF STATE.

Tuesday, the 30th January, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

IMPORTATION OF MOTOR CARS AND LORRIES.

76. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what was the number of (a) motor cars and (b) motor lorries and commercial vehicles imported into India in the years previous to the imposition of the recent import duty on them and in the period subsequent to such imposition?

The HONOURABLE MR. D. T. CHADWICK: The number of motor cars and motor wagons imported into India is as follows:—

	1919-20.	1920-21.	1921-22.	1922-23. (April to November 1922.)
Motor cars	9,925	15,432	2,895	2,919
Motor wagons	1,229	2,885	580	335

GOODS CARRIED ON INDIAN RAILWAYS.

77. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what was the tonnage of goods carried by Indian Railways in each of the half-years ending 30th September 1920, 1921 and 1922? How far is the variation, if any, due to the recent increase in freight charges?

The HONOURABLE MR. D. T. CHADWICK: The information asked for by the Honourable Member is not readily available either for all railways or for the periods referred to. The information readily available however shows that the tonnage of goods carried on 9 important railways from 1st April 1921 to 30th December 1921, and from 1st April 1922 to 30th December 1922, were 48,912,000 and 49,640,000 respectively.

CARRIAGE OF PASSENGERS BY RAILWAYS.

78. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what was the number of passengers carried by Indian Railways in each of the half years ending 30th September 1920, 1921 and 1922? How far is the variation, if any, due to the recent increase in Railway fares?

The HONOURABLE MR. D. T. CHADWICK: The information asked for by the Honourable Member is not readily available either for all railways

or for the periods referred to. The Government are, however, able to state that the number of passengers carried by 9 important railways from 1st April 1921 to 30th December 1921 and from 1st April 1922 to 30th December 1922 were 260,818,000 and 253,833,000 respectively. The decrease is probably due in part to the fact that people have not yet adjusted themselves to the new rates.

EXPORT OF PETROL AND EXCISE DUTY.

79. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will the Government kindly state what was the amount of petrol exported to foreign countries from (a) Burma, and (b) other Indian provinces, in each of the years 1917-18, 1918-19, 1919-20, 1920-21 and 1921-22, and in the half year ending 30th September 1922?

(b) Will they also state what was the total amount of petrol manufactured in (a) Burma and (b) other Indian provinces, and what was the amount of excise duty levied on it in each of the above-mentioned years and periods?

The HONOURABLE MR. D. T. CHADWICK: (a) The export of benzine and petrol from Burma and other Indian provinces to foreign countries from 1917 up to 30th September 1922 was as follows:

	From Burma.	From other Provinces.
	Gallons.	Gallons.
1917-18	18,934,711	Nil.
1918-19	22,00,332	90 (Pungal).
1919-20	36,222,584	Nil.
1920-21	18,856,638	2 (Bombay).
1921-22	20,156,323	Nil.
1922-23 (April to September 1922)	8,722,375	Nil.

(b) No figures are readily available as to the quantity of petrol produced in Burma and other Indian provinces during the intervals specified by the Honourable Member. It is, however, understood that the production of petrol in Burma is about 32 million gallons, annually.

The amount of excise duty levied on petrol is as follows in thousands of rupees:—

1917-18	35.39
1918-19	34.36
1919-20	41.42
1920-21	54.26
1921-22	69.32
1922-23 (April to September 1922)	39.38

IMPORT OF MACHINERY.

80. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what was the value of machinery imported into India in each of the half years ending 30th September 1920, 1921 and 1922? How far is the variation, if any, due to the recent increase made in the import duty on these goods?

• The HONOURABLE MR. D. T. CHADWICK: The imports of machinery and millwork in each of the half years ending 30th September 1920, 1921 and 1922 were valued at Rs. 7.36 lakhs, Rs. 17.81 lakhs, and Rs. 11.44 lakhs, respectively. There has been no increase in the rate of duty on machinery since 1916.

STATE ADMINISTRATION OF E. I. AND G. I. P. RAILWAYS.

81. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will the Government kindly state what action has been taken on the recommendation of the Railway Central Advisory Council in connection with the taking over by the State of administration of East Indian Railway and Great Indian Peninsula Railway?

(b) Will they also state whether it is the intention of Government to accept the recommendation of the Railway Central Advisory Council? When is effect likely to be given to their recommendation?

The HONOURABLE MR. D. T. CHADWICK: The Government are unable to make any statement on the subject. The whole question is at present under consideration and will be debated shortly in another place.

BANK RATE OF INTEREST.

82. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is the Government aware that there is a great difference in the rates of Bank interest in England and India? Is Government taking any steps to lower the rate of Bank interest in this country? If so, the nature of action taken may kindly be explained.

The HONOURABLE MR. E. M. COOK: Yes, Government are aware that at present the Bank of England rate is 3 per cent. as against the Imperial Bank of India's rate of 8 per cent. There is nothing extraordinary in this difference between the two rates; a similar difference has often occurred in the past. A bank rate depends on the money conditions in the country concerned, and in India, where the demand for money is much more seasonal than in most other countries, it is not surprising that there should be a comparatively high bank rate in the busy season and a comparatively low one in the slack season. Government see nothing in the present conditions of the money markets in India to call for their active intervention.

INDIGENOUS SHIPPING INDUSTRY.

83. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state whether it is their policy to encourage the growth of indigenous Indian shipping? If so, will they kindly state the nature of steps they have taken or they intend to take in this matter?

The HONOURABLE MR. D. T. CHADWICK: A Committee will sit almost immediately to consider what measures can usefully be taken to further the objects of the Resolution moved by Sir Sivaswamy Aiyer on January 12th, 1922, in another place.

REPORT OF INCSCAPE COMMITTEE.

84. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state as to whether Lord Inchcape's Committee have submitted their report to Government? When is this report likely to be laid on the table of this Council?

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COUNCIL OF STATE.

[30TH JAN. 1923.]

The HONOURABLE MR. E. M. COOK: Government have not yet received the report and, until they do so, they are unable to make any statement as to its publication.

The HONOURABLE SAIYID RAZA ALI: With a view to save unnecessary expenditure, has the question of the amalgamation of Ajmer-Merwara with any major Province been taken into consideration by Lord Inchcape's Committee?

The HONOURABLE MR. E. M. COOK: I am unable to say what precise subjects the Inchcape Committee have taken into consideration. Until we receive their report, we cannot tell.

The HONOURABLE SAIYID RAZA ALI: Am I to understand the Government of India do not know what subjects are being considered by the Inchcape Committee?

The HONOURABLE MR. E. M. COOK: Every subject in the whole field of administration is under their consideration, so far as the Central Government's expenditure is concerned. There are no limitations in their terms of reference.

The HONOURABLE SAIYID RAZA ALI: Am I to understand that this is one of the subjects under the consideration of the Inchcape Committee?

The HONOURABLE THE PRESIDENT: The Honourable Member has had his answer.

REPORT OF FRONTIER COMMITTEE.

85. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state when they are going to publish the report of the Frontier Committee, and when is this report likely to be placed on the table of this Council?

The HONOURABLE MR. J. P. THOMPSON: As the Report has only recently reached the Government of India in its complete form and is still under consideration, I regret to say that I am unable to give the Honourable Member the information he asks for.

TRAFFIC INSPECTORS AND STATION MASTERS.

86. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what is the number of Indians, Anglo-Indians and Europeans among (a) Traffic Inspectors, administrative branch, (b) Traffic Inspectors, commercial branch, and (c) Station Masters drawing more than Rs. 150 per month on (i) State Railways and (ii) Guaranteed and Company Railways of India?

The HONOURABLE MR. D. T. CHADWICK: Government do not consider that the information would fulfil any sufficiently useful purpose to justify the labour and expense involved in compiling it, and they therefore regret that they cannot undertake to obtain the numbers in question.

LICENSE FOR SALE OF SALT.

87. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what has been decided on the question of abolishing Government license for the monopolised sale of salt in the different provinces? Will they kindly explain their present policy in this matter?

The HONOURABLE MR. D. T. CHADWICK: The policy of the Government of India with regard to the agency system of selling salt was explained to this House by the Honourable Mr. Innes on the 18th September 1922. In the case of Didwana and Kalabagh permission to indent is already freely given. As regards the other sources Government are considering the question of the abolition of the agency system.

CARRIAGE OF POSTAL ARTICLES.

88. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what was the number of postal articles carried by the Post Office Department in each of the half years ending on 30th September 1920, 1921 and 1922? How far is the variation, if any, due to increase in postal rates?

The HONOURABLE MR. B. N. SARMA: The necessary information, so far as it can be obtained, will be supplied to the Honourable Member as soon as it is available.

SALARIES OF RAILWAY STAFF.

89. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what has been the increase in 1922-23 as compared with 1913-14 in the salaries of (a) Indians, (b) Anglo-Indians and (c) Europeans, employed on (i) State Railways and (ii) Guaranteed and Company Railways?

The HONOURABLE MR. D. T. CHADWICK: Increases in the salaries of staff employed on the several railways have not been given with reference to communities, neither have they as a rule been calculated as percentages. It is not possible, therefore, to furnish the information asked for in the form desired.

But taking the case of one railway, the North-Western Railway, the percentage increase over the pre-war rates of pay drawn by the subordinate establishments, works out as follows:

Pre-war rates of pay.		Increase per cent. of present rates over pre-war rates.	
	Rs.		Rs.
Menials (varying rates)			75 to 167
Pay below 50			51 to 78
Pay 50			58 to 91
" 75			34 to 52
" 100			16 to 83
" 150			17 to 110
" 200			12.5 to 134
" 225			53 to 108
" 250			20 to 117.2
" 275			15 to 61
" 300			16.7 to 100
" 325			31 to 56
" 350			21.4 to 55
" 375			13 to 86.7
" 400			12.5 to 75
" 450			11 to 55
" 500			nil to 40

Again, taking the Superior Staff of one department, the Engineering Department of the State Railways, the percentage of increase over pre-war rates of pay is approximately as follows:—

Executive and Assistant Engineers.	Executive	{ 20 per cent.	Europe recruited.
		{ 37 "	India do.
Superintending Engineers		{ 14 "	Europe do.
		{ 47 "	India do.
Chief Engineers		{ 9 "	Irrespective of country of recruitment.

These figures will, I think, give the Honourable Member a fair idea of the approximate average percentage increases of pay granted to the railway staff serving in the Punjab.

TRADE COMMISSIONER IN EAST AFRICA.

90. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is the Government aware that the Indian community in East Africa has recently demanded the appointment of an Indian for the post of Indian Trade Commissioner in that country? What action does the Government propose to take in this matter?

The HONOURABLE MR. D. T. CHADWICK: Such a request has recently been received from one Indian Chamber in Kenya. There is no question of recalling Mr. Leftwich whose efforts on behalf of Indian trade have been appreciated in East Africa.

The general question of the retrenchment of the post will be considered when the Inchcape Committee report.

THE INDIAN BOILERS 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 consolidate and amend the law relating to steam-boilers, which was passed by the Legislative Assembly at its meeting held on the 29th January, 1923.

MESSAGE FROM THE GOVERNOR GENERAL.

The HONOURABLE THE PRESIDENT: Message from His Excellency the Governor General:

"In pursuance of the provisions of sub-section (3) of section 67A of the Government of India Act, I hereby direct that the heads of expenditure specified in that sub-section shall be open to discussion by the Council of State when the Financial Statement is under consideration."

READING,
Governor General."

To make the meaning of this message clear to Honourable Members I will ask the Secretary to read the relevant provisions from the Act in question.

The SECRETARY OF THE COUNCIL: The heads of expenditure referred to in the message are as follows:

- (i) interest and sinking fund charges on loans; and
- (ii) expenditure of which the amount is prescribed by or under any law; and
- (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and
- (iv) salaries of Chief Commissioners and Judicial Commissioners; and
- (v) expenditure classified by the order of the Governor General in Council as—
 - (a) ecclesiastical;
 - (b) political;
 - (c) defence.

THE REGISTRATION OF CHELAS BILL.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I beg to move:

"That the Bill to control the possession of minor children by sadhus, fakirs, religious mendicants and certain other persons, be referred to a Select Committee consisting of the Honourable Main Sir Muhammad Shafi, the Honourable Mr. Crerar, the Honourable Maharaja Sir Manindra Chandra Nandy, the Honourable Rai Bahadur Lala Ram Saran Das, the Honourable Mr. Lalubhai Samaldas, the Honourable Mr. Rangaswamy Ayyangar, the Honourable Saiyid Raza Ali, the Honourable Raja Moti Chand, the Honourable Mr. Khaparde and the Mover."

Sir, this Bill was introduced in this Council on the 1st March 1922. After that it was published in the *Gazette of India* and the Local Government Gazettes. About 80 opinions have been received from the Local Governments and I do not know how many persons were asked by the Local Governments to express their opinion. This must be known to the Home Department, but after all we have received about 80 opinions from different Provinces. This set of opinions shows that about half of them are in favour of the Bill and about half are opposed to it. Those whom I have taken to be in favour have given their unqualified support to the Bill, and those who are opposed to the Bill have opposed it on the ground of administrative difficulties. Those in favour are mostly judicial officers and members of public bodies and such like who have come in contact with the nuisance which the Bill is meant to remove. This nuisance of minor boys being in the possession of so-called Sadhus is generally prevalent in the Punjab, the United Provinces and some parts of Bengal. I find from the opinions that in Madras, Bombay and the Central Provinces this nuisance is not much experienced and therefore the people there did not take much interest in this measure. But the people from the Punjab, United Provinces and Bengal have given their strong support to this Bill; for instance, from the Punjab, the Financial Commissioners at page 10 say that it is undoubtedly an evil to be dealt with and then they go on about the details; but they say that the evil is there and it should be dealt with. Almost all the Judges of the High Court of the Punjab support the Bill; for instance, Sir Shadilal, Mr. Justice Broadway, Mr. Justice Abdul Raouf, Mr. Justice Harrison and Mr. Justice Abdul Quadir, all of them have supported the Bill in unqualified terms. The Hindu Sabha, Lahore, has supported the Bill very strongly. Some of the Judges in the districts of the

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Punjab have also supported the Bill. The Government also support the principle of the Bill, but say that there will be some difficulties in working it, and that the time is not fit for such a measure; perhaps the Government there were under the impression that this Bill might interfere with any religion or religious sect of people, but I will show later on that the object of the Bill is not at all to interfere with any religion or religious body of people. As regards the United Provinces, the Chief Justice of Allahabad is in favour of the Bill and also some of the Judges in the districts; the Commissioner of Meerut and some of the Collectors are also in favour of it; Mr. Darling, Collector of Benares and Mr. Waugh, Collector of Etawah, are in favour of the Bill. Pundit Gokaran Nath Misra, the leading Hindu Member of the United Provinces Legislative Council, is in favour of the Bill. In Bengal, the Inspector-General of Police is in favour of the Bill; one Commissioner, some Judges, and Sir Hariram Goenka, the leading Marwari in Bengal, are also in favour of the Bill. One Mr. Muhammad Maza from Chittagong is also in favour of the Bill. Without going any further into detail, it will be seen from this analysis that there is a good deal of support from these three provinces at least for this Bill. Those who are opposed to the Bill are generally because of the difficulties which they say will be found in its working; but I would submit that if this Bill be referred to Select Committee it will be its object to see how those difficulties can be removed; and the Select Committee will be in a position to do this and to see how far the Bill can be improved. Then, Sir, some public bodies are also in favour of this Bill. The Devi Samaj, Lahore, is in favour of it; and there is the Serapanthi Jain community, of whom so many representatives are seated in the gallery above who have come from Calcutta and Bikanir to watch the proceedings; they are in favour of the Bill, of course with some amendments. Public meetings held at Bulandshahr and other places have also supported the Bill.

Now, leaving aside all these opinions of which I have given a short analysis, I want to explain to the Council that this Bill will be permissive. Every Local Government will have a right to extend it to its own province if it thinks it desirable or necessary. It may be said there is no such provision in the Bill now in those definite terms. But I would make a suggestion to the Select Committee, when the Bill goes to it, to make this provision somewhat in this form: that it shall extend to the whole of India, but shall not come into force in any area unless the Local Government by notification in that behalf in the local official Gazette so directs; that every such proposed notification under this section shall be laid in draft before the local Legislature of the province affected and no notification shall be issued unless that local Legislature has by Resolution approved with or without modification the terms of the draft. If the Committee to which I propose this Bill to be referred will insert such a provision in the Bill, then every Local Government will be in a position to extend this Act to that province or not as it likes, and in that case the Bombay, Madras and Central Provinces Governments may or may not have it. The Punjab, United Provinces and Bengal Governments may have it on modified terms, and it will be open to them to have the Act enforced in their provinces with such modifications as they may like or as they may find necessary.

I think I will do justice to the subject if I explain to this Council that its object is not at all to interfere or molest any real sadhu or fakir. We all respect them, and there is no intention on my part or on the part of

those who have supported the Bill to give any molestation or any harassment to any of them. In every country such missionaries and such priests are to be found and in India especially we have this class of fakirs and sadhus at a very high level. We respect them very much and we expect religious principles and doctrines from them; but what we find is that in the guise of sadhus and fakirs many people have adopted this profession of begging and going about in the streets and public places with minor boys. This nuisance has grown up so much in the Punjab and the United Provinces and Bengal that we find daily a large number of people in possession of such minors; they do not give them any education; they do not train them properly; they turn them into mendicants and beggars and criminals. I think there is hardly any person who will not support a measure like this to prevent this nuisance in society. This measure will not at all affect our religion; it will rather help it. Those sadhus and fakirs who are really sadhus and fakirs will get more help than those who are not sadhus and fakirs. This is a great social evil which I think everybody would like to be removed. If the number of sadhus and so-called sadhus and fakirs can be limited and cut down, it will be a great economic gain to the country. There are, if I may quote the last census figures, not less than fifty lakhs of such people who depend upon the alms and charities of others. Assuming that each of them gets four annas a day, the total annual expenditure on them comes to an enormous figure. If, however, some kind of work is provided for them so that they may earn, at least four annas per day, they will earn not less than 48 crores of rupees. So, in this poor country, can we have so large a number of people without any occupation, without any provision, dependent on our charity and alms? As I said before, I do not mean to include in this category those who are really sadhus and fakirs, who are respected all-round, but only those who are going about in the garb of sadhus and fakirs and depend upon our alms and charity and who have no right or claim upon the people to be fed. Yesterday we had a similar Bill on the Criminal Tribes Act. The object of that Bill was simply to improve the social customs of those criminal tribes. I think it is for the Government and all of us who may believe in society to turn them into good members of society. The Bill will hit only those persons who are not real sadhus and fakirs and who have no religious work to do. They simply go about and beg and turn these minor boys into fakirs and sadhus. The Bill is a very mild measure. It provides only for registration of those minors who are in the possession of such people. If any such person is found in any public street or public place in possession of such a minor, he will be called upon by a Magistrate or a police officer not below the rank of Sub-Inspector to show from what place and from what people he took the minor. If he gives such a certificate, then he will be allowed to go about, but if not, the boy will be taken from him and sent to some orphanage or given to a man of his own religion to be maintained and educated. If the Honourable Members will kindly go through the Bill carefully, they will find that it is a very mild measure. The registration will not be any harassment to any good sadhu or fakir. If he is a really good sadhu or fakir, he will not go about to public places begging; he will always remain at his home. He will have either a school or *pathshala* for such boys. They will not be harassed, but those people will be harassed who are caught in the public streets and public places, who have nothing to do with the child except to turn him into a criminal or a beggar. The Members whom I have proposed to put on the Committee represent all shades of opinion, legal as well as social and other aspects, and if they find any difficulty in the administration

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of the Act, I think they will be able to improve the Bill. Therefore I think I need not say anything further on the subject and I ask the Honourable Members of this Council to give me permission to refer this Bill to a Select Committee, of which I have given the names. If they wish they may propose any change in the list of Members. In the hope of its acceptance I put this motion before the House.

The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY (West Bengal: Non-Muhammadan): Sir, from my personal experience of Northern India, from the Punjab to Bengal, I have seen that there are a very large number of akras, sadhus, fakirs and religious mendicants; and I have found that minor children are taken hold of by those akras, in the guise of sadhus, fakirs, and religious mendicants, and they are actually left without any education or training of any kind. These children are employed as servants, though they are in future to be sadhus, fakirs and mendicants. So, I heartily support the Bill which has been moved by the Honourable Lala Sukhbir Sinha to control the possession of minor children by sadhus, fakirs, and religious mendicants and certain other persons, and propose that it be referred to a Select Committee.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I feel certain that no one who listened to the earnest and moving appeal of the Honourable Lala Sukhbir Sinha can have failed to be impressed by the high motives, the sincerity of purpose, the zeal for progress and reform, the intense desire to eradicate a serious evil from our body politic, which have impelled him in the promotion of this measure and which have inspired his utterances here to-day. I was myself very deeply impressed by the Honourable Member's attitude and utterances and it is therefore a deeper source of regret to me that it is incumbent upon me to rise to oppose his motion. I have alluded, I admit in very inadequate terms, to the high motives and the zeal for progress and reform which have inspired my Honourable friend. Indeed my only complaint on that ground, if it can properly be called a complaint, is that my Honourable friend's enlightenment and his zeal for progress and reform are somewhat too much in advance of public opinion on the subject. Sir, we are a democratic Legislature, and one of the advantages of a democratic Legislature is that it can secure for the measures which it enacts the valuable and indeed the indispensable support of public opinion. There is also a limitation and it is that, while a democratic Legislature must indeed lead and be in the van of progressive thought it is perilous for it, for the measures it advocates and for the people over whom it is set in authority, if it precedes by too long an interval the march of public opinion. I can conceive, Sir, that in unreformed days, or in periods even more remote, a measure of this kind might have been placed upon the Statute Book. I imagine that great and enlightened monarchs like Asoka and Akbar might conceivably, with the enormous powers they had of imposing their policy throughout their dominions, have contemplated some such measure as this; but it is not in my reading of history that they ever did. And I think the Honourable Member would be well advised if he paused a little before himself advocating and before inviting the House to join with him in advocating a measure which I venture to suggest might very well be a measure propounded by a benevolent despotism, but which presents very serious difficulties and disadvantages from the point of view of a democratic Legislature. Now, Sir, I have said that one of the essentials of a measure of this kind, more particularly a measure which impinges so directly upon social and

religious prejudices, is that it should have behind it the very assured support of a very strong body of public opinion. My Honourable friend has adverted to the opinions which have been expressed upon this Bill. I understood him to say that of the replies received from Local Governments half were in favour and half were opposed to this measure. I am afraid, Sir, that my Honourable friend took a very sanguine view of those opinions. I have myself read them through with the utmost care, and I am bound to convey to the House that my conclusion is that every Local Government consulted on the subject—and each Local Government, I may say, made a very careful exploration of opinion, both official and non-official, in its own jurisdiction—has reported in opposition to the Bill; though at the same time, as I willingly admit, expressing in various terms its appreciation of the intentions of the promoter of the Bill. I will not weary the House by reading these opinions out in detail, but, as I understood my Honourable friend to refer in particular to the support which was obtained for this measure from the Governments of the United Provinces, the Central Provinces and the Punjab, I will read a very brief abstract of those opinions. The opinion of the Government of the Punjab which I understood my Honourable friend regarded as favourable to this measure is as follows:

The HONOURABLE LALA SUKHBIR SINHA: I pointed out that that Government have supported the principle but not the details of the Bill. That is what I said.

The HONOURABLE MR. J. CRERAR: Well, as the Punjab is one of the provinces in which I understood my Honourable friend to urge that this measure is particularly necessary, I will, with your permission, Sir, give a brief abstract of their opinion. It is:

"In the opinion of the Governor in Council the action which the Magistracy, the police and the prosecuting agency would be required to take under the provisions of this Bill is likely to lend itself to allegations of interference with religious practices, and for this reason he considers it to be undesirable that this Bill should be passed into law. If it be passed, the resultant odium of its working will be an embarrassment to the administration."

The Government of the United Provinces are of opinion that the introduction and discussion of the Bill is desirable, but the Governor in Council is in agreement with the majority of the officials consulted that the efficacy of the Bill is doubtful, while it is obvious that, if passed in its present form, it would place the District Magistrate in an invidious position by giving him powers of interference in a matter which is considered by many a purely religious one.

I do not think that I need continue the recital of these opinions and the House will accept from me that there is, on one ground or another, unanimous opposition from the Local Governments. I think the House will agree with me that, when we are considering a measure which lays a very heavy, I might almost say a very invidious, burden of responsibility upon the Local Governments and upon their officials, it is incumbent upon us to treat their opinions with a more than ordinary degree of sympathy and respect.

The Honourable Member has then adverted to some individual opinions. Now, Sir, I entirely accept the Honourable Member as a highly authoritative exponent of individual Hindu opinion on this subject. I need not, therefore, adduce any further instances of opinions given by Hindu gentlemen in support of this measure, but I do think it is only fair that I should indicate to the House that opinions by Hindu gentlemen of authority and knowledge in these matters have been given, and are in many instances

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distinctly adverse. That, Sir, is a matter of considerable significance, because I think we may say that individual opinion in a matter of this kind would be roughly divided into two classes. You might have the opinion of the orthodox, possibly the obscurantist, section of the community which is affected, and I think it may generally be assumed in a measure of this kind that such opinion would be adverse. But we also have a large and important body of enlightened opinion, and it is from that direction that it could be most reasonably expected that the strongest volume of favourable opinion would be received. I would therefore merely indicate one or two opinions given by individual Hindu gentlemen. The Honourable Dewan Tek Chand, Commissioner of the Ambala Division, is, on the whole, against the Bill as he thinks it will be construed into an unnecessary interference with religious customs which are held in great esteem by the people. Lala Murari Lal of Shahpur considers the proposed legislation uncalled for and unnecessarily harassing. He thinks that the provisions of the Guardians and Wards Act on the civil side and of the Indian Penal Code on the criminal side are sufficient to protect minors or to assist guardians. Pandit Kanhaya Lal, Judicial Commissioner of Oudh, does not favour the Bill because he considers it impracticable. There are others in the same strain with which I will not further detain the House.

Besides these opinions, Sir, I have another very important opinion to lay before the House. This measure was submitted for consideration to the Standing Committee attached to the Home Department. Their names are, I think, familiar to the House which will, I am sure, agree that their opinion is a weighty one. It is as follows:

"The Committee then proceeded to consider the Registration of Chelas Bill which was introduced in the Council of State on the 1st March 1922 by the Honourable Mr. Sukhbir Sinha. The difficulties in ascertaining the age of children in India, the difficulties of requiring that the certificate of adoption shall be produced when demanded by a Magistrate or police officer not below the rank of Sub-Inspector, the difficulties which might ensue from the powers given to police officers to arrest and the burden which would be placed upon the executive authority of Government in administering the Bill, if enacted, were pointed out by Members during the discussion. It was considered that the subject matter of the Bill was one to be decided by a growth of public opinion and was not one to be settled by legislation. The Committee advised the Home Department that Government should oppose the Bill at its next stage."

In view of that opinion and in view of the considerations I have adduced, I think the House will agree with me that Government have no other option but to act upon the advice of the Standing Committee and on the opinions of the Local Governments. As a matter of fact, I think it will be apparent from what the Honourable Member himself said that the conditions rendering special legislation of this kind desirable are to a large extent confined to three or possibly four provinces in India. The Honourable Member himself admits that it must be left to the provincial Governments to determine whether to adopt this measure, and that it must further be left to them to make such modifications in it as are necessary to adapt it to local conditions. I think all these considerations point in one direction, and that is that, if it is found practicable to introduce legislation of this kind, it should be left to the Legislatures of the Provincial Governments on whom will devolve the difficult, and in many cases the invidious task of putting it into operation. Sir, I have paid the best tribute in my humble power to the excellent intentions which animated my Honourable friend in promoting this Bill, but I feel it necessary to point out that for a good law it does not suffice that it should be good in intention. It must have a close

regard to the facts with which it proposes to deal. It would be well, it would be wise, to have regard to precedent, though I should be the last myself to argue that in any measures which contemplate social progress we should allow ourselves to be too much under the dead hand of precedent. But it is wise, it is prudent, in considering a measure of this kind to consider also what actually has been found practicable in this direction in the past and, if possible, to develop on those lines. Precedent I do not regard as a prohibition, but at least as a warning, a cautionary signpost on the right road. We must also, if our measures are to be really good measures, have regard to the prospect of their being put effectively into operation; and while opinions from very responsible sources highly applaud my Honourable friend's intention and have expressed the desire that legislation of some kind, in some form, should if possible be adopted, they, with almost one accord, point out the extreme impracticability of the measure in its present form. I will not go into the actual details of this Bill in so far as they affect the principles which I have endeavoured to suggest to the House; but the more I have considered it in its practical application with special reference to the question which I have raised, the more difficult I have found it to bring myself to believe either that it will commend itself to the great mass of public opinion in the communities which would be specially concerned, or that the Local Governments and their officers, with the best will in the world, would be able to put it effectively into operation. I must therefore conclude by opposing the motion, but I hope, although it is my painful task to do so, I shall not leave the House with the impression that I do not very deeply sympathise with, that I do not very heartily applaud the admirable intentions which have impelled my Honourable friend to lay this measure before the House.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): While fully appreciating the noble aim and idea of the Honourable Mover, I wish to say a few words regarding this proposal. First of all, I want to say that we must leave something to be dealt with by the society itself to check the evils of the country. If things like that happen, and minors are taken away or stolen, it is the high duty of society to prevent them, and I think, as my Honourable friend the Home Secretary said, there are already sufficient laws to control these high-handed offences. It is only for society to take that in hand and prevent this sort of practices.

Secondly, I find there are only two words in the Resolution of the Honourable Mover, and those are Fakirs and Sadhus. But there are many other people who are likely to commit these crimes and who will prevent them from doing it? For instance, I will just bring to the notice of this Honourable House that only the other day—in fact about ten days ago—I received a report from one of my agents saying that he was sitting in my house in the village when a minor of about 7 or 8 years of age came and threw himself at the feet of my agent, and told him that he had been kidnapped by some Bunjaras. The boy prayed to be taken into refuge, and the agent took him into the house and put him up for the night. He said he had come from a village near Delhi, and that six other boys of a similar age had been stolen by these Bunjaras. The agent after keeping the boy with him all the night, in the morning went to see the Bunjaras, to find out whether there was any truth in the boy's story. At first those Bunjaras denied everything, but when it was found that some boys were hiding in the fields and kurbis he took them away and I understand that the whole matter is in the hands

[Khan Bahadur Nawab Mohamed Muzammil-ullah Khan.]

of the District authorities, Aligarh. This is only a single instance which, fortunately or unfortunately, has come to my notice. How many other cases there must be like that. So you must have a law for the Bunjaras also. And supposing others commit the same offence, you would have to have another law for another section of the culprits and so on. As it is, we have already got too many Acts and laws. It has been well said, that "too much of everything is not good at all." If we pass a law every day and an Act at every Session of the Council, that will not contribute to the dignity of the House. Shall we pass a law for riding, a law for shaving, a law for dressing, and so on? I presume—I cannot say I have come across any instance, but as the novels say about the Gipsy's stories in old ages there have been many things like that in Europe; but now there might not be a single case of this drastic crime there because of the strength of public opinion. Society there prevents all these things; and I would urge upon my Honourable friend the Mover to make public opinion stronger and stronger so as to prevent these high-handed people from leading us by our nose and our ears.

Then, I don't think my Honourable friend Saiyid Raza Ali feels inclined to pass many laws. Isn't that so?

The HONOURABLE THE PRESIDENT: The Honourable Member must address his remarks to the Chair.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN: I am afraid the pleaders would not like so many laws, because it will be very very difficult for them to pass their examinations. These are the only remarks which I wish to submit and with these remarks I may say that I am not inclined to support the Bill; rather I do not find any necessity for this Bill at all.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I think it would be quite impolitic to pass a law of this nature because in some of the backward provinces, especially in the North-West Frontier Province, it will be considered as an interference with religion; and if my Honourable friend Lala Sukhbir Sinha wants this Bill to be passed he would be well advised if he would put this Bill through some of his friends in his local council, because the state of affairs is not universal in all the provinces: in my own province especially. I am certain it will be considered as an interference with religion, and in my opinion it will be quite impolitic if the Government of India was to pass the Bill in spite of the opposition that some of the Local Governments have already shown to this Bill. With these remarks, Sir, I oppose the Bill entirely.

The HONOURABLE LALA SUKHBIR SINHA: Sir, I am very glad to find that the Home Secretary has been so much in sympathy with me on the principles and motives of the Bill; at the same time I am very sorry to find that he has been obliged to oppose this motion for reference to a Select Committee because as an official he has to support the Government views. (Honourable Mian Sir Muhammad Shafi: "What about the Standing Committee?") Sir, he has referred to the Standing Committee and he said that the Committee had resolved to oppose the Bill.

The HONOURABLE MR. J. CRERAR: May I explain, Sir? The Committee advised the Home Department to oppose this Bill.

The HONOURABLE LALA SUKHBIR SINHA: But, Sir, if we look at the constitution of that Committee we find that the members generally are those who come from Madras and Bombay and who have no experience of this subject. Chaudhuri Shahabuddin was the only member from the Punjab. I want to know from the Home Secretary whether Mr. Chaudhuri Shahabuddin was absent from the meetings of this Committee.

The HONOURABLE MR. J. CRERAR: Chaudhuri Shahabuddin was present at the deliberations of this Committee.

The HONOURABLE LALA SUKHBIR SINHA: He was the only member from the Punjab who has some knowledge of this subject, otherwise all the other members were from Madras and Bombay who have no experience of this subject. As I said in my opening speech, there are administrative difficulties; but it is for the Select Committee to remove those difficulties. The principle of the Bill is supported by a majority of the people who have been consulted; the difference is only about the details and that has to be dealt with by the Select Committee, and not by this Council now at this stage. Then my friend has referred to Dewan Tek Chand; he said that he is opposed to the Bill. I think it is quite natural because as an administrator he would have to face difficulties in the working of the Bill. But let me quote the opinions of the three Chief Justices of the Punjab, United Provinces and Bengal; they have all supported the measure; many High Court Judges and other Judges have supported it; many public bodies have supported it because they feel it is necessary to put a stop to this nuisance in order to improve society. Of course I admit there may be some slight difficulties in its administration and that those who have to deal with it in their administrative capacity will oppose it, as everybody in this world wants to have to do as little as possible and to avoid difficulties and troubles. On that ground, Sir, they oppose this Bill, though on principle they accept it.

Then, Sir, my friend Saiyid Raza Ali himself was a member of the Committee which drafted this Bill in the United Provinces Council. Khawja Gulam Mustakeem, who was a big Syed of Meerut, was a Member of the Committee and he gave his full support to this measure; there is no Muhammadan question in this Bill. Muhammadans and Hindus are agreed to have such legislation. On this Committee that I propose we will have our revered friend Mian Sir Muhammad Shafi as Chairman, and Mr. Raza Ali will be one of the Members, and they will be able to see and protect the Muhammadan interests. Sir, when we non-officials want a thing to be done to improve our society I do not know why Government should stand in the way. It has nothing to do with religion; there will be no blame on the Government at all; if there will be any blame it will be on my shoulders. I am one of the Leaders of Hindu community; when I move this Bill before the Council it is my responsibility; Government will not be liable to any blame. If there be any blame it will be on my shoulders. The Home Secretary said that it would be better for the Local Governments to take such measures; but I would like to explain to this House that when I was a Member in the United Provinces Legislative Council I brought this motion there; a Bill was drafted, but what we found was this difficulty, that if we had this Bill in the United Provinces and the Punjab had no such Bill those who will come to the United Provinces from the Punjab could not be dealt with; those who would come from Bengal to the United Provinces could not be dealt with and therefore this difficulty could not be solved. Of course we provided something in the Bill, but the difficulty was there and we did not know how to get rid of it; and therefore

[Lala Sukhbir Sinha.]

if this Bill is passed by this Legislature as an all-India measure, then, of course, it will be an all-India Act; it will govern all the provinces; of course, it will be permissive for all the Governments to have it on such terms as they like. Therefore, Sir, I think it will be quite fit if the House were to give me permission to refer this Bill to Select Committee. The Committee will see what difficulties there are and how they can be removed.

Then, Sir, I may point out one more important matter and it is this; that if this Bill is passed by this House, it will have to go to the other House where there are so many lawyers, so many representatives of all the provinces; they will deal with the Bill again as we are dealing with it here and if they find it impracticable and unworkable they will throw it out; and so I think it is not advisable to throw it out at this stage, and I would therefore humbly and strongly appeal to the Honourable Members of this Council to give permission to this motion that the Bill be referred to a Select Committee.

The HONOURABLE MR. J. CRERAR: Sir, I have very few words to say in reply to the remarks which have just fallen from my Honourable friend. If I apprehended him correctly, he made three points. He traversed the summary which I gave; to the best of my belief and to the best of my ability it was a fair and impartial summary of the opinions which have been received. Well, the opinions are before the House and they can arrive at their own estimate of their character and their weight. Therefore I will not detain the House any further on that point. The Honourable Member proceeded to say that I found myself in the unfortunate predicament of sympathising entirely with the Honourable Member's measure but being compelled by the exigencies of my official position to oppose it. I am not quite sure, Sir, that that was a very fair exposition of the attitude I endeavoured to explain. I did indeed make many and very sincere commendations of my Honourable friend's attitude, but I do not think I ever committed myself to any commendation whatsoever of my Honourable friend's measure. The third point the Honourable Member made I understood was as follows: He said firstly "let this measure be passed and I accept the responsibility." Well, Sir, I do not desire to derogate in the very slightest degree from my Honourable friend's capacity to bear responsibility, but I ask the House to consider this: if in some very backward, some very bigotted tract of country, a Mussalman sub-inspector of police were called upon to arrest without warrant a holy gentleman of the greatest local sanctity and veneration, and if in consequence of that there was a popular tumult, on whom, Sir, would the responsibility really devolve? The last point the Honourable Member made I took to be this, and I confess I was somewhat surprised to hear it. He invited this House to pass this measure. He said that presently it would go to another place where legal acumen is prolific and where any defects left after our deliberations would be speedily made good. Sir, I have a somewhat higher estimate of the legal abilities and of the capacity for deliberation of this House, and I should venture to say when a measure is brought before this House, it should exercise upon it its own unfettered and independent powers of judgment.

The HONOURABLE THE PRESIDENT: (The Honourable Mr. G. S. Khaparde having risen to speak): The Honourable Member cannot now intervene in the Debate. I have called upon the Honourable Mover to reply and he has done so and the Member in charge has also replied and there is now no room for further deliberation.

The motion was negatived.

RESOLUTION RE PROMOTION OF IRRIGATION PROJECTS.

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab: Sikh): Sir, I rise to move:

"That this Council recommends to the Governor General in Council that, as there are many irrigation projects waiting sanction, it will be an advantage if funds could be provided for them on the same scale as for railways and a proper expert board constituted at the headquarters to prevent delays in decision."

Sir, I sent in an amendment also. Have I your permission to move it along with the Resolution?

The HONOURABLE THE PRESIDENT: I have no amendment on my table. The amendment has now been put up to me. Does the Honourable Member desire to move the second Resolution or the first one?

The HONOURABLE SARDAR JOGENDRA SINGH: There is only one Resolution and I want to move it and I propose to amend it.

The HONOURABLE THE PRESIDENT: What I have before me is in effect a somewhat different Resolution. Does the Honourable Government Member in charge object?

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): I would suggest that the Honourable Member may withdraw the present Resolution and give notice of the Resolution which he intends to move because there is a radical difference in character between the two Resolutions and I should like to have notice.

The HONOURABLE THE PRESIDENT: It is quite within the competence of the Honourable Member on behalf of Government to take that objection, and it is, of course, for the Honourable Member to say whether he withdraws his Resolution. The result is he must either move the Resolution as it appears on the paper, or not move it and give notice of a further Resolution.

The HONOURABLE SARDAR JOGENDRA SINGH: I think I will move the Resolution and make my points in my speech.

It is a strange irony of things that a private Member should be moving a Resolution of this kind. When the Reformed Councils came into being we expected that the Government would have a constructive programme, particularly as regards Agriculture. We have been waiting practically for over two years and so far we have seen no signs of agricultural development, or any large programme, either in the Government of India or in the Provinces. The main thing which we agriculturists expected from the Reformed Councils, was that agricultural, industrial, material and moral development of the country would be speeded up. We are still waiting for the starting of the process of speeding up. The Reform prescription has failed and now we have the verdict of the great doctors at Whitehall that the prescription is not to be revised till the prescribed period expires. Therefore there is all the more reason in these Councils and elsewhere why we must bring home to the Government their responsibility to the people in these matters. The Government has certainly political policies, but I should like to challenge the Government of India here to put forward their programme dealing with the constructive and industrial development of the country. India is in touch with all the commercially organised countries of the world. India is like a poor man trading with rich people which is impossible. How is India going to trade

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without an adequate industrial and agricultural development? I cannot help mentioning that agriculture is our primary industry and unless agriculture prospers India cannot prosper. Irrigation is one of the most urgent needs of agriculture. Irrigation is the life-blood of crops. The great Emperor Akbar, I think he was quoting from the Koran when he said: "God has said, everything springs from water." The need for rapid development of irrigation is extremely great. I can point out from the Irrigation Review and from the Report of the Irrigation Commission that was appointed in 1901 that some irrigation projects have waited for 50 years, some for 20 years, others for 30 years without receiving sanction. My Honourable friend (Honourable Mr. Sarma) is just looking at some papers, but I can tell him the irrigation projects that are waiting. I might mention the Sukkur Barrage, the Thal and Haveli projects in the Punjab. I need not mention the projects that are waiting in Madras and the Central Provinces. Besides these the Sutlej project was only sanctioned recently, after a very long delay. I should like to draw the attention of my English friends in this Council to the fact that the wage in Lancashire is affected by the poverty or the prosperity of the agriculturist in this country; and agriculture cannot progress without irrigation. And as I am on the point I should like to ask the Revenue Department to determine the agricultural wage. It has not so far been determined by the Government of India or the Provincial Governments. It remains absolutely undetermined. They say the people are prospering and suggest an increase in the water rate, without assessing the income on which a man pays his water rate, and in some cases the holdings are less than half an acre. A very interesting review of irrigation in India is now being published by the Government of India with photographs, diagrams, etc., and it shows, that, so far, the canals irrigate only 11 per cent. of the total area, the wells another 5 per cent. and other sources 6 per cent. Altogether about 22 per cent. is irrigated and there is still another 77 per cent. that could be brought under irrigation. The scope therefore for development of irrigation is immense. Then again, Sir, there is not only canal irrigation, there is well irrigation which deserves attention. Since the report of the Irrigation Commission, the question of well irrigation, so far as I am aware, has not at all been considered. I do not want to weary the Council with reading extracts, but I will just read out a few extracts from the report of the Irrigation Commission, which was appointed in 1901-02. Twenty years have passed and still parts of the programme that the Irrigation Commission outlined have not been carried out. The Irrigation Commission said:

"Out of a total of 13 million acres irrigated from wells in British territory, no less than 9½ millions are found in the two northern provinces; in the Central Provinces there is next to no well irrigation; south of this there are some 200 million acres of which roughly three-quarters are in Madras and one-fourth in Bombay."

Then the Irrigation Commission remarks that

"the irrigation from wells could be easily doubled."

Further on the Irrigation Commission says:

"By making borings, by helping agriculturists by tapping sub-artesian supply well irrigation can be extended."

The HONOURABLE MR. B. N. SARMA: I do not want to interfere with my Honourable friend but I would point out that the subject with which he is dealing is entirely extraneous to the subject matter under consideration and is entirely provincial in character.

The HONOURABLE SARDAR JOGENDRA SINGH: The Honourable Mr. Sarma remarked that the matter is provincial. Quite so, but the Honourable Member forgets that the financial control rests entirely with the Government of India and the provincial Governments are not in a position to raise any loan whatever on their own authority. The Government of India tells them "Go and balance your budgets before you come to us and ask for permission to raise a loan."

The HONOURABLE MR. E. M. COOK (Finance Secretary): No.

The HONOURABLE SARDAR JOGENDRA SINGH: I stand corrected if that is not the case but I was only recently told that a proposal came up for raising a loan from the Punjab

The HONOURABLE MR. E. M. COOK: Was that a loan for a canal?

The HONOURABLE SARDAR JOGENDRA SINGH: It was, I believe, for a hydro-electric scheme and also for irrigation. In any case I am glad to have the assurance of the Honourable the Finance Secretary that any proposal for raising a loan in the provinces would be entertained and that the provinces will have the power to raise loans. The Honourable Mr. Sarma points out that this is a provincial subject and does not come within the range of the Government of India. I have been much confused, since I came to this Council about this matter as to where the authority of the provincial Government starts and where the authority of the Government of India ends. It is an established fact that all proposals regarding land revenue and irrigation, so far as the Punjab is concerned, have to come to the Government of India for sanction. It is impossible for me to know where the province is autonomous and, until we know this, we are quite justified in raising these questions in this Council and pressing on the Government of India to let the provinces be entirely autonomous. As the provinces are not autonomous, we must press on the Government of India, that they should exercise authority in enlarging the field of activities of the provincial Governments, in aiding them and assisting them and not hindering them in their sphere of expansion. The question of irrigation is really an all-India question and, so far, we have only been able to touch the fringe of it. We have done something in the matter of canal irrigation, but we have done nothing so far as well irrigation is concerned; we have done little so far as irrigation from the tanks is concerned. Twenty years have gone since the Irrigation Commission issued its report; science has advanced since, and the time is ripe for holding a fresh inquiry and seeing with the assistance of science if we cannot use well water and put it on the land. It is for the Government of India and not for the provincial Governments, so far as I can understand, to hold such an inquiry. Irrigation Engineers have done splendid work. But when we compare the irrigation programme with the railway programme, and when we compare the results obtained by irrigation and by the railways, when we compare the funds provided by the Government of India for the railway projects and the funds provided for irrigation projects, the differences are extremely striking. On the railways the Government lost about £51 millions and has yet to make up £7 millions, whereas in irrigation some of our canals have been paying from 44 to 50 per cent. profits, and yet irrigation projects have not received the financial support that they deserve.

I will just set out, Sir, the projects that are waiting on our side only and the work that can be done if funds were available. Perhaps the Finance Secretary will be able to tell us whether the provincial Government or the

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Government of India will be able to provide funds for carrying them out, and if so, when.

Next comes the question of sanctions. If the provinces could finance and sanction their own projects, it would be better. I do not see why there should be any delay in the sanction to these projects. Perhaps the Honourable the Revenue Member, when he stands up to reply, will be able to tell us something about the two or three large projects that are still awaiting sanction. We have the Sukkur Barrage scheme, the Thal scheme, the Haveli scheme and the Bhakra scheme, while there are some other projects in Madras and the Central Provinces. If money were found for these, and sanction given to commence work, in another 10 or 15 years we could irrigate another 15 million acres, producing at least 17 million tons of food grains, and adding new wealth to the country. It is impossible to calculate the benefits to the community and the Government which must follow. We have, however, to wait on the Finance Department more than on any other department for money. If money can be found for these projects, we could push them forward. My main object in moving this Resolution is to waken the Finance Department on the one hand and the provincial Governments on the other to the need for speeding up progress, so far as irrigation is concerned. At present we somehow seem to be very much impressed with the need for cutting down expenses, but at the same time we should not sacrifice expansion which would bring in large and permanent profits. Any irrigation project, to my mind, would bring in 100 per cent. in ten years if you calculate all the sources from which income would flow in. If we postpone them until the provincial finances balance themselves, we might have to wait for ever. I move this Resolution in the hope that the Revenue Member will give me his whole-hearted support and that the result will be to speed up the progress of irrigation in India and lead to a larger use being made of well irrigation as well as of tank irrigation.

The HONOURABLE MR. B. N. SARMA: Sir, I deeply sympathise with and appreciate the spirit in which my Honourable friend has brought forward this Resolution. When I was a non-official, I was myself one of those who pressed insistently upon the Government the desirability of extending irrigation projects. Nor have I forgotten, since I became an official Member, the need for irrigational activities in the various Provinces, whether such provinces are directly under the Government of India or are partially autonomous; but I must confess that I was somewhat surprised and disappointed when my Honourable friend said that nothing was being done by the Government of India or by the Provinces in the matter of irrigational activity or promoting the agricultural prosperity of the people. Well, I suppose we indulge in exaggeration in order that we may bring home to the people and to the Governments concerned the need for continuous attention being paid to this important branch of Governmental and public activity; and I may take the remarks of my Honourable friend in that spirit. The position of the Government of India has changed considerably since the Reforms, and I do not think anyone in this House, or my Honourable friend in particular, would grudge the autonomy which has been conferred upon Provincial Governments in the matter of developing their own agricultural institutions. Agriculture is an entirely provincial transaction, and therefore I think it stands to reason that the

Government of India cannot have an agricultural programme in the sense in which my Honourable friend desires it. Agricultural research of a type is a central subject, and the Government of India have a programme in respect of what constitutes their immediate responsibilities. Nor do they forget altogether, if they can in any way promote the Provincial Governments' activities, their obligations to help the Provincial Governments when the Provincial Governments seek their assistance. But I must demur to any direct responsibility on the part of the Government of India in framing an agricultural programme for the various Provinces which are not under them. Irrigation also is a provincial subject, though it is a reserved subject. Here also it is the Governors' provinces that are mainly concerned. The Government of India does not finance these projects, is not responsible for their financing, can do nothing except by way of advice in promoting any particular project in any Province. Consequently I do not see how the Government of India can have an irrigation programme which they can dictate to the Provinces. The only powers in respect of irrigation projects which the Government of India have reserved to themselves, or to be more accurate, the Secretary of State has reserved to himself, are in respect of technical sanction to be granted to projects costing more than 50 lakhs of rupees, projects in which more than one Province are interested, and projects in which an Indian State or Province may be interested; and things of that kind. These projects come up to us only when they exceed these limitations or when other similar conditions have to be fulfilled. I may inform the House that at the present moment there is absolutely no project sent up by any Provincial Government which is under investigation by the Public Works Department.

The HONOURABLE SARDAR JOGENDRA SINGH: What about the Sukkur Barrage?

The HONOURABLE MR. B. N. SARMA: The Sukkur Barrage scheme was sent up by the Government of India two years ago to the Secretary of State. It is awaiting the formal sanction of the Secretary of State and we are in continuous communication with him as regards some of the points which have arisen. The moment that sanction is obtained, it will be started. It has not been postponed, so far as I am aware, owing to the Bombay Government or the Government of India not being in a position to assist in the financing of the scheme, and consequently it cannot be said that that project is being held up, hung up or delayed owing to any remissness of duty or non-realisation of their responsibility by either the Provincial Government or the Government of India. Honourable Members can realise that these projects which cost crores of rupees and concern various Provinces have to be scrutinised very carefully by the responsible authorities in order that they may not be open to just criticism. I may say that this Sukkur Barrage project was not delayed in the Government of India at all, but was sent up within a few months after it was received in the Government of India Secretariat. My Honourable friend has tabled his Resolution in the following terms:

"This Council recommends to the Governor General in Council that as there are many irrigation projects waiting sanction, it will be an advantage if funds could be provided for them on the same scale as for railways, and a proper expert board constituted at the headquarters to prevent delays in decision."

I may state that there are no irrigation projects in the Government of India awaiting sanction; and as to delays, I was congratulating myself that the Public Works Department, over which I have the honour to preside at the present moment, has been particularly speedy in the despatch of

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the various projects which came up before them during the last two or three years. I may say that the average duration was about four months 26 days, in respect of projects, the total of which amounted to Rs. 44,830,000, which have been sent up by us to the Secretary of State for sanction during the last two years—that is, between 1920 and 1922; and every one of them has been sanctioned except this Sukkur Barrage project which, for particular reasons of which Honourable Members are aware, is being still considered by the Secretary of State. We cannot blame the Secretary of State either for considering it deeply after the agitation which has been raised in various quarters to the Sukkur Barrage project from several points of view. Therefore no charge of delay can be brought against the Government of India, and I do not think that any expert board would effect a speedier despatch of these projects. The charge therefore that the Government of India and the Provincial Governments have not during recent years displayed any irrigational activity, I think, will on re-consideration be admitted by the Honourable Sardar Jogendra Singh himself to rest on no foundation at all. During the last two years, as I have said, it has been my good fortune to be able to send up projects amounting to 42 crores of rupees and the Provinces which sent up these projects cannot be said to have been remiss in their duty.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): How many of them have received sanction?

The HONOURABLE MR. B. N. SARMA: Every one of them except this Sukkur Barrage project, and the Sukkur Barrage also has received technical sanction and with regard to finances also we do not anticipate any very great difficulty but there are some points on which there is discussion and I think there will be an early termination of that discussion. We are as keen about irrigational activities as my Honourable friend. We know that if proper investigation is made and money can be found—and I dare say the money will be found—we can bring under irrigation another 15 or 20 million acres; and some of these are covered by the projects which have been sent up. But the other projects have not yet been thoroughly investigated, have not been put forward by the Local Governments themselves and therefore there is nothing to be done here. My Honourable friend has alluded to certain projects with which his province is particularly concerned; there is nothing that we can do here in the Government of India because those projects are not before us. The Thal project, the Bhakra Dam project, the Haveli project and the Woolar Lake Barrage project in which my Honourable friend is particularly interested are all before the Punjab Government and none of them is before us. There are two projects in which Madras is interested, the Cauveri Reservoir project and the Kistna Dam project. The Cauveri Reservoir project is hung up on account of a dispute between Madras and Mysore; we hope that there will be an early settlement, but nothing can be done here until it comes up here for sanction. The Kistna Dam project has not been fully investigated yet by the Madras Government; it has not come up before us again after we sent it back several years ago, and I do not think it can be speeded up either, because we shall have to take up certain questions with the Hyderabad Durbar when that project comes up before us. I do not see that there is any very early prospect of the Kistna Dam project, which is likely to irrigate a very considerable area, being sanctioned. Then there are certain projects in the Central Provinces which are being investigated and which have not yet come

before us. I may say therefore that there is not a single project in which the Government of India would find any difficulty when those come up for sanction, even to find finances if a modest sum is required—but I think the Honourable Mr. Cook will be able to throw greater light upon that question than I can—but I may state this, that the Government of India as far as I am aware has hitherto never delayed the progress of any scheme on account of any obstacles which it has thrown in the way of provincial Governments borrowing money for their projects or in the way of their assisting the provincial Governments when there was any application for such help. The Honourable Sardar Jogendra Singh has complained that the railways are shown preference to irrigation. This is a charge which is levelled against the Government by the public at large generally. Now, railways are a central subject; here is a definite sum of money which can be spent without any failure whatever from year to year. The question has been thoroughly investigated and the money is being found; but the position is entirely different in the case of irrigation projects. Irrigation projects, as I have said, are entirely the concern of provincial Governments. The revenue derived from these projects is entirely provincial revenue. But apart from that consideration the provincial Governments have no new definite continuous programme and cannot lay before us any definite new programme owing to the difficulties which have already been alluded to, on which they can ask the Government of India for a regular loan from year to year of a definite amount. Therefore, there is no use of levelling a charge against the Government of India when the provinces themselves have got no definite programme and we cannot urge upon the provincial Governments the laying out of a programme which is dependent upon so many circumstances. I have already alluded to some of the difficulties under which the Local Governments labour. Therefore it is for Honourable Members, it is for the public at large to take more interest in provincial subjects, to agitate for them and to make the people realise the benefits of irrigation. The recent action of the Madras Legislature in throwing out the Irrigation Bill does not seem to encourage any very great hope that the Madras Government would be in a position to put forward for sanction any projects on a large scale. Therefore obstacles of that description in the first place have to be obviated by the action of the provincial councils themselves and that will be possible only if the people who are going to be benefited thereby can concentrate their attention upon the subject and can induce their Legislatures to pass the requisite measures. I therefore hope that some of the energy, some of the enthusiasm, some of the keenness and alertness which is being displayed by the Honourable Sardar Bahadur and his colleagues outside would be utilised in educating the electorate, in telling them what they want, in pressing upon their Governments and upon their Legislatures the need for greater irrigational activity, and then if they came up before us for financial sanction or for administrative sanction and if there are delays here in one department or another, then it would be time enough for him to ask for a board. But I think that boards would only add to delays and would hamper business and would not achieve the object which my Honourable friend has at heart. As regards well irrigation, I shall not deal with it at all here, because I think it is a purely and wholly provincial subject and the Government of India cannot be asked to assist it in any manner whatsoever. I will not pause to state anything about the equity or inequity of the water rates or as to whether greater water rates have to be raised in order to finance new projects; but I may warn the House that it would be impossible for any Government to undertake large

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projects unless the people affected thereby rise to the occasion and realise that their prosperity is involved in their agreeing to a higher water rate if that be the only way in which they can make the work productive. There is no use of being conservative; there is no use of being continuously critical about the attitude of the Government, as to whether they are raising four rupees or five rupees as water rate; as a matter of fact with the increased cost of material and labour and various other difficulties which the provincial Governments have to confront, it would be idle for any of us to entertain the hope that unless the electorate, the people concerned, are prepared to pay a higher water rate, irrigational activity may not have that prosperous career which it is the hope of all of us to bring about. Sir, I hope I have shown, therefore, that while I sympathise with the Honourable Sardar Bahadur in his desire to improve irrigation in India there is nothing that we can at the present moment do which we are not doing; that there are no delays whatsoever; that there is no want of sympathy, not merely lip sympathy, but practical sympathy in every shape and form, and that nothing can be gained by his pressing this Resolution to a vote. We have done what we could, and we shall always have the irrigational activity of the country at heart because upon the prosperity of the people rest the peace, happiness and contentment of the whole country, and the peaceful progress of Governmental activities.

The HONOURABLE MR. V. G. KALE: We are very thankful to the Honourable Mr. Sarma for the information he has given us regarding what the Government of India have been doing in expediting various irrigation schemes and projects which have been sent up to them by Provincial Governments, but I am afraid my Honourable friend has not quite grasped the spirit of the Resolution which has been moved by the Honourable Sardar Jogendra Singh. What he aimed at was asking the Central Government in this country to take up the question of economic reconstruction and agricultural improvement as a whole. We all admit that Agriculture and Irrigation are Provincial subjects, and agriculture in particular is a transferred subject. No one would wish that the Government of India should interfere with what provincial autonomy has been conferred under the Reforms Act, but I think the Government of India can take a large and comprehensive view of the economic progress of the country. Technically it is quite right to say that the railways are a central subject and therefore can be looked after by the Government of India, and that irrigation and agriculture, being provincial subjects, have to be left to be cared for by provincial Legislatures and by Provincial Governments. But does not railway prosperity itself depend to a very large extent upon agricultural prosperity? What are the railways going to transport from the interior to the ports if our agriculture is not improved a great deal more than it has up to the present time? Irrigation projects can be promoted by the Government of India by taking counsel with the Provincial Governments. Provincial autonomy will not certainly be detracted from if the Government of India call together the representatives of the Provincial Governments and discuss with them the need of speedy economic expansion. My Honourable friend referred to the controversy which has taken place for several years regarding the railway policy of the Government of India. It has certainly been complained that the Government have shown greater favour to the railways than to irrigation. We have just now been told that during the last two or three years very large irrigation projects have

been sanctioned. We are indeed very glad to hear that, but the object of the Resolution, if I understand it correctly, is that, as the policy concerning railways is being chalked out in anticipation for five years, let the irrigation policy for the country as a whole receive a little attention. Let every effort be made by the Government of India, in consultation with the Local Governments, to see that the schemes are properly financed and are not delayed but are properly developed. I do want that provincial autonomy should be maintained intact and that the Government of India should not trench upon provincial autonomy, but the Government of India have a special responsibility in this respect. You cannot leave these problems to be dealt with piecemeal. They have to be looked at as problems for the country as a whole, and it is, I think, but due to the people that the Government of India should take up this problem of irrigation in this spirit and there will then be no difficulty in the way of the Government of India taking action in the matter. For instance, the question of the improvement of cotton cultivation is being taken up by the Central Government and the central Legislature. It is a question which relates to agriculture and to a transferred subject which has been made Provincial, and yet because it is a large national question and is also inter-provincial in scope and character, the Central Government has taken up the question of the improvement of cotton. This is an instance which may be quoted to show that, where large national interests are concerned, it is the Central Government that can expedite the solution of the problems. The Central Government has therefore to take up this subject in right earnest and to push on the irrigation projects as it has been pushing on the projects concerning railways. The fate of railways and of irrigation projects is linked together. The one depends upon the other. Railways can transport food grains and other raw materials in the country and outside the country, but we want larger crops, larger quantities of agricultural produce, so that they may be carried by the railways. It will be a short-sighted policy therefore only to make provision for the railways and not at the same time to make provision for the financing of irrigation projects. Therefore while approving of what my Honourable friend has said with regard to provincial autonomy and the necessity of the people in the provinces taking up this question, I think it is up to the Government of India to do everything in their power to expedite the progress of irrigation works. It is no use throwing the responsibility upon the people of the provinces. I ask, did the Government of India wait before they financed the expansion of railways for public opinion to be expressed? Can my Honourable friend show me when and where the public has been after the Government of India asking them to expand railways? If I understand public opinion aright, during the last two generations the public has expressed itself strongly against the undue haste, the feverish haste, with which the railways were expanding, and against the fact that irrigation schemes were not being properly financed and looked after. This was the expression of public opinion, and yet, without waiting for favourable opinion being expressed in the Councils, the Government of India has gone on extending the railways. Why should not the same spirit be shown by the Government of India in the matter of irrigation? Not only provincial prosperity but the national prosperity of this country as a whole depends on it. I will, therefore, ask the Government of India to take this matter very seriously into consideration and do all they can in order to push on the progress of irrigation projects.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I think it would not be desirable for this discussion to come to an end without a few words from the representative of the Finance Department, if only by way of assurance to my Honourable friend and his supporters that in the Finance Department of the Government of India there is not and never will be any reluctance to find funds, to the utmost extent of our borrowing capacity, for any well-considered scheme of development, and more particularly a scheme of irrigation. This attitude of sympathy towards such schemes is based not only on general grounds, but also on more narrow financial grounds. At a time when almost every Provincial Government is faced with a considerable deficit, when the Central Government has been faced with a very large deficit, when additional taxation has already been imposed to a considerable extent, surely all our thoughts must turn in the direction of how far we can increase the tax-paying capacity of the people; in other words, how we can increase their prosperity. The only way of doing that is by doing all we can to finance schemes of productive expenditure, whether they be railways or irrigation, or some other form of development.

Having expressed, however, this sympathy with my Honourable friend's object, I feel I must take some exception not only to the terms of the Resolution itself but also to the general tenor of the observations he made in support of it. If I am not misrepresenting my Honourable friend, there ran throughout the whole of his speech sundry implications that irrigation was not getting the necessary finance, implications that it is no good giving the provinces autonomy when you interfere with them financially and put difficulties in the way of their raising the necessary funds. Sir, I can assure the Council that the whole fabric of my Honourable friend's speech was based on an assumption which, if he will allow me to say so, is absolutely incorrect. No province has ever applied to the Central Government for a loan where-with to finance an irrigation project and has been refused. On the contrary, there are sundry projects now in course of execution. Take, for example, the Sutlej Valley project; it is being financed by money lent by us, found by us not without difficulty, to the Punjab Government, and, if there is any other scheme likely to come up in the near future, any well-considered scheme, regarding which the engineering difficulties have been overcome and about which there is no reasonable doubt as to its success, that scheme will receive similar treatment. Those are the real facts, Sir, and I hope I have dispelled some of the apprehensions which my Honourable friend may have entertained as to the attitude of the financial authorities in this matter. The Honourable the Revenue Member has explained how every endeavour is made in the Central Government to expedite the consideration of these schemes. That being so, I would ask my Honourable friend to consider whether it is really worth while his pressing the matter any further.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces North-eastern: Non-Muhammadan): Sir, I stand up to say a few words in connection with this Resolution and give my hearty support to it. I know full well that irrigation is a provincial reserved subject, but there is no reason why the Government of India should overlook these provincial irrigation questions. As my Honourable friend Mr. Kale has said, it is for the Government of India as a whole to see that agricultural development takes place in this country. This country is, after all, an agricultural country and 80 per cent. of the population depend upon agriculture. Sir, from

facts and figures I find that the production in the country per acre is about one-fourth of what it should be or what it is in other countries. When there are so many natural sources to draw upon, why are we so very backward? I think it is desirable for the Government of India to appoint a Central Board to advise Local Governments to take up irrigation projects and how to finance them. There is already the Central Research Institute at Pusa for Agriculture which is financed by the Government of India, and there is no reason why this Board should not be financed in the same way. The Government of India should look after these Imperial things and irrigation is one of them. No agricultural development can take place without irrigation, whether it is from canals or from wells. As my Honourable friend Sardar Jogendra Singh has pointed out, only 11 per cent. of the culturable land is irrigated from canals and 5 per cent. from wells. There is, thus, a great deal of scope for irrigation from wells, rivers and canals, but very little attempt has been made by the Government of India or the Provincial Governments to tackle this question. I quite agree with my Honourable friend Mr. Sarma that Government has done what it could, but still much remains to be done, and I will strongly appeal to the Government of India to appoint a Central Board to advise on these irrigation questions and to finance these works, as far as may be, possibly from borrowed money or from some other source.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, the real question for consideration is whether Local Governments have applied for funds to start their irrigation works, and how far this request has been met by the Government of India. Has the Punjab Government applied for loans for the Bhakra and for the Havelian projects and what has the Government of India done in the matter?

The HONOURABLE MR. E. M. COOK: Which projects did the Honourable Member mention?

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: The Havelian and Bhakra projects.

The HONOURABLE MR. E. M. COOK: No.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Railways are of as much importance as irrigation schemes are, so they should go hand in hand, as the development of our country depends upon both these schemes. As the Honourable Mr. Cook has assured this House that funds will be found by the Government of India for all well-considered irrigation schemes, I hope the Honourable Member will now see his way to withdraw this Resolution.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, I listened with considerable interest to the various opinions expressed by the Members of this Council with regard to irrigation, and I may at once say that I entirely agree with those opinions, as I look upon irrigation as one of the most important matters in this country. In the interests of agriculture I think that the Government of India should not merely look upon irrigation as the concern of the various Local Governments; the needs of the country would be better served if the Government of India looked upon irrigation as a whole and, as suggested by one Honourable Member, would consult the various Provincial Governments and

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not just say "It is the concern of the Provincial Governments and no concern of ours."

With these few remarks in support of this question of irrigation, I should like to refer to one other matter and that is to the comment on railways made by my Honourable friend Mr. Kale. I understood Mr. Kale to say that Government had spent money on railways without the people asking them to spend money on railways. I was very astonished to hear that. Every commercial body in India has always pressed Government to develop its railways and Government now are doing their very best to rehabilitate them. The Honourable Mr. Kale must have known that for some years past the province from which he comes has suffered very greatly from the backwardness of the Indian railways, and on many occasions we have nearly had a coal famine. Bombay lifted up its voice very loudly and criticised the Government of India for being so backward with their railways that we could not get coal into Bombay for our industries.

It was an unfair charge to bring against Government that they have been squandering money on railways without consulting the wishes of the people. Every commercial body that I have known in this country has always pressed for the development of railways. It is just as important, in my opinion, as irrigation, and the two should go hand in hand together.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I do not think that the Honourable Mr. Sarma was quite fair in making the legal exposition of this problem when he said that, being a provincial subject, it was for the provinces to take action in the matter of irrigation and that the Government of India were so remotely connected with the subject that they could not justly be taken to task in this Chamber. Sir, we know that irrigation is a provincial subject, but as the Honourable Member himself admits, it is at the same time a reserved subject also.

Now having regard to Chapter II relating to the financial control of the Secretary of State, and Chapter V which relates to the control of the Government of India over all reserved departments and subjects, I do not think this is a plea of which advantage can be taken under the Government of India Act by the Honourable Member. We know only too well that when there is a question affecting law and order, a mandate is issued by the Government of India and is obeyed by the Provinces concerned. I entirely fail to see, if this subject deserves the importance which is attached to it by the non-official and some official Members of this Council—I entirely fail to see why in place of a mandate some suggestion should not be made by the Government of India to the Provinces. That would be perfectly within the letter of the law.

Now, coming to the subject as a whole, at this late hour I do not propose to make any lengthy observations. I will confine myself to bringing the main facts to the notice of this House. What, Sir, are the facts? Railways no doubt are a very important department and very necessary for the development of this country. I do not think that the Honourable Sir Arthur Froom quite followed the speech of the Honourable Mr. Kale. Nobody ever denied the importance of railways. The question really is this—on one side, we have railways

on the other, we have irrigation. Both are necessary for the future development of this country. Railways have been treated in a generous manner by the Government of India; but, Sir, the Reforms are only two years old. Before that period irrigation was treated in a step-motherly fashion both by the Government of India and, I am afraid, by the Provincial Governments where the representatives of the people were not in the majority. They were not in a majority, I repeat. Therefore, Sir, the question is whether we should not now determine the relative importance of these two branches of our future development and give to each what is due to it.

Now we know, Sir, that there are something like 40,000 miles of railway in this country. We also know that more than 250 million pounds have been spent on railways. May I ask the Honourable Member in charge how much money has been spent on irrigation? May I ask him how many miles of canals have been opened in this country, so that we may be in a position to compare the efforts of the Government of India in the two directions? Sir, there is not the least doubt that the attention which the Governments, both Central and Provincial, ought to have paid to the development of irrigation has not been paid by them. As has been pointed out, it was high time that the Government of India bestirred themselves and introduced the system of inter-Provincial Conferences where various projects sent up from Provinces could be considered and the schemes sanctioned in consultation with the Provinces in order of their importance.

The Honourable Mr. Cook who showed great sympathy with this question—as in fact has been the order of the day on the Government side since early this morning—pointed out, Sir, that there was no scheme sent up from the Provinces which had been refused by the Government of India. Now this, I believe, applies to what has been done by the Government of India during the past two years. I do not think the Honourable Mr. Cook's remarks referred to any period prior to these two years. May we know whether at any time the Government of India has made any offer to any of the Provinces that if any of them found themselves interested in opening new canals and making works of irrigation the Government of India were in a position to offer monetary help to them?

Again, the Honourable Mr. Cook went on to say, if I listened to him correctly, that there was absolutely no proposal that had come up to the Government of India in which the Government of India had not promised its support. May I point out, Sir, that on the Sukkur Barrage project there was a full dress debate in the other Chamber, when the Honourable the Finance Member pleaded that the Government of India was totally unable to give any financial assistance or hold out any hope of financial help for completing this project.

The HONOURABLE MR. E. M. COOK: May I rise to explain, Sir? The Sukkur Barrage project is not being held up at the present moment through lack of finance. Nor did the discussion in the other Chamber turn on the grant of a loan to finance the scheme. It turned on something else.

The HONOURABLE SAIYID RAZA ALI: I do not want to take up the time of the Council unnecessarily; but replying to a question in the other House...

The HONOURABLE THE PRESIDENT: When was that reply given, in what session?

The HONOURABLE SAIYID RAZA ALI: On the 31st January 1922. That is not a year old. The Honourable Sir Malcolm Hailey, replying to a question put by Professor Shahani in the other Chamber, in the course of his reply said—"I made it quite clear that the money could not be provided from the resources of the Central Government." Then he went on to say that the Bombay Government were still considering the financial position and the possibility of going on with the project. This was the reply given.

The HONOURABLE MR. E. M. COOK: It did not refer to a capital loan, Sir.

The HONOURABLE SAIYID RAZA ALI: That, Sir, is the long and short of it. I do not propose to make any comment—I will leave it to the Council t. Judge. So the position is that this subject, in spite of the very strong sympathy given by the two Honourable Official Members who have spoken to the motion, has been treated after all, according to us, in a rather step-motherly fashion by the Government of India, as also on occasions by the provincial Governments. Of course the pleading on behalf of provincial Governments would be that they had no money to launch these schemes and that is the reason why they had to act in this step-motherly fashion. Surely, Sir, the time has come when the Government of India should entirely readjust their policy. Nobody desires the expenditure on railways to be cut down considerably, but having regard to the needs that are peculiar to this country it is surely time that more money and more energy should be spent on opening canals and other irrigation works than has been done till now.

The HONOURABLE MR. C. M. BAKER (Bombay: Nominated Official): Sir, as I am more personally interested in this question than any other Member of the House I think my silence might perhaps be misunderstood. I may explain that I employ such leisure as this House leaves me in doing special duty on the Sukkur Barrage Project, which is by far the most important project with which we are concerned to-day. With this project I have been intimately connected for a great many years; and any delay in this hurts me very deeply.

The HONOURABLE SARDAR JOGENDRA SINGH: How many years altogether has the project been under consideration?

The HONOURABLE MR. C. M. BAKER: For about thirteen years.

Any one who caused such delay I should regard as my enemy, and if that enemy were the Government of India itself I should certainly not hesitate to say so. But it is not so, Sir. The trouble is not in Delhi but in London. Against the Government of India, either in the Revenue Department or in the Finance Department, we have no grievance.

What this Resolution means exactly I have been unable to understand. Apparently the suggestion is that the same amount shall be provided every year for irrigation as is provided for railways. But the amount provided for irrigation must depend on the amount which is required, that is to say, the amount for which the provincial Governments apply; and it is no good fixing a lump sum for every year. That the Government of India has ever refused financial assistance to any important irrigation project or that they are ever likely to do so, there is in my opinion no proof whatsoever.

The other part of the Resolution suggests the appointment of an expert board to consider these questions. As far as my experience goes I think the constitution of a board would not tend to avoid delay but rather to increase delay and I should much prefer to leave matters in the very competent hands of the Inspector General of Irrigation.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): May I move an amendment to drop the words "and a proper expert board constituted at the headquarters to prevent delays in decision."

The HONOURABLE SARDAR JOGENDRA SINGH: I admit that the Resolution was really very indefinite and I wanted to amend it; only I could not do it.

The HONOURABLE THE PRESIDENT: It is not usual for the Mover of a Resolution to move an amendment to it himself. What are the words which the Honourable Mr. Samaldas suggests should be omitted?

The HONOURABLE MR. LALUBHAI SAMALDAS: My amendment is to delete all the words after the word 'railways' in the Resolution. Sir, I was in the same difficulty as my Honourable friend Mr. Baker, because I could not quite make out what my Honourable friend Sardar Jogendra Singh wanted. The words, as he himself admitted, were so loose that it was very difficult to find out what was really at the back of his mind. We have heard here some differences of opinion, some Members saying that precedence should be given to irrigation, others that precedence should be given to railways, others that both should be treated equally. There is no doubt that there has been a feeling in the country, which my Honourable friend Sir Dinshaw Wacha, if he were present here, could have expressed much more strongly than I could, that the Government of India has not been treating

The HONOURABLE LALA SUKHBIR SINHA: What is the amendment, I want to know.

The HONOURABLE THE PRESIDENT: When the Honourable Member has concluded his speech the amendment will as usual be read out from the Chair.

The HONOURABLE MR. LALUBHAI SAMALDAS: . . . that the Government of India has not been treating the Irrigation Department in the same manner as it has been treating railways. Various reasons have been given, were given at that time; one of which was, as my Honourable friend Sir Arthur Froom said, that they, the commercial community, could make themselves much more easily heard than the agricultural community. My Honourable friend Mr. Kale said that the Government started railways without the public asking for it—he meant the public he represented, i.e., the agricultural public—but he did not perhaps mean by the word 'public' the commercial public. The commercial public did want railways and they have always got what they wanted. The agricultural public wanted irrigation and they did not get it because they could not make themselves heard.

The HONOURABLE THE PRESIDENT: I think, since the Honourable Member is moving an amendment, that he should confine himself to the amendment. When that is disposed of by the Council, he can discuss the general question.

The HONOURABLE MR. LALUBHAI SAMALDAS: Then, I would merely say that by the appointment of a board there will be greater delays and perhaps more indecision than there is at present. Therefore I want that the words from "and a proper expert board" down to the end of the Resolution be taken out. If you want real work it is much better to have it carried on by the Inspector General as at present.

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

"That the words 'and a proper expert board constituted at the headquarters to prevent delays in decision' be omitted."

That question and that question alone is now under the consideration of the Council.

The HONOURABLE SIR ARTHUR FROMM: Sir, I only wish to rise for a few moments. I thought when I spoke just now I made it quite clear that in my opinion irrigation and railways should go forward hand in hand; in fact I think those were the concluding words of my few remarks. I am sorry if the Honourable Mr. Lalubhai Samaldas understood from what I said that I was merely impressing a commercial view upon members. I do not see in what way irrigation in this country would be of any use whatever if there were no railways; that was the whole idea of my saying that irrigation and railways should go hand in hand. I did not wish to press a commercial view as against the agricultural view and I do not think my words should have been thought to incline or did incline towards it.

The HONOURABLE LALA SUKHBIR SINHA: I oppose the amendment, Sir. In my opinion the appointment of a Board will be very useful because in that case we can have the opinion of each province and we can discuss together all these questions and make a reference to provincial Governments if necessary. If there will be intra-Provincial Conferences or Boards as proposed in this Resolution, we can know of the needs of each province, and therefore I oppose this amendment.

The HONOURABLE SARDAR JOGENDRA SINGH: I have certainly no objection to dropping these words, Sir, if that will please my Honourable friend Mr. Samaldas. The main object in proposing a board was because once—I think it was Sir John Ward—the Inspector General of Irrigation told me that he found it very difficult to get sanctioned irrigation projects wandering from India to London and back. It was he who really suggested to me that a board would be really helpful. Possibly things have now changed and under the new regime there is no need for the appointment of such a board. I think I will accept the amendment proposed by my Honourable friend.

The HONOURABLE MR. B. N. SARMA: On behalf of Government I think I may accept the amendment so far as that goes,—not that I agree to the other portion of the Resolution.

The HONOURABLE THE PRESIDENT: The question is:

"That in the Resolution under consideration the following words be omitted:

'and a proper expert board constituted at the headquarters to prevent delays in decision'."

* The motion was adopted.

The HONOURABLE THE PRESIDENT: The amended Resolution is therefore now again before the House.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadian): Sir, I think as the Resolution now stands it still could be objected to upon the ground that it introduces a comparison with the railways in the country which is certainly not necessary for the object which I daresay the Honourable Mover has in mind. If funds could be provided for them on a liberal scale, it would, I think, quite meet his wants. The comparison with railways is an old political cry in this country. We all remember many years ago, in the days of the old Congress for example, railways and irrigation used to be considered as competing subjects for the funds at the disposal of the Government, and it was always complained by the general Indian public, not necessarily the commercial public, that railways got the better contribution. The gravamen of that charge, however, could have been justified at a time when the railways were not a paying proposition and were in some ways a burden on the tax-payer

The HONOURABLE SARDAR JOGENDRA SINGH: They are not paying now.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: They have, however, come into a more prosperous condition, allowing for the exceptional state in which they at present are, and I think no one who looks upon these matters with an impartial eye will continue to harp on that invidious comparison between railways and irrigation as a whole. The Indian public have changed their attitude towards railways, as evidenced by the very liberal, but none too liberal, provision which the Assembly has made for railway projects within the last few years. As regards irrigation, I am very thankful that the Honourable Revenue Member has made a most satisfactory statement. He has convinced me that the attitude of Government towards irrigation is at the present moment, at all events, perfectly free from objection. On the contrary it deserves praise. If anything emerges from this discussion, it is this, that the industry and zeal of the present holder of the office of Revenue Member have come out with signal conspicuousness, and I am extremely happy that he is able to say to-day to the public of India that no projects of irrigation have been delayed in this Government or in the Provincial Governments. I have not heard, Sir, during recent years a more satisfactory statement on this vexed subject of irrigation. I hope the same progress will be sustained, and the Honourable Sardar Jogendra Singh, speaking on a future occasion, will not find it necessary to repeat his complaint. Well, my object is to propose the words—"if funds could be provided for them on a liberal scale." That is, that the words "on the same scale as for railways" be omitted and replaced by the words "on a liberal scale," merely to avoid this invidious comparison. And then you cannot provide money on the same scale for railways as for irrigation, for the conclusive reason that it is impossible to spend money on irrigation projects as rapidly as upon railways, and to provide as much money as for railways would I think be a waste of public funds.

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

"That for the words 'on the same scale as for railways,' the words 'on a liberal scale' be substituted."

That amendment is now open to discussion in the Council.

The HONOURABLE MR. V. G. KALÉ (Bombay: Non-Muhammadian): Sir, I support the amendment which has just been proposed. In fact I

[Mr. V. G. Kale.]

noted on paper a similar amendment because I found in the original Resolution the words "on the same scale as for railways" and I wondered how it would be possible for the Government of India to provide, for instance, 150 crores for irrigation for the next five years, and secondly how it would be possible for irrigation schemes to be immediately prepared and made ripe for operation. Therefore what was required was a liberal provision of funds for irrigation schemes, and I think my Honourable friend Sardar Jogendra Singh had the same idea in mind. He did not want that the same amount as has been, or will be, provided for railways should also be provided for irrigation. That I believe was not his idea also, and therefore I hope that this amendment will commend itself to the House.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): I also support the amendment that for the words "on the same scale as for railways" the words "on a liberal scale" be substituted.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Resolution now before the Council reads as follows:

"This Council recommends to the Governor General in Council that, as there are many irrigation projects waiting sanction, it will be an advantage if funds could be provided for them on a liberal scale."

The HONOURABLE SARDAR JOGENDRA SINGH (Punjab: Sikh): Sir, I think I will begin by dissipating the disappointment which the Honourable Mr. Sarma mentioned, when he said I spoke in a disappointing manner of the Government's activities. I challenged the Government of India to show what they had really achieved in a constructive way in the last two years. Mr. Sarma certainly made his statement, but he produced no facts as to the activities of the Government. I must leave it at that. Then he raised again the question of provincial and transferred subjects. It is a legal quibble, Sir, which I am not at all in a position to deal with, but it is a question which this House will have to ask itself one day or other, who are the masters—whether the provinces are masters in their own house, or whether the Government of India are the masters, or is it the Secretary of State who is the master? That is a question which will have to be answered one day or another and until it is answered this question will arise here and elsewhere again and again. We really do not know where we stand. We know this, that when you send an irrigation project up, it has to go to the Government of India and to the Secretary of State. That being so, where is the Provincial transferred subject? It is a definition which I, for instance, have not been able to follow so far. Then again Mr. Sarma said that the Government of India could initiate so far as agriculture was concerned, but as far as the development of agriculture generally was concerned they had no power. I think, not more than six months ago, I asked a question, as to what the Government of India were doing in the matter of research, and as far as I remember, the Honourable Mr. Sarma answered they were starting a Cinchona plantation in Burma. If that indicates the utmost effort of the Government of India, I have nothing more to say about it.

The Honourable Mr. Kale in a very lucid speech cleared up the whole position which I wanted to take up, and in an absent-minded moment when I framed the Resolution I did not make my meaning clear. Agriculture is of national importance in India, and as such deserves very great attention from the Government of India, and that attention it has not been receiving. That is the complaint made against the Government of India. Has the Government of India ever offered, as Mr. Raza Ali asked, to finance irrigation projects in the Provinces? Has the Government of India, after the Irrigation Commission, ever as a whole tried to take up the irrigation problem in India and to push irrigation schemes in all the provinces? So far as I am aware, no attempt has been made. The provinces have been left alone and, even when they have put up projects to the Government of India, the experts, as the Honourable Mr. Baker complained, have only delayed them, instead of speeding up any programme that came to them.

The HONOURABLE MR. C. M. BAKER: I did not say that.

The HONOURABLE SARDAR JOGENDRA SINGH: Well, you complained against the experts in any case.

The HONOURABLE MR. C. M. BAKER: No existing expert.

The HONOURABLE SARDAR JOGENDRA SINGH: Then the Honourable Mr. Sarma has also referred to the fact that there are no irrigation schemes at present before the Government of India. I do not know what the legal meaning of the thing may be, but here is the Irrigation Review of the Government of India for 1918 and 1921, and it devotes a chapter to the projects that are pending in the provinces. These may not be before the Government of India officially, but the Government of India know that they have been waiting for the last 30 years or so and my charge is that the Government of India has done little in speeding up these projects. If the contention of the Honourable Mr. Sarma is true that within the last two years all the irrigation schemes that have come up to the Government of India have been sanctioned, then why not call for some of these schemes, which are mentioned in the Irrigation Review and which have been worked out by the Irrigation Engineers? For instance, the Sutlej Valley scheme, which has just been sanctioned, was proposed ten years ago to be taken in hand at the same time as Lower Bari Doab scheme. Possibly the Finance and Revenue Departments of the Government of India will enlighten us on that point. The main point, Sir, is that the Government of India either departmentally or by appointing a Committee should survey the whole field of irrigation and then help the provinces in speeding up their irrigation programme. The Honourable Mr. Sarma also brought in the question of the water rate, to which I referred, and he certainly was justified in saying that all irrigation works should be productive. For his enlightenment and that of the Council I should like to point out what some of the irrigation works have been earning. The Lower Chenab is earning 44 per cent.; the Eastern Jumna is earning 31 per cent.; the Cauvery is earning 24 per cent.; the Lower Jhelum is earning 19 per cent.; the Kistna is earning 17 per cent.; the Godavery is earning 17 per cent. Well, if these are not productive irrigation works, then I think we shall have to wait a long time before we find anything else which would earn profits at the same rate, and if the earnings would limit the raising of the water rate, I suppose the case for raising the water rates falls through on these canals in any case. The Honourable Mr. Cook has given us an assurance of his support, which I value greatly and I think the House will value even more his assurance that any irrigation project which comes to him properly

[Sardar Jogendra Singh.]

worked out would receive financial support. This, I hope, will lead to the two or three projects which are waiting in the Punjab being financed at no remote date. I accept his assurance but I must wait till these assurances materialise. I must really apologise for having worded my Resolution loosely. If I had been allowed to amend it, it would have made things much clearer; but, as it stands, it only stands for this that the Government of India might provide funds for any irrigation projects that may come to them, and I hope this proposal will receive the support of the whole House.

The HONOURABLE MR. B. N. SARMA: Sir, there seems to be a great deal of misapprehension as regards the facts and I am sorry I have not made myself clear in my opening remarks. There seems to be a misapprehension that the Government of India and the Provinces have got no schemes and no programme before them, that they have got no schemes under construction, no schemes under consideration and that they have to be waked up now into activity in order that they may do their duty. I may inform Honourable Members that this is not the fact. There are, at the present moment, works under construction, the total cost of which is Rs. 37 crores 59 lakhs. I have already alluded to the Sukkur Barrage scheme, expected to cost another 18 crores, which has been practically agreed to, but is awaiting the sanction of the Secretary of State. That means that projects to the value of 55 crores are under construction or are about to be under construction. There are projects worth another 52 crores under consideration, and these projects relate mainly to four provinces, the Punjab, Madras, the Central Provinces and Bombay. The Punjab would require, if all their schemes are found to be feasible 26 crores of rupees; Madras about 13 crores; the Central Provinces 5, and Bombay about 4½ crores, roughly. Honourable Members will, therefore, see that there has been no remissness in the past, that the engineering staff are fully engaged on work of a beneficent character at the present moment, they will have many years to work in order to bring these works to completion, and that the finance has been found for these works by the Government of India and the provinces and an assurance has been given that finance will be forthcoming when there are suitable projects which require help. If this is not a considered programme, I fail to see what can be called a considered programme. I would suggest to the Honourable Sardar Jogendra Singh to study his facts a little more carefully and not to air general views and not to come forward with statements that projects have been hung up for 20 or 30 years without the requisite care being taken for speedy sanction being granted. I would ask, would any Government be justified in sanctioning a project without all the details being worked out? Where there are more than one province, we have to consider as to whether there would be enough water for all the projects in those provinces; where there are Indian States and British provinces, we have to consider whether the difficulties arising from various considerations have not to be overcome, conflicting interests reconciled and brought into harmony, and the projects can be financed. It is not as if the thing were plain sailing the moment a man talks of projects owing to a river running through lands lying idle and asks that the Government should put in money there and bring the lands under cultivation. Take, for instance, this question of the Sukkur Barrage, the Sutlej project and the Thal project. There are vital questions of importance which have to be considered by the Government of India before they sanction any more projects, because it

has to be considered as to whether the waters of the Indus would be sufficient for all these works. Therefore, many important and vital questions have to be carefully considered and, if the Sukkur Barrage scheme was hung up, it was because the Secretary of State was not satisfied with the project as it was sent up some years ago. The revised Sukkur Barrage scheme was considered by all the Bombay and Government of India experts. It was found to be satisfactory and was sent up to us on the 8th September 1920 and it was forwarded to the Secretary of State on the 17th of March 1921 with a delay of only six months. That was because the Government of India Public Works Department was continuously in touch with the irrigation officers of the Bombay Government, and, therefore, I cannot see where my Honourable friend draws the authority for his statement that the matter has been hung up for 10 years. (*The Honourable Sardar Jogendra Singh*: "30 years.") May be in Bombay for 30 years, but there are various considerations into which I need not go. The last time it was before the Government of India was in 1920 and that is where the position stands. We may not be able to sanction certain projects in the Punjab unless we know what the effect of the sanction of those projects would be upon the Sind valley.

Take, again, the Kistna project. The Kistna project could have been started some time ago but was not because the Madras Government were not in a position to take up that question on account of the Cauvery project. They said they would handle that after the Cauvery project had been taken up. The Cauvery project could not be handled because it was hung up owing to a dispute with Mysore. The whole matter has been hanging fire for 10 years and we do not see the light of day yet. That is a matter for regret, it is a misfortune; but neither the Provincial Government nor are we responsible for it. And if the Cauvery scheme cannot be taken up, the Kistna scheme would not be ready either because certain outstanding questions had first to be settled with the Hyderabad State.

One Honourable Member asked how much money has been spent by the Government of India. I may state that if he had taken the trouble to read the last Triennial Report, he would have found that up to that date 58 crores of rupees have been spent. There are 12,000 miles of canals, 34,562 of distributaries and I think any Government can be proud of such an achievement. (Hear, hear).

Well, Sir, it has been asked what have the Government of India been doing in the matter of agricultural research. If the Honourable Member had only taken the trouble to find out what the Pusa Institute has been doing for him, for his profit and for others' profit, he would not have twitted us with the charge that we have been only able to show not have twitted us with the charge that we have been only able to show a Cinchona plantation in Burma—as if, by the way, that were in itself a small matter! He owes his prosperity partly to the research work that was carried out in Pusa on wheats. The latest advices when I went to Pusa were that the Behar sugar planters were so eminently satisfied with the work there that they have undertaken practically to finance the expert's proposals. In many other respects also has great activity been shown by the various research institutes and my Honourable friend, without taking the trouble to ascertain the facts, has the audacity to come to this Chamber and charge this Government and the various research officers who have been doing such splendid work, twit them with having been absolutely idle.

The HONOURABLE THE PRESIDENT: I am afraid the Honourable Member is going too far. I did not hear the word "idle" used.

The HONOURABLE MR. B. N. SARMA: I am sorry if I have. Then with regard to the Sulej Valley scheme, it was sent up here on the 8th September. The Sukkur Barrage scheme was sent up on the 30th July. It was sent up for sanction in December 1920. Now with regard to the statement that many projects are waiting for sanction, I have said that many of the projects have not yet been considered by the Governments concerned, and so there cannot be any equivocation, any legal subtlety displayed when I say there are no projects here awaiting sanction. And as there are no projects awaiting sanction, I am sorry to say that this expression which the Honourable Mover has used—"as there are many irrigation projects waiting sanction"—is not a correct statement of fact. I therefore suggested to him that it might be omitted; but he is not prepared to omit that, and I do not see how this House, knowing full well that there are not many irrigation projects awaiting sanction, can pass this Resolution. All that I have said and all that I shall say now is that the Government of India have always been ready and will always be ready to assist the provinces within the constitutional limits prescribed to find funds for irrigational activities, as they have realised and do realise that in irrigational activity in this country lies largely the prosperity and contentment of the agricultural population and the future prosperity of the country. I therefore hope that if I have spoken warmly, it will be understood that it is because I find here as well as outside charges made that the Government of India have been neglecting irrigation while promoting other activities which are not really beneficent. It is for that reason that I have spoken with warmth. I hope I have been able to show Honourable Members that the Government in India have irrigation programmes, that every Province has got the welfare of its people at heart and is promoting to the best of its ability these irrigation schemes, and that the matter will receive the fullest sympathy, support and consideration from the Government of India.

The HONOURABLE SAIYID RAZA ALI: Sir, may I ask—I will not do so unless you permit me—whether it will be at all in order to omit the words "waiting sanctioned"?

The HONOURABLE THE PRESIDENT: I am afraid no further motion can be made now. I have called upon the Honourable the Mover of the Resolution to reply, and the Government Member has also replied. After that stage, no further amendment can be moved. The only thing that remains is to put the motion:

"This Council recommends to the Governor General in Council that, as there are many irrigation projects waiting sanction, it will be an advantage if funds could be provided for them on a liberal scale."

The motion was negatived.

The Council then adjourned till Eleven of the Clock on Wednesday, the 31st January 1923.

COUNCIL OF STATE.

Wednesday, the 31st January, 1923.

The Council assembled at Metcalfe House 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 30th January 1923. They are:

A Bill to amend and consolidate the law relating to the regulation and inspection of mines.

A Bill further to amend the Cantonments House Accommodation Act.

A Bill to provide for the restriction and control of the transport of cotton in certain circumstances.

GIFT OF BOOKS BY SIR WILLIAM GEARY.

The HONOURABLE THE PRESIDENT: Before we proceed to the business of the day, I have to announce to the Council that a very valuable acquisition has been received to the Library of the Indian Legislature which we share with the Assembly. An eminent lawyer, Sir William Geary, who was at one time Attorney General of the Gold Coast and who served in India in the Army during the war, entered into communication with my Honourable colleague Sir Frederick Whyte, and as a result has presented to the Library of the Legislature a number of Parliamentary Reports and other publications. They are, I think the Council will agree, of a very interesting and valuable character. For example, I see they include the complete Parliamentary Debates for the years 1668-1741 and a number of old Parliamentary Journals and Reports which, I think Honourable Members will agree, we shall be very glad indeed to have in our library. I therefore think the Council will certainly desire me to direct the Secretary of the Council to write and convey the thanks of the Council to the donor for this very thoughtful and benevolent act. (Applause.)

THE INDIAN COTTON CESS BILL—REFERENCE TO JOINT COMMITTEE.

The HONOURABLE THE PRESIDENT: I do not know what would be the most convenient course with reference to the business to-day. If the Honourable the Leader of the House agrees, it might be well perhaps to get rid of the motion regarding the appointment of a Joint Committee.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Yes, Sir.

The HONOURABLE THE PRESIDENT: Then I will ask the Honourable Mr. Sarma to move that motion.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to move:

"That this Council do agree to the recommendation of the Legislative Assembly that the Bill to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India be referred to a Joint Committee of the Council of State and the Legislative Assembly and that the Joint Committee do consist of 12 members."

Before I ask the House to accept this motion, I feel sure they will expect me to give them a short history of the genesis of this measure and the reasons which have induced the Government to undertake this piece of legislation. I feel sure that Honourable Members will be convinced that this measure is intended for the benefit of the agriculturist, of the manufacturer and the general consumer alike and not of one class to the detriment of the other. Government would not have undertaken this measure at all if they had felt that there was any conflict of interest between one community and the other and that they were promoting the interest of one community to the detriment of the other. I make this incidental remark because I know that in certain quarters there is a prejudice that the Government undertake measures for the promotion of the growth of cotton at the expense of food crops, that they encourage the growth of cotton for the benefit of Lancashire and that, therefore, they would be better advised in promoting the development of the essential requisites of the country, namely, foodstuffs, and show less zeal in the promotion of the cotton industry. I have heard this remark made more than once and that is the reason why I am alluding to it in particular to-day. Food and cloth are recognised to be essential needs and no Government can justify its existence when it does not promote the welfare of the community by providing for both in adequate abundance and at cheap cost. Experts in cotton and businessmen alike have been concerned for some time past about the hardship which the community would be put to by a world shortage of cotton of superior long staple quality, thereby not only handicapping industry but also raising incidentally the price of cotton cloth throughout the world. The Government of India were equally impressed with the necessity of doing all that they could to promote the cotton industry in this country and therefore appointed a Committee in 1917-18 to see what could be done in the way of developing the industry. The Committee made after an elaborate inquiry various recommendations into all of which it is unnecessary for me to go at the present moment. There are, however, two or three relevant recommendations, with one of which particularly we have to deal to-day. They recommended the appointment of a Central Cotton Committee, the promotion of research and the imposition of a cess of 8 annas per bale for the promotion of research and agricultural improvement generally throughout India. They were induced to make this recommendation on the strength of the evidence that they had obtained that the imposition of a cess was agreed to practically by all who appeared before them as being desirable in the interests of the country, who also thought that, if anything could be done to improve the yield and the quality of cotton, the Government should not hesitate to adopt the necessary measures. Honourable Members will realise, when we have an area approximately averaging 22½ million acres with only 85 pounds per acre as against 200 in America, the magnitude of the problem and the necessity for promoting this agricultural industry to the best of our power. The Government accepted the recommendation of the Cotton Committee and appointed a Central Board which has cost the Government nearly a lakh of rupees a year and the Committee has been doing excellent work since the period of its inauguration. They were not able, in view of the reformed

constitution, to agree at the time to the recommendation of the imposition of the cess because they believed that, agriculture being a transferred subject, it would be more within the province of the provincial Governments to promote the kind of research which the Committee had in view. The Central Committee recommended to the Government of India strongly the desirability of imposing the proposed cess in the interests of the consumer, the manufacturer and the agriculturist himself and in the interests of research which is a central subject. You will ask me naturally, how is the agriculturist interested in it? Honourable Members will realise that out of about four million and a half bales of cotton, excluding that which is consumed by handloom, half the net produce is exported—i.e., about 20 lakhs of bales. It is doubtful as to whether India would be able to command always the same market which it does at present for its short staple cottons. Secondly, the price would naturally be lower than for the long staple cottons. The yield is poor, as I have already said, and it is therefore to the interest of the agriculturist to be able to produce long staple cotton which will yield more and which will have the hardihood to stand the climatic conditions of the country. Then the manufacturer is interested because he is importing a large quantity of yarn and if the mill industry is to flourish it is necessary that he should be able to obtain local supplies of long staple yarn which are absolutely vital to the continuance of the prosperity of the cotton industry. The general consumer is interested because if there is a world shortage of cotton of the long staple variety, the price of cloth goes up naturally with the shortage of cotton and he would have to pay phenomenally high prices as he had to pay during the war when there was a dislocation of trade and there was a shortage of cotton crop. Naturally, therefore, all parties are interested, and I may venture to state that even the non-co-operators for once, I think, would be able to see eye to eye with the Government that this is a measure which is calculated to promote an industry which they have at heart. The Government of India reviewed their position and found that there was much in the statement that 'Research' being a central subject, they should consult the Local Governments and obtain the views of the Local Governments and of the various commercial bodies and interested persons, and they proceeded to do so. All the Local Governments are practically unanimous on the question of the desirability of imposing a cess for the promotion of the cotton industry. There were slight shades of difference of opinion as regards the nature of the control that ought to be exercised in respect of the expenditure of the money that may be raised, as to whether the cess need be at the rate of four annas, as to whether it should be imposed only on mill-consumed cotton or on exports as well. But the Government of India, having regard to the vastness of the field of activity, having regard to the expenditure with which they would be faced if the subject is to be tackled and handled correctly, have resolved that it would not be too much to ask the Legislature to agree to the imposition of a cess of four annas on all commercial cotton as there was a vast majority of preponderance of opinion in its favour. I may state that I am supported in this particular by the Fiscal Commission who, while objecting generally to the imposition of any export duty, find no objection whatsoever to the imposition of a small cess, especially with the consent of all the parties concerned. I may refer to paragraph 184 of their report wherein they say:

"We have not referred to small cesses such as those on tea and lac, which while levied on exports do not go into the general revenues but are devoted solely to the improvement of the industries on which they are placed. It is obvious that being levied with the consent of the producers and for their benefit, they cannot be open to the ordinary objections which apply to export duties."

[Mr. B. N. Sarma.]

Honourable Members will realise that a cess of four annas on a bale which may be taken to cost on an average at the present moment about Rs. 200 would work out to 1/800th part of the cost, which is a very small fraction indeed, and if the price goes up, as it did, to about Rs. 800 to Rs. 1,000, though it is not likely to do so, the nature of the impost would be still lighter. Therefore, objection cannot be taken, I think, on the score that the impost would be very heavy, but this is a matter which can be considered further by the Joint Committee and it would necessarily receive the attention of the House when the Bill emerges from the Joint Committee. I am only placing before the House at the present moment the reason why Government have adopted this particular attitude.

Then, with regard to the control which the Government seeks to exercise, I need hardly say that they have examined the position very carefully and have found that having regard to the conflicting interests between province and province, between the promotion of research work in its purely agricultural and manufacturing aspects, as to how much is to be allowed to the various provinces for the promotion of special studies, for the promotion of studentships and so on, and having also regard to the fact that Indian States who were consenting parties largely are represented on the Central Committee, it was absolutely necessary that they should retain control with regard to the disposition of this cess. They have agreed that the proceeds of this cess should not be merged in the general revenues but should be earmarked only for the promotion of the cotton industry. Therefore, there is no likelihood of the Government being tempted to starve the essential object and utilise the proceeds for other general purposes. Inasmuch as that safeguard is secured, they may be trusted with the advice of the Central Committee in apportioning the money that is available for the various objects which would necessarily have to receive a share of the amount that would be contributed by the agriculturist and by all classes concerned. I need hardly go into the various questions which the Central Committee has been tackling. We have at heart the promotion of a Central Research Institute dealing chiefly with cotton breeding and cotton selection processes. The Empire Cotton Association have gone into this question at very great length and have found that it is absolutely essential to promote central research institutes for these purposes. I would read a small extract as to the nature of the objects which have to be kept in mind: "The growing of cotton, the essential character of the cotton plant and the temporary modifications of lint brought about by the various local conditions under which it may be grown, the effects of heredity by which the constitution of the cotton plant is determined and can be controlled, the effects of limitations and environments such as the seasonal period available for growth, the temperature, rainfall and humidity, the characteristics of the soil, bacteriological, fungoid and insect organisms and a study thereof—these are some of the problems that have to be forced." These may be divided into two groups, local and general. A central research institute would be necessary to undertake a study of the life of the cotton plant and the development of its lint, and they have recommended also studentships and readerships for the purpose of promoting expert knowledge, and that is one of the objects which the Central Cotton Committee and the Government of India have in view. They propose to utilise this money for research purposes and for the constitution of this institute. I have alluded to this aspect at some length because I wish to justify the action of the Government in undertaking this measure when *prima facie* it may look as though agriculture being a

provincial subject, the Government of India has nothing to do with it. The matter is of great importance, because it has been found that there has been a set-back in the Punjab, especially owing to difficulties that the Agricultural Department have been finding in suiting conditions to the growth of long staple cotton in that particular province. There are various problems affecting large tracts of the country, not confined by territorial or provincial barriers. For instance, any investigation with regard to the black cotton soils will be useful not merely to the Berars, not merely to the Central India, but also to Madras and various other places where the black cotton soil obtains. The Upper India conditions would apply equally to the Punjab, the United Provinces and other places. Therefore, the research to be undertaken is not confined to a particular province and that is the justification for the Government of India embarking on this enterprise. I do not think that there is any justification for taking up the time of the Council at greater length and I hope I have shown the necessity for a measure of this kind, especially when the Government of India is short of funds and is not in a position to meet an expenditure of this kind from their general revenues, that this is an object which falls within the peculiar province of the Government of India, that almost all Local Governments and almost everybody consulted have agreed to the principle of this measure, that it does not present any affront whatever to any economic theory and that it is of vast importance to the agriculturist, the manufacturer and the general consumer. And it was felt that, inasmuch as we have experts in cotton and cotton growing both on the agricultural and manufacturing sides in this House and in the Assembly, it was desirable to refer this Bill for the sake of convenience, for saving time and for obtaining the best advice, to a Joint Committee of the two Houses. The Legislative Assembly has agreed to the appointment of a Joint Committee and I now ask that this House should agree to the course that has been proposed by the Assembly.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): I rise to support the motion moved by the Honourable Member in charge. Not being intimate with the procedure followed by this House when any motion of this nature is brought before it, as I read the agenda last evening, I felt that this was more or less in the nature of a formal motion which would be moved by the Honourable Member and would meet with the approval of the House without any speeches. I am encouraged to say a few words in view of the details that the Honourable Member in charge has put before this House, and I think it my duty to say a few words regarding one or two points on which I differ from one of the main principles underlying this Bill.

Before I deal with that, Sir, I also feel I ought to correct, if I may say so, the impression that may have been conveyed by the Honourable Member that this measure is looked upon by people in the cotton trade outside this House with some sort of suspicion. The Honourable Member gives the impression to the House as if people outside who know anything at all about the cotton trade look upon this measure with suspicion.

The HONOURABLE MR. B. N. SARMA: I am sorry if I have led to that impression. I was not alluding at all to any person who has given any thought to the subject or who is concerned with the cotton trade. I was alluding to the lay opinion of the general public who have a suspicion about the merits of cotton industry as opposed to food production.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: The lay public to which the Honourable Member said he referred is, perhaps to a certain extent, to be excused, if it has rushed to any opinion which may be called one of suspicion. There is rather a peculiar coincidence in this connection. The efforts of the Government of India in connection with any improvement in the growing and marketing of cotton have been brought forward twice till now during the last, I shall say, about 75 years. They were first put forward, and, carried also, immediately after the American War in the early sixties of the last century, and those efforts resulted in what was then called or known as the Cotton Frauds Act, an Act of which the commercial community subsequently got absolutely sick and tired and implored the Government that it should be removed. Since then, things were left to themselves as far as the cotton grower and the cotton merchant were concerned. We see a repetition of it after or during the last Great War. A Cotton Committee was appointed in 1917 and the result of it is the proposal that the Government of India now put forward. The lay public therefore rush to certain conclusions and many entertain suspicions about this measure. But it is very necessary, Sir, to point out the great and marked difference that exists between the measures taken in the early seventies of the last century and the measures which the Government of India now propose to take. It is this. In the early seventies, under the measures that were taken under the Cotton Frauds Act, all control was left with the Government officials pure and simple. The non-official commercial community were neither consulted nor had they anything to do with the control which the Government of India put on. The measures that the Government of India now suggest, and which, if I may say so, they have accepted at the suggestion of the non-official commercial community intimately acquainted with the cotton trade, put all responsibility for action more or less on the non-official commercial community, and the officials are there more or less as if they were to be the executive to carry out the decisions of the non-official commercial community. That is an enormous difference which, if brought to the notice of any of the lay public who have any suspicions, would simply be convincing that this measure is, as the Honourable Member said, to the interest of the grower in the first instance, and also materially to the interest of the cotton consumer in India. As long as India continues to export cotton, whether it is to Lancashire, or to Japan, or to China, or to the continent of Europe, it is quite possible that any improvement in the growth of cotton of better quality may do some good and may bring better quality to the consumers abroad. But I do not see any reason why Lancashire alone should be marked out for that. Japan, Italy, France, in fact, any country that buys our surplus cotton will enjoy the benefit, and I do not see the slightest reason why Lancashire should not share in it—I should like them to share in it much better than anybody else.

My main difference on the question of the Bill is on the score of the cess which, as it is proposed to be imposed on all cotton either consumed locally or exported outside India, I feel, will fall on the grower. The Honourable Mover referred to the recommendation of the Fiscal Commission and read out a certain part of the relevant paragraph from its Report. I have not got the Report of the Fiscal Commission with me, but I have just jotted down the two conditions which the Fiscal Commission laid down as regards the cess, and one of the most important was the consent of *all parties concerned*. I really wonder if the Government of India can say that they have consulted the cotton grower in imposing or in proposing to impose

this duty on all cotton both consumed locally by mills and exported outside. This, I hope the Honourable Member will not challenge, will indirectly mean a tax on the grower. In the case of tea, the parallel will not do. Tea planters are more combined; they are a comparatively smaller set of people; they are, as the House knows, immensely more vocal and they are able to convey their ideas and decisions and, if I may say so, in some respects, they are able to bring considerable pressure to see that their views are attended to and their grievances removed. I do not think that the Honourable Member in charge will be able to say that the cotton growers of India are in anything like the position of tea planters at present or that they will be in anything like their position for the next few years. I therefore submit that falling back upon the Report of the Fiscal Commission to which the Honourable Member referred, it is not right, it is not proper for this House to agree to the imposition of the cess in a manner which will materially affect the price of cotton that the grower may get. I do not wish to labour this point further before this House. I find that the Honourable Member proposes to put me on the Joint Committee, and I will therefore have this point threshed out there, but I only thought it necessary, Sir, to point out that I feel that a cess should not be imposed on cotton that is exported from India.

Again I would ask the House not to misjudge me, because it would sound rather paradoxical, it would sound as if I am opposing the cess and that I want to let off the exporting houses. But as I may be able to show later on at the next reading, I feel that I am quite justified in that. I only propose to bring this to the notice of the House at this juncture.

Sir, I wish to correct another impression that the Honourable Member may have given,—I don't say he has, but at any rate it struck me as such. The Honourable Member said that cotton to-day sells at Rs. 200 per bale on the average

The HONOURABLE MR. B. N. SARMA: I was told that inferior quality of cotton was sold at Rs. 160 per bale, on the average it would be Rs. 200.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: He said that 4 annas per bale would work out to a very very small percentage. I am sorry the Honourable Member has put forward that plea, because I feel that on such matters this House should attach most importance to a principle. One cannot always say that a very small incidence at a certain figure will work out the same for ever. It is a question of principle; whether it is big or small, whether it works out to a 100th part of a pie or to one rupee, it matters little; but the question is whether the House is prepared to accept the principle that the cultivator should be taxed any more either directly or indirectly. I venture to submit, Sir, that later on, this may be the thin end of the wedge that may now be driven in. I feel that all the more because supposing cotton goes down to Rs. 100, as it has done—and indeed when the war broke out, it was sold at Rs. 40—then 4 annas a bale may work out to a considerably higher percentage than what the Honourable Member has worked out when the cotton is sold at Rs. 200. That is not my sole point. My point is this. Can the Honourable Member point out to me any civilized country in the West growing cotton where a direct tax is put on the grower? Can he point out to me any such tax in America which is by far the most important country growing cotton? If he can not, then I hope he will, after discussion in the Joint Committee, see his way not to penalise the cotton grower in India any more than he has been

[Mr. Purshotamdas Thakurdas.]
by methods direct and indirect, for part of which the commercial community are as guilty as anybody else.

The Honourable Member then referred to the Empire Cotton Growing Association. He read a certain extract, from their Report I presume. Would the Honourable Member tell the House, or if he prefers it, would he tell the Joint Committee when they meet, what contributions the Empire Cotton Growing Association have made to the various parts of the British Empire to encourage cotton growing and what contribution the Honourable Member expects from this body for the same purpose here? I wonder, Sir, if the Honourable Member has any information on that score available. It is quite possible he may not have. I would not have liked to raise this question myself, but as the Honourable Member himself has touched upon it, I venture to ask if he will give us that information either now or later on. I think this House and India generally should help the Empire Cotton Growing Association in every possible direction in growing as much cotton within India, of the best quality, as they possibly can; for I am one of those that believe that in course of time, nay almost in the next few years, India may be able to consume most of the cotton she grows; and any such efforts at the improvement of cotton either with our own revenues or with the revenues derived from the mills at present will benefit India herself. But whilst India continues to export cotton and whilst Lancashire continues to spend money for the improvement of important varieties of her imports of cotton, I think I am in order in asking what amount the Empire Cotton Growing Association are likely to give to India for the purpose.

I am afraid, Sir, I have detained the Council longer than I expected. But I wish to congratulate Government on this first step that they have taken at the suggestion, if I may use the word 'insistence,' of the commercial community in many respects. I hope the activities of Government in this direction will continue. I wish to emphasise that a measure like this can be successful only with the close co-operation of the commercial community, and by Government giving the greatest weight to the views expressed by the commercial community. After all, Government have the opportunity to weigh the various opinions before they decide, but I do hope, and I am quite sure that it is the intention of Government that the mistakes made in the Cotton Frauds Act and similar legislation in the early seventies will be avoided. If that is done, this measure cannot but bring great relief to the cultivator and other interests concerned. Sir, I have great pleasure in supporting the motion put forward by the Honourable Mr. Sarma.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I rise to oppose the motion. Many of the arguments which have been advanced by the Honourable Mr. Purshotamdas, one should think, have gone against the very basic principle of the Bill, and yet he has thought it fit to support the motion before the House. I want, however, to place before the House certain considerations which have weighed with me in convincing me that the machinery which is proposed to be created for carrying out, as the House will agree, what is a laudable object, is unnecessary. What are, after all, the basic ideas contained in this Bill? The object is to improve the quantity of the yield of cotton in this country and also the quality of that cotton for the benefit of the producer, for the benefit, we are told, of the trader, and also for the benefit of the consumer. This is a praiseworthy object. We do want research in cotton cultivation;

we want better varieties of cotton to be grown in this country and we want that the value of our cotton and the yield of cotton should increase to the benefit of all people concerned. So far there is complete agreement. But it is proposed to constitute a Central Committee which will organise and supervise research; and in the near future a Cotton Institute may be started under its auspices. To this I say: Is not the Government of India competent to undertake this work of organizing research? Research work is a central subject, as has already been stated, and that work can be carried out by Imperial experts at Pusa—and if this is not possible in the case of cotton at Pusa, it can be done in other parts of the country, say, in Madras, Bombay or Poona, in Lahore, in Lyallpur and other places. I do not, therefore, see the necessity of constituting a special Board. The proposed Board seems to me to be a very unwieldy one, consisting of 32 members, and the Governor General has the power of nominating additional members, so that the total number may go up to 35 or 40. I do not see the necessity of such a large and bulky body and I do not understand what that body will be able to do. Then, it is expected, out of the proposed cotton cess, to secure a revenue of 7 or 8 lakhs of rupees a year. I do not think that that is a large amount which it will be impossible for the Government of India to spend or to find. After all, the cess will amount to a tax upon the people. Someone will have to pay that tax. According to some, the tax will fall upon the manufacturers. According to others, it will fall upon the producers. I personally think it will have a tendency more to fall upon the producers than upon anybody else. Why levy a new and an indirect tax upon the producer? The Government of India can spend out of its own general revenues, with contributions from the provinces if necessary, what amount will be required for the purpose of cotton improvement; and in that way we can obviate the necessity of this proposed cess altogether. It is becoming more and more the fashion in this country to levy cesses. There is a tea cess, an indigo cess, a lac cess. Now, here, we have a cotton cess proposed. Then there will be a sugar cess, then a jute cess. And there will be so many committees attached to them. Now we do not want so many cesses. This cess, in particular, will be strongly objected to outside, as it has already been objected to here, and that is the basic idea of the Bill. It has been attacked by my friend behind me, and, if that central idea is attacked, if there is to be no cess levied upon cotton, exported or consumed in the Indian mills, then the whole bottom is knocked out of the Bill. So, I object to this Bill on two grounds. First, on the ground of the cess being imposed and secondly, on the ground of the Committee that is proposed to be appointed. I think the Government of India can have a small Board of experts, if necessary, with representatives from the provinces. Such a small expert Board would be quite enough for the object in view, and similarly, it should not be an insuperable difficulty in the way of the Government of India to find money for the purpose of financing its cotton research. I want to make it quite clear that I fully appreciate the object of the Bill, namely, the promotion of research, the promotion of the development of the cotton industry in this country, either in its agricultural or in its manufacturing aspect. I have no objection to take to this primary object underlying the Bill. But I strongly object to the machinery that is sought to be created—the Cotton Board, and also to the cess which is going to be the source of finance for the Committee. I will not, Sir, detain the House with any further remarks of my own but I find it necessary to make one or two observations. The Honourable Mr. Sarma referred to a certain suspicion in the public mind, and my friend behind me

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tried to point out that there was no such suspicion, or at any rate, that there was no justification for the suspicion. If I understood the Honourable Mr. Sarma correctly, I think he was right in saying that there has been the opinion entertained in the country that the commercial crops like cotton are being extended at the cost of food crops. The price of food in this country has been rising. We certainly want more food to be grown in this country and commercial crops like cotton are competing with and expanding at the cost of food crops. So, that was the objection to which reference was made by the Honourable Mr. Sarma. If cotton growing is, however, promoted by way of improvement in the quality of cotton and if at the same time a continuous effort is made for the promotion of food crops in India, I do not think there is much in the objection to which reference was made and that is no reason why cotton growing should not be promoted. There is also no reason why improvements in quality as well as in yield should not be financed by the Government of India. Therefore, I will repeat that the objects which animate the Bill are praiseworthy, such as will receive support from all people, but I object to the agency, the machinery that is sought to be employed for gaining those objects. I think the existing machinery of the Government of India or some other simple machinery is quite enough. I do not wish to have a new Central Board, I do not wish to have any cess which ultimately will fall upon the producers. If the cess does not fall upon the producers, it is bound to fall on the consumers. My friends here who are concerned in the manufacture of cotton will take pretty good care to shift on the tax to the shoulders of the consumers. So, either the producer or the consumer will have to bear that tax and I object to any new cess being imposed. For these reasons, Sir, I oppose the motion.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the Resolution and I generally endorse the views which have been so ably put forward by my Honourable colleague Mr. Purshotamdas Thakurdas. In the Punjab, I may mention to the House, I had the privilege of growing Egyptian and American varieties of cotton in my estates. In fact, I was one of the few growers who took up this onerous task some fifteen years back. In the Punjab, in those days, the Agricultural Department was not founded and I can say, for the information of this House, that I had to experience very great difficulties. The Egyptian cotton which I grew failed and I had to incur heavy losses. Other varieties of cotton were tried and after all one of the varieties of American cotton succeeded and since that day, thanks to the Agricultural Department, American cotton is being grown on a much larger scale in the Punjab. I do feel the necessity of the constitution of the proposed Board as, from practical experience, I found that the existing machinery was not capable of giving enough encouragement to the growing of long staple cotton. As a spinner I had the experience of spinning my own cotton in my own mills and in the first year from the Egyptian which I produced from my own estate I was able to spin 70's. These 70's as well as the cotton which I grew in my own estate were sent to Manchester and the report was that they were nearly as good as the Egyptian. But unfortunately I found that with the seed which after ginning was supplied to my cultivators the quality of cotton deteriorated, and in the following year I was only able to spin 50's instead of 70's. This led to my giving up the growing of Egyptian cotton altogether, because we also got more trees and leaves than lint. Notwithstanding a certain variety of American

cotton being found successful there was no great growing, and I as a spinner had to offer a premium of one rupee per maund on *kuppas* to the growers in the Punjab who would supply my mills with long staple cotton. I approached the Government also with a view to their giving some sort of inducement to the grower, but no such inducement was given. So, I feel that unless we have a fund from which we could encourage Zamindars in growing long staple cotton, such cultivation in the Punjab in particular is bound to suffer. I found that the seed was yearly deteriorating and that the yield per acre was poorer. I do not want to say anything about the details of this Bill because they will come up for consideration after they emerge from the Joint Committee.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I fully agree with what my Honourable friend Mr. Kale has said and I strongly oppose this measure. There is no question, Sir, about the measures to be taken for the improvement of the growing and manufacture of cotton. That is one of the primary duties of the Government and all of us are ready to help the Government and to co-operate with them in this respect. But the question is whether for the purpose of this improvement and research work, any cess has to be put on the export of cotton. The question is not, as my Honourable friend Mr. Ram Saran Das said, about the experiments or improvements that should be done. The question is about the cess itself, and I think my Honourable friend Mr. Purshotamdas has clearly said that the consent of the growers should have been taken in this respect. So far as I am aware, this consent was not taken, and I think that before this motion was introduced, the consent of the growers in some form or other must have been taken. There are many Zamindars' associations in every province; there are other associations that may be consulted on this question, but nothing has been done on that point. As regards the suspicion, I may say a word. I think there is a suspicion like that which has been referred to by the Revenue Member and which has been negatived by my Honourable friend Mr. Purshotamdas. The feeling in the country is this, that the Government of India are going to help Lancashire and Liverpool manufacturers more than manufacturers in this country. So far as I know, the manufacturers in this country do not prepare cloth of the finer type. The long staple cotton will all be exported, and therefore efforts are being made here and there to improve the long staple cotton for the sake of other countries. I am not one with them. I do not say that I share that suspicion, but this suspicion is there. I may refer to an instance. When a Bill was introduced in the United Provinces Council some time ago to control the transport of cotton from one place to another place, that Bill was strongly opposed on this suspicion that these measures are being taken to hamper cotton from going from one place to another place and ultimately the people of other countries will be benefited. I do not know how far this suspicion is right, but as the representative of the Zamindars and the cotton growers it is my duty to put it before this House that the suspicion is there. Therefore, Sir, I say that while we thank the Government for taking steps to improve the growing and manufacture of cotton in this country, we strongly object to the imposition of any cess for this purpose. If money is required, the Government of India can set apart from the cotton excise duty that they already collect in the country a portion for this purpose, if necessary. But there is no need to put any new cess on the export of cotton.

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The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, the primary object is to collect a fund, and that fund is to be collected for the four-fold object of improving, developing, marketing and manufacture of cotton. Out of these four objects, the last two, namely, the marketing and manufacture of cotton, have not been spoken to to-day. The whole discussion has been round improving and developing. Improving means, I suppose, introducing and planting the long staple cotton, and developing would probably mean—I do not know exactly whether it means anything else beyond expanding the area of cultivation of cotton. So, I take it, that this fund, at least as discussed to-day is intended to improve the quality of the cotton that is grown and to extend the area of cotton cultivation. If that be so, my province is one of those which grow cotton very largely. It might be said that we subsist practically on cotton. So, I have a few observations to make. One of these observations is that in my younger days—in the sixties, so far as I remember, when I was a small boy—we used to grow a very long staple cotton called *jadi*. Then came a change—I do not know how the idea arose—and they did not want to cultivate long staple cotton but wanted to cultivate short staple cotton that would grow early and would sell in time to pay land revenue. Land revenue is being collected now partly in February and partly in March on cotton. In the old Muhammadan years, the year was the Fasli year, that is from June to June, and we used to pay our revenue in the month of June. That is to say, after we grew our crops and sold them in the market at such price as we can get, and when we have money on hand and before sowing fresh cotton, we used to pay the revenue. That came handy. But during the British administration, there has been a change of the dates, and we had to pay revenue partly in January and partly in February, and now we pay partly in February and partly in March. That being so, people took to growing short staple cotton which grew quickly and which could be sold in time to pay the revenue. In that way, *jadi* went out of cultivation altogether and another variety called *bani*, which is a short staple cotton, came into vogue. I have not yet quite understood in what respect the investigation proposed is to be made. Is it to demonstrate that the short staple cotton is better than the long staple cotton or the long staple cotton is better than the short staple cotton? Then, if it is in regard to the use of manures, that, I suppose, is a subject by itself and belongs to the Department of Agriculture, and they have got a scientific way of finding out which manure is better than another and they are doing it. So, the scope of this investigation or research, as it is called, is not quite clear to me yet. Then, it is said that a fund is to be created for this purpose. But such a fund exists in my province. I do not speak from knowledge of the other provinces. In my own province, there are cotton markets, and these cotton markets collect one anna per bale. That is to keep up the market—to keep the place clean, to license the *Dalal* or the brokers that transact business there and for certain other purposes. They generally have a surplus in the end. I had the honour of presiding over the cotton market for some time and I know that we used to have some surplus. Not knowing what to do with it we planted some trees there for shade, we grew gardens and had flowers in them and so on. If these inquiries were made from these cotton market committees I believe it will be found that they have a large amount with them. So, no further fund need be created, and if it was to be created, after all, it was a matter of 9 or 10 lakhs of rupees, a sum which the Government of India could surely spare from out of the general revenues. Then, why have a new tax, why have a new cess? That is one objection which I feel to this motion. I shall be glad to have

information on the point if I could, but that is the objection I feel that if all the cotton market committees in India were consulted, they could easily, I suppose, between them make up 10 or 12 lakhs of rupees, without having to tax anybody at all.

The next point is that usually in matters of investigation, so far as I know, on the continent, at any rate, they utilise the universities. If they want a particular subject to be investigated and inquired into, they write to the universities and say, "This is a matter of interest, and in your laboratories your scientists and all those other people whom you teach and employ can find out all about it." Why should we in India have an investigation department or a department of scientific research? We have universities here, and they can be utilised for the purpose where there are laboratories and machinery. Why could not this be done there rather than be done by a special fund with special something and a machinery to itself? This looks like, or at least it looks to me to be, the beginning of a new department that is going to arise and likely to stay, because investigation and research never come to an end. We will now give them 9 lakhs of rupees. Later they will say this money is not enough, the expert requires Rs. 5,000 a month and so on, the laboratory requires so much and so on and they will ask for an increase, and later on again they will ask for increasing it still more, and the matter will go on multiplying. As I have once said, the tendency of modern civilisation is to multiply the machinery and take away the substance. For eating one ounce of food you require 20 tons of furniture. Something, like that will happen in this case and this Department will grow and stay for all time, and there might be another department added on. I am afraid of this and I do not like that we should proceed in that direction. There are very rich people, and very rich companies engaged in cotton trade. In England and elsewhere I find that the merchants employ experts as part of their machinery to see and investigate and facilitate and do whatever else they like to do. Why should not that be done in India? There are large interests, people very rich, rich millowners, they could keep an expert in their firms to find out how cotton can be best grown. They could experiment on their own lands, as my Honourable friend behind me did. We can have the assistance of the universities and the laboratories that are in being now, and then we have the Commercial Department also, there are experts in that and they know something about this. Between them they ought to be able to manage this. Why a special tax, a special committee, an all-India organisation as we should call it in popular language and all the paraphernalia of a Department, incipient at present but bidding fair to grow and grow very large? Why all this? For these reasons, I feel a doubt about this matter myself, though I am glad that the Honourable Revenue Member made it clear that there was no intention, and I believe also that there was no such intention as is popularly attributed, but at the same time, it must be said that the whole arrangement looks rather ominous and looks as if it is dragging us into another department with a fully equipped staff, growing expenditure, and the usual complaint of India being poor and the people being ignorant and that they know not what to do for themselves. If this Committee is appointed, I would certainly suggest that they should utilise the existing machinery, the existing universities, the Commercial Department and the cotton markets. These are the remarks which I wish to offer.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): I had not wished to intervene in this debate, but as one Honourable Member has

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spoken from his practical experience, I wish to speak from experience and say that I had been a Director of Agriculture for many years and thoroughly enjoyed the work at the time.

Objection has been taken on the ground of the machinery and to the Central Board. As Director of Agriculture we were working in Madras, my staff were working on cotton as well as on other crops and we found that one of our biggest difficulties was, when a new type or a better variety was found out, to interest the business houses in it. Improvements in agriculture have a practical and commercial end. It is not merely a question of research, and one of the best parts about this Bill, as it seems to me, is that it brings together working for the same end, all the branches interested in cotton, the agriculturist, the exporting merchant, the manufacturer and the research worker. It is not enough to let the expert go ahead to improve a commercial crop in what way may seem to him best. He must improve it in a manner that is suited to the trade that is ultimately to use it, and the trader who pays such cess should know in what direction the agricultural expert is working. To achieve a useful commercial result beneficial alike to the spinner and the farmer, the agricultural expert, the trade and the agriculturist must co-operate. To have a Board of this general nature is, I think, one of the best omens for the improvement of our cotton in this country.

The next point is that my Honourable friend Mr. Purshotamdas Thakurdas asked for information about the Empire Cotton Growing Corporation and very naturally inquired what so far it had done for India. I was a member of the Committee the recommendations of which led to the forming of that body. That body was formed largely because Lancashire and spinners in England realised that there were increasing demands made upon the cotton supplies of the world and that there was a vast room for the improvement in the qualities of cotton generally and in the supplies of cotton. The Corporation hope to get their funds partly from a grant which was really a tax originally on their industry and the rest of their funds by a cess which is to be imposed upon every bale of cotton used in England from whatever part of the world it comes. That cess has not yet received the sanction of Parliament. It is not yet through, but it has got the support of the Board of Trade. I have every reason to think that its imposition will be effected. It was only the dissolution of Parliament last year that prevented it from being brought forward then. Until it is passed the Empire Cotton Growing Corporation is not really and fully in being. It has made some grants to certain countries,—so far as I know, to Tanganyika and to Nyassaland, and it has sent out a man to inquire into conditions in Nigeria, but it has not so far made any grant to India. That was not because that it had no interest in India, but for a definite reason. The way in which it has so far made its grants to Tanganyika and to Nyassaland has been by finding funds for additional agricultural cotton experts in those countries. In fact, it has been helping the general revenues of those countries by bearing the cost of the salaries of specified officers. I do not think that it would have been advisable in any case for the Government of India to have accepted such a grant from the Lancashire fund, viz., to pay one or two men to be employed on cotton in India. If anything like that had been done, it would probably have given much strength to the suspicion to which the Honourable Revenue Member alluded. That was one reason why the Corporation did not consider that it should give at present any funds to India. The second reason

was that it knew that the Indian Cotton Committee had already reported and recommended the organization of a body very similar to itself specially for work on cotton in India and it looks forward to the day when that body is formed and when it is thoroughly established, to work in close co-operation with that body. You will see that this non-allocation of funds to India betokens no lack of interest in cotton growth nor any lack of desire to help India. It rightly in my opinion is going to wait and see whether and how the Central Cotton Board in India develops. I think those are the answers to the questions put this morning.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, a certain amount of misapprehension appears to exist in the minds of many Honourable Members as regards the work done by the Central Cotton Committee and the recommendations made by them, as is evident from the opposition of my Honourable friends Mr. Kale and Lala Sukhbir Sinha, and also from some of the questions asked by my Honourable friend Mr. Khaparde. Possibly we members of the Committee have not advertised what we have done as well as we ought to have done, for if we had done so these misapprehensions would not have existed. The question of levying a cess was thoroughly discussed at Committee meetings where we carefully considered the question of the incidence of the cess, whether it will fall on the producer or on the consumer. We also carefully considered whether in the interests of the producer such expenditure was necessary or not. My Honourable friends Mr. Kale and Lala Sukhbir Sinha agreed that research work has to be carried on. They say that the Government of India ought to find the money for it. If it has to find the funds, it can only do so by taking it from the general tax-payer. May I ask my friend Mr. Kale to tell us as Professor of Economics whether a tax on those who benefit by the research would be so unreasonable as it would be on those who would not benefit by it? This was the basic principle on which the Committee decided that the tax should fall on the cotton growers because they thought that they are going to help the growers by agricultural research. The idea of the Committee was, I may add, not to help the spinners, shippers or merchants.

My Honourable friend Mr. Khaparde asked us why the existing Agricultural Department cannot do this work. We had considered this question also at our meetings where the Directors of Agriculture from almost all the provinces were present. They said that with the funds they had at their disposal they were doing their level best, but their level best was much lower than what was required and that without further financial assistance they could do very little more. It was a question of more money and how to find it. The provincial finances, as all Honourable Members know, are not in a position to provide the money. The Government of India said that they could not find the money, and so the only course that was left open to us was to suggest a cess on cotton. In connection with the question of imposing a cess, we had several discussions as to whether it should be 2 annas per bale or 4 annas, and whether it should be on cotton exported or on cotton used by the mills. Before coming to a decision we carefully went through the estimates of expenditure and found that 8 lakhs of rupees would be needed to carry on both classes of work. I think I may take this opportunity of explaining that it is not merely the development and improvement of cotton that we have taken in hand, but we have also taken in hand the work of marketing, and we are going to take up research work regarding the manufacture of cotton in India. With your permission, Sir, I will give some details. The Bombay Millowners' representatives said they did

[Mr. Lalubhai Samaldas.]

not much care to have research work in that branch, as they did that kind of work themselves. My Honourable friend Mr. Kale asked just now why the millowners should not do such research work. The reply is that they are doing it but they don't allow the results of their experience to reach the producers, who are therefore unable to benefit thereby. We thought that if we had a small plant to find out up to what count yarn could be spun from a particular class of cotton and if experts and technologists will certify that from some particular kind of cotton one could get 20's instead of 16's or 30's instead of 20's, that knowledge will enable the producers to get better prices for their cotton. We therefore thought that a demonstration plant was absolutely necessary for the sake of the growers. The marketing work has already been taken up, and as my Honourable friend Mr. Khaparde referred to the Berar system, I may say that the Committee have unanimously decided to introduce a system similar to the Berar one which they thought was the best. It will thus be seen that the marketing work has been taken up, as also the improvement and development of cotton. As regards agricultural research what is proposed is to supplement the work that is being done at present either by provincial Agricultural Departments or at Pusa. Later on it may be found necessary to start a separate institute, but we have not yet come to any decision on the point. For all this work money has to be found, and as we found that all this work cannot be done under 8 or 10 lakhs, we recommended to the Government of India that a cotton cess of 4 annas per bale should be imposed on bales exported or used in mills. I may mention here that we have been careful enough not to touch the cotton spun by the villagers or the cultivators, i.e., the Khaddar movement will not be affected thereby. The non-co-operators, as the Honourable the Revenue Member said, will thus approve of this proposal as the Khaddar movement will not be touched by this cess, so they can carry on their movement, and so far the non-co-operators ought to be pleased with it. I think, Sir, I have satisfied the Council and especially my Honourable friends Messrs. Khaparde and Kale and also Lala Sukhbir Sinha that as money could not be found by the Government of India we had to recommend this cess.

The HONOURABLE MR. V. G. KALE: Why?

The HONOURABLE MR. LALUBHAI SAMALDAS: Because those who are likely to be benefited by the research work must pay for the same and we have decided to come to the Legislature for their approval. After all, the Legislature represents not only the manufacturers but the zemindars as well. My friend the Honourable Lala Ram Saran Das, who is a large zemindar himself, has approved of it. We want to help cotton growers to grow better cotton and to enable them to get a better price for it. With these words I support the motion.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I must confess that I did not know that the principle of the Bill would be discussed this morning. When I looked at the Supplementary List of Business on the agenda paper, I thought the motion would be of a formal nature and would be adopted, and that the principle of the Bill would be discussed later on. But now that the question has come under discussion I cannot help associating myself with the Honourable Professor Kale in congratulating the Government on taking measures for the improvement of the cotton industry, but the methods adopted by the Government are highly objectionable. It

has become quite a fashion in these days that when new taxation is required and when it cannot fall on other shoulders, it generally falls on the shoulders of the cultivator. As a representative of cotton growers, not of the big landlords, but as a representative of the ordinary peasants, I think the measure, when it becomes known to the cotton grower, will create dissatisfaction. There is a limit to all taxations. So far as the cultivators are concerned, that limit has been reached in various directions, and Government should consider twice before they undertake this measure. The admission that has been made by the Honourable Mr. Lalubhai Samaldas, who was on the Cotton Committee, that the Committee knew that it would fall on the cotton grower needs no other argument, and I think all Members who represent the landowning classes as well as the producers ought to join with Professor Kale in opposing this motion. I again repeat that the object is a laudable one and Government is certainly to be congratulated on its awaking from its lethargy at least so far as cotton is concerned, but the method is faulty. Some remarks have been made as to the comparative attention that has been paid by Government to food grains and commercial commodities. Attempts have been made to justify that Government pays equal attention to both these commodities. Here I join issue with Government. Will the Honourable Member in charge of the motion kindly point out any measures which have been taken so far as the food grains, *bajra*, *jawar*, and gram are concerned? As was pointed out yesterday, more than 20 per cent. of the area under cultivation in this country is *barani*. Most of the cultivators live upon *bajra* and *jawar*. In the light of these facts and figures it is difficult to drive famine out of the country, if *bajra* and *jawar* and gram, the chief food grains that are grown in *barani* areas, are not tackled by Government. With these few words, Sir, I oppose the motion.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, human memory is proverbially short-lived. But, Sir, I believe, we of this Chamber have established a record so far as shortness of memory goes, if we compare our record of yesterday with the performance of to-day. Sir, it was only yesterday that complaints were made, bitter complaints were made—and I do not repent that I joined in these complaints—that the Government of India and the provincial Governments were not paying that much attention to the development of agriculture and kindred subjects that they deserved. To-day, Sir, when the Government of India have brought forward a motion for the development of a very important branch of agriculture, equally bitter complaints are made that the Government of India are not going on the right lines. The object of the Resolution that is before the House, as will be apparent to every reader, is to improve the cultivation of cotton and to set up certain machinery with a view to encourage such cultivation. I, Sir, agree with my friend the Honourable Mr. Kale in taking the view that this cess, if levied, will ultimately fall on the grower, the producer. At the same time, I am equally convinced that, if the machinery set up by the Government of India and recommended in the Resolution, works successfully, then the greatest gainer will also be the producer and the grower. Sir, if the coffers of the Government of India and the various provincial Governments were full, it would be very legitimate to object to the imposition of this cess, but, knowing as we do the financial position of the Central, as also of the provincial Governments, I do not think any serious objection can be raised to the imposition of this tax. A tax is, no doubt, always unwelcome. I do not think, Sir, there is any

[Saiyid Raza Ali.]

country in which taxes are welcome. India is no exception to the rule, nor is my friend the Honourable Mr. Kale. But, Sir, the question is, if you want to improve your agriculture, if you want to improve the quality of your produce, if you want to extend the area under agriculture, if you want to bring prosperity to the cultivator, how are you to devise means for improvement unless you find money for that purpose? On the whole, I should say, Sir, that the imposition of four annas per bale will not be a very heavy tax. No doubt, if we could do without it, I would be the first to oppose any such imposition, but, looking to our financial position, I think, Sir, that this House should agree to this proposal.

The second point raised by the Honourable Mr. Kale was his objection to the appointment of the Joint Committee mentioned in the Resolution. That, Honourable Members will see, raises at once a very important constitutional question.

The HONOURABLE MR. V. G. KALE: I never raised any objection to the appointment of the Joint Committee.

The HONOURABLE SAIYID RAZA ALI: I thought my friend raised an objection to the appointment of the Central Board and the Joint Committee. I will take his word, so far as the latter goes. Now, I am very glad that my Honourable friend has no objection to the appointment of the Committee. Sir, let us agree to the principle and elect the Committee. The various questions that have been raised by those who have thought fit to offer criticisms on the measure can be taken into consideration later on when this Joint Committee meets.

The HONOURABLE MR. B. N. SARMA: Sir, I am very glad that the Government has had an opportunity of understanding the views of the various Honourable Members here with regard to the proposed measure. I can understand and appreciate fully the feeling that, if possible, the imposition of the cess should be avoided in order to achieve the object in view and that the Government of India should find funds for this object, if they can, out of the general revenues. Honourable Members may rest assured that it would have given me infinite pleasure and satisfaction if I could have found funds from the general revenues of the country for this object and we should certainly not have asked the Legislature to agree to this cess if that were possible. The situation before us was that the provinces had very important work with regard to cotton research pending before them. The Punjab long-staple cotton was nearly being ruined if agricultural research was not undertaken immediately. The Bombay and the Central Provinces and Central India areas had very large problems having an immediate bearing upon the welfare of the cotton grower. Madras was equally clamorous. The Central Cotton Committee Board, on which there were representatives of all the Governments, of cotton growers, representatives of agricultural interests, the agricultural experts of the Government of India and the provincial Governments, and the various bodies consulted by the Local Governments, came to the unanimous conclusion that a cess was in the circumstances the best way out of the difficulty. Therefore, the point now is, are we to stop this beneficent work or are we to proceed with it, bearing in mind that this money is going to be utilised only for the benefit of the cotton grower and it would indirectly benefit also the general consumer and the general tax-payer? Are we to stop and say "No" to the various requests that have been made to us and say that it is not our business, or are we to proceed and accede to the

wishes of a thoroughly representative body, as I have mentioned, and to the unanimous Resolution which they have passed and say that it is true that it is the bounden duty of the Government to come to their assistance by promoting a measure which they think is best calculated to achieve the object in view but that nothing can be done? Therefore, Sir, Honourable Members may rest assured that the agricultural interests, the interests of the producer, were not ignored at all, and with a view to strengthen that element, the Government of India have recently added certain additional members to the Board and we have also placed certain members on the Committee here to represent those interests. It is a pity that we have not been able to publish the work of the Committee or to advertise it sufficiently. The proceedings of the Committee and the various Resolutions passed by them have been placed in Honourable Members' hands, but we have not proceeded to advertise the proceedings of the Committee and the work they have been doing. If we had done so, it would have removed the misapprehensions that have naturally arisen in the minds of many persons. I have already alluded to the fact that the cess would be a very small one, and there is a justification also for asking the cotton growers to bear this cess. As has been so ably put by the Honourable Saiyid Raza Ali, it is he that would be directly and indirectly benefitted by this measure by his agreeing to the cess, assuming that its burden would fall on him. I am not quite sure whether, having regard to the partial monopoly that we have in respect of the commodity we have been exporting and the difficulty which the mill-owners would find in adjusting their machinery, the burden would fall upon the agricultural producer, and whether it would not fall really upon the mill-owner either here or abroad. I shall not drag myself into that controversy now. The matter will be discussed in more and fuller detail in the Joint Committee, and further on, if necessary, on a second reading of this Bill. Therefore I would ask Honourable Members to bear in mind that it is not a matter of certainty that this tax would really, small as it is, affect the grower. Even assuming for a moment that a fraction of it or even the whole of it would fall upon the grower, I think that it is not too large a burden which he could not bear, especially as none of the proceeds is going to be utilised for the benefit of any one other than himself.

Then, Sir, I have already explained that we have hit upon the four annas both on the ground of its not being a heavy burden as well as because, with a smaller impost, it would not be possible to carry out the programme which has the approval of the Government of India in a large measure and which the Central Cotton Committee has before it. I think the Committee would require about Rs. 17 lakhs within the next two years. The work would have to be undertaken not perfunctorily, not in a niggardly or half-hearted fashion, but thoroughly satisfactorily if any good results are to be achieved. I therefore think that the amount we have proposed is not excessive, but this again is a matter which can be further considered. Exception has been taken to the constitution of the Board as a suitable machinery for the purpose of carrying out the objects which the Government has at heart. Professor Kale would, on reflection, I think, find that the Government would only perhaps be following their ancient traditional policy if they were to concentrate all power in their own hands. But they have chosen in this measure to associate themselves with those persons who are likely to be affected by it, with those persons who are the principal parties concerned, namely, the representatives of cotton growers, the representatives of mill-owners, the

[Mr. B. N. Sarma.]

representatives of manufacturers and the representatives of the commercial public concerned in this matter. They have associated themselves with them and said that they will give a practically free hand to them subject to their general control as to how they utilise the fund. Therefore, I think the constitution of that Board should disarm all opposition that the Government would be guided by any bureaucratic methods in their dealing with the proceeds of the cess. Our Imperial officers would be at the Committee's disposal and are on it. Our Imperial research officers must be employed for the purpose of carrying out these objects. The Agricultural Adviser is the President of this Central Board. Many of the directors in the provinces are on this Board and consequently it is not that we are going to take our hand off this business. We are associating ourselves with the representatives of the parties interested, and I think on reflection Mr. Kale would see the wisdom of the course we have adopted in associating the non-official public immediately interested with the representatives of the Government in carrying out the policy which all of us approve. As regards the subsidiary matter to which the Honourable Mr. Purshotamdas has alluded, namely, whether the Empire Cotton Association proposes to lend any assistance to us in this matter or not, I should think it is a matter of very trivial moment so far as this particular subject is concerned. We should welcome any assistance which may be forthcoming from that Association which may benefit directly or indirectly from the measures which we are proposing, but I should think that India should stand upon her own resources and should work out her salvation for herself and should not be dependent upon any bounty or upon any charity which may be extended to her by the Empire Cotton Association or any other body of a similar character. If any such assistance is given we need not refuse it. But I should think that we have to chalk out our policy independent of any assistance that may be forthcoming and to my mind the assistance which may be given would only have a very very faint and remote bearing upon the issue we are considering now. I am not sure, as far as my information goes that the Empire Cotton Association would be willing to extend any very great help seeing that their resources are limited and they have to spend their money on their own objects. It may be that they may be able to see their way to help us slightly, but whether they assist us or not, let us be independent. Irrespective of whether they assist us or not, I think our way is quite clear. My Honourable friend behind me said that we were dealing very hard with the agriculturist in pressing this measure, and it is the agriculturist that is hit hard by every measure of taxation. I have every sympathy with the agriculturist and no one wishes to see further burdens imposed upon him. But I should like to ask him to reflect as to what the Punjab cultivator would really say, if he is intelligent and acute, by reason of this opposition, when the cotton grower in the Punjab is threatened with ruin, especially in the matter of long staple cotton if this measure is not proposed. A part of the help that is going to be extended is to the Punjab and Sindh and Northern India, apart from the black cotton soils that are going to be benefitted by it, and I will tell my Honourable friend that he is going to reap the benefit to a much greater extent than the portion of the taxation which he is going to pay would warrant. After all, he is going to pay a trivial sum. I will not be dragged into further controversies about *bajra*, etc. The Agricultural Department would be only too glad to do more, but funds are limited and the Agricultural Departments in the provinces are doing their level best, and *bajra* and other products are, I know, as a matter of fact, being dealt with in some

of the provinces which are chiefly interested in the growth of those crops. Pusa may not be able to undertake every branch of the research, and possibly they are not in a position to extend their activities to some of these crops, but that is by reason of the limitation of funds, by reason of the limitation of the climatic conditions and by the soil limitations. It is not that the Government are desirous of multiplying cesses. Allusion has been made to the lac cess and so on. Of course, if that is the only way in which an industry can be pushed through, it has to be adopted. I am not going to argue the principles underlying that, but I may inform the Council that the Government have every hope that they may be able to introduce a Bill to repeal the Indigo Cess Act, because they feel that the object with which that cess has been imposed does not require such assistance. I allude to this to show that it is not as if the Government are desirous of multiplying cesses or getting money out of the cultivator when the money can be found from the general revenues of the country. On the whole, I am glad that the principles and objects of the measure have been approved by all, and I am not in the least disconcerted by the criticism to which the measure has been exposed. I can understand, as I have said, the anxiety of Honourable Members to safeguard the interests of the agriculturist, but I hope that those gentlemen who have chosen to oppose it would realise that they would be helping the country if they withdrew their opposition and that this Council should unanimously adopt the Resolution because when they once approve the object they will be, knowing full well the limited means at the disposal of the Government of India, promoting a measure which is likely to achieve in the near future, in the immediate future, the objects which they have at heart. I therefore recommend the adoption of this Resolution by the House unanimously.

The motion was adopted.

THE INDIAN COTTON CESS BILL—NOMINATION TO JOINT COMMITTEE.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): 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 provide for the creation of a fund for the improvement and development of the growing, marketing, and manufacture of cotton in India, namely:

'The Honourable Sir Maneckji Dadabhoy, the Honourable Mr. Purshotamdas Thakurdas, the Honourable Mr. Lalubhai Samaldas, the Honourable Sardar Jogendra Singh, the Honourable Khan Bahadur Nawab Muhammad Muzammil-ullah Khan and the Mover'."

The motion was adopted.

COURSE OF BUSINESS.

The HONOURABLE THE PRESIDENT: I think that this is an opportune moment to interrupt our deliberations. There are two other Resolutions on the paper and I have received intimation that an Honourable Member desires to move certain amendments. The Government have given short notice of the Resolutions and the Honourable Member has also given very short notice of his amendments. If I adjourn the Council now, as I intend to do, till 2-30 P.M., the Honourable Mr. Chadwick who is in charge of the motions will have an opportunity of considering the question whether he should

[The President.]

object to the amendments on a point of order or what line he should adopt in regard to them.

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

The Council re-assembled after Lunch at Half Past Two of the Clock. The Honourable the President was in the Chair.

RESOLUTION RE WORKMEN'S COMPENSATION AND SOCIAL INSURANCE IN AGRICULTURE.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move the following Resolution:

"That this Council recommends to the Governor General in Council that no action be taken on the Draft Convention relating to workmen's compensation in agriculture and the Recommendation concerning social insurance in agriculture adopted by the Third Session of the International Labour Conference at Geneva in 1921."

Sir, only very few words are required to explain why this Resolution is placed before this Council. As this House is aware, India is a signatory to the Treaty of Versailles, and therefore an original member of the International Labour Organization. This organization meets at different times and embodies its opinions in Draft Conventions and Draft Recommendations. These Draft Conventions and Recommendations have then to be put before the competent authority in each country. Whenever they involve legislation, that means that they will have to be placed before the Legislature; and hence this Draft Convention and this Draft Recommendation are now being placed before this House to-day. The House, and each country, has absolute freedom to come to whatever decision it thinks fit on a Draft Convention or a Draft Recommendation, considering solely how far it is applicable or not to its own conditions. If it ratifies a Convention, rather if any country ratifies a Convention, that country is bound by it; if it accepts a Recommendation, then it is equally bound to bring its laws and regulations into conformity with that Recommendation. India has a very good reputation with the International Labour Organization, because she has always taken a careful note and paid close attention to any Conventions or Recommendations that have come to her. It would probably please and satisfy this House to know that two of the Draft Conventions which they recommended for ratification at the September meeting have already been ratified. I have put the Draft Convention and Draft Recommendation together in one Resolution because the principle which should, I think, guide this House in coming to a decision on them is exactly the same in both cases. With your permission, I would now read the Draft Convention. The operative portion of the Convention is this:

"Each Member of the International Labour Organization which ratifies this Convention undertakes to extend to all agricultural wage earners its laws and regulations which provide for compensation of workers for personal injury by accident arising out of or in the course of their employment."

It is not open to the Government of India or to any Member of the International Labour Conference to modify the terms of any of these Draft Conventions or Recommendations. They have been agreed upon at the International Conference, and it is only open to the Governments and their Legislatures either to accept or to ratify them or to say that they are not

prepared to do so. Therefore this Convention on workmen's compensation would, if ratified, compel us to extend to all agricultural wage-earners in India any laws and regulations which provide for the compensation of workers for personal injury. For the moment, there are no laws or regulations in this country which provide for the compensation of workers in industrial and commercial undertakings. We have, as this House is aware, a Bill which will be coming before this House later in this Session to provide for such compensation in certain industries, and if we ratify this Convention we shall be compelled to hold up that Bill and not proceed with it until we are satisfied that we can reasonably extend the scheme to all agricultural workers. I do not think I need elaborate that any further. It is perfectly obvious to every Member of this House that it is impossible to evolve a scheme for workmen's compensation for every villager, for every small boy who tends the cattle or goats. In these circumstances, Sir, I would ask this House to advise the Governor General in Council that it will not be desirable to ratify this Convention.

I turn now to the Draft Recommendation which is somewhat similar. The operative part of this Draft Recommendation reads that:

"Every Member of the International Labour Organization will extend its laws and regulations establishing systems of insurance against sickness, invalidity, old age and for similar social risks to agricultural wage-earners on conditions equivalent to those prevailing in the case of workers in industrial and commercial undertakings and occupations."

Sir, in this country we have as yet no old age pensions for wage-earners. We have no joint schemes of insurance to provide against sickness, to which both employers and work people can contribute. We have not even the insurance data and tables of mortality on which to calculate what those contributions should be. It was not many years ago that this idea of insurance for old age and sickness was introduced even in England with the cry of 9d. for 4d. and there, I believe, their calculations as to what those subscriptions should be have not proved correct. It is going to be a perfectly impossible position for India to attempt it, and there is no need to undertake this most important legislation for insurance for sickness. If we cannot introduce it for those who are engaged in the big textile industries in Bombay, how can we do it for villages which are scattered about up and down the country? At the International Conference all countries were represented, or most of them were, but the conditions of the countries are very very dissimilar, and this Draft Convention and Recommendation now before you, I submit, refer to conditions in agriculture entirely foreign to those obtaining in this country. Therefore, Sir, I would ask this House to advise the Governor General in Council that this Draft Convention and Draft Recommendation cannot be accepted.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I rise to give my full support to this Resolution that the Governor General in Council be recommended not to take any action on the Draft Convention relating to workmen's compensation in agriculture and Recommendation concerning their social insurance. At present labour in agriculture is scarce, and if any such action is taken labour will be more scarce. I think this House should recommend the Governor General in Council not to take any action in this matter.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I also rise to support this Resolution. In agriculture we have no hazards to confront us and there is no frequency of accidents.

[Rai Bahadur Lala Ram Saran Das.]

In mills, workshops and manufacturing concerns there is a possibility of accidents due either to the negligence of the labourer or to that of the employer, but in agriculture, I think, accidents are very rare. In western countries where agricultural machinery is used or where up to date mechanical methods are employed, risk of accidents is common, and for that purpose probably the International Conference has adopted the Resolution which we do not want to extend to this country.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, I rise to ask your leave and the leave of the Council to move an amendment if you will be good enough to overlook the lack of notice.

The HONOURABLE THE PRESIDENT: Does the Honourable Member desire to say anything on this?

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): I am quite prepared to overlook the lack of notice.

The HONOURABLE THE PRESIDENT: Then the Honourable Member may move his amendment.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Let me acknowledge, Sir, the courtesy of the Honourable Member in charge of the Resolution, in that he has overlooked the notice to which he is entitled, for the amendment that I propose is of some importance, and he would have been justified if he had chosen in asking that some more time should have been given. The amendment runs as follows:

"At the same time this Council recommends to the Governor General in Council that an inquiry be made as to what action in regard to these matters is practicable and necessary in the case of organized plantations like those of tea, rubber and sugar and that the results of the inquiry be reported to this Council."

It will be noticed that I make this a separate and separable part of the Resolution. It would not be incumbent, unless the Government of India thought otherwise, on them to communicate this part of the Resolution to the League of Nations or to the International Labour Organization. That is a domestic matter entirely, and my object in bringing it forward is to act in conformity with the spirit which has been so admirably delineated by the Mover of the Resolution. I consider, Sir, that the labour part of the League of Nations is a most humanitarian movement, and it is entitled to the most loyal and whole-hearted support of all the Members belonging to the League of Nations and of other Members that may come into the organization later on. That India has faithfully carried out the Recommendations, ratified the Draft Conventions and taken action upon them, in so far as that was possible, is a fact upon which India may well congratulate itself. When I attended the League of Nations in 1921 I stressed the fact that, while other countries of the world, being members of the League, were slow to ratify the Draft Conventions and had not taken the necessary action in regard to the Recommendations, India had shown an admirable spirit of loyalty in that she had promptly ratified the Conventions and even taken legislative action thereupon. I urged this in order to support a claim that we of the Indian Delegation made that India should be admitted to the Governing Body of the International Labour Organisation as one of the 8 countries of the world of chief industrial importance. Our claim had been resisted for some reason or other

and it fell to me to mention this fact that we had loyally adhered to the spirit and to the recommendations of the International Labour Organisation. I had to stress that fact in order to enforce our claim to entry on the Governing Body. And my amendment now is merely another indication of the way in which we try to meet the wishes of the International Labour Organisation. I am quite aware that the extension of the guarantees that are possible in the case of industrial organisations to agriculture is an enterprise of exceeding complexity. In fact, so much is that the case that I perfectly agree with the Honourable Mover that it is beyond practical politics to try to extend every one of those things to agriculture. To the Resolution, therefore, I give general adherence heartily but my amendment asks the Government of India to examine whether the ameliorations suggested in the Draft Convention and the Recommendations are impossible really in the case of that part of our agricultural activity which may be described as the organised plantations of tea, sugar and rubber. There these conditions do not exist which make the application of the ameliorative remedies impossible. Now, my Honourable colleagues who supported the Resolution in short speeches before me mentioned, for example, the circumstance that the Draft Convention would be inapplicable to agriculture in India for the reason that there are no special diseases, risks or dangers to which agricultural workers are liable. That is an indisputable fact. But, in the case of plantations it is somewhat different. I have been told, and I recently read a report of the Assam Tea Plantations in which it is suggested, although not yet scientifically established, that Kala Azar may probably be a disease incidental to these plantations and that remedies against that disease might probably come—I am not sure, I do not dogmatise, Sir—might probably come within the scope of the Draft Convention, that for attacks from that disease and for the debilitating consequence of it a workman may reasonably consider himself entitled to compensation at the hands of his employer. But that is not by any means the strongest reason for urging this. When we take the case of these big plantations, we find that the workmen are brought together from different parts of the country. The labourers do not always belong to the areas where the plantations are situated and then, if accidents happen to them, if old age or invalidity overtakes them, it is not possible for them in such areas to find other and easier occupations. For in the areas where these plantations are situated, more or less it is the case that that is the only possible industry open to them. There is no variety of occupation to which it is possible for us to divert these people. It might be necessary, therefore, to rest on the plantations the duty of looking after the labour forces that they employ in respect of the Recommendation regarding what is called social insurance. My friend was good enough to read the Recommendation but I will just refer to the words again which indicate what is embraced within the phrase "social insurance". What is meant is "sickness, invalidity, old age and other similar risks." Of course, it may be said that, if we start an inquiry into this matter, it might lead to some risk of its being extended to other forms of agriculture. That evil is an imaginary affair. If we do a thing with regard to certain parts of agricultural operations, it does not mean that we are necessarily bound to extend these operations into other spheres. It will be time enough when somebody stands up and says that even as regards the cultivation of rice, with regard to the cultivation of cotton, it is possible to employ these remedies and it is obligatory on landlords and zamindars to adopt the remedies which are herein described. That, it seems to me, is a purely imaginary affair and

[The Right Honourable V. S. Srinivasa Sastri.]

may be dismissed at once. Nor am I here laying down propositions which are definite or binding in their character. I am not aware—I do not know nor do I rely on any published reports—but it appears to me it is perfectly possible on the face of things to apply the Draft Convention and the Recommendation and the remedial activities mentioned therein to the case of labourers employed on plantations which are organised, where they dwell more or less together in localities assigned for them and habitations made for them, and where remedies of a common character are easily applicable. The case of plantations is on a very different footing from the case of scattered agriculture. To dismiss both alike is, it seems to me, to overlook a distinction which is there and must be recognised. I only say that it be a recommendation to the Governor General in Council to make an inquiry into this matter. I do not say that the inquiry should be of one character or another. Nor do I employ the very common formula—a committee consisting of officials and non-officials. I leave the Governor General in Council to conduct this inquiry in the way that he pleases and by the machinery which he may choose. But it does seem to me that, out of loyalty to the International Labour Organisation, we are bound to pay respect to these Recommendations and Draft Conventions in so far as the matters therein are susceptible of extension in this country. And, as I consider that the industries that I have named form a group within themselves under the large head of Agriculture to which these remedies are applicable, I venture to make this suggestion to the Governor General in Council that he should conduct an inquiry and report thereon to this Council. If it be so considered that the Governor General in Council is not under an obligation to report this matter to the League of Nations and raise expectations in countries outside India, let it be a purely domestic matter, but it does seem to me that workmen employed on these plantations are entitled to the benefits which workmen in industrial organisations all over the world are now receiving and which even in India workmen employed in the ordinary industries are receiving under the humane laws that we have ourselves enacted within the last few years. I therefore move the amendment.

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

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

“At the same time this Council recommends to the Governor General in Council that an inquiry be made as to what action in regard to these matters is practicable and necessary in the case of organised plantations like those of tea, rubber and sugar, and that the results of the inquiry be reported to this Council.”

That amendment and the main question are susceptible of being discussed at the same time and therefore both of them are open to debate.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, the Honourable Members of this Council have had before them the report of the Joint Committee which recently sat on the Workmen's Compensation Bill, and when turning over in their minds the amendment which has been proposed by my Right Honourable friend I ask Members of this Council to keep clearly before them that report and the Bill as amended by the Committee. The Committee gave a good deal of their time and energy in going through the Bill and what they kept before them chiefly

was that this new legislation should only be brought to give benefit to workmen and labourers in this country who are employed in hazardous tasks. It was felt generally by the Committee that the Workmen's Compensation Bill was an advanced step in this country and that it would be better to go slowly with it at first, and that, when the Bill is passed and becomes an Act, as no doubt it will be passed and become an Act, and when we have had experience of it for some years, it would be open to any Member of the Legislature to introduce another Bill further to amend the Act. Bearing in mind this Bill which I have no doubt all the Honourable Members of this Council have studied very closely, I should like to refer to a point which of course my Right Honourable friend on my right clearly understands, but of which I don't know whether all the Members of this Council are equally aware that in plantations like those of tea, rubber and sugar, the common term “plantation” also includes a factory. Now those men employed on sugar plantations, tea plantations and rubber plantations, who are working in the factory will come under the Factories Act, and if they suffer any disability from their work in the factory or if there is an accident in the factory of a tea plantation, a sugar plantation or a rubber plantation, they will come under the Workmen's Compensation Bill when it becomes law and will benefit by it. But it was not the intention of the Committee to extend the benefits of this new legislation to men working in the fields. We considered it would be opening too large a field to be explored at the present time. As I have said in my opening remarks, it will be open to any Member of the Legislature to introduce an amending Bill after we have had experience of this new and great piece of legislation—the Workmen's Compensation Act. I cannot quite follow my Right Honourable friend in this amendment in asking Government to make now a further inquiry, which he himself admits would be a task of exceeding perplexity. I think Government in the next few years will be very busy handling this Workmen's Compensation Bill, or Act as it will be, without having to prosecute a further inquiry to extend the scope of the Act. The Members of the Conference at Geneva were fully aware, when passing their Recommendations and their Conventions, that it could not be expected that conditions in all countries would be alike and what might be a very suitable Convention for one country did not necessarily apply to the needs of another one. By accepting the Resolution put forward by the Honourable Mr. Chadwick and desisting from workmen's compensation in agriculture I do not think India can be accused in any way of not being faithful to the Geneva Conference. I sincerely recommend to the Honourable Members of this Council that they should go slowly in this matter. The Workmen's Compensation Bill is a very advanced form of legislation for this country. We want to see how it is going to work, and when it has been in working order for a number of years, we can look further afield and if it is thought that labour in this country wants further protection, I for one would in no way be against it. My strong advice to this Council is *festina lente* which I think nearly all of you know well to be an Italian proverb meaning “make haste slowly.” Sir, I cannot support the amendment.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, I am in entire sympathy with the Resolution that has been moved by the Honourable Mr. Chadwick. I agree with him and I would support the Resolution all through. As to the amendment that has been moved, I do not know if I am right in proposing a further amendment by the omission of the words “organised plantations like those of” and the

[Mr. G. S. Khaparde.]

word "sugar" at the end. The amendment would then run "in the case of tea and rubber." It comes to this:

"Omit the word 'organised' leaving the words 'plantations like those of tea and rubber' and omit the words 'and sugar'."

The HONOURABLE THE PRESIDENT: Will the Honourable Member adduce arguments in support of the amendment?

The HONOURABLE MR. G. S. KHAPARDE: My object in moving this amendment is this. I omit the word "organized." It is usual now to say organized labour, but what is organized labour I have never been able to ascertain. There are a number of labourers working in one place. Do you call that organized labour, or disorganized labour? Whatever that is, I do not understand. Similarly a plantation is a plantation. What is an organized plantation as distinguished from an ordinary plantation? It is difficult to say. Therefore, not understanding the word "organized" I have proposed to omit it. I omit sugar because it is an industry which has suffered a great deal in India. Everybody remembers that at one time we were exposed to the competition from what was called—what was it called? Government entered themselves into competition with us and helped their own people with large donations in the case of Mauritius and in the case of other people. They used to have a word for it. (*An Honourable Member*: "Bounty-fed.") Yes, it was bounty-fed competition we had to deal with. So sugar has suffered a great deal, and the sugar industry is just rising. I do not say it has risen yet, but it is only attempting to rise, and if we try to apply all these regulations to an incipient industry which is just rising it would be ruinous to it and therefore I take out sugar. As to the tea plantations, they have been established for some time, they have stood competition successfully, and they are prosperous and are very good so far as they go. Same is the case with rubber. Even in the case of rubber and tea I would not apply them at once, but I consent to have an inquiry being made, and after that inquiry is reported to us and if this House thinks that they should be applied or should be considered, the matter should be separately taken up. I take this amendment to be a thing which we owe to ourselves not because of the recommendations of the International Labour Conference, but as an inquiry that is necessary independently of it and because of our desire to try and approximate to the standard they are laying down there. Not that we can take them up or are able to take them up at present. We have no information. Our information is that tea plantations are doing very well, and rubber plantations are doing very well. This inquiry does not deal with the zemindar, inamdar, landholder or the petty proprietor, this does not apply to them at all. They cannot possibly be affected in India at any time, not only now but I think never. With these few words I move my amendment.

The HONOURABLE THE PRESIDENT: To the amendment under consideration amendment moved:

"The word 'organised' be omitted, the words 'and sugar' be omitted, and the word 'and' be inserted between the words 'tea' and 'rubber'."

It would then read as follows:

"and necessary in the case of plantations like those of tea and rubber."

These are the two competing amendments and the present debate will be entirely confined to the question of this amendment, and when this is disposed of we can go back to the main question.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): May I speak?

The HONOURABLE THE PRESIDENT: Does the Honourable Member wish to speak to the amendment? At present the question before the House, as I have already endeavoured to show, is an amendment to the amendment. When that has been disposed of, the Council will be back on the main question. I do not think the Honourable Member wishes to speak on this amendment.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: No, Sir. I will speak on the Resolution and will confine myself to it in general.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): I am thankful to my Honourable friend Mr. Khaparde for suggesting that the word "sugar" should be dropped. I am not very particular about the word "organised", but the word "sugar" ought to be removed. We have not got many sugar plantations in this country on a large scale. In the Bombay Presidency, the Government of Bombay has been good enough to acquire about 600 acres of land and lease it to a company for a sugar plantation. The company has begun work and if all these Conventions were to be applied to labour in sugar plantations, the sugar company will not be able to work at a profit. The chief argument of my Right Honourable friend Mr. Srinivasa Sastri used in reference to plantations was that in the case of organised plantations the labour comes from outside and in case of sickness, or invalidity or unemployment they cannot find any employment there or cannot find light work. In the case of sugar plantations—I am referring here to one company in which I am interested—that difficulty does not arise. The labour employed there belongs to the villages round about the plantation. They live in the near villages and merely come out to do the work of the company, that is, sowing, reaping and planting. Therefore, in the case of sugar there is no necessity for any inquiry and I hope my Honourable Friend Mr. Khaparde's amendment will be accepted.

The HONOURABLE THE PRESIDENT: The question is:

"That to the amendment proposed the following amendment be made:

'Omit the word 'organised' and the words 'and sugar' and insert the word 'and' between the words 'tea' and 'rubber'."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The amendment to the Resolution therefore reads as follows:

"in the case of plantations like those of tea and rubber."

There is no competing amendment. The main question and the amendment are now open to debate.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: Sir, India has no doubt improved its industries along with the rest of the world: though it may not be so well advanced as some of the European countries but still some progress has been made. The modernisation in India is confined to the field of industries only and has not affected agriculture to any appreciable extent. The old conservative peasantry of India still adhere to the time-worn methods of productions and are not willing to discard the rude inefficient implements that they have inherited from their forefathers. In the absence of any organisation and the economic inability of the average peasants to purchase improved implements of cultivation, it is evident that

[Major Nawab Mohamed Akbar Khan.]

the adoption of the Draft Convention in question can bring no material benefit to India.

Again the bulk of the agriculturists, whether tenants or peasant proprietors, work on very small holdings and in addition to the occasional assistance of their own families, they do not require the employment of hired labour. In this case, therefore, the necessity of workers' compensations or social insurance for them is altogether out of the question. Moreover whatever little demand of labour there is in agriculture, it is periodical and short-lived; from this point of view as well, there appears no necessity for any such legislative measure. Again agriculture, by its very nature, is an industry that does not involve any great personal risk to the worker to justify any legislative enactment for the grant of compulsory compensation as contemplated by the Draft Convention under consideration.

Under these circumstances it is absolutely clear that the Draft Convention relating to the workers' compensation and social insurance in agriculture is premature for India. Its ratification therefore should be deferred to a future time when the increased use of machinery and consequent employment of hired labour in agriculture may necessitate such protection of the labourers. The introduction of such an enactment in the Indian legislature at the present moment means an unnecessary encumbrance and will remain a dead letter for a long time to come. On these grounds I strongly support the Resolution.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I support the Resolution as well as the amendment. I do not see any reason why we should be frightened by the proposed inquiry into organized industries like tea plantations. The words 'organized' and 'sugar' both go out of the amendment. Sugar has been taken out of tea, as my Honourable friend Mr. Khaparde prefers to have tea without sugar. However, as these industries are conducted on a large scale and as it is possible that there are certain disabilities from which workmen suffer in these industries, and further, as it is possible to remedy those disabilities in the industries, I think there will be no harm in making the inquiry, even though that inquiry may be looked upon to-day as premature. We are not asking Government to make any recommendation to the International Labour Conference in connection with that inquiry. It is solely for our own benefit. As my Honourable friend in front of me pointed out, in the case of the Workmen's Compensation Bill which will come up very soon before this House, we have taken into account only the industries involving hazardous kinds of work. I agree with him entirely there. I also agree with him in thinking that the time has not yet come to extend the scope of the Workmen's Compensation legislation to all manner of industries. But what we are asking for, by means of this amendment, is to consider whether it is desirable—as it may be, in the near future, desirable—to introduce certain kinds of safeguards for workmen employed in large plantations. What cannot be true of sugar plantations may be true of tea and other plantations. Labour in tea plantations is, as everyone knows, imported from distant provinces. If on account of any cause there is a depression in those industries, or there is any other trouble in them then it is just likely that workmen engaged in the plantations will be placed in a very difficult position. They are likely

to be stranded and are likely to be offered very low wages, and therefore there are many points in connection with these large plantations where some sort of ameliorative action may be necessary. In order, therefore, to know what the position in these large plantations is, whether it may be desirable in the near future to introduce some sort of safeguards by way of compensation or otherwise, I think it will be but right for the Government of India to make an inquiry on their own initiative, on their own account. There is no compulsion from anybody outside; it will be for our own benefit, for our own information, and therefore I strongly support the amendment.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, I rise to support the Resolution as it stands and oppose the amendment: and my reasons are these. In the first place, I think that this amendment ought not to have been tacked on to this Resolution. My friend, the Honourable Member in charge was good enough, courteous enough to overlook the short notice, but other Members will have a grievance that they did not expect any debate of this kind,—big Zamindars or others, and that this has been sprung suddenly

The HONOURABLE THE PRESIDENT: The Honourable Member is expected to be present at every meeting.

The HONOURABLE MR. LALUBHAI SAMALDAS: There is another difficulty also. My Right Honourable friend Mr. Srinivasa Sastri made it quite clear that he did not want this inquiry to be made in connection with the International Labour Conference's Conventions; if I understood him aright, he made that quite clear. If that was so, where was the objection to passing the Resolution moved by my Honourable friend Mr. Chadwick, and then of bringing in this matter in a separate Resolution at a later date, so that by not being tacked on to this Resolution the difficulty that it may have to go to the International Labour Conference would have disappeared. But leaving aside the technical difficulty, my chief difficulty is this, Sir. The Convention is quite clear; it lays down that each member of the International Labour Organization which ratifies this Convention shall extend it to all agricultural wage-earners and they do not refer only to plantations like tea or rubber. If any provision of the nature laid down in the Draft Convention has to be made we will I fear be obliged to apply to all agricultural wage-earners the regulation which provides for the compensation of workers. The amendment as it stands, Sir, says that an inquiry will be made as to whether action in regard to these matters is practicable. I take it, Sir, that this refers to what the Convention has laid down on page 22 of the Draft of the Third International Labour Conference. If that is so, it is impossible for us to apply all those advantages to all agricultural labourers. I daresay my Honourable friend does not want it. But would it not have been better, instead of asking that the inquiry be made about the necessity or practicability of introducing such measures to say definitely what sort of inquiry was really wanted. If the Council will please refer to the recommendations on page 37, they will find that they include insurance against sickness, invalidity, old age and other similar social risks. Sir, through some mistakes possibly the Right Honourable Mr. Sastri did not read the words 'social risks'. We do not know what 'social risks' mean, for so far as I know we in this country have no social risks against which provision has to be made by way of insurance. Looking to all these difficulties, I would beseech my

[Mr. Lalubhai Samaldas.]

Right Honourable friend to withdraw this amendment and to bring forward his recommendation in the form of a separate Resolution.

(The Honourable Rai Bahadur Lala Ram Saran Das rose to speak.)

THE HONOURABLE THE PRESIDENT: I think the Honourable Member has spoken already.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I want to speak on the amendment.

THE HONOURABLE THE PRESIDENT: The Honourable Member may speak on the amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to oppose the amendment so ably moved by my Right Honourable friend. In the Punjab there was a time when the tea and sugar industry were flourishing, and now we are passing through a time quite different from what it used to be.

THE HONOURABLE THE PRESIDENT: 'Sugar' has been omitted from the amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: But the tea industry in the Punjab where only local labour is employed is in a very bad way. So far as the industrial factories are concerned, they will all be covered by the Factories Act and by the Workmen's Compensation Bill which will, I presume, soon be enacted; so I consider that this inquiry will lead to no practical results. We all know that there are very rare accidents in agricultural occupations, and so there are no risks involved.

THE HONOURABLE MR. D. T. CHADWICK: Sir, the amendment has been moved by my Right Honourable friend with his usual command of language and persuasiveness, but in spite of that, I must ask the House to reject it. In the present form of the amendment, he invites us to enter on an inquiry in regard to these matters in the case of tea and rubber. The whole idea of workmen's compensation and of social insurance, I am certain he will agree with me, is for the good of the worker. It is based on the idea that the workman and the labourer need that class of protection. Whether a particular employer is making profits or not is not germane to the inquiry. In the first place, while it is not necessarily needed for agricultural labourers, I do not know why the Honourable Member wants it for labourers on tea and rubber estates. I can see no reason why tea and rubber should be differentiated in any way from other agricultural occupations. The occupations themselves are extremely similar. It looks as if the request were founded on the idea that the owners of tea and rubber plantations were supposed to be making good profits and therefore their employees must be protected against accidents and sickness. Now we have been told that sugar and rubber have been in a bad way, but I think the Honourable Member will agree with me that the basis and the idea of this social insurance of workmen is not to consider whether a particular industry can or cannot pay, but whether the occupation upon which that regulation must be enforced. So to begin with, I should say the Honourable Member places his amendment on an entirely wrong basis.

In the second place I would turn more especially to workmen's compensation. For the moment there is no Workmen's Compensation Act. This Workmen's Compensation Bill, which is going to come up, has been definitely restricted to hazardous occupations. There are very many contentious points in it. There are questions which will arise, and which have arisen in every case where such an Act is in force, as to where and when an accident has taken place, whether in the course of the man's occupation or not, and above all things, it is essential that we should get some experience of the working of that Act in organized industries before we can extend it rationally or rapidly to others. The Honourable Member has advanced, as far as I am aware, no reason whatever to show why we should undertake this inquiry, and if we went on with his inquiry now, it would probably have the effect of postponing the Workmen's Compensation Bill. That Bill was circulated to all Local Governments and to all Chambers; it was widely published throughout the country for over 2½ years, and it has been examined very carefully by a Joint Committee, and not one of them recommended that the scope of that Bill should be extended in any form to agriculture. It will be a very regrettable step, just on the eve of passing that Bill into an Act, to endeavour to enlarge its scope in this way. I am also not aware of any case in which he has shown that tea and rubber cultivation—I do not speak of the factory—but of the cultivation of tea and rubber—is in any way hazardous. The claim for an inquiry to consider the introduction of social insurance into tea and rubber plantations is based on equally inadequate grounds. He has tried to raise our feelings by saying that in many of the tea plantations the labour is imported. So, Sir, it is at Jamshedpur. I believe much of the labour at Jamshedpur is imported. There is no such suggestion, I have not heard of any, that solely because labour is imported, and iron and steel will go through periods of depression just as tea or any other industry, it is necessary to start old age pensions and insurance schemes to which both the employers and the employed should subscribe for sickness or for various other social risks. I see no reason why out of all industries of this country we should make a specific inquiry as to what action is practicable or necessary in the case of those engaged in the rubber, why the agricultural labourers on tea gardens or rubber plantations should require old age pensions and social insurance. We do not suggest it for an employee in Bombay mill, we do not suggest it for an employee in a jute mill, and why a man on agricultural labour on a rubber plantation needs such pensions I cannot understand. I understand in fact that many of these labourers have settled down and cultivate their own lands. I would for this reason, also because it will prejudice and hamper us with our Workmen's Compensation Act, ask this House not to accept this amendment. I can assure the Right Honourable Member that to do so will in no way detract from our reputation with the International Organization. To him personally we are under an enormous obligation for his aid in getting India a place on the Governing Body of that Organization which is largely due to the great ability with which he advocated our cause. But the International Labour Organisation do not want us to put riders when reporting whether we accept their recommendations or not. We did it once before, and they were sent back. They do not want us to put any sort of riders whether we accept their recommendations or not. Further, the other countries of the world well know the position of India in regard to this social legislation. At the Washington Conference when the very cognate questions arose in regard to industry, they specifically said that the Convention need not be sent to India because they knew the social conditions of our labour, and that

[Mr. D. T. Chadwick.]

it was not really applicable to the state of affairs in India. I would ask the House, therefore, to reject this amendment.

The amendment was negatived.

The Resolution was then put and adopted.

RESOLUTION RE PROTECTION OF WOMEN AND CHILDREN IN AGRICULTURE—RECOMMENDATIONS OF INTERNATIONAL LABOUR CONFERENCE.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, with your permission and that of the House, I will slightly alter the wording of the next Resolution that stands in my name. That is to say, in place of the words "is of opinion", I would like to substitute "recommends to the Governor General in Council". I believe that is more in consonance with the form adopted by the House, and I apologise for not having worded the Resolution in that form.

The HONOURABLE THE PRESIDENT: The Honourable Member has permission.

The HONOURABLE MR. D. T. CHADWICK: Then, Sir, the Resolution will read:

"That this Council having considered the Recommendations concerning the protection before and after child-birth of women wage-earners in agriculture, the night work of women, children and young persons employed in agriculture and the living-in conditions of agricultural workers adopted by the Third Session of the International Labour Conference at Geneva in 1921, recommends to the Governor General in Council that legislation to secure their enforcement should not be introduced at the present time."

I need not detain you, Sir, and the House very long over this. The reasons for moving this are exactly the same as those stated in moving the former Resolution. These Draft Recommendations, as the House will readily realise when I read them through, are applicable to countries whose agriculture is organised in a very different manner from that of India. There are four of them. The first one says—I would only remind the House once more that if we accept these Recommendations we have got to make our Legislation conform to them—the first one is:

"That each Member of the International Labour Organisation take measures to ensure to women wage-earners employed in agricultural undertakings protection before and after child-birth similar to that provided by the Draft Convention adopted by the International Labour Conference at Washington for women employed in industry and commerce, and that such measures should include the right to a period of absence from work before and after child-birth and to a grant of benefit during the said period, provided either out of public funds or by means of a system of insurance."

That one, Sir, I need not delay over. The idea of that is that countries which have legislation granting maternity benefits to women workers in industry and commerce should apply them also to agriculture. When the question in regard to women in industry and commerce arose at Washington, the International Labour Conference itself agreed that that Convention could not be applied to women workers in India, owing to the conditions of industry in India. As we have nothing like it in industry in India there is no point in making it applicable to agriculture.

The second one is:

"That each Member of the International Labour Organisation take steps to regulate the employment of young persons between the ages of 14 and 18 years in agricultural undertakings during the night, in such a way as to ensure to them a period of rest compatible with their physical necessities and consisting of not less than 9 hours which shall be consecutive."

Sir, we cannot be expected to send officials round the villages to see if our young men get 9 hours' sleep each night.

The other one is:

"That each Member of the International Labour Organisation take steps to regulate the employment of women wage-earners in agricultural undertakings during the night in such a way as to ensure to them a period of rest compatible with their physical necessities, and consisting of not less than 9 hours, which shall, when possible, be consecutive."

It would give almost more trouble to try and find out whether they have had their rest than in the case of the young men.

The last one is:

"That each Member of the International Labour Organisation, which has not already done so, take statutory or other measures to regulate the living-in conditions of agricultural workers with due regard to the special climatic or other conditions affecting agricultural work in its country, and after consultation with the employers' and workers' organisations concerned, if such organisations exist."

That such measures shall apply to all accommodation provided by employers for housing their workers either individually or in groups, or with their families, whether the accommodation is provided in the houses of such employers or in buildings placed by them at the workers' disposal.

That such measures shall contain the following provisions:

(a) Unless climatic conditions render heating superfluous, the accommodation intended for workers' families, groups of workers or individual workers, should contain rooms which can be heated.

(b) Accommodation intended for groups of workers shall provide a separate bed for each worker, shall afford facilities for ensuring personal cleanliness; and shall provide for the separation of the sexes. In the case of families, adequate provision shall be made for the children.

(c) Stables, cowhouses and open sheds should not be used for sleeping quarters."

Well, Sir, if we accept these recommendations, we must introduce legislation to that effect and if we introduce legislation, we shall have to endeavour to carry it out. I think the House will agree that our proper course is to recommend to the Governor General in Council that legislation to secure their enforcement should not be introduced at the present time.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, I rise to move an amendment to this Resolution in exactly the same terms* as I employed with reference to the last motion. I will not, therefore, bore the House by reading the actual terms, which may be taken as read. I do not wish to make a long speech, Sir, but I will just say a word or two. In the first place, let me clear the ground by saying that I have no manner of intention, if both my amendments be negatived, to oppose the Resolution. The Resolution has my entire and whole-hearted support. I say that particularly because the Honourable the Mover used certain expressions which made me think that perhaps he thought I was going to oppose the Resolution if my amendment was negatived.

* "At the end of the Resolution the following be added:

"At the same time this Council recommends to the Governor General in Council that an inquiry be made as to what action in regard to these matters is practicable and necessary in the case of plantations like those of tea and rubber and that the results of the inquiry be reported to this Council."

[Right Honourable V. S. Srinivasa Sastri.]

In the next place, there is one remark that I must make. The Honourable Mr. Lalubhai Samaldas asked: why not let this Resolution go through and bring in these amendments in the shape of separate Resolutions at a later date? I should have been very pleased to do so because it would have given me an opportunity of collecting more facts and probably trying to bring other arguments to convince the House, but I thought it better to raise it on this occasion because the terms of the Resolutions are so framed that, if I had silently accepted the Resolutions now, I should have been precluded from raising the issue, which could well be construed to have been decided by the term "Agriculture" unqualifiedly used.

This second Resolution obviously is conceived in a somewhat more tentative and diffident spirit than the Resolution which we have just passed. For instance, let me draw the attention of the House to the words "at the present time" which come at the end of the Resolution. There is no such thing in the preceding Resolution. Apparently, the Honourable the Mover who framed the Resolution thinks that, while it would be premature now, conditions in India might change so far that sooner or later we might face the problem of adopting these recommendations and acting upon them. I do not know whether it would be possible in the case of agriculture in general but I do think that conditions will improve so that in the case of the occupations that I have mentioned, work in tea and rubber gardens, it might be possible to introduce most of these improvements. As a matter of fact, I was studying the Assam Labour Commission's Report of the most recent date, and while it was a very depressing document upon the whole, I found there a large number of references to provisions of the character mentioned here which were already taken by the more humane and up-to-date conductors of these plantations. It is not a thing, therefore, utterly impracticable: it has been practised. It is not a thing not required: its necessity has been established by its fulfilment in many places. There are a great many things which are done by the more humane planter to-day which, if they were universalised, would greatly improve the conditions of the labourer. It may not be possible in every case included in these recommendations, but there are a great many instances where it is perfectly possible, it seems to me, even to-day, to adopt the recommendations of the International Labour Organization.

I do not wish, Sir, to say anything more except that my object in bringing forward these things is not to exempt the conductors of the steel industry or any other industry from the necessity of fulfilling these requirements of modern labour conditions. I should have been very pleased to introduce the iron industry into the Resolution if I had thought of it. I am very sorry I forgot that, otherwise I could have given proof that I exempt nobody and no class of industry from the operations of the humane conditions which it is the object of the International Labour Organization to introduce, where so many millions of humanity are employed day and night in adding to the efficiency and welfare of the world.

The HONOURABLE THE PRESIDENT: I do not know whether the Right Honourable gentleman wishes me to put the amendment as amended on the last Resolution or as it stands on the paper: he did not read it.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Yes, as amended

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

"At the end of the Resolution the following be added:

'At the same time this Council recommends to the Governor General in Council that an inquiry be made as to what action in regard to these matters is practicable and necessary in the case of plantations like those of tea and rubber and that the results of the inquiry be reported to this Council.'

That amendment and the main Resolution are susceptible of being discussed together and may be so discussed.

The HONOURABLE MR. D. T. CHADWICK: Sir, once more, my Right Honourable friend has been asking us to start on another inquiry which I do not think is at all necessary at present. To begin with, it would refer purely to plantations of tea and rubber and the agricultural labour engaged on those plantations. We have not attempted these maternity benefits in any way for other industries. I know that he does not look at this from the point of view of one industry or one employer but from the point of view of the social work with which he has been so long identified. If we start an inquiry of this kind, we ought to take it up in regard to the majority of our larger industries and not merely restrict it to the tea and rubber industries. We know from what he says himself that a large number of those employed on these estates are better treated and better looked after already than is the case in many of the industries on the plains, and I cannot see any reason for selecting these two for a somewhat invidious inquiry. Social legislation is always a matter of some difficulty. It is dangerous above all things to go absolutely ahead of the times. One wants to work alongside and with, to a certain extent, enlightened employers. Also when it comes to legislate, many of these matters relating to maternity become much more difficult. I understand that in some of these maternity benefits, certificates have to be got from the Doctor. This means house to house visits. Such house to house visits may be put up with perfectly rightly when they are done at the instance of humane and popular employers but may easily be resented when they are done at the instance of the State. In industries to which the Factories Act applies we have already restricted the hours of labour, the age at which children may be employed and the conditions of night work, and I cannot see any reason at all why in regard to those engaged on agriculture we should make an inquiry in regard to these two occupations and two occupations alone. We have enough social legislation on hand at present to prevent us making an inquiry into conditions in agriculture or sections of agriculture. For these reasons, Sir, I would ask the House to reject the amendment.

The HONOURABLE THE PRESIDENT: The question is that the following amendment be made:

"At the end of the Resolution under consideration the following be added:

'At the same time this Council recommends to the Governor General in Council that an inquiry be made as to what action in regard to these matters is practicable and necessary in the case of plantations like those of tea and rubber and that the results of the inquiry be reported to this Council.'

The motion was negatived.

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

"That this Council having considered the Recommendations concerning the protection before and after child-birth of women wage-earners in agriculture, the night work

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[The President.]

of women, children and young persons employed in agriculture and the living-conditions of agricultural workers adopted by the Third Session of the International Labour Conference at Geneva in 1921, recommends to the Governor General in Council that legislation to secure their enforcement should not be introduced at the present time."

The motion was adopted.

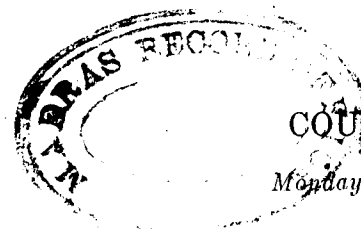
STATEMENT OF BUSINESS.

The HONOURABLE THE PRESIDENT: Can the Leader of the House make any statement as to the future prospects of Government business?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, the next meeting of this Council for official business will be on Tuesday, the 13th February, and thereafter there will be meetings in February for official business on the 15th, 20th, 22nd and 27th February. The Bills which have been already passed by the Assembly will be taken in this Chamber beginning from the 13th February. These Bills at present are the Indian Boilers Bill, the Indian Mines Bill, the Cantonments (House-Accommodation) Bill and the Cotton Transport Bill.

The HONOURABLE THE PRESIDENT: I have a further announcement to make to the House and that is, His Excellency the Governor General has allotted two additional days in February in addition to those already allotted and mentioned in a Communiqué to Honourable Members. They are the 19th and the 21st February. A circular will be issued about the ballot for those days. The next non-official day, as I have already said, is the 12th. As Honourable Members are aware, we are hardly justified in having continuous meetings till more Bills are ready and there is more non-official business. The Chamber of Princes will also be sitting here next week.

The Council then adjourned till Eleven of the Clock on Monday, the 12th February 1923.



COUNCIL OF STATE.

Monday, the 12th February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

STATE RAILWAYS ANNUAL DEPRECIATION FUND.

91. The HONOURABLE SIR DINSHAW WACHA: Will the Government be pleased to state whether they have arrived at any final decision on the subject of the principle which can work automatically in practice regarding ways and means for providing a fund for the annual depreciation of all State Railways?

The HONOURABLE MR. D. T. CHADWICK: The Government of India await the report of the Railway Depreciation Fund Committee and till it is received and considered no final decision can be arrived at.

EUROPEAN, ANGLO-INDIAN AND INDIAN RAILWAY EMPLOYEES.

92. The HONOURABLE SIR DINSHAW WACHA: Will the Government be pleased to state:—

(a) What was the total cost of the undermentioned classes of employees on the Railway Staff as mentioned in Chapter 4, paragraph 32, of the Railway Administration Report for 1921-22:—

6,858 Europeans,
11,831 Anglo-Indians,
735,780 Indians?

(b) Also the number of those who drew their respective salaries in manner specified below:—

Salary ranging from	Europeans.	Anglo-Indians.	Indians.
Rs. 50 to 100			
Rs. 100 to 200			
Rs. 200 to 500			
Rs. 500 to 750			
Rs. 750 to 1,000			
Rs. 1,000 to 1,500			
Rs. 1,500 and above			

The HONOURABLE MR. D. T. CHADWICK: The information in the detail asked for is not available. It can only be collected by special compilations from all the different Railways and the Government are reluctant to put Railway Administrations to this trouble.

STATISTICS OF GOODS WAGONS.

93. The HONOURABLE SIR DINSHAW WACHA: Will the Government be pleased to furnish statistics about goods wagons in the form given below?

Goods wagons conveying	FROM 1ST JANUARY TO 30TH JUNE			FROM 1ST JULY TO 31ST OCTOBER		
	1920	1921	1922	1920	1921	1922
Private merchandise						
Private coal						
Railway materials for railway services.						
Coal for railways						

The HONOURABLE MR. D. T. CHADWICK: The information asked for is not available.

The attention of the Honourable Member is however invited to Appendix 5 in Volume II of the Administration Report where the weight of the traffic carried is given under various different headings.

GOODS WAGON RUNNING.

94. The HONOURABLE SIR DINSHAW WACHA: What was the average number of hours during the calendar year 1922 during which a goods wagon was run on active traffic service?

The HONOURABLE MR. D. T. CHADWICK: The precise figure asked for is not available. The figures in the Administration Report for 1921-22 show that the average annual mileage per goods wagon on all lines was under 12,000 miles. The average through speed of goods trains is about 10 miles per hour, and from these figures it can be deduced that the actual running time occupied represents only about 50 days in the year. It must however be borne in mind that these figures exclude all the time taken in loading, unloading, marshalling and working in the yards.

The HONOURABLE SIR ARTHUR FROMM: Can the Honourable Member tell us the number of running days which obtain, say in America, for wagons?

The HONOURABLE MR. D. T. CHADWICK: I understand, Sir, that on the Pennsylvania Railway the wagons run on the average about 25 miles a day throughout the year; that is putting it in a different form; while from the figures I have given in India they run a little under 40 miles a day.

The HONOURABLE SIR ARTHUR FROMM: I wanted to know the number of days if the Honourable Member has the information.

The HONOURABLE MR. D. T. CHADWICK: Well, if a wagon on the Pennsylvania Railway runs 25 miles a day on the average throughout the 365 days in a year, then supposing it ran for the full 24 hours it would get over the whole of its journey in 38 days taking the average speed of an American goods train to be the same as that of goods trains in India, namely, ten miles an hour. If however the American goods trains are faster than the Indian ones, say, they average 12½ to 15 miles an hour, then the running days per wagon per year in America is about 27. That is the number of days a wagon runs in a year in America, while in India it runs for about 50 days.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Do Government think there is any room for improvement?

The HONOURABLE MR. D. T. CHADWICK: I think every railway administration in the world hopes for improvement in the number of days it gets out of its wagons. But I think India comes out very well when compared with other countries, being far ahead of most of them.

GOODS WAGON EARNING.

95. The HONOURABLE SIR DINSHAW WACHA: What is the average gross earning per hour of a goods wagon when actually running on active traffic service?

The HONOURABLE MR. D. T. CHADWICK: The earnings per hour may approximately be estimated at Rs. 2-8 and Rs. 1-12 per Broad Gauge and Metre Gauge wagon, respectively, when running.

GOODS WAGON AWAITING LOAD.

96. The HONOURABLE SIR DINSHAW WACHA: What is the average number of days in a year during which a goods wagon stands idle for want of load, or for repairs in a railway yard?

The HONOURABLE MR. D. T. CHADWICK: I would refer the Honourable Member to the answer just given to his question No. 94. If a wagon runs for an average about 50 days, I gather it would stand idle for something over 300 days.

VIZAGAPATAM HARBOUR.

97. The HONOURABLE KHAN BAHADUR SIR AHMEDTHAMBY MARICAI: (a) With reference to my question No. 27 asked in the meeting of the Council held at Simla on the 6th September 1922 and the Government answer thereto, will Government be pleased to state whether they have now arrived at a final decision in the matter?

(b) Has the attention of the Government been drawn to an article in the "Madras Mail", dated the 25th November 1922, headed "Vizagapatam Harbour, His Excellency's interest"?

(c) Is it a fact that the whole scheme is approximately estimated at 3½ crores and that this amount should be contributed by the Government of India, the Government of Madras and the Bengal-Nagpur Railway, each holding themselves responsible for a third of the amount?

(d) Is it a fact that the Vizagapatam Harbour Preliminary Bill is being drafted? If so, when is this Bill to be introduced in the Indian Legislature?

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The HONOURABLE MR. D. T. CHADWICK: (a) The answer is in the negative.

(b) Government have seen the article.

(c) An up to date estimate has not yet been received and no decision regarding financing the scheme has been arrived at.

(d) No Bill is being drafted by the Government of India at present and they are not in a position to say whether, and if so, when such a Bill will be introduced in the Indian Legislature.

PURCHASE OF STORES BY HIGH COMMISSIONER.

98. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Will the Government be pleased to state the nature and the total cost of all stores so far purchased by the High Commissioner of India in London, since the creation of the post in 1920, on behalf of the Government of India?

(b) Will the Government be pleased to state if tenders were invited by the High Commissioner in all cases of such purchase, from reputed Indian, British, Continental and American manufacturers?

(c) If so, will the Government be pleased to state specifically the quotations from each source and the names of manufacturers from whom the bulk of each description of stores were ultimately bought?

(d) Will the Government be pleased to state the total differences, if any, between the prices at which the stores have been actually bought and the lowest quotation for that or superior quality of articles tendered for?

The HONOURABLE MR. D. T. CHADWICK: (a) The details in the form desired by the Honourable Member are not available to the Government of India and they do not consider that they would be justified in asking the High Commissioner to undertake to extract further figures. A statement is, however, laid on the table showing the total expenditure incurred on the purchase of stores by the High Commissioner for the Government of India, Provincial Governments and Indian States during the years 1920-1921 and 1921-1922 classified under certain main headings. It is hoped that this information will be sufficient for the Honourable Member's purposes.

(b) The attention of the Honourable Member is invited to the letter from the Government of India in the Department of Industries, No. S-360, dated the 22nd December 1921, to the Secretary to the High Commissioner for India, which was laid on the table of the Legislative Assembly. This letter states the procedure followed by the London Store Department in calling for tenders and also the instructions given by the Government of India to the High Commissioner regarding the procedure which they desired him to follow in future.

(c) and (d). The Government of India regret that they would not be able to furnish the detailed information desired in these two parts of the question without having them specially compiled by the High Commissioner. Such a compilation would involve immense labour in the extraction of the details from past records, even if complete records were still available, and the Government of India do not consider that they would be

justified in asking the High Commissioner to undertake the work. I would, however, invite the attention of the Honourable Member to the half-yearly statements which have been prepared by the High Commissioner from the period ending on the 31st December 1921, which show all cases in which the lowest tender has not been accepted. These statements are placed on the table of the Legislative Assembly as soon as they are received from the High Commissioner and two such statements have already been placed before the Legislature in that way.

The HONOURABLE MR. LALUBHAI SAMALDAS: Will the Government be pleased to lay similar statements on the Table of the Council of State?

The HONOURABLE MR. D. T. CHADWICK: As far as I know, Sir, there is no objection at all.

Statement showing the total expenditure incurred on the purchase of stores by the High Commissioner for the Government of India, Provincial Governments and Indian States during the years 1920-21 and 1921-22 classified under certain main headings.

Head.	YEAR.	
	1920-21.	1921-22.
	£	£
Stamps	369,000	339,000
Posts and Telegraphs	932,000	972,000
General Administration	479,000	* 415,000
Stationery and Printing	258,000	216,000
Army Heads and Aviation	5,436,000	4,172,000
Marine	401,000	214,000
State Railways	3,757,000	2,872,000
Provincial, Local and Native States	992,000	1,938,000
Other heads	668,000	670,000
Stores lost or damaged at sea	3,000	5,000
Total	13,295,000	11,813,000

*Includes 38 Currency.

PURCHASE OF STORES FROM INDIAN MANUFACTURERS.

99. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state, year by year, the value and quantity of the stores purchased by the Government of India from Indian manufacturers from the year 1914 to the end of 1922?

The HONOURABLE MR. D. T. CHADWICK: I place on the table a statement showing the expenditure in thousands of rupees incurred by Government Departments, Provincial as well as Central, on stores produced in India purchased from private dealers, from the official years 1914-15 to 1920-21 inclusive. The figures for 1921-22 are not yet available.

This statement does not include figures relating to (1) purchases of articles of the same kind and of an aggregate value not exceeding Rs. 50 at one time, (2) purchases made by contractors for Government works, (3) purchases always made in India, such as bricks, Indian lime and mortar, Indian timber, etc., and (4) purchases made by or on behalf of the military authorities.

Information showing the quantity of stores purchased is not available.

Statement showing the expenditure in thousands of rupees on stores produced in India purchased from private dealers by Government Departments during the official years 1914-15 to 1920-21 inclusive.

1914-15.	1915-16.	1916-17.	1917-18.	1918-19.	1919-20.	1920-21.
Rs. 2,62,91	Rs. 2,54,89	Rs. 2,97,13	Rs. 3,54,02	Rs. 5,18,86	Rs. 5,23,84	Rs. 5,00,83

DECREASE IN STORES PURCHASED.

100. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the reason of the decrease in quantity, if any, of the stores purchased from Indian manufacturers since the Armistice?

The HONOURABLE MR. D. T. CHADWICK: As stated in the reply to the previous question, information cannot be given of the quantity of stores purchased, but the figures already furnished do not indicate that there has been any decrease in the purchase of such stores since the Armistice.

INDIANS IN SOUTH AFRICAN FREE STATES.

101. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state if they contemplate the appointment of a Commission to visit the South African Free States to enquire locally from the men on the spot if the Indians already repatriated or about to be so are all returning voluntarily and not under force or under cover of false promises?

The HONOURABLE MR. B. N. SARMA: The Honourable Member presumably refers to the Union of South Africa. When the scheme for the voluntary repatriation of Indians was introduced by the Union Government in 1920, that Government gave an explicit assurance that all officers concerned in the working of the scheme had been informed from the outset that no compulsion or persuasion whatever was to be used. The Government of India have no reason to suppose that the assurance given has not been strictly observed. They do not therefore propose to consider the appointment of a Commission for the purpose suggested by the Honourable Member.

INDIAN ARMY OFFICERS SETTLING IN AUSTRALIA.

102. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state if they contemplate to guarantee the cost of stock, plant and equipment of such Indian Army officers as desire to settle in Australia?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The answer is in the negative. A copy of the answer given in the Legislative Assembly on the 15th January, 1923, to a question which was asked on this subject will be furnished to the Honourable Member, if so desired.

STAFF OF KANCHRAPARA WORKSHOP.

103. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the total number of men now serving in the Kanchrapara Workshop of the Eastern Bengal Railway who draw a salary of more than Rs. 300 (Rupees three hundred) a month and how many of them are Indians?

The HONOURABLE MR. D. T. CHADWICK: The total number is 31 and of these one is an Indian.

STAFF OF JAMALPUR WORKSHOP.

104. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the total number of Indians, Europeans and Anglo-Indians, respectively, now serving in the Jamalpur Workshop of the East Indian Railway, who draw a salary of Rs. 500 and more?

The HONOURABLE MR. D. T. CHADWICK: The numbers are:

Indians	1
Europeans	41
Anglo-Indians	3

INDIANS ON RAILWAYS DRAWING MORE THAN RS. 300.

105. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: What is the total number of Indians drawing a salary of Rs. 300 (Rupees three hundred) and more in the following Railways, respectively:—

- The East Indian Railway,
- The Eastern Bengal Railway,
- The Assam Bengal Railway,
- The Great Indian Peninsula Railway,
- The North-Western Railway,
- The Oudh and Rohilkhand Railway,
- The Southern Mahratta Railway,
- The Bengal Nagpur Railway, and
- The Bombay, Baroda and Central India Railway?

The HONOURABLE MR. D. T. CHADWICK: Information in respect of Railway Companies staff drawing Rs. 300 and over is not readily available but the number of Indians drawing Rs. 250 and over employed by the following railways mentioned by the Honourable Member is approximately:

East Indian Railway	186
Assam Bengal Railway	16
Great Indian Peninsula Railway	162
Madras and Southern Mahratta Railway	32
Bengal Nagpur Railway	107
Bombay, Baroda and Central India Railway	183

Particulars of the corresponding Indian Staff employed on the three State Railways, namely, the North-Western, Eastern Bengal and Oudh and Rohilkhand Railways, is given in the Classified List of State Railway Establishment, a copy of which is in the Library.

REPRESSIVE LAWS COMMITTEE'S REPORT.

106. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Do the Government contemplate introducing any legislation in

the present session of the Indian Legislature incorporating such portion of the recommendations of the Repressive Laws Committee as have not yet been given effect to?

The HONOURABLE MR. J. CRERAR: No.

MANUFACTURE OF SUGAR.

107. The HONOURABLE LALA SUKHBIR SINHA: Will Government be pleased to state whether it is under their contemplation to appoint a Committee for the development of sugar-cane cultivation and manufacture of sugar, similar to the Central Cotton Committee?

The HONOURABLE MR. B. N. SARMA: A proposal of this kind was made by the Indian Sugar Committee, but Government regret that, owing to financial stringency, they are unable to proceed with it.

COUNCIL CHAMBER AT RAISINA.

108. The HONOURABLE LALA SUKHBIR SINHA: Will Government be pleased to state when the new Council Chamber at Raisina will be completed and finished and when the Councils are likely to meet there?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: According to the latest information the new Legislative Chambers in New Delhi should be completed by January, 1926. The date of the first meeting of the Council in the new Chamber must depend on the date of the completion of the Chamber.

LADY HARDINGE MEDICAL COLLEGE.

109. The HONOURABLE LALA SUKHBIR SINHA: Will Government be pleased to state—

- (a) the initial cost up to date on the Lady Hardinge Medical College for women at Delhi;
- (b) the initial cost of buildings and equipment up to date;
- (c) the annual expenditure on it;
- (d) whether it is an Imperial institute or a Provincial one;
- (e) what amount, if any, has been granted by the Government of India or the Provincial Governments as recurring and non-recurring expenditure;
- (f) how much money has been collected from private subscriptions;
- (g) by what means is the present total expenditure met;
- (h) for what reasons Government of India has not or is not going to help it by any grant-in-aid;
- (i) how many female students are at present getting education in the college and from what provinces;
- (j) why is it not affiliated to any University as yet and is there any proposal for such an affiliation;
- (k) up to what standard the college is now teaching the students and what degree will they get?

The HONOURABLE MR. M. S. D. BUTLER: (a) and (b). The total non-recurring expenditure up-to-date, which has been incurred on buildings and equipment, is Rs. 29,00,000.

(c) The budgetted expenditure for 1922-23 is Rs. 2,91,600 exclusive of payments (referred to under (e)) made through the Countess of Dufferin Fund

(d) The College is a private institution, but is aided by Government.

(e) The following recurring grants have been made by the Government of India:

	Rs.
1916-17	1,00,000
1917-18	1,25,000
1918-19	1,50,000
1919-20	1,75,000
1920-21	2,00,000
1921-22	2,00,000
1922-23	2,00,000

In addition contributions (amounting in 1921-22 to Rs. 51,675) are made by the Government of India through the Countess of Dufferin Fund to members of the Women's Medical Service on the staff of the Medical College Rs. 28,000 have been sanctioned by provincial Governments for the year 1922-23.

In addition, scholarships (amounting during the current year to Rs. 7,080) are paid by provincial Governments. No non-recurring grants have been made by the Government of India or by provincial Governments.

(f) Including Rs. 3 lakhs recently granted from the Lady Reading Women of India Fund the total amount collected from private subscriptions is Rs. 31,12,000.

(g) The estimated expenditure for 1922-23, which has been reduced on account of the financial stringency, is, as stated under (c), Rs. 2,91,600, which is met as follows:

	Rs.
Grant from Government of India	2,00,000
Grants from provincial Governments	28,000
Donation from Lady Reading Fund	12,000
Donations from Indian States	5,000
Payments by patients	16,400
Tuition fees of students	14,500
Miscellaneous	15,700
Total	2,91,600

(h) The Government of India have not withdrawn their recurring grant of two lakhs.

(i) There are 92 women students drawn from the following provinces:

	24
Punjab	13
Madras	11
United Provinces	8
Bombay	7
Burma	5
Central India	5
Sind	4
Delhi Province	4
Hyderabad State	3
Bengal	3
North-West Frontier Province	2
Bihar and Orissa	1
Assam	1
Tibet	1
Central Provinces	1
Total	92

(j) The College is affiliated to the Punjab University for the F.Sc. Examination, and for the M.B., B.S. degree.

(k) Up to the M.B., B.S. degree of the Punjab University.

The HONOURABLE THE PRESIDENT: I should like to ask the Honourable Mr. Sarma if he had any information that the Honourable Sir Maneckji Dadabhoy would not attend.

The HONOURABLE MR. B. N. SARMA: No, Sir.

SETTLERS IN KENYA.

110. The HONOURABLE SIR MANECKJI DADABHOY: (a) Has the attention of Government been drawn to a newspaper report that the European settlers in the Kenya Colony are determined to use violence against the Indian settlers in the contingency of the Colonial Secretary's suggestions for the equitable solution of the Indian problem being given effect to, and to a further newspaper report that the Indian settlers are afraid of violence?

(b) If so, what steps, if any, have this Government taken for the protection and safety of the Indian settlers of Kenya?

The HONOURABLE MR. B. N. SARMA: (a) The reply is in the affirmative.

(b) The Government of India have already informed the Secretary of State of the apprehension caused in India by these reports. They are confident that the Colonial Government have both the power and the will to maintain law and order in the Colony and to repress violence, by whatever class of the community it may be offered.

INDIANS IN FEDERATED MALAY STATES.

111. The HONOURABLE SIR MANECKJI DADABHOY: Has the attention of Government been drawn to the recent newspaper reports of maltreatment of Indians in the Federated Malay States, especially to the statement published in the *Servant* of January 4th, 1923, of an Indian long settled and holding a high position in the Federated Malay States, who writes under the *nom-de-plume* of "Fair Play"?

The HONOURABLE MR. B. N. SARMA: The article in the *Servant* to which the Honourable Member refers is presumably that which appeared in the issue of the 5th January 1923. If so, the reply is in the affirmative. The attention of Government has also been drawn to the rejoinder which appeared in *New India* of 12th January last.

GROUPING OF INDIAN RAILWAYS.

112. The HONOURABLE SIR MANECKJI DADABHOY: Is it a fact that the question of grouping of Indian railways is being considered by the Railway Board?

The HONOURABLE MR. D. T. CHADWICK: No definite proposals for grouping railways are at present under consideration.

RAILWAY BRANCH LINE EXPENSES.

113. The HONOURABLE SIR MANECKJI DADABHOY: Will Government be pleased to state what steps, if any, are taken to check the growth of working expenses on railways constructed under Branch Line terms, and paying a minimum dividend to shareholders guaranteed by the Secretary of State for India?

The HONOURABLE MR. D. T. CHADWICK: Railways constructed under Branch Line Terms and granted financial assistance in the shape of a guarantee of interest are worked either by

(a) the main line administration, or

(b) the branch line company itself.

In the case of (a), the Branch Line is usually worked for a fixed percentage of gross earnings of the branch, as laid down in Clause 3 (ix) of the Branch Line Terms published as Appendix B to Volume I of the Railway Administration Report for 1921-22 and the growth of expenditure on the Branch Line does not affect its net earnings.

In the case of (b), the amount to be spent each year on working expenses is subject to the approval and sanction of the Government of India, as laid down in Clause 3 VIII (a) of the Terms referred to and this sanction is not of course given until after the Government have satisfied themselves of the necessity for the expenditure.

INTER-EMPIRE ECONOMIC CONFERENCE.

114. The HONOURABLE SIR MANECKJI DADABHOY: Will Government be pleased to lay on the table a full statement about the Inter-Empire Economic Conference for the development of Inter-Empire trade in which India participates as a member?

The HONOURABLE MR. D. T. CHADWICK: The only information that the Government of India have is that the proposed Imperial Economic Conference should study the possibility of co-operation in the development of the resources of the British Empire and the strengthening of economic relations between its constituent parts. The Government of India have informed the Secretary of State that if other Dominions agree to the proposed Conference, India will agree to take part, but they have not so far heard whether any decision has, as yet, been made.

DATES FOR DISCUSSION OF BUDGET.

The HONOURABLE THE PRESIDENT: Letter from the Governor General:

"For the purposes of sub-section (1) of section 67A of the Government of India Act and in pursuance of Rules 43, 46 and 47 of the Indian Legislative Rules and of Standing Order 70 of the Council of State Standing Orders, I, Rufus Daniel, Earl of Reading, hereby appoint the following days for the presentation to the Council of State and to the Legislative Assembly of the statement of the estimated annual expenditure and revenue of the Governor General in Council (in the said Rules and Standing Order referred to as the Budget) and for the subsequent stages of the

[12TH FEB. 1923.]

[The President.]
said Budget in the Council of State and in the Legislative Assembly,
namely:

Thursday, March, the 1st. Presentation of the Budget in both
Chambers.

Monday and Tuesday, March, the 5th and 6th. General discussion
in the Legislative Assembly.

Wednesday, March, the 7th. General discussion in the Council of
State.

Monday to Saturday, March, the 12th to 17th. Voting of demands
for grants in the Legislative Assembly.

READING,
Governor General."

GOVERNOR GENERAL'S ASSENT TO BILLS.

The SECRETARY OF THE COUNCIL: Sir, information has been received from the Governor General that he has been pleased to grant his assent to the following Bill, namely, the Criminal Tribes (Amendment) Act, 1923.

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 meetings on the 31st January and the 6th and 10th February 1923. They are as follows:

Bill to give effect in British India to the Treaty for the Limitation of Naval Armament.

Bill to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

Bill further to amend the Indian Factories Act, 1911.

ALTERATION OF DATE OF SHIVRATHRI AND COURSE OF BUSINESS.

The HONOURABLE THE PRESIDENT: I understand that the date for the Hindu festival *Shivrathri* has been changed from the 14th to the 13th of February. There is a meeting of the Council fixed for to-morrow. But I understand it is the general desire of this Council that we should not sit on that holiday but we should sit on the next day, Wednesday; and therefore I propose that the meeting for Tuesday should take place on Wednesday. I may add that the change in the date of this holiday has given the greatest inconvenience to everybody, as it has disturbed our arrangements during the whole of this week. I will ask the Leader of the House to say if he has any objection to my suggestion.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): I have no objection.

The HONOURABLE THE PRESIDENT: Very well, the business set down for to-morrow will be taken on Wednesday, the 14th.

RESOLUTIONS OF WHICH NOTICE IS GIVEN BUT NOT MOVED IN COUNCIL.

The HONOURABLE THE PRESIDENT: The Honourable Sir Ahmedthamby Maricair.

(The Honourable Member was not present to move the Resolution put down in his name.)

The HONOURABLE THE PRESIDENT: I must draw the attention of the House to the grave inconvenience caused to everybody by Honourable Members giving notice of Resolutions, setting them down on the paper, and then giving practically no notice that they do not intend to move them. I reminded the Council two or three sessions ago that it is a courteous act on the part of a Non-Official Member who puts a question, to give notice to the Member of the Government concerned that he is not attending to put that question, because it enables a Member of the Government to attend in another place. It is even more desirable that when a Resolution is set down, and a Member is not able or does not intend to move it, he should give notice. By not doing so he causes the greatest dislocation to our business; he causes inconvenience to the Government and causes inconvenience to other Members who might not possibly attend at all but for the fact that the Resolution was on the paper. I do hope Members will bear in mind these very reasonable rules of courtesy, and that it will become an established convention that this should always be done.

RESOLUTION RE REPEAL OF ARMY AMALGAMATION SCHEME OF 1859.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, before I move my Resolution, I beg permission to add three words after the word "repealing," the words "or substantially modifying." The Resolution as it stands reads thus:

"This Council recommends to the Governor General in Council to urge on the Secretary of State how pressing is the necessity of repealing the Army Amalgamation Scheme of 1859 in view of the intolerable burden of existing military expenditure."

I want to add the words "or substantially modifying" after the word "repealing."

The HONOURABLE THE PRESIDENT: The addition proposed is merely in the nature of a verbal amendment and I assume the House will not object to permission being given.

The HONOURABLE SIR DINSHAW WACHA: Sir, I daresay most of the Members of the Council, perhaps, are aware of what is the Army Amalgamation Scheme of 1859; but for those gentlemen who may not be aware of it, I will just take up a few minutes by saying what it is. When the East India Company was transferred to the Crown in 1858, several changes had to be made in the constitution itself, both on the Civil and the Military side. As far as the Army was concerned, it was thought by Parliament that the East India Company's Army, which was a local European force, should be abolished, and that the Queen's Army and the old Indian Army might be amalgamated. That scheme was called the Army Amalgamation Scheme. A Bill for that purpose had to be introduced into Parliament in that year, 1859; and from the proceedings of those days it would appear that there was a great deal of opposition to the passing of that Amalgamation Scheme Bill

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Members of Parliament, particularly of the House of Commons, some of whom were retired Indian Members, and experts in the military line, opposed it most stiffly. In the same way the Government of India was opposed to it. So far as the Indian Council was concerned, you will be able to learn from the records themselves that every member of the Council of India opposed it, and there were very many distinguished military experts on that Council. Apart from the military experts there was Sir John Lawrence, afterwards the Viceroy, who had saved India during the days of the Mutiny. Sir John Lawrence, himself a Punjab man, thoroughly knew what the military difficulty was and yet he was opposed to it. Therefore it may be said with truth that when the Army Amalgamation Scheme was passed by Parliament, it was passed in the teeth and in the face of the robust opposition of both Members of the Council of India and of Members of the House of Commons, apart from that of the Government of India. This scheme came into operation from 1860, and thereafter, say, for three or four years, a large number of questions on the scheme passed between the Government of India and the House of Commons and the War Office. Numbers of questions were put because the Army was divided into two parts, what you call the regimental army and the staff corps which was established in 1861. But I need not go into all those military questions of the day. Perhaps I may take it that you know more or less about them. But it will be asked, if this Army Amalgamation Scheme has been in operation for so many years (say, for nearly 62 years), why seek to have it either repealed or modified now? There are many good reasons for it, but one of the principal reasons is this: that this scheme has been productive from the very beginning of the greatest financial embarrassments to the Government of India. And as my study of this military finance question goes as far back as 1880, and on which I have spoken on many platforms during the last 42 years, I should say that I am personally convinced that the root-cause of the many financial embarrassments that have been experienced by the Government of India from time to time is chiefly due to the practical results of this Army Amalgamation Scheme. Instead of giving my own account of it, Sir, I may inform the House that every statement I make here is not my own. Every statement that I am now making is founded on official records, on the authority of the records of the Government of India, despatches from the Secretary of State, debates in the House of Commons, proceedings of commissions, committees and other like bodies that had from time to time inquired into the whole question of Indian expenditure, both civil and military. But there was a Committee specially appointed jointly by the two Houses in 1871. It was generally known by the name of the Fawcett Committee because the late Professor Fawcett was the most important member of that Committee though presided over by a Minister named Mr. Ayrton. His cross-examination on a variety of questions on Indian matters was of such a crucial character that Mr. Fawcett became the most leading and conspicuous member on that Committee. Mr. Fawcett also was a Member of the House of Commons and was afterwards able therefore to speak every year on the budget debate on these very questions, military and civil, with the greatest accuracy. This Committee, which was officially designated "East India Finance Committee," sat from 1871 to 1874. The Committee consisted of some very distinguished members of both Houses of Parliament including some who afterwards became Secretaries of State. It included Sir Stafford Northcote, and the Marquis of Salisbury, who became Secretary of State for India and a Prime Minister afterwards, and many others. It happened that Parliament came to an end in 1874; it was

dissolved. This Committee had made their interim reports in the meantime in 1871, 1872, 1873 and 1874. But Parliament having been dissolved, it unfortunately happened that when the new Parliament was formed, this Committee was not revived. Practically what happened, therefore, was that this Committee also dissolved without making a real good report on the mass of evidence taken during the four years. If that Committee had been revived and had gone on and concluded its proceedings, it would in all probability have happened that a thoroughly useful and substantial report might have been presented to Parliament. And I believe that, had that report been made, Mr. Fawcett would have made many points in reference to this Amalgamation Scheme, on which he was very keen. What was recorded in evidence before the Committee, namely, that many of the embarrassments of the Government of India in matters financial arose principally from the practical operation of this Army Amalgamation Scheme, would have been prominently brought to the notice of the House. But I am not going to take up the time of this House with that evidence. The time is short. I am allowed by the President 30 minutes within which to finish my speech though I feel that on this subject, I may speak for 8 hours and still not finish it. That is the reason why I will only content myself with enlarging on the question of policy and read out to the House a few extracts with the permission of Mr. President. I will first read to the House what Mr. Fawcett said as to the true nature of the scheme to prove that there is nothing like this Amalgamation Scheme which had been for half a century so injurious to the finances of India. Mr. Fawcett said:

"A few years after the abolition of the East India Company, what is known as the Army Amalgamation Scheme was carried out in direct opposition to the advice of the most experienced Indian statesmen. India was thus as it were bound hand and foot to our own costly system of army administration without any regard apparently being had to the fact that various schemes of military organisation which may be perfectly suited to a country so wealthy as England may be altogether unsuited to a country so poor as India."

That is the first point that was made. I leave out certain other quotations and quote the second part:

"A kind of partnership has been established between England and India and as one of these countries is extremely rich and the other extremely poor, much of the same incongruity and many of the same inconveniences arise as if two individuals were to join in house keeping, one of whose income was £20,000 a year and the other only £1,000."

That was the sort of comparison which Mr. Fawcett made as to the consequence of the Amalgamation Scheme. India, a poor country, was asked to go into partnership with a wealthy country like England. England's military expenditure compared to her revenues was only a fleabite compared to the revenues of India which was only 30 crores or thereabout. Mr. Fawcett further observed:

"An expenditure which will be quite appropriate to one whose income is £20,000 would bring nothing but embarrassment to one whose income was only £1,000. The money which is expended may be judiciously spent but if the man with a smaller income finds that he is gradually becoming embarrassed with debt because he had to live beyond his income it is no compensation to him to be told that he is only asked to bear his proper share of the expenses. His position would be the more intolerable if like India, after having been compelled against his wish to join the partnership he is forced to continue it, whether he desires to do so or not."

This is a very pertinent extract and my own belief is that whatever may be said about the efficiency of the army brought about by this Army Amalgamation Scheme one thing is certain, that is, that India has never been able to respond to all the costly proposals made from time to time by

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the War Office on this subject and that is the reason why it has happened, as Members will see if they will only take the trouble to go into the old records as I have done, that although almost every year despatches went from the Government of India to the Secretary of State imploring, praying, protesting, one thing after another, everything has been in vain. The War Office was very obdurate. The War Office said, "Here is the Amalgamation Scheme. You are a partner. You are bound to join with me in partnership and you must foot the bill, never mind what the bill is." So much so that the Government of India had no voice in it, absolutely none. Several Finance Ministers have said so from time to time. That also will be found in the records. During the Viceroyalty of Lord Ripon, the then Finance Minister, Sir Evelyn Baring, afterwards Lord Cromer, emphatically said so. In some of the papers it was said at that time that India has a voice and Lord Cromer contradicted it by saying plainly that India has no voice. Again, there was the Simla Army Commission. That body also went minutely into the whole question. With the permission of the President, I will read only one passage of figures. I do not want to trouble the House with any figures at all to-day. But the one I am just going to read is very important as an illustration of the continuous new charges annually passed on to India by the War Office. I will read to the House what is stated in the despatch of the 21st November, 1884. This despatch points out to the Secretary of State at that time how India has been burdened every year with more and more demands, great or small, by the War Office. Here is an account of such yearly burden between 1864 and 1884. I repeat that it is only a simple illustration of many other things which have happened since then. Every two or three years there have been increases of salaries of officers; there has been an increase of pay to the soldier, also increased expenditure on depôts, transport, ordnance and many other things besides. "Many a mickle makes a muckle" and every little item has gone to swell the military expenditure and the result has been, as I said, that to-day we find ourselves so much embarrassed in regard to our financial position. I personally believe that a portion of this expenditure is due to the exceptional causes brought about by the war and to the further increases consequent on the fresh organisation of 1920-21. But I will only as an illustration read with the permission of the President a paragraph from the Despatch just referred to:

"In 1864 increased rates of pay were granted to medical officers of the British service in India—amounting to £20,000 a year and a revised scale of clothing and compensation to the British army was introduced costing £20,000 more. Then in 1865-66, there were increased rates of pay granted to Veterinary Surgeons. That was a small matter, amounting to £3,500. In 1866-67, gymnastic instruction was introduced into the British army and India was asked to pay £15,000 a year. Then in 1867-68, there was an increase of two pence a day in the pay of the British soldiers and there was an additional burden of £250,000 a year. Then there was in the same year skeleton of £15,000 in 1868-69 owing to increased pay given to paymasters, quarter masters and so on. In 1870-71 the grant of good conduct pay was increased by £35,000,"

and so on and so on. But I will not weary the House with many other figures. From 1867 however to 1883 the annual permanent new recurring expenditure on account of the military Services increased by nearly one million sterling. Thereafter the one million swelled to one million and a half, to 2 millions, 3 millions, 4 millions, ever increasing but never diminishing till at last as a result of this Army Amalgamation Scheme we find ourselves to-day in the position of an annual total charge

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and that his duty and interest lie in defending India as far as possible from the encroachments of the War Office. He has to save us from unnecessary and extravagant expenditure which India is helpless to resist. The policy may be good from the British point of view, but it is not good from the point of view of the tax-payer of India. If he is not able to reduce this expenditure, how is the country to get on; how is the administration to get on? If the administration has been able to get along, it is because there has been many a windfall formerly in opium and now in railways. In that way the Government has jogged along. There is nothing beyond that. The tax-paying ability of India is very little; we have no elastic revenue in India even to-day. England is very rich; England has even to-day a yearly income of 4,000 million pounds; India has not an income of even 1,000. Can you under this economic condition expect that an organization which is suited to such a wealthy country like England is suited to such a comparatively poor country as India? From the efficiency point of view it may be all right. But what is the use of that? India has to pay its way and it can only "cut its coat according to the cloth" which is available; if the quantity of cloth is small it cannot enjoy such an ample garment as England wears. That is a reasonable commonsense view, and I am sure that every one in this House will agree with me that if India is not able to afford the burdens of this amalgamation policy what is the use of having it? The expenditure incurred under it is beyond India's capacity to meet. The burden of taxation is rising and rising; times are changing; the constitution is changed; the Assembly is growing more powerful now and it will become more powerful day by day; and if the military expenditure goes on as it has gone on for many years past, then I emphatically say that a day of reckoning will come. It may be that the present military arrangements may be swept away and one cannot say what other catastrophic changes may take place. We know, Sir, from history how people over-burdened with taxation at first get sullen and discontented until their exasperation drives them into revolt. God forbid that India should have any revolt of that kind. But at the same time I appeal, not only to His Excellency the Commander-in-Chief but to His Excellency the Viceroy, that in view of what may happen if things go on as they are, it would be wisdom and an act of farsighted statesmanship to realize that the time has come for a departure from the policy of the past in this connection in order to relieve the finances of India. We have, of course, the Inchcape Committee now sitting; but I do not know whether its axe will be so severely applied as to make everybody feel its sharpness. I am not in its confidence, and until we know what its report will be, we can only hope that it will succeed in materially reducing the military expenditure to a figure which India can bear. But even the Inchcape Committee, to whom I have addressed a letter on the subject, although it may reduce military expenditure, cannot effect any material improvement in military finances if the army is to continue under the aegis of the War Office. If that control continues then our expenditure will continue to increase even more. There can be no doubt about that; 50 years' experience has shown that it will increase and the finances of India will not be able to meet it. If India was able to, I would not grudge the Commander-in-Chief getting double his pay. But no, we are poor; we go in tattered clothes while they in England go in broad cloth. That is the position. Therefore I say the first thing is to appeal to Lord Reading, the Viceroy. He has come to us as he has declared from time to time with the intent and purpose, above all things, to do justice

between man and man, between black and white. All are equal in his eyes. And if justice is to be done, my appeal to the Governor General in Council is, "pray appeal to the Secretary of State to either repeal the Amalgamation Scheme or modify it so that India may have an equal voice with the War Office." At the present moment India has no voice. But the Central Legislature will become more powerful in the future and if the War Office will not change its policy the Legislature will compel it to change by and by. But what is the use of waiting till they are compelled to do it? If they are wise they ought to take the new departure now with grace. And if the statesmen at the helm of the Home Government are wise they will see to it that this Amalgamation Scheme is altogether abolished and that a new scheme equitable to India and in every way suited to its financial condition is substituted. If not, modify it substantially, as I have said in my amendment, in such a way as to enable India to breathe freely and to see that the Government of India may not be fettered hand and foot as it is now, and that we can go on smoothly, so smoothly that everybody may think that fiscal autonomy will come soon, and that the Central Government will have more money available for education, for sanitation, and for all other objects of great public utility. At the present time we are starving. 21 crores have to be paid away at once. Everything is stopped and the Inchcape Axe is coming. I do not mean to say that it is only the military expenditure that has gone up; but I do say this, and that most emphatically, that more or less it is the military expenditure that has brought all this financial embarrassment. Therefore, Sir, without further expatiating on this subject, I beg to conclude by appealing to the House to support my Resolution. I have no doubt that the head of the Army, who is here, will be very sympathetic after having heard me and he will see that some good does come out of this debate to-day. With these words, Sir, I take my seat.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, after what the proposer has said—and a very elaborate dissertation we have heard from him on this subject—I feel some sympathy for his point of view. He is evidently out, as we are all out, and though perhaps Honourable Members may not wholly appreciate it, I myself also am out, to reduce the military expenditure. I am sorry that I cannot however accept this Resolution on the part of Government for the simple reason that, as I hope I shall be able to show, far from having the effect which the Honourable Member thinks it will have, namely, to reduce the military expenditure, it will have exactly the opposite effect by increasing it very considerably; and for that reason I must on behalf of Government oppose the Resolution. I do not propose to discuss at any length the merits or the demerits of the arguments employed in the inquiry, to which my Honourable friend referred, of 1859 which led originally to the Army Amalgamation Scheme. Many of these had reference to circumstances which, of course, long ago disappeared, and I imagine it to be the wish of this Council to consider the matter more from the practical point of view of the present day than the consequences, financial and others, which would have ensued if the original Amalgamation Scheme had not been adopted. I may point out, however, in passing that the Amalgamation Scheme was originally opposed by its critics mainly on political and on military grounds and not on the financial ones, which I understand have particularly actuated my Honourable friend in putting his proposal forward. It was shown in 1859 that the local Army on the lines of the old East India Company's forces was more expensive and less efficient than the British regular troops. At the present day it is clear to

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demonstration that if the Government of India were to maintain a separate British force of their own enlisted for special and continuous service in India, it would be very much more costly and far less efficient than employing, as they do now, regular British regiments which come to India for a tour of duty and on the same rates of pay as they receive whilst serving in the United Kingdom. I believe that my Honourable friend holds to the doctrine of relative efficiency. He has referred to it in what he has already said, and contends that the British soldiers in India to-day are too efficient for the work that they have here to perform and that we ought to cut our coat according to our cloth. I fully agree as regards his coat and his cloth, but I cannot follow him into the theories of the relative efficiency of the armed forces of the King. My experience forces me to the conclusion that the first and the paramount necessity in war is to beat the enemy and that if you calculate too narrowly a margin of relative efficiency, you will probably find that the enemy will beat you. I cannot accept, therefore, a lower standard of efficiency than that at which the Government of India have hitherto very rightly aimed. In matters of defence such a policy could not possibly be contemplated. India contains one-fifth of the entire population of the globe. It has the longest and the most frequently crossed land frontier of any country in the world; and where the interests at stake are so large and the dangers so formidable, I should not be doing my duty as Commander-in-Chief if I were to accept a standard of efficiency lower than that which the Great War has proved to be necessary in order to avoid defeat. Now, if it is admitted that we should continue to employ in India European troops of the same moral and fighting value as those which have been employed here for the last thirty or forty years, it is easy to show that the present arrangement is by far the most economical way of doing it. It would be impossible to persuade soldiers to enlist for continuous service in India at the same rates of pay that they would accept if their service is to be spent partly in India and partly in England. This seems to be axiomatic. In order to provide a force separate from the British Army for service in India as was done in the old East India Company days, we should have to set up in the United Kingdom an organization for recruiting and training on modern lines at a prohibitive cost to the Indian tax-payer. The establishments which existed when the Peel Commission sat in 1859 no longer exist to-day, and the re-creation of them under modern conditions owing to the enormous rise in prices, would be an exceedingly costly affair. Moreover, it will be both unwise and financially unjustifiable to institute a machinery which would enter into direct competition with the British recruiting establishments in England in order to obtain in the open market the man-power that India would require, even if—and this is by no means certain—the Imperial Government would permit you to compete with her in the markets of the United Kingdom. Moreover, the pensionary charges that will be sufficiently attractive to induce the right class of men to enlist, would have to be considerably more liberal than those which are now paid to the British personnel in the Indian Army to-day.

Of the military aspect of the problem, I need say little. The arguments which were used in 1859 apply with equal force to-day, and I am sure this Council will recognise the great advantage which accrues to India from having at her disposal a portion of the British regular Army. If our arrangements were independent, we should with the long service Army have no means of maintaining a reserve either for the replacement

of casualties or for expansion in the war. The periodical reliefs enable the British soldier to-day to maintain the requisite standard of health and physical fitness. The soldiers as well as their officers have the advantage of deriving their discipline and training from the most up-to-date schools of military science in England and the war experience of many battle-fields. But above all things, the officers and men of the British Army are imbued with the instinct of discipline and of loyalty to the Empire as a whole in a degree which could never be achieved by a purely local European force.

I turn now to what would appear to be the principal count in my Honourable friend's indictment. He seems to think that
 12 Noon. the present arrangement is one which in practice diminishes the control of the Secretary of State and the Government of India over the application of Indian revenues, in that the Government of India are compelled to pay to the British soldier rates which in the last resort are fixed by an extraneous authority. The Honourable Member has told us something of his attitude towards the War Office, and I think he at least insinuated that the will of the War Office was arbitrarily imposed upon us here in India, and that we had no redress of any sort. Now, perhaps I am the person of all others whose business it is to discuss and to settle with the War Office such matters as are under discussion between the Government at Home and the Government of India, and I can assure him that I do not take it lying down as he apparently imagines. It is certainly true that we have to pay the rates which the Home Government find necessary in order to get us the article we require, but we do this as a matter of business, and not as a surrender to the arbitrary dictation of the War Office, as he seems to think. We, the Government of India, are looking for the same article as are His Majesty's Government. We enter the same market side by side, and instead of competing against one another and thereby raising the prices against each other, we, by mutual agreement, go into the market together in order to get what we require at the lowest possible rate. I am sure my Honourable friend, with his business acumen, will appreciate this, but I am not sure that he fully realises the fact that we do not have to pay the British soldier here in India more than he receives for his services rendered in the United Kingdom. It is the general rule that when European personnel is employed in India, some extra emolument has to be given to compensate them for the hardships and expenses of this so-called exile. British troops serving in Mesopotamia are paid more than those serving in India, for they receive a Colonial allowance in addition to their Home rates of pay. Some little time ago the cost of the British gendarmerie in Mesopotamia was worked out and it was ascertained that the average cost per head of the gendarmerie in Palestine was no less than £650 a year, as compared with £350 per head a year, which is the cost of the regular British soldier employed in the same country. I have recently obtained also the statistics of the rates of pay which are paid by the various Dominions for their localised British personnel. In 1909 the pay of the private soldier of the permanent force in Cape Colony was 5 shillings a day on enlistment, and on completing two years' service, it was 6 shillings a day. The total pay of the private soldier in the British Army in the same country and in the same year was one shilling a day. I will not waste the time of the Council by quoting figures from the other self-governing Dominions, for I think I have said enough to show that our present system of employing regular regiments of the British Army here in India is not only the most efficient from the military point of view, but

[H. E. the Commander-in-Chief.]

is by far the most economical method of supplying what India requires in the shape of British contingents. I ask this Council therefore to conclude that, whilst it may be possible for India to limit her military expenditure by employing a lesser number of British troops than she employs at present, she cannot hope to do so by attempting to adopt a lower scale of remuneration for the British section of her army. It is, of course, idle to imagine that the Indian Government, recruiting under its own agency, could possibly obtain better value for her money than do the recruiting agencies of Her Majesty's Government, and in my opinion the problematical advantage which the Honourable Member seems to envisage would be both illusory and uneconomical. I regret therefore that the Government is unable to accept the Honourable Member's Resolution. I can assure him that to act on his suggestion would be ruinous financially and thoroughly unsound. From a military point of view it would be a mistake fraught with grave danger to the State and in the present critical state of the world's history it would be disastrous to Indian interests. I must therefore oppose this Resolution.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): Sir, I should have very much wished to take no part in this discussion, but the "little sympathy" which His Excellency the Commander-in-Chief said he has for the Resolution tempts me to put the question raised by the Honourable Sir Dinshaw Wacha before this Council in another light; a light based not on any conjecture or views of my own, but on the views of eminent military and civil servants of the Crown during the last 30 or 40 years. For obvious reasons I wish to confine my remarks to quotations from the writings of ex-military and civil servants of the Crown, and I hope, Sir, that you will not mind if I put the point of view that I have in my mind before this House in the shape of quotations only. I ask for that permission on this occasion because, except by that method, I would not to-day be able to elaborate the points I have in view. May I take it that I have that permission?

The HONOURABLE THE PRESIDENT: As long as they are of reasonable length.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Thank you, Sir. There is just one preliminary remark that I would like to make. I would like to pay my personal homage and respect to the Honourable Sir Dinshaw Wacha, whom I may aptly call the Grand Old Man of this Council, for the great feeling, the ardent patriotism and, may I add, the real and sincere loyalty to the Crown with which he has brought up this question before the House. It is perhaps in the fitness of things that the question which had its beginnings more than 60 years back should be handled by the oldest and the most respected Member in this House. Nobody I know of is more capable or is better fitted to handle it, and my only regret is that His Excellency the Commander-in-Chief has not been able to give it a more warm reception than merely "some sympathy." I propose, Sir, just to refer to what His Excellency the Commander-in-Chief said in connection with the Amalgamation Scheme of 1859 having been opposed by English Members then in Parliament on political grounds. I feel that His Excellency the Commander-in-Chief perhaps overlooked, when he said so, that several Members, some of whom I think my Honourable friend Sir Dinshaw Wacha quoted, did point out with great sagacity and foresight

that a scheme like this, objectionable though it may have been in 1859 on political grounds, would mean great expense to India, and might militate against India's financial resources. I am not sure, but I am under the impression that the Honourable Sir Dinshaw Wacha himself read out a quotation from Professor Fawcett. So that it has to be borne in mind that people who had foresight, sagacity, and knowledge did then warn the British Government that the scheme might be much too costly for Indian resources to bear, and alas, that warning has come only too true.

With these preliminary remarks, Sir, I propose to put forward other points of view, which I think the House ought to know, in the shape of some quotations. I am now reading from one or two parts of the Welby Commission Report of 1900. Mr. Buchanan referred to the Capitation Grant as follows: Military charges amount in all to £1,585,938 and they include expenditure for raising and training recruits for India, for deferred pay for service on the Indian establishment, and, for non-effective services of the European army serving in India and he said as under:

"In order to justify these charges, various (and sometimes conflicting) theories are brought forward of the supposed relation of India to the Home Government. Sometimes she is treated as an independent power, at other times as in a position of strict administrative and legislative dependence. Sometimes she is spoken of as a partner in a joint concern, at other times as a more or less unwilling purchaser in a limited market. These theories would not demand attention if it were not that frequent use is made of them by public Departments at Home, particularly by the War Office, when imposing new charges on India. The theory frequently put forward that the United Kingdom and India are 'partners having an equal interest in respect of a joint undertaking' appears to be untenable and the arguments adduced by Lord Cromer (when Finance Minister) in his Despatch of March 2, 1883, unanswerable. 'The Indian authorities,' he says, 'are so far from having an equal voice in the decision on such matters that it may be said without exaggeration they have scarcely any voice at all.' The Indian Government, however strongly it may protest, must always in the end agree to the terms imposed on her. India is a dependency of the United Kingdom and her Government strictly dependent on that of the United Kingdom. If, however, the Home Government is supreme, she ought to exercise her supreme power with moderation and consideration. If the Indian Government is dependent, she should enjoy some of the advantages of dependence and be free from some of the burdens of independence."

Regarding the Capitation Grant, the same Mr. Buchanan goes on to say:

"This is represented as the cost price of the recruiting and training of the British soldier at the time he is sent out to India, and India is made to hire British soldiers at that price. The charge has no parallel elsewhere in the Empire. It would never have been made *de novo*. Its origin dates back to the time when India had a European force of her own and for its service a recruiting station of her own at Warley in this country. When the Company's European Army was abolished, the British Government made India pay not only for the British regiments supplied, but a proportion of the general recruiting charges at Home. Nothing has given rise to more frequent and long continued disputes between the two Governments from 1861 onwards. Numerous committees and commissions have been appointed. The War Office and the India Office never agree and, as Sir Henry Brackenbury, who advocates the abolition of the charge, stated in evidence before us, 'Nobody in India believes in the fairness of the capitation charges.'"

I would not like to weary the House with more quotations of this nature but I should very much like to put before the House what the Government of India themselves said in 1883. It is again a quotation from the Welby Commission Report and I hope that the House will be able to infer what some Englishmen at least think is or should be the fate of the Capitation Grant and I hope the House will also see that this is what Sir Dinshaw Wacha has in his mind when he amended his Resolution and

[Mr. Purshotamdas Thakurdas.]

used the words "substantially modified". The Government of India, in a despatch, dated the 10th August 1883, said as under:

"It is evident that the responsible Indian authorities have to approach this question from an entirely different point of view. A reserve of British troops available for service in India would, no doubt, be very useful; but the Indian Government cannot look upon its peace establishment mainly in the light of a school or training ground for the reserve. On the contrary, the first and most important feature in any military organisation suitable to the wants of India is that a relatively high peace establishment should be maintained in order to preserve internal order. We are unwilling to use the commonplace argument that India is held by the sword, because, although it is true, we do not consider it is the whole truth and moreover we disagree with many of the conclusions which are drawn from this argument. There can, however, be no doubt that British rule in India rests on force, moral and physical, and, as an inevitable consequence of this condition of things, such a question as that of short service in the Army, with the attendant issue involved in the constitution of a reserve, must be approached, when considering Indian requirements, from a point of view wholly different from that which would be adopted in considering the requirements of England. Under these circumstances, we do not see how any partnership, properly so called, is possible."

I am very much obliged to the House for having given me the permission to read a few quotations. I will add only one word more. I appeal to His Excellency the Commander-in-Chief to accept the Resolution moved by the Honourable Sir Dinshaw Wacha. It after all only suggests that substantial modifications may be made. I hope His Excellency has been trying to relieve us from the control of the War Office, whether it is through the Secretary of State or through anybody else. But I feel one thing, and that is that there is a great deal that India has to say against the Capitation charges which are imposed on her by the Amalgamation Scheme and I hope that the quotations that I have put before the House will move the House to carry the Resolution, should it unfortunately happen that His Excellency the Commander-in-Chief cannot see his way to accept the Resolution.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): I rise to support this Resolution. I agree with my Honourable friend Mr. Purshotamdas Thakurdas in thinking that it came rather as a surprise to us, Sir, on this side of the House that His Excellency the Commander-in-Chief merely expressed some sympathy but did not see his way to accept the Resolution in the amended form. As the Resolution stood, perhaps His Excellency the Commander-in-Chief might have objected to it but in the amended form the Resolution asks for nothing more than a substantial modification of the Army Amalgamation Scheme and we thought that His Excellency would see that the financial situation of the country itself demands some sort of reconsideration of the whole scheme and of modifying it so as to suit the needs of the country. His Excellency the Commander-in-Chief said in his speech that this scheme was opposed in 1859 on military and political grounds. My Honourable friend Mr. Purshotamdas Thakurdas has quoted certain passages to show that it was opposed on financial grounds. May I draw the attention of His Excellency to the remark of Sir Charles Trevelyan who said that it was extravagant and crushing in practice and then he said that it is in the nature of a one-sided partnership, in which India was not allowed freedom of contract. It was opposed also on financial grounds by Sir John Lawrence, who was afterwards Lord Lawrence, and by other Members in the House of Commons, but, leaving that aside, I come to the chief ground on which His Excellency based his opposition to the Resolution. His Excellency

said that he thought and the Government of India agreed in the view that the Resolution, if accepted, would have an effect quite the contrary to what the Honourable Mover thinks it will have. We, Sir, think that it will be good for us financially if it is carried. That is our opinion, though perhaps we must bow to the greater experience of His Excellency the Commander-in-Chief when he says that if we went into the open English market we would have to pay what ordinary labour receives, and that if we competed with the British War Office in recruiting for the army we would have to pay little more. We do not doubt that in the open market we would be able to obtain equally competent and efficient men. But even if we did not succeed in doing so, and had to pay a little more, as a matter of policy, as the Honourable Sir Dinshaw Wacha said, we would like a beginning to be made as regards direct recruitment, so that the Government of India should be free from the shackles of the War Office. His Excellency the Commander-in-Chief said that he was not a man who would take orders from the War Office. We all believe it; not only this House but everybody in the country knows what His Excellency has been doing in the interests of India in the way of fighting the War Office and higher authorities in England if their orders seemed to him against the interests of India. But we know, Sir, that there are occasions when even His Excellency and the Government of India cannot go against the wishes of the War Office. I will quote one instance. I asked a question in regard to schemes sent by the Government of India about the Indianization of the army, and supposed to be held up in England under the orders of the War Office. Although reference to this matter was made in the English papers, it was kept secret here and, in reply to my question the Government of India were not in a position to give any information. In all such matters we want the Government of India to have full freedom; we want them to have as much freedom from the control of the War Office as it is possible to have. If it is absolutely necessary in the long run, for financial reasons, that we should co-operate with the War Office, we will do so at the time and as equal partners. We will go of our own accord and say, "will you do this for us?" And we shall pay them, if necessary, a certain charge for their services. But what we do not want is that they should lay down the law to us while we pay up. We want full freedom of action for the Government of India. If that is obtained, then, even if we have to pay a little more in the beginning, in the long run it will be for the good of the country. For these reasons, Sir, I strongly support the Resolution.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I have only one or two observations to make. When I was listening to the Honourable Mover I felt that the Government of India had been pressing forward the same demands and was in such a pitiable condition that they wanted the support of this House to bring pressure upon the Secretary of State to repeal this Amalgamation Scheme. But from what has fallen from the lips of His Excellency the Commander-in-Chief, I gather that the Government of India are not in that pitiable condition. The disease that is sought to be cured is the heavy expenditure in the Army Department. But when His Excellency the Commander-in-Chief says that no efficient army could be kept without this expenditure there is an end of any talk on this subject.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I never said that.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: I am sorry. We may talk as financiers and economists about

[Lieut. Rao Bahadur Chaudhri Lal Chand.]

these things but in reality on matters like this we should consult men who have served in the army and who know more about military matters than we do. Yesterday I had the good fortune to attend a meeting of the Indian Officers' Association at Rohtak. Quite informally I put this Resolution before some of the Members and they said that the only remedy for this heavy expenditure lies in two directions. They said, ask the extremists not to give trouble inside India and ask the Afghans to discontinue their raids on the frontier. If you could bring about that desirable state of things then of course military expenditure could be reduced. But not before that. With these few words I oppose the Resolution. I am not convinced that the repeal of the Amalgamation Scheme or any modification of it will bring about any reduction in the expenditure.

The HONOURABLE RAJ BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I beg to rise in support of the Resolution which has been so ably moved by our veteran of the House. He has voiced the true feelings of all intelligent Indians. I have not, I am sorry to say, been convinced by the arguments put forward by His Excellency the Commander-in-Chief when stating that the adoption of this Resolution will lead to an increase in expenditure. In India the cost of living is much lower than it is in the United Kingdom and housing and other arrangements are also cheaper, and the said cost of living is going down considerably in both countries owing to the unemployment question and to a fall in prices of the necessities of life. So India is right in demanding that the scale of the pay of British soldiers ought to be brought down to the British Indian scale. The heavy increase in expenditure on the army has always been criticised, and I think rightly criticised, by all Indians. The Government of India have all along been, for the last 60 years, protesting against the Amalgamation Scheme Act, and no convincing arguments have been put forward to refute the arguments of able military experts who have hitherto expressed their views on this subject. With these few words, Sir, I support the Resolution.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, my friend the Honourable Chaudhri Lal Chand has taken quite a different view of the subject. He has said that if we can get the Afghans not to attack India or if we can arrange with the extremists or non-co-operators not to have any disturbance in the country, then army expenditure is bound to come down. But that is not the question before the House. The question before the House relates to the Amalgamation Scheme of 1859 which my Honourable friend Sir Dinshaw Wacha wants to be modified. He says that at present under the Scheme neither the Government of India nor the Secretary of State has any voice whatever in army policy. The policy is decided by the War Office and the Government of India have to carry it out and pay for it. Therefore what he wants is that that policy should either be repealed or modified, according to the requirements of India. I therefore strongly support the Resolution so ably put forward by the Honourable Sir Dinshaw Wacha.

The HONOURABLE SIR DINSHAW WACHA: Sir, what have the Government said about my Resolution? Of course, His Excellency the Commander-in-Chief from his point of view may be right in thinking that it would be ruinous if the Amalgamation Scheme was repealed or modified, that we will not get recruits cheaper than before; perhaps they may be

dearer. But, Sir, eschewed—and deliberately eschewed—from entering into any details of this character, what should be the future Army of India, what should be its strength, whether recruits should be obtained cheaper or dearer, and many other things, because all those questions are subordinate to the fundamental question; which is a *question of policy*. And, so far as that policy is concerned, I regret to say that although I was greatly expecting to hear that His Excellency the Commander-in-Chief would make some remarks that the policy so long pursued was unwise and detrimental to India's interests, he seems to think that, whatever may happen, the policy is right and correct, when the facts are absolutely against him. I can stand for 12 hours here and convince His Excellency the Commander-in-Chief and those who share his views that these facts of mine are correct and that the Army Amalgamation Scheme of 1859 has been, is and will in the future be disastrous to India unless it is modified. It is that policy that I say should be modified. I want that policy to be modified for doing what? For doing justice to India, for doing justice to the Government of India and their officers who from time to time in the last 50 years have said, "We have no voice; we protest and protest and do everything in vain, but nothing happens. The War Office is obdurate and the War Office is tyrannical." The military expenditure crushes India and crushes India to a tremendous extent. Where is the money to come from? It does not come from the pockets of His Excellency the Commander-in-Chief or the Chief of the Staff at the War Office or from the British Treasury. The British Treasury wants to have its estimates reduced partially at the expense of India. Years and years ago Mr. Samuel Laing, the second Finance Minister, said that "India is the milch cow of England" and India is "sacrificed to the exigencies of British estimates." That fact is true and it has been proved in London papers like the "Times" and the "Westminster Review," etc. Twenty thousand troops who generally remain in the depôts at Home are more or less utilised for Imperial defence and whenever there is an opportunity these troops are sent out on Imperial service at India's expense. The British Army in India is not simply for the purpose of defending India; it is also for the purpose of maintaining British supremacy in India and it is British supremacy that entails so burdensome an expenditure. If that is to be maintained and if India is still to be retained as a partner, why should not the rich partner pay for the maintenance of that British supremacy in some shape or another? Why should it not contribute substantially, Sir, towards our military expenditure, whereby India's burdens may be reduced? All those are questions to which nobody has given a thought; the same is the case with His Excellency the Commander-in-Chief. There are wheels within wheels, facts within facts, of which we have no knowledge. India is poor, India is dumb and powerless; India is dumb because India has no voice and the military bureaucracy at Home is omnipotent. That is the whole situation. Are we going to go on suffering indefinitely or are we going to change? If we are going to change the constitution, so that people may have self-Government for themselves, are we not prepared to govern ourselves so as to keep military affairs in our own hands in such a way that it may not be a burden? India suffers for want of money for education and a hundred other objects of the greatest benefit to the country. What is the use of this unproductive expenditure which goes to waste like water from year to year? We have had 21 crores of taxation because of the military expenditure. Had these 21 crores been expended on education, sanitation and other productive objects, if these 21 crores had been available for a number of other purposes now starved, would we not be vastly

[Sir Dinshaw Wacha.]

benefited? Who is benefited now? No one except England. And England is doing a great injustice to India. I am sorry to say this, but His Excellency has provoked me on to saying it: I wanted deliberately to refrain from saying it. Now, I think, I should say that England is doing a great injustice to India, and that is the reason why I appeal to the late Lord Chief Justice of England who is now the Viceroy of India to do justice to India. If he does not do it, no man will ever do it, and India will remain for ever bound hand and foot to the War Office. Is that the situation that my friends here desire? Is that the situation that is wanted? We want to rise; we want to be a nation and build it strongly brick by brick in years to come, so that we may have full responsible self-government but we want it never mind if it takes 25 or 50 years. The country is now awaiting it. It does not want to see that we should be incapable of defending external aggression. We should be trained and prepared for that eventuality. By all means do it in such a way that we may not feel the financial burden. Everything must have its due proportion. There is not a single country in the world where the Army is so costly as that in England. Germany had a huge army, France had a huge army, Russia had a huge army, Italy had a huge army, and what was their expenditure? Refer to their war books. Refer to their annual estimates and you will find that the cost of a soldier in these countries is nothing compared to the cost of a soldier in England. England can afford to pay, but not India. I should like to see how England will recruit her soldiers in the future. That is a point to be considered. Sir, I assure you that I am speaking here from a feeling—a strong feeling—that India has been done injustice for the last 50 years in the matter of the army services and that the time has come now for a new departure to be made. That departure consists in ending or mending the Amalgamation Scheme of 1859. I do not want the total repeal of the amalgamation. I want it to be so satisfactorily modified that the Government of India, which is our own Government, should have a free hand in the matter and should be able to say 'Thus far and no further shall we go.' I pray and I appeal to Government, let them not exasperate the tax-payer. That is a state to be sternly avoided. All India wishes nought but justice in this matter. Let this great military wrong be righted. My single voice will not do it. This voice will spread over all India and an agitation will be set on foot which will not cease till this ruinous Amalgamation Scheme is substantially modified. With these words I take my seat.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, this discussion has passed into a channel—I might almost say into an atmosphere—which is hardly, I think, within the terms of the Resolution. I dealt with the Resolution including my Honourable friend's amendment both from the point of view of the military necessity as it is to-day, and of the situation as it was in 1859.

THE HONOURABLE SIR DINSHAW WACHA: So far as the policy is concerned, the situation has not changed a bit.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I do not propose to enter into the intricacies, generalisations and objections raised by my Honourable friend, for they are, to my mind, wholly irrelevant to the terms and the scope of the Resolution itself. I do not mean to say that there is not some justification for the references that have been made both by the Mover of the Resolution and by others, to the size of the military

Budget. But I would point out that those criticisms and particularly the exuberance with which my Honourable friend has attacked the military expenditure are based upon the experience of the past years. We are now within a fortnight of the Budget and therefore the arguments of my Honourable friend might well be postponed until this Council have had an opportunity of discussing, in accordance with the announcement made to-day by His Excellency the Governor General, the Budget of the coming year 1923-24. More than that, I cannot say. But it seems to me somewhat unreasonable for Honourable Members here to attack the military expenditure in the way that they have done when their knowledge is based entirely upon what happened in the past. I decline to go into the political arguments that my Honourable friend has raised. I think they are foreign and beyond the scope of the Resolution that is before us. My contention is that the repeal, or even the modification of the Amalgamation Scheme of 1859 will not provide you with a cheaper military organization than that which you have got to-day.

THE HONOURABLE SIR DINSHAW WACHA: We shall see.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: After all I am an expert on these matters. I have had very considerable experience in the production of the British soldier both here and in England, and I tell you that if the Resolution is adopted, the soldier will cost you more than he does to-day and for that reason I still oppose this Resolution.

The Honourable Sir Dinshaw Wacha asked for a division and the Council divided as follows:

AYES—12.

Ayyangar, Mr. K. V. R.
Harnam Singh, Raja Sir.
Jaffer, Mr. I. H.
Kale, Mr. V. G.
Khaparde, Mr. G. S.
Lalubhai Samaldas, Mr.

Nandy, Maharaja Sir Manindra.
Purshotamdas Thakurdas, Mr.
Rampal Singh, Raja Sir.
Ram Saran Das, Mr.
Sinha, Mr. Sukhbir.
Wacha, Sir Dinshaw.

NOES—16.

Amin-ul-Islam, Mr.
Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Crerar, Mr. J.
Forrest, Mr. H. T. S.
Froom, Sir Arthur.
Lal Chand, Lieut.

MacWatt, Major-General R. C.
Miller, Sir Leslie.
Muzammil-ullah Khan, Nawab.
Rawlinson, H. E. Lord.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Thompson, Mr. J. P.

The motion was negatived.

THE MALABAR (COMPLETION OF TRIALS) SUPPLEMENTING BILL LAID ON THE TABLE.

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, I beg to crave permission to invite your attention to a somewhat important and urgent matter. The Malabar Completion of Trials Ordinance will expire on the 18th of this month, and unless an Act is passed by the Indian Legislature providing for appeals against convictions, the result will be that the convicts will be without any remedy in so far as appeals

[Dr. Mian Sir Muhammad Shafi.]

to the High Court are concerned. A Bill has been introduced in the other House and has passed through that House to-day, providing for that contingency. But under Rule 25 of the Rules of Business that Bill ordinarily will be laid on the table of this House the day after its passage through the other House. As Honourable Members are aware, this Council is not sitting to-morrow. The next sitting will be on Wednesday and the only other sitting, during this week, of the House will be on Thursday. It is clear therefore that, unless this Bill is passed by this House at the latest at its sitting on Thursday, the convicts will be without any remedy and there will be no Act of the Legislature providing for an appeal before the expiry of the Ordinance to which I have already referred. In these circumstances I crave your permission that the Bill be laid on the table to-day so that the Honourable Members may have three days' notice before it is finally taken up on Thursday next.

The HONOURABLE THE PRESIDENT: This must not be made into a precedent, but as the Council is not sitting to-morrow owing to the change in the date of this Hindu festival, I think it would be reasonable to allow the Bill to be laid.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Thank you, Sir.

The Council then adjourned till Eleven of the Clock on Wednesday, the 14th February 1923.

COUNCIL OF STATE.

Wednesday, the 14th February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

OPINIONS OF LOCAL GOVERNMENTS ON MATTERS OF GENERAL PUBLIC INTEREST.

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

(a) if, when inviting opinions of Local Governments on matters of general public interest, Government ask for the opinions of the Governor in Council and also of the Ministers or not;

(b) if the opinions of the Ministers are not invited, the reasons for the same, and do Government propose in future to invite the opinions of Ministers;

(c) if they do receive the opinions of the Ministers referred to in (a), do they get such opinions jointly of the Governor in Council and of the Ministers, or separately?

The HONOURABLE MR. J. CRERAR: The normal course followed by the Government of India in consulting a Local Government is to ask for the opinion of the Local Governments, which means the Governor in Council in relation to reserved subjects and the Governor acting with his Ministers in the case of transferred subjects. The Governor General in Council is not primarily concerned with the procedure adopted by the Local Government for the formulation of its opinion on such references, but I would invite the attention of the Honourable Member to clause IV of the Instrument of Instructions to the Governors of the various provinces in accordance with which the Governor is directed to encourage the habit of joint deliberation between himself, his Councillors and his Ministers. Generally speaking the opinions received from Local Governments are given as the joint opinion of the Local Government, though occasionally the particular opinion of individual members of the Executive Council and Ministers is given separately.

INDIAN STUDENTS IN ENGLISH AND GERMAN UNIVERSITIES.

116. The HONOURABLE MR. PHIROZE SETHNA: (a) Has the attention of Government been drawn to a paragraph in the Westminster Gazette of October 13th, 1922, headed "Indian Students" to say that—

"The lack of welcome given at British Universities, particularly Oxford and Cambridge, to Indian students has had an important result. German Universities are encouraging Indian students to join them, and large numbers have gone into residence this term?"

(b) Do Government propose to take any action beyond the recommendations made in Lord Lytton's Committee of enquiry, whereby Indian

students could secure admission on a larger scale than at present in Universities in the United Kingdom and thus avoid going to German Universities?

The HONOURABLE MR. M. S. D. BUTLER: (a) The Government of India have not seen the paragraph referred to by the Honourable Member.

(b) The recommendations contained in the report of Lord Lytton's Committee are at present under consideration. It is therefore not possible for the Government of India to state at the present time whether action beyond those recommendations will be necessary.

PROVINCIAL FOREST SERVICE.

117. The HONOURABLE MR. PHIROZE SETHNA: Will Government be pleased to state if it is a fact—

(a) that there are no defined duties for the members of the Provincial Forest Service as there are no charges of sub-divisional status in the Forest Department;

(b) if the reply to (a) be in the affirmative or even otherwise, do Government propose to abolish the Provincial Forest Service and amalgamate the Imperial and Provincial Branches of this service into an "Indian Service Forest Officers" on the lines of the amalgamation brought about in the Public Works Department?

The HONOURABLE MR. B. N. SARMA: (a) This is not the case. The charge of divisions classified as 'minor' is ordinarily reserved for members of the Provincial Forest Service.

(b) No such proposal is under consideration.

VISIT OF LORD WINTERTON TO INDIA.

118. The HONOURABLE MR. PHIROZE SETHNA: (a) Will Government be pleased to state what was the object of the recent visit to India of Lord Winterton, Under Secretary of State for India?

(b) Has Government incurred any expenditure on account of the visit? If so, what is the amount of expenditure thus incurred?

The HONOURABLE MR. J. CRERAR: (a) Earl Winterton, with the permission of the Secretary of State for India, paid a private informal visit to India in response to an invitation extended to him before he took office.

(b) No expenditure was incurred on account of Lord Winterton himself. For his Private Secretary who accompanied him, £350 was spent in England for passage and outfit and Rs. 5 a day, daily allowance, has been sanctioned for him by the Government of India during his stay in India. Lord Winterton arrived in India in the middle of September and left on the 28th October 1922.

BRITISH MINISTRY AT KABUL.

119. The HONOURABLE MR. PHIROZE SETHNA: Will Government be pleased to state whether any expenditure on account of the British Ministry at Kabul is charged upon Indian revenues? If so, what is the amount?

The HONOURABLE MR. J. P. THOMPSON: For the present Indian Revenues contribute the whole of the expenditure on the British Legation at Kabul. The estimated expenditure for the year 1922-23 is Rs. 4,88,180.

STATISTICS OF VOTERS AT ELECTIONS.

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

- the number of voters in each province for the Legislative Council;
- the number of voters in each province for the Legislative Assembly;
- the number of voters in each province for the Council of State;
- the percentage of voters who went to the poll in the last elections to the total number in each case;
- the percentage of the total number of voters for all the Legislative Councils to the total adult male population in British India?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: A statement is laid on the table.

Province.	Number of voters in each Province for the Local Legislative Council.	Percentage of votes polled to the number of electors in constituted constituencies of the Local Legislative Council.	Number of voters in each Province for the Legislative Assembly.	Percentage of votes polled to the number of electors in constituted constituencies of the Legislative Assembly.	Number of voters in each Province for the Council of State.	Percentage of votes polled to the number of electors in constituted constituencies of the Council of State.
Madras.	1,243,156	25.0	260,486	27.6	2,290	73.9
Bombay.	548,419	34.9	128,234	12.0	2,956	99.8
Bengal.	1,021,418	33.4	184,005	25.0	2,226	56.3
United Provinces.	1,347,922	33.0	167,905	26.4	2,912	53.3
Punjab.	505,361	32.2	53,015	33.6	1,910	54.1
Bihar and Orissa.	327,564	39.7	67,042	26.3	1,666	60.3
Central Provinces and Berar.	144,737	22.5	24,496	25.2	919	25.5
Assam.	203,191	24.2	19,503	22.8	301	58.4
Burma.	...	...	1,550	...	2,464	15.8
Delhi.	...	...	3,307	10.1	...	...

* There was no poll for the Burma constituencies, all the candidates being returned unopposed.

Note.—(1) The report of the Burma elections to the local Legislative Council has not yet been received.

(2) The number of males at and above the age of 15, which is the age taken by the Census Commissioner as adult, is roughly 77,235,000. In view of the fact that the Burma figures are not yet available and that no person under 21 years of age is a voter, the percentage asked for by the Honourable Member in part (e) of his question has not been calculated. Further information will be obtained if desired.

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COUNCIL OF STATE.

[14TH FEB. 1923.]

ADMISSION OF INDIANS TO MILITARY, NAVAL AND AIR FORCES.

121. The HONOURABLE MR. PHIROZE SETHNA: (a) Will Government be pleased to say what reply they have received from the Secretary of State for India on the subject of the Resolution adopted by the Legislative Assembly *re* the admission of Indian subjects to all arms of His Majesty's Military, Naval and Air Forces in India?

(b) Will Government be pleased to lay on the table all correspondence on the subject?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) and (b) The Resolution which the Honourable Member quotes contained a number of separate recommendations, and I lay on the table a statement which indicates briefly the action so far taken in regard to each. The Government do not propose to lay on the table the correspondence on the subjects in question.

Statement indicating the action taken by Government on the various recommendations contained in the Resolution adopted by the Legislative Assembly on the subject inter alia of the admission of Indians to all arms of His Majesty's forces in India.

(i) As the Honourable Member is aware, Indians are admitted to commissioned rank in the Indian Army. The question of admitting them to the Royal Artillery and Royal Engineer Services in India and to the ancillary services is under consideration. The request that Indians should be admitted to the Auxiliary Force has been met by the creation of the Territorial Force. The question of admitting Indians to the Royal Air Force is under consideration. As regards the Royal Indian Marine, Indians are already eligible for admission to all ranks of this service, and further measures relating to this question will be considered by a Committee which has been appointed in pursuance of the Resolution moved in the Legislative Assembly by Sir P. S. Sivaswamy Aiyer on the 12th January 1922 and accepted by Government.

(ii) The recommendation that every encouragement should be given to Indians, including the educated middle classes, to enter the commissioned ranks of the Army, has been given effect by, amongst other things, the establishment of the Prince of Wales' Royal Indian Military College at Dehra Dun.

(iii) The practice of associating un-official Indians with the provincial authorities which nominate candidates for Sandhurst is in force.

(iv) In selecting candidates for Sandhurst, every consideration is given to the claims of those communities which furnish recruits to the Army. The claims of officers who hold the Viceroy's Commission are in practice recognised to the extent which is considered suitable.

(v) The question of increasing the proportion of King's Commissions granted annually to Indians is under consideration.

INDIAN ARMY RESERVE OF OFFICERS.

122. The HONOURABLE MR. PHIROZE SETHNA: (a) Will Government be pleased to state if the Secretary of State for India has sanctioned the reconstitution of the Indian Army Reserve of Officers as recommended by the Esher Committee?

(b) If so, has the question of incidence of cost been adjusted between the Home and Indian Governments as proposed by the Committee?

(c) What will be the increase in the military expenditure of India as a result of such reconstitution?

(d) Are Government prepared to incur such additional military expenditure in view of the present financial condition of the country and of the general demand for the reduction of military expenditure?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) The reconstitution of the Reserve of Officers which has recently been sanctioned by the Secretary of State follows generally the principles recommended for adoption by the Esher Committee.

(b) Under the arrangements as finally adopted, no liability attaches to His Majesty's Government, as the Reserve of Officers to be created will be solely for Indian requirements. The Reserve of Officers for duty with British units will not be trained with regular troops, and no expenditure on this account will be incurred.

(c) It is estimated that the ultimate cost of the Reserve, when the full authorized establishment has been reached, will be 4 lakhs of rupees per annum. Before the war, the number of officers in the Reserve never exceeded 42 in all, and in consequence the expenditure then entailed was trifling.

(d) It is not anticipated that the authorized establishment will be reached during the coming year, and for the financial reasons indicated by the Honourable Member, it will not be possible to provide funds for the annual training in 1923-24 of all officers who may be admitted to the Reserve. The amount of money which can be allotted for this purpose has not yet been determined.

COPYRIGHT LAW IN REGARD TO CINEMA FILMS.

123. The HONOURABLE MR. PHIROZE SETHNA: Are Government aware that owing to the absence of any 'Copyright' law in regard to Cinema films, films that are stolen or illegally duplicated are imported and this practice results in loss to *bona fide* importers?

The HONOURABLE MR. D. T. CHADWICK: The Honourable Member's question is based on an assumption that there is no copyright law in regard to Cinema films. The Honourable Member is referred to the provisions of sections 1 and 35 of the Copyright Act, 1911.

PAY OF MILITARY OFFICERS.

124. The HONOURABLE MR. PHIROZE SETHNA: Will Government be pleased to state the average annual pay and allowances of (1) British Officers, and (2) Indian Officers in the Indian Army?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I lay on the table a statement showing the monthly rates of pay and allowances drawn in each rank and stage of seniority by British officers of the Indian Army and Indian officers with the Viceroy's Commission, regimentally employed. Indian officers holding the King's Commission receive the same rates of pay and allowances as British officers of the Indian Army. To work out the annual average rates of pay and allowances drawn by officers of the two classes mentioned would be a most laborious task, and the result, in the opinion of Government, could have no greater value than the actual rates which have been given and which will I trust serve the Honourable Member's purpose.

Statement showing the average monthly rates of pay and allowances drawn by (i) British officers of the Indian Army, regimentally employed, and (ii) Indian officers of the Indian Army with the Viceroy's Commission.

(i) BRITISH OFFICERS, WHETHER BELONGING TO THE INFANTRY, CAVALRY OR ARTILLERY.		(ii) INDIAN OFFICERS WITH THE VICEROY'S COMMISSION SERVING WITH EITHER THE INDIAN CAVALRY, ARTILLERY, SAPPERS AND MINERS OR INFANTRY.	
Rank.	Average pay and allowances per mensem.	Rank.	Pay per mensem.
	Rs.		Rs.
2nd-Lieutenant	525	Risaldar-Major (non-silladar cavalry).	250†
2nd-Lieutenant, after 2 years' service.	575	Subedar-Major	200†
Lieutenant	575	Risaldar (non-silladar cavalry)	180-10-210
Lieutenant, after 7 years' service.	650	Subedar	130-10-160
Captain	850	Jemadar (non-silladar cavalry)	85-5-110
Captain, after 15 years' service.	1,050	Jemadar	75-5-100
Major	1,150		
Major, after 5 years' service as such.	1,250*		
Lieutenant-Colonel	1,750		

*Includes command allowance at Rs. 500 per mensem.

†Draws a personal allowance of Rs. 50 per mensem in addition in certain circumstances.

BRITISH AND INDIAN TROOPS IN ARTILLERY.

125. The HONOURABLE MR. PHIROZE SETHNA: Will Government please state the proportion of British and Indian troops in the Artillery?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: A statement showing the numbers of British and Indian combatants in the Artillery in India is laid on the table.

Statement showing the number of British and Indian combatants serving in the Artillery in India.

	British.	Indian.
Officers	594	205
Warrant officers	113	...
Non-commissioned officers	1,531	1,318
Artificers	398	301
Gunners	6,572	2,851
Drivers	2,036	8,140
TOTAL	11,442	12,815

METHOD OF RECRUITMENT FOR FOREST SERVICE.

126. The HONOURABLE MR. PHIROZE SETHNA: Will Government state—

- why candidates for the Forest Service are nominated and not selected by open competition as in the other services; and
- if they propose to select them by open competition in the future and, if so, from when?

The HONOURABLE MR. B. N. SARMA: (a) It is considered that for the Forest Department in which service is performed under special and exacting conditions, selection after nomination is a better method of recruitment than competitive examination. In considering the recommendations of the Public Services Commission the Secretary of State was reluctant to discard a system which had in the past produced so satisfactory a type of officer. He also observed that the Local Governments would be closely in touch with the candidates and would have available information regarding their character, qualifications, family history, and general suitability. This system of recruitment, he added, would also enable the Local Governments to guard against the undue preponderance of any one class or caste, and would give them that latitude of choice among candidates possessing the necessary educational qualifications which appears desirable in order to secure officers suitable for the exacting work of the Forest Department.

(b) The answer is in the negative.

STRENGTH OF THE INDIAN FOREST SERVICE (IMPERIAL BRANCH).

127. The HONOURABLE MR. PHIROZE SETHNA: Will Government please state—

- what is the present strength of the Indian Forest Service (Imperial Branch) and how many posts therein are filled and how many vacant;
- how many members of the Indian Forest Service will reach the age of retirement within the next five years?

The HONOURABLE MR. B. N. SARMA: (a) The present sanctioned strength of the Indian Forest Service (Imperial Branch) is 399. According to the latest figures available the numbers of posts filled and vacant were 277 and 122 respectively on the 1st July 1922. Against these vacancies there are 32 probationers on the way out from England and 70 under training who will join before the end of 1924.

(b) 30 members of the Indian Forest Service (Imperial Branch) are due to retire on account of age by the 31st December 1927.

PUBLIC SERVICES COMMISSION UNDER SECTION 96-C OF THE GOVERNMENT OF INDIA ACT.

128. The HONOURABLE MR. PHIROZE SETHNA: Have the Government established a Public Services Commission in India, as required by Section 96-C of the Government of India Act? If not, when do they propose to comply with that statutory requirement?

The HONOURABLE MR. J. CRERAR: The constitution and functions of the Public Services Commission provided for in Section 96-C of the Government of India Act cannot be determined until a decision has been

reached on some of the questions involved in the larger problem of the increased Indianization of the services, which is now under consideration and will doubtless engage the attention of the Royal Commission. It has been decided, therefore, to hold the matter in abeyance for the present.

INDIANS IN AIR FORCE AND ARMoured CAR COMPANIES.

129. The HONOURABLE MR. PHIROZE SETHNA: Will Government please give the number of Indians employed (1) in the Air Force, and (2) in the Armoured Car Companies?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The Indians employed by the Royal Air Force consist of 104 Indian other ranks and 903 followers; those employed by Armoured Car Companies consist of 153 followers, class I.

RAILWAY CONCESSIONS TO MILITARY OFFICERS.

130. The HONOURABLE MR. PHIROZE SETHNA: Will Government please give details of facilities, if any, afforded to military officers in the matter of railway fares, such as payment of fares at second class rates and travelling first class when proceeding on leave or on a holiday?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Junior military officers, when travelling, on leave at their own expense, over contract railways, are given a Form E certificate, which entitles its holder to a first class ticket on payment of a second class fare. A statement showing the details of this railway concession is laid on the table.

The HONOURABLE MR. PHIROZE SETHNA: What is meant by "contract railways"?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The railways on which there is a contract with the Government for this purpose.

The HONOURABLE MR. PHIROZE SETHNA: Have not all railways such contracts with Government?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I think I must ask for notice of that question.

Statement showing the classes of officers entitled to the use of Form E when travelling.

The following classes of officers are entitled to the use of Form E when travelling at their own expense:

- (i) Captains and subalterns of the British and Indian services who are doing duty with regiments of Cavalry and Infantry, Batteries or Companies of Artillery, and Companies of Sappers and Miners.
- (ii) Captains and subalterns of the Indian Medical Service and Royal Army Medical Corps who are serving with Station Hospitals.
- (iii) Captains and subalterns of Armoured Car Companies, Armoured Motor Batteries and Machine Gun Corps.
- (iv) Captains and subalterns of the British and Indian services who are students of the Staff College, Quetta.

Officers travelling on Form E are entitled to a free allowance of baggage to the extent of 1½ maunds.

CARRIAGE OF COAL BETWEEN PORTS.

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

(a) if they received last year from the Scindia Steam Navigation Company a request to quote for the carriage of 2 lakhs of tons of coal from Calcutta to Rangoon;

(b) if so, was the request granted? If not, will Government state their reasons for not granting it;

(c) have they entered into a contract for the carriage of coal and, if so, with whom, between what ports and at what rates?

The HONOURABLE MR. D. T. CHADWICK: (a) The Scindia Steam Navigation Company asked to be allowed to quote for the carriage of coal required by the Burma Railways.

(b) The freight contract was being arranged for the Railway Company by the Mining Engineer to the Railway Board. He was requested by the Government of India to give the Scindia Steam Navigation Company an opportunity to quote in the event of the contract not having been already arranged.

(c) Government have entered into no contract for the carriage of the coal referred to. The contract is a contract between the Burma Railways Company and the Steamship Company and the Government of India have no information regarding the full details of the contract.

REPORT OF RACIAL DISTINCTIONS COMMITTEE.

132. The HONOURABLE MR. PHIROZE SETHNA: Will Government be pleased to state when the report of the Racial Distinctions Committee will be published and what action they propose to take on any recommendations the Committee may have made?

The HONOURABLE MR. J. CRERAR: The Report has been published and the Honourable Member is doubtless by now aware of the action which Government propose to take in the matter in view of the introduction of the Criminal Law Amendment Bill in the Legislative Assembly.

TARIFF COMMITTEE (MACHINERY).

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

(a) if the committee appointed to consider the wording of the Tariff with regard to machinery has submitted its report and if the same will be made public;

(b) what are the principal recommendations, if any, and how and when will they be given effect to?

The HONOURABLE MR. D. T. CHADWICK: The report of the Machinery Committee has been submitted to Government, but as the recommendations contained in it will, if accepted, involve legislation and affect both the customs revenue, and the Budget, Government do not propose to publish the Report until they are in a position to place concrete proposals before the Legislature.

PAY OF POSTAL SUPERINTENDENTS.

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

- (1) whether any representations have been received from Superintendents of Post Offices complaining of the inadequacy of the revised scale of pay sanctioned with effect from December 1919;
- (2) if such representations have been received, whether the Director General of Posts and Telegraphs has made any recommendations for raising their pay and, if so, what action Government have taken or propose to take on such recommendations?

The HONOURABLE MR. B. N. SARMA: (1) Yes.

(2) The Government of India have given careful consideration to the representations and to the views of the Director General of Posts and Telegraphs and have decided that the scale of pay which was introduced with effect from December 1st, 1919, is adequate.

The HONOURABLE MR. PHIROZE SETHNA: Will they be given retrospective effect as from 1st April last?

The HONOURABLE MR. D. T. CHADWICK: That question is properly one for the Budget.

INDIANS AS STAFF OFFICERS.

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

(a) how many Indians at present hold not honorary but regular Staff appointments in the Indian Army such as (a) Staff Captains, (b) Aides-de-Camp, (c) Assistant and Deputy Assistant Directors of various services and departments;

(b) what steps are being taken for the appointment of more Indians to the position named in (a) in view of the gradual Indianisation of the military service?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) A statement giving the information asked for by the Honourable Member is laid on the table.

(b) The general principles followed in making appointments to the staff are that no officer should be so appointed (except as an A.-D.-C.) before he has attained the rank of Captain, and that before appointment an officer must also have passed the necessary examinations for retention in the Indian Army. Appointments of Assistant Director and Deputy Assistant Director are only open to officers of the rank and seniority of Lieutenant-Colonel and Major, respectively.

The majority of Indians holding the King's Commissions are young and at present have neither the requisite rank nor the qualifications. As Indian officers holding the King's Commission become eligible in both these respects their claims for employment on the staff will be considered along with those of British officers.

Statement showing the number of Indian officers (including officers with the Viceroy's Commission) employed on the staff in India.

	King's commissioned officers (Honorary).	Viceroy's commissioned officers.
A.-D.-Cs. to His Excellency the Viceroy	1	1
A.-D.-Cs. to General Officers Commanding-in-Chief, the four Commands	1	3
Attached to the General Staff Branch, Army Headquarters, as Assistant Translation Officer	...	1
Employed at Army Headquarters, in connection with educational training	...	1
Employed with each Command in connection with educational training	...	4
Employed at the Indian Army School of Education, Belgaum	...	11
Employed at the Prince of Wales' Royal Indian Military College, Dehra Dun	...	1
A.-D.-C. to His Excellency the Commander-in-Chief	1	...
TOTAL	3	22

MILITARY REQUIREMENTS COMMITTEE'S RECOMMENDATIONS.

136. The HONOURABLE MR. PHIROZE SETHNA: Will Government please inform if the sub-committee of the Committee of Imperial Defence have reported on the conclusions of the Military Requirements Committee and, if so, will Government be pleased to lay the report on the table?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The Sub-Committee of the Committee of Imperial Defence have reported to His Majesty's Government. The Government of India, however, have not yet received the Sub-Committee's report.

INTERMEDIATE CLASS ACCOMMODATION BETWEEN DHOND AND MANMAD.

137. The HONOURABLE MR. PHIROZE SETHNA: Are Government aware that there is no Intermediate Class accommodation in any of the trains running between Dhond and Manmad? Do they propose to take steps to provide such accommodation?

The HONOURABLE MR. D. T. CHADWICK: The Railway Administration has been consulted. Intermediate class accommodation will be provided on trains running over this section when bogie stock is available.

The HONOURABLE MR. PHIROZE SETHNA: When is that likely?

The HONOURABLE MR. D. T. CHADWICK: That depends on the carrying out of the rehabilitation programme of which it forms a portion.

NASIK BRANCH RAILWAY.

138. The HONOURABLE MR. PHIROZE SETHNA: Are Government considering the advisability of opening a branch railway line between the Nasik Road station and the city of Nasik?

The HONOURABLE MR. D. T. CHADWICK: The answer is in the negative.

INDIA OFFICE STAFF.

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

(a) the number of persons engaged at the India Office on the permanent staff as also the number on the temporary establishment;

(b) what is the total expenditure which India has to bear on account of the above;

(c) if the question of effecting retrenchment in the expenditure of the India Office is referred to the Inchcape Committee?

The HONOURABLE MR. J. CRERAR: (a) The permanent strength of the India Office on 31st March 1922 was 495. No information is available about temporary establishment.

(b) £161,500.

(c) Yes.

ESTABLISHMENT OF OFFICE OF HIGH COMMISSIONER.

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

(a) the number of persons engaged at the office of the High Commissioner for India in London on the permanent staff as also on the temporary establishment;

(b) what is the total expenditure which India has to bear on account of the above;

(c) if the question of effecting retrenchment in the expenditure of the office of the High Commissioner for India in London is referred to the Inchcape Committee?

The HONOURABLE MR. D. T. CHADWICK: (a) On the 21st September 1922, the staff of the High Commissioner in London consisted of 567 persons of whom 248 belonged to the permanent, and 319 to the temporary establishment. This includes messengers, labourers, packers, etc.

(b) The cost of the High Commissioner's office establishment including contingent and other expenditure for the year 1921-22 was £175,855 and the revised estimate for 1922-23 is £166,400.

(c) Yes.

INDIANS AT INDIA OFFICE.

141. The HONOURABLE MR. PHIROZE SETHNA: Will Government state—

(a) if there are any Indians on the staff of the India Office;

(b) if so, how many of them are on the permanent, and how many on the temporary, establishment;

(c) if not, whether they propose to recommend to the Secretary of State the desirability of appointing some?

The HONOURABLE MR. J. CRERAR: (a) Yes.

(b) There are three Indian Members of the Secretary of State's Council. The permanent Secretary to the High Commissioner is an Indian and an Indian has recently been appointed as High Commissioner. One of the Joint Secretaries of the Indian Students' Department is also an Indian.

(c) In view of the above, does not arise.

COST OF OFFICE OF HIGH COMMISSIONER.

142. The HONOURABLE MR. PHIROZE SETHNA: Will Government state if it is true that the cost of the office of the High Commissioner for India in London is more than that of the offices of Colonial Agents-General and High Commissioners?

The HONOURABLE MR. D. T. CHADWICK: The Government of India have no information as to the cost of the offices and staffs of the Agents-General and High Commissioners in London of the different Dominions.

The HONOURABLE MR. PHIROZE SETHNA: Will Government be good enough to obtain the same for purposes of comparison?

The HONOURABLE MR. D. T. CHADWICK: I doubt whether any of the Dominion Governments would care to have these details of their expenditure published, and I would never undertake to do so without their permission.

TERRITORIAL BATTALIONS.

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

(a) what progress has been made in enrolment for the Territorial battalions in each province, and whether the University Training Corps and the Territorial Battalions have been recruited to their maximum strength;

(b) if the answer to the latter part of the question be in the negative, what steps do Government propose to take to popularize enrolment for the Territorial Battalions;

(c) if the answer be in the affirmative, do Government propose to sanction the formation of additional Territorial Battalions?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) A statement showing the progress achieved up to the 31st December 1922 is laid on the table.

(b) The statement laid shows that, although the maximum strength has not yet been reached in all cases, recruitment is, on the whole, very satisfactory; and from other sources of information also Government are satisfied that the movement is already popular and requires no special stimulus.

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(c) The question of further expansion of the Territorial Force is at present under consideration with reference, among other things, to the amount of funds which can be provided in the Army Estimates for 1923-24.

Indian Territorial Force.

Unit.	Province.	Date of constitution.	Authorised establishment.	Enrolled strength, 1st Jan. 1923.
11th Battalion, 2nd Bombay Pioneers	Bombay	11-3-22	738	731
12th " " " "	"	15-4-22	738	738
11th " 1st Punjab Regiment	Punjab	5-8-21	738	663
11th " 3rd Madras Regiment	Madras	5-8-21	738	628
12th " " " (Malabar)	"	21-1-22	738	727
13th " " " " "	"	11-3-22	738	738
14th " " " " (Coorg)	Coorg	11-3-22	738	550
11th " 5th Mahratta Light Infantry	Bombay	5-8-21	738	142
11th " 7th Rajput Regiment	U. P.	5-8-21	738	721
12th " " " " "	"	11-3-22	738	694
11th " 9th Jat Regiment	"	11-3-22	738	650
11th " 12th Frontier Force Regiment	N.-W. F. P.	11-3-22	738	...
11th " 13th " " "	Punjab	5-8-22	738	693
11th " 14th Punjab Regiment	"	11-3-22	738	738
11th " 15th " " "	"	5-8-21	738	715
11th " 17th Dogra Regiment	"	11-3-22	738	200
11th " 18th Royal Garhwal Rifles	U. P.	11-3-22	738	394
11th " 19th Hyderabad Regiment	Bengal	5-8-21	738	735
11th " 20th Burma Rifles	Burma	5-8-21	738	879
11th " 6th Rajputana Rifles	Ajmer-Merwara.	11-3-22	738	195
TOTAL			14,760	11,531

University Training Corps.

1st (Bombay) Battalion	Bombay	5-8-21	640	652
2nd (Calcutta) " "	Bengal	5-8-21	640	509
3rd (Allahabad) " "	U. P.	5-8-21	640	269
4th (Lahore) " "	Punjab	5-8-21	640	430
5th (Madras) " "	Madras	5-8-21	640	640
6th (Burma) " "	Burma	5-8-21	640	419
TOTAL			3,840	2,879

Note.—No enrolments have yet been made in the North-West Frontier Province Battalion or in the Patna and Benares Companies of the University Training Corps.

DISSATISFACTION ON THE NON-APPOINTMENT OF INDIAN GOVERNOR.

144. THE HONOURABLE MR. PHIROZE SETHNA: Are Government aware that the non-appointment of an Indian as Governor of a Province after the resignation of Lord Sinha is considered as a reactionary step by the people of India and has caused considerable dissatisfaction?

THE HONOURABLE MR. J. CREER: Government are aware that criticisms in the sense indicated by the Honourable Member have been made.

THE COTTON TRANSPORT BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to provide for the restriction and control of the transport of cotton in certain circumstances, as passed by the Legislative Assembly, be taken into consideration."

When this Bill was introduced into this House last September, it received a very good welcome. It was supported by the Honourable Mr. Lalubhai Samaldas on behalf of the industrialists, and it was also welcomed by my Honourable friend Sir Umar Hayat Khan in a speech which I think ought to become a classic on account of its cogent brevity. He said, "On behalf of the Zemindars I support this measure because it is very useful to us." That is the reason and purpose of this Bill. It is very useful to the industrialists and it is very useful to the agriculturists. It is a small and modest measure to try and promote fair and honest trading and to check certain malpractices in regard to cotton and the sale of cotton, with which most of us are familiar. This mixing or adulteration generally takes three or four forms—mixing with mill waste, or sending cotton from a short staple locality into an area where that of longer staple is grown and re-booking it from that area or, thirdly, actually sending it as *kapas* or seed cotton into the area of superior variety. This last is the more dangerous as it results in the mixture of seed and therefore in the steady degradation and deterioration of the local cotton. This is no exaggeration; this has been frequently proved by facts; Broach, which was our standard of best length staple cottons, has now during the last few years been at a discount, as compared with other staple cottons, of about 10 to 15 or 18 per cent., entirely due or mainly due to mixing. This Bill operates through permitting Local Governments to notify areas which they consider so to need protection. Every safeguard is made to prevent any arbitrary exercise of that power. The Bill can only be brought into force by a direct Resolution passed in the local Legislative Council and all notifications under it must also be communicated to the local Council. No Government or local Council which does not care to use this Bill need use it. The method by which it is expected to try and check this mixing is to prohibit, except under license, the transport or booking of cotton from areas of short-staple cotton into the notified tract. I would like to remove one possible misapprehension. There is no suggestion in the Bill that the station master at the receiving station will be required to distinguish between different varieties of cotton. If a consignor brings in cotton, it will not lie on the station master to decide whether it is *Bani* or *bari* or *Oomra* or *Cambodia* or any other variety of cotton. All he has to see is whether the consignor has a license for the despatch of cotton to the notified area. The House will thus, Sir, see that the Bill is simple and will be simple in its working. Every precaution has been taken to prevent its being unduly onerous and its object is to help fair and honest trading, and, as has been so admirably expressed by my Honourable friend, it should be useful to every one of us. With these words, I commend this Bill to the attention of the House.

THE HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): Sir, I rise to give my very cordial support to this motion. I am one of those who feel that the Bill is far too modest a measure considering the harm that has been done to the Indian agriculturist growing cotton till now. What has happened till now and what

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[Mr. Purshotamdas Thakurdas.]

is happening even at the present time is that people—I mean the middlemen and merchants—buying short staple growths can, and do with impunity use the railway for the purpose of carrying such short stapled lint cotton to districts where *kapas* or long-staple cotton is grown. It is mixed there with the long stapled cotton or *kapas* grown in the district. The bales are marked with the press mark of that district in which long staple cotton is grown, and the result has been that Indian cotton has been steadily going down in the estimation not only of the Indian mill-owner, but also of the importer outside India, namely, of the spinner in Great Britain, Europe and Japan. A good deal of the deterioration in the good name of Indian cotton till now can be traced to the want of this very simple precaution against such fraud, a precaution which I am very glad to see, the Government of India after all now propose to take. I do not think that this measure is a day too early. I do not think it will be of any practical use to complain that it has been much too long kept back.

I have been tempted to speak owing to one remark that fell from my Honourable friend Mr. Chadwick. The Bill is a permissive measure, and perhaps very rightly so. Owing to the powers that have been vested in Provincial Governments, and owing to the free hand which it is very desirable to give to the Provincial Governments, I do not at all wish to differ from the underlying principle of the Bill that it should be left to the option of the Provincial Governments and Provincial Councils to introduce this measure. But the Honourable Mr. Chadwick said that no Government or rather Local Government which does not care to introduce this measure need use it. I am sure the Honourable Mr. Chadwick will not mind if I supplement his remark with an appeal to the Provincial Councils not at all to overlook to use this Bill as soon as possible after it is passed into law. I have been connected with the cotton trade for the last 22 years. I belong to a class which rightly has been run down for some of the malpractices which ought to be forbidden, and I think it is absolutely necessary that every Provincial Government and every Provincial Council which has anything at all to do with the growth of cotton, should introduce this measure in their province as soon as it becomes law here, and they should not allow these practices to go on for a single day more. I wish to put before the Council one or two simple examples. The Surat district, which grows the longest staple and perhaps the best known cotton in India known as Navsari cotton; for the last few years some merchants import there a short staple growth of cotton known as Matia Cotton from Kathiawar. And this is being mixed in the Surat and Navsari Districts most flagrantly without any hesitation, and indeed without any legal restraint, with Navsari and Surat cotton. The latter would ordinarily sell at about Rs. 450 to Rs. 500 a candy and Matia at Rs. 200 a candy. The result of this has been that the value of Surat and Navsari cotton has gone down and the loss has been to the cultivator. I can multiply such instances as long as the Council may wish to listen to me, but I have only given perhaps one of the worst instances, an instance which is neither imaginary nor disputable by anybody who knows anything about the cotton trade or about cotton cultivation. I do wish therefore that all Provincial Governments which have anything to do with cotton growing or cotton marketing will see that this Bill, when it becomes law, does not become a dead letter as far as their province is concerned.

I attach the very greatest importance to this measure as it will prevent short staple cotton from distant places from going into districts where long

staple cotton is grown. I feel, Sir, that no amount of money which the Government of India may spend, either out of their own revenues or out of the recoveries that they may make hereafter by means of a cess on cotton, on technological research or agricultural research for the growth of better cotton, will be able to keep pace with the deterioration that will be entailed by the practice of allowing cotton being carried with impunity from one district to another for the simple purpose of mixing and committing a fraud on the cultivator, and, what is comparatively a minor matter to me and I am sure to this House as well, committing a fraud on the industrialist; for, after all, it is the industrialist who can and does pick and choose and who pays just an adequate price for the cotton offered to him. The main loss which this House aims at preventing in considering a measure like this is to the agriculturist, and therefore I feel that this House should not only pass this Bill but that all Provincial Governments and Provincial Councils which have anything to do with the growth of cotton should avail themselves of this very simple and elementary preventive measure without the slightest delay.

I wish that some Local Governments will send up to the Government of India within the next year or two their experiences as to how this measure is wanting in meeting some of the tactics and some of the worst methods of some people who have been accustomed to commit frauds for the last half a century. I hope, Sir, that the Government of India will attend to such suggestions with as little delay as possible. I strongly feel that the modest form in which this measure has been submitted to this House deserves the fullest support of every Member of this House.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, the object underlying this Bill is a laudable one and, as has been pointed out by the Honourable Mover, it will benefit both the agriculturist and the manufacturer. But my view is that it is a very tame measure. No attempt has been made to approach the cultivator himself. There is no inducement or threat for him in the Bill to abstain from growing different kinds of cotton side by side within the prohibited area. This will give the cotton ginners an opportunity to mix within that area inferior cotton with superior one. The Bill is wanting in these two things, and so I submit it is a very tame measure but as it is a step in the right direction, I give it my support. I will not dilate upon the hardships that are apparent in the Bill; for instance, the Bill throws so much responsibility upon the poor station master and gives him very large discretion in the matter of refusing to import certain kinds of cotton. I will not dilate upon those hardships, because in the presence of clause 8 the Bill is a mere expression of opinion and the local Legislatures will be at liberty to modify the Bill according to their own circumstances. I therefore support the Bill.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I merely waited to see what my friend Chaudhri Lal Chand was going to say, and that is why I did not speak before. I am very glad that he supported this Bill. I am also a cotton grower, and I have found by experience that if one places on the market unadulterated cotton he gets the best price for it. I have seen that myself, and we who grow cotton all feel that the best thing is not to commit a fraud by mixing various kinds of cotton. I therefore support the measure very strongly.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, as a member of the Bombay Millowners' Association and as one representing the cotton industry in which I have been interested

[Sir Dinshaw Wacha.]

For the last fifty years, I cordially welcome this modest measure which has been introduced by Government. I think it is essential that this measure should be introduced. In my own experience I have found that during the last 10 years or more there has been a good deal of complaint on the part of the mill-owners themselves who are the largest consumers of cotton in all India as far as Bombay is concerned in reference to the deterioration of first grade descriptions of cotton. I am sure that the Bombay Mill-owners' Association as well as the agents of the various cotton mills will also welcome this very excellent measure. Further, I associate myself with what has been said by the Honourable Purshotamdas Thakurdas that the provincial Governments will take this Bill into consideration, at any rate in those provinces where cotton is grown most. Practically speaking, these people are unconscious that they are fouling their own nests when they try to adulterate one kind of cotton with another. It only results in giving a bad name to Indian cotton and depreciates its economic value. As a matter of fact, I should say that Indian cotton trade ought to expand more and more, especially when we see America is able to export cotton to Lancashire less and less every year. I think that in the near future Lancashire will have to look more to India than to any other country for her cotton supplies, and if Lancashire imports cotton from India extensively that would be a gain to India in one way and another, and we shall benefit from the point of view of exchange. Those people who adulterate cotton are very short sighted, but once they come to know this state of things, matters will improve and, perhaps, a few examples will do a great deal of good.

As to research, I welcome that, because I think that, as far as research is concerned, we are very backward in India in all kinds of research, and particularly economical researches of this kind. All I have to say is that, if research is to go on, let it be actually of a practical kind which will make a substantial improvement in the quality of the cotton that we grow. I say this for the simple reason that research institutions, so far as I have had experience of and know them, do this. The Professors try to leave everything to the students

The HONOURABLE THE PRESIDENT: I am sorry to interrupt the Honourable Member, but I do not think the question of research arises on this Bill.

The HONOURABLE SIR DINSHAW WACHA: Very well, Sir, I will not say anything more on the subject, but, as a Member of the Bombay Mill-owners' Association, I have said a great deal about this cotton research work, because Government asked for our opinion on the subject. However, Sir, as you say this question does not arise on the Bill, I will refrain from saying anything more about it, but I do cordially welcome this Bill.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, after the cordial support which has been extended to this Bill by the previous speakers, it is hardly necessary for me to say more, and yet, if I do so, it is to answer one point which fell from my Honourable friend Lieutenant Rao Bahadur Chaudhri Lal Chand. The Honourable Member is of opinion that the Bill does not go far enough inasmuch as, whilst cotton cannot be exported from a particular station which is not grown there, there will be nothing to prevent the owner of a gin from importing cotton and mixing inferior cotton with superior cotton in his own gin and then exporting it under the name of the station from which he exports. I

may draw the attention of the Honourable Member to section 3 (1) of the Act which clearly lays down that it is only under a license that the owner of a gin or any one else can import cotton of a lower quality or any other quality than that which is grown in that district. Take the instance of Navaari

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: I think I have been misunderstood by the Honourable Mr. Sethna. I never meant that the cotton ginner will be at liberty to import inferior cotton from outside. I did not mean that. I meant that the cotton growers will grow cotton of several qualities, both inferior and superior, within that area and the cotton ginner within that area will be at liberty to purchase both the qualities and they will mix them there.

The HONOURABLE MR. PHIROZE SETHNA: That is a different matter altogether. It is the duty of every *rayat* to try to improve the quality of his cotton and he will not, if he can help it, grow inferior cotton. I am glad he has explained the point, and I see that he has understood section 3 (1) in the manner that the rest of the House has understood it.

I agree with the other speakers that to Indian cotton should be restored the name that it possessed in times gone by. For example, if any Liverpool purchaser bought Broach or Oomras in the past, he always knew that he was getting Broach or Oomra, but, because of the fraudulent practices resorted to in the different Presidencies during the last few years, Broach to-day is not always Broach, but it might be Khandesh or anything else. The same might be said of Oomra cotton. This Bill will remove that, and we hope that the foreign purchaser will in future know that what he buys as Broach is really Broach and nothing else. This will restore the good name of the Indian merchants and benefit the country itself.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): I too most cordially welcome this Bill. I do not think it wants any words from me to recommend it to this Council. The speakers before me have explained the benefits which it will bring to the cultivator, the agriculturist and the cotton trade generally. I will therefore merely content myself with endorsing the final remarks which fell from the lips of my Honourable friend Mr. Purshotamdas Thakurdas and I trust that Government and the Commerce Department will watch the action of this Bill and its effect very closely for the next few years, and, if the effect of the Bill is not sufficient to put an end to these fraudulent practices, that they will consider bringing in another and an even more stringent measure.

I think that this Bill is one of the greatest importance and that its full weight should be felt.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I also heartily welcome this measure which I consider a very good and a very beneficent one both for the agriculturist and for the industrialist. I support it as a cotton grower and as an industrialist. In the Punjab the practice of mixing short staple cotton with comparatively longer staple cotton does not exist, and the Punjab, I am glad to say, has always, as far as my knowledge goes, been free from this evil. In my province where we are growing cotton of the longer staple now, there is a danger of an inducement towards this evil, and as a safeguard against it this measure should be universally welcomed.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, as a

[Khan Bahadur Nawab Mohamed Muzammil-ullah Khan.]
cotton grower and a humble dealer in cotton, I support and welcome this measure.

The HONOURABLE MR. D. T. CHADWICK: I do not think I have anything more to say, Sir, except to thank the House very much for the cordial reception which it has given to this Bill.

In order to remove the apprehensions of the Honourable Sir Dinshaw Wacha I may say that I understand that in the notified areas Local Governments are not going to rely on this Bill alone but intend to pursue an active policy of distribution of good seed within the area.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to provide for the restriction and control of the transport of cotton in certain circumstances, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill. We will reserve the Preamble, as usual, to the last.

Clauses 1, 2 and 3 were added to the Bill.

Clauses 4 to 9 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

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

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Sir, the Honourable Mr. Chadwick has given an assurance that side by side with this Bill there will be active propaganda for distributing good seed and that will meet the case. I only wish to submit that we require not only good seed but something else. The reason why cotton growers are tempted to grow short staple cotton although it fetches less price than the other one is this. Short staple cotton, generally known in the Punjab as *desi* cotton, takes a shorter period to ripen than the long staple cotton. It never competes with the wheat crop, whereas for the long staple cotton we require water just at the time when we require water for the wheat as well—say, in the months of April and November; so unless there is a guarantee in those areas that more water will be supplied, people will be tempted to go in for short staple cotton in spite of the fact that propaganda will be carried out to distribute good seed.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I just rise to say one thing. I think that all those who grow cotton will never grow Indian cotton, as though it gets water first, at the end we lose by it owing to its outturn. As to the seed, I think everybody who seeks his own benefit naturally gets the best seed. There are some people who make mistakes of course. Then again there are so many projects for canals that in these days all the zamindars are in great trouble. Whenever it is time for growing cotton, there is some *wara bandi*—that is, the canal is closed. When the canal is closed, water does not come in time and people are naturally unable to grow long staple. At the same time I do not think November is the time, but generally as we call it "*Chait*"—I think in March. Up to that time we are safe and I think there will be no difficulty in growing it when the people want to do so.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I support this motion. As I understand it, it is intended to provide against adulteration. Adulteration is a great evil in this country in the case of a number of articles, and if it is prevented in the case of cotton, both producers and consumers are bound to benefit by any measures of prevention that will be taken.

Some of my Honourable friends here have dilated upon the necessity of adopting measures for the growth of better varieties of cotton, and the supply of irrigation, manures and so forth. It is no doubt true that these measures for the prevention of adulteration and improvement in the varieties of cotton must go hand in hand; but I do not think there is any useful purpose served, Sir, by mixing up these two issues. What we are concerned with at the present moment is the question of the evil of adulteration. For example, when we are attacking the problem of the adulteration of the milk supply, we have no doubt to consider the question of the production of milk and also the supply of good water which is mixed up with that milk. The evil of bad milk has been so great that even the water which has been put into that milk is so bad that the consumers would be thankful if that water were to be improved. However, that is not the evil with which we are dealing in the case of this Bill. We are only trying to take steps for the purpose of preventing adulteration. For these reasons, Sir, I support this motion.

The motion was adopted.

THE CANTONMENTS (HOUSE-ACCOMMODATION) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

"That the Bill further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments, as passed by the Legislative Assembly, be taken into consideration."

The Bill was introduced in the Legislative Assembly last March and in September last was referred to a Joint Committee of the Legislative Assembly and of the Council of State. The Bill embodies certain recommendations of the Cantonment Reforms Committee and its main object is, whilst retaining the power of the military authorities to appropriate houses in cantonments for the use of military officers, to safeguard the rights of house-owners and to secure a fair rent and equitable conditions of tenancy of such houses. The principle of the Bill is one which, I am sure, will commend itself to the Honourable Members of this Council, and I do not propose to detain the House with any further remarks regarding it.

Sir, I move that this Bill be taken into consideration.

The HONOURABLE KHAN BAHADUR IBRAHIM HAROON JAFFER (Bombay Presidency: Muhammadan): Sir, with your permission, I shall like to say a few words, about the Cantonment House Accommodation Bill, that has just been presented, to this House, in the form, in which, it has been passed, in the Legislative Assembly. I have been associated, with the framing of the Bill, since its very inception, and I recognise, that the present Bill, is a great step forward, in safeguarding the interests, of house-owners in Cantonments, but when I examine the Bill, in the light of the recommendations, of the Government of India Representative Cantonment Reform Committee, on which, it is based, I find, that, the Bill is incomplete and

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essentially defective, in one or two matters of principle, which, I am afraid, will seriously hamper its efficiency, in practice.

Sir, one of the chief recommendations of the Cantonment Reform Committee is, that the new Cantonments House Accommodation Act should be the only law, governing house property, in cantonments. At present, the house-owners, in cantonments, do not know what the exact law is, to which, their house-property in cantonments is subject. There is the Cantonments House Accommodation Act of 1902, the Army Regulations, the Cantonment Manual and Executive instructions, in form of Circulars. The house-owners had hardly any access to the last three, which are, the exclusive manufacture of the Army Department. This amplification, of the Cantonments House Accommodation Act of 1902, has virtually thrown the Act itself in the back-ground, and the local Military authorities have, in the past, been guided, more by this Executive amplification, than by the Act. I am sure, that it is no exaggeration to say, that, most of the grievances of the house-owners in cantonments, at present, are due to the fact, that there are so many adjuncts to the Act, all seeming, to have the force of law, in their application to cantonment house-property, a sealed book to the house-owners, and yet, so persistently applied, at every step, to their great harassment and trouble. Sir, this indefiniteness and multiplicity, of the house-property law in cantonments, and its consequent interference, of an absolutely and unwarranted character, with the rights and interests of house-owners, was prominently brought, to the notice, of the Cantonment Reform Committee, which after giving its full consideration to the subject, recorded an unanimous and emphatic recommendation, that there should be one, well-defined law, applicable to the house property, in cantonments, and, that the Government, should embody, in the new House Accommodation Act, all that it thought to be necessary and fair, in the Army Regulation, and other departmental instructions. The new House Accommodation Bill, now before the House, was expected to be a complete and self-contained law, regarding house-property in cantonments. But I find, that it is not so, and therefore it is, that I characterise it, as *essentially defective*.

As I said, the Cantonment Reform Committee, was quite positive and clear, in its recommendation, on this subject. We find on page 9 of its printed Report:—

" 16. At the outset, we found, that certain executive directions, from Army Headquarters, which involved the extended application of existing law, have been issued to Cantonment Authorities. This is not, in our opinion, legal procedure. We consider, that no direction, either expressed or written, involving the extended application of existing law, should issue, from Army Headquarters, or any other military authority, in the form of orders, but, that when, necessary, the rule should be amended, as provided for, in the Cantonments Act."

Again on page 10, the Reform Committee urges the same view:—

" 18. At the preliminary examination of the Act it was brought prominently to our notice, that, besides the House Accommodation Act, there were other regulations, dealing with house property in cantonments, namely, Army Regulations, India, Volume II, Appendix IV. The Army Regulations, we hold, are only directions and orders of the Commander-in-Chief, which have no force of law. There seems to be, we think, considerable ground, in the representation of the All-India Cantonments

Association, that Army Regulations, cannot be legally applied to house-owners in cantonments, in the case of the veto of sale or transfer of house-property, nor we think, can they apply to other matters, pertaining to immoveable property."

" We recommend, therefore, that all references to sites and buildings, should be deleted entirely from Army Regulations and, such, as are necessary, should be embodied in the House-Accommodation Act. Though, it is in all probability, correct to presume, that rules, relating to sites, granted under Army Regulations, India, have still force, as regards houses which were subject to them originally, we are of opinion, that those rules would be better embodied, in an appendix to the Act, and thus, made a legal instrument. It is, therefore, our unanimous recommendation that the House Accommodation Act, should be made the only legislation, relating to house property in cantonments."

I quite realise, that, as stated in the Report of the Joint Select Committee, the Government has conveyed an assurance, that such rules and regulations, as are inconsistent with the Act, will be rescinded, and, that those, which are thought to be necessary, will be appended to the Act, in the shape of rules, which the Act empowers the Government to make, provided they are not of confidential character. I submit, Sir, that even this assurance, though, it will mend matters, to a great extent and make the present confusion, less harassing, does not meet the requirements of the case, and, does not take full cognisance, of the recommendations, of the Reform Committee. The Committee had before it, sufficient material, where illegal leases were demanded and taken, by force, from the cantonment residents, for "land" already in their possession, for a long time, sales of houses were prohibited, under the provisions of these confidential or departmental regulations. It was, as a result of their careful examination of those cases, that they recorded the opinion and the recommendation, quoted above. There was ample time before the Government, to go through these regulations and rules, and to incorporate such of them, as were needed, into the Act. In such a case, these would have seen the light of day, undergone the critical examination, of both the Houses of the Legislature and worn the dignity of "law".

I regret, that, this has not been done, and the present Act in no way, brings the affairs, out of the old muddle. I don't see why such regulations, should be at all *confidential*, and why the house-owners should not know the rules, that govern the sale, the maintenance, and the renting of their houses.

Sir, I do not wish to oppose the passing of the Bill, by the House. I have referred to this one point, at length, in the hope, that the Government, will see its way, of declaring, all such executive rules and regulations, null and void, as far as they relate, to house-property in cantonments. But, if the Government in overhauling these rules, finds, that it is necessary to retain some, I would urge, upon the Government, the desirability of laying the same before the Legislature, later on, as an appendix, to some amendment, of the Section, bearing upon the subject. If this is done, the public fear, on this score at present will be allayed to a great extent.

I, also find, Sir, that the Act, does not define the *basis*, for the determination, of the rent of houses, in cantonments. The majority of the Cantonment Reform Committee, recommended a *basis* specified on pages 14 and 15 of its printed Report. In my note of dissent to the Report, I have advocated 10 per cent. of the present market value of a house, as a fair basis. Even now, the rent is determined by some Cantonment Authorities

[Khan Bahadur Ibrahim Haroon Jaffer.]

on this basis, and, yet, the general complaint of the house-owners is, that the house rent is not adequate. The fact is, that the maintenance of "houses" in cantonments, to the liking and tastes of military tenants, is a heavy bill of charge. I have no desire, to move an amendment about this matter, as I am sure that the Government will define the basis, in the rules, it frames to carry on, the purposes of the Act. I am quite sure, that the Government, will give its full consideration, to the recommendations of the Cantonments Reform Committee, that the rents of the cantonment houses, are inadequate; and need immediate revision.

There is yet another important matter which the Act does not deal with, and, which has obviously been left, to be dealt with in "rules." Under the new Act, the Government will take over, only limited number of bungalows, according to its requirements, on 5 years repairing lease, what will be fate of the rest, is not stated. The Army Secretary to Government of India, gave an assurance in the Select Committee; which assurance, I understand, was also given by him in writing to the All-India Cantonments Association, that the owners of those Bungalows, which are not appropriated under the Act, would be free to use them, in any way, they liked. Some pronouncement on the point, from the Government is absolutely essential. The House is aware, that the Bungalows in cantonments, have been built, at the express desire of the military authorities, for the comforts, of the military officers, and, one would expect, that under the circumstances, the Government should give, every possible facility, to the owners of the surplus houses in cantonments, to use them, for non-military purposes.

I trust, Sir, that the Government will give its best consideration, to these aspects of the subject, dealt with in the Act, as to ensure, equal regard to the interests of the house-owners. I beg the Government, to remove the shortcomings, in the Bill, by the rules, it subsequently passes. I shall not detain the House longer, nor delay the passing of the Bill as there has already been considerable delay, in bringing this one fragment of the Cantonment Special Law to the Legislature. The public, is impatiently waiting for this, and the important Cantonment Legislation, that is yet to come, which in fact, will determine the character of the future civic administration of cantonments.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I will admit at the outset that this Bill will bring about some improvement in the existing state of affairs, but I agree with the previous speaker that it does not go far enough. I might explain to the House that my experience of Cantonment Rules is limited only to the Cantonment of Poona, and it is in view of that experience that I propose to make a few comments on some of the sections of the Bill which unfortunately I have not had the opportunity of reading before now, for I saw it for the first time when I entered the Council hall this morning. Sir, in section 11 it is stated that "if a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the Commanding Officer of the Cantonment within twenty-one days from the service of the notice." Now I would like His Excellency the Commander-in-Chief to explain if by "a house being unoccupied" he means a house in the occupation of an owner would be also included.

The HONOURABLE THE PRESIDENT: Would it not be more convenient to raise this question when the detailed consideration of the Bill

is taken up. I see the Honourable Member is not opposing the motion that the Bill as passed by the other House be taken into consideration.

The HONOURABLE MR. PHIROZE SETHNA: I will accept your suggestion, Sir, and I withhold my remarks for the present.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I strongly support this measure. There are, however, two sides to every question. The country has to pay for the army, and if we see it broadly, the army is for the safety of the country. I think the Joint Committee on Cantonments House Accommodation Act have framed the rules very wisely and carefully. But, Sir, there is another side to the question also, and that is this. If the rents are raised, who will pay the increased rents to the officers? It is the country itself. So I think this is a very good measure, and if houses in Cantonments are meant for the occupation of army officers, I think there should be some restrictions on the house owners. Sir, I cordially support this measure.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to endorse most of the views which have been so ably expressed by my Honourable friend Khan Bahadur Haroon Jaffer. I had the honour of serving on the Joint Committee, and the assurance that was given to us there by the Army Secretary was very gratifying. As far as I understood him, he assured us that all the military rules and regulations and orders which went against the spirit of the present Bill would be rescinded and cancelled. Sir, we consider that this is certainly an advanced measure, and we are thankful to the Military Department for having acceded to the general wish of the Joint Committee. The Joint Committee also expressed its thanks to the Army Secretary for conceding a great many of the points raised by us. Undoubtedly there are certain things which require mending, and which we hope will in time be mended. Sir, I give my support to this Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I do not think I need add anything more to the remarks I have already made.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: We will now proceed to the detailed consideration of the Bill. We will reserve the Preamble as usual.

Clauses 1 to 11 were added to the Bill.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I seek some enlightenment from the Honourable Mover His Excellency the Commander-in-Chief with regard to clause 11. This Clause provides that a notice can be issued in respect of a house that is unoccupied. Now, Sir, as the Honourable Khan Bahadur Haroon Jaffer has told us, it was at the request of the military authorities that houses were put up in these Cantonments, and there are several owners who have built houses for themselves to live in. Some of these owners stay there for only a few days in the year—may be a month, may be a fortnight or may be for week-ends. The houses are furnished but looked up

[Mr. Phiroze Sethna.]

for the greater portion of the year when owners are away. May I know from His Excellency the Commander-in-Chief if such houses will be considered as unoccupied, if the owners choose to stay there for only a few days in the year? For, if that be so, it will be a great hardship on owners who have no intention to rent their houses but keep them for their own use.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, with His Excellency the Commander-in-Chief's permission, in so far as the legal interpretation of this clause is concerned, I propose to answer the inquiry made by my Honourable friend Mr. Phiroze Sethna. If Honourable Members will turn to clause 5 of the Bill, they will see that

"every house situate in a Cantonment or part of a cantonment in respect of which a notification under sub-section (1) of section 3 is for the time being in force shall be liable to appropriation by the Government on a lease in the manner and subject to the conditions hereinafter provided."

It will be seen from the phraseology adopted in this clause that every house situated in the Cantonment is liable to appropriation. Whether the house is occupied by the proprietor himself or by a tenant of that proprietor or by any one else on behalf of the proprietor is immaterial. As soon as the military authorities require a house, and the provisions embodied in clauses 6, 7, 8 and 9 have been complied with, it is open to the military authorities to require the occupant or the owner, as the case may be, to vacate the house within the period specified. So that it is immaterial whether the house is occupied by the proprietor or by any one else on behalf of the proprietor. Whether the proprietor is in actual possession or whether he has got his furniture there and has locked it up is immaterial for the purposes of the Bill. He will be required to vacate it within the period specified in the notice, if the military authorities require the house for their own purposes, and if the provisions laid down in the preceding clauses have been duly complied with.

The HONOURABLE MR. PHIROZE SETHNA: I repeat, Sir, what I have already stated that it is a positive hardship on owners of houses. People have been invited to put up houses in Cantonments and out of say 100 houses, perhaps 5 or at most 10 might belong to persons who like to keep the houses for their own use and not rent them. To compel them to give up these houses at the whim and caprice of the military authorities really gives cause for such complaints as were referred to by the Honourable Mr. Haroon Jaffer. I do hope that at a later date, when this Bill is revised, this hardship will be removed.

Clauses 12, 13 and 14 were added to the Bill.

The HONOURABLE MR. PHIROZE SETHNA: In regard to clause 15, I find that, when a rent is offered and the owner is not satisfied with it, he is given the option to appeal to a Committee of Arbitration. What I want to point out is that the section does not provide for any basis upon which the Committee of Arbitration will proceed to decide such rent. I see in section 27 where the value of a property to be acquired by Government is to be considered, that a basis is given, and I should feel obliged if His Excellency the Commander-in-Chief will explain if it is possible to have the same basis upon which the Committee of Arbitration will proceed to determine the rent.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The Committee of Arbitration is provided for in order to settle whatever differences there may be as between the landlord and the tenant. The Committee of Arbitration, as you will see, has two representatives each of the landlords and tenants, with an independent Chairman. If the parties are not satisfied with the Arbitration Committee, they can then refer to a legal tribunal; but we have endeavoured in every way to give the best possible chances of bringing about agreements based on justice and equity as between landlords and tenants. That has been our object.

Clauses 15, 16, 17, 18, 19, 20, 21, 22 and 23 were added to the Bill.

The HONOURABLE MR. PHIROZE SETHNA: Sir, in regard to clause 24, I find in sub-clause (2) that the District Magistrate is empowered to issue the necessary processes for the attendance of witnesses, *et cetera*, but it is not provided in the section as to who will call upon the District Magistrate to do so. I would inquire of His Excellency the Commander-in-Chief if he does not think it necessary to put in words to some such effect as "on requisition in writing, signed by the Chairman of the Committee," because, as the section stands, it is not stated who is to ask the District Magistrate to do this.

The HONOURABLE THE PRESIDENT: That is almost in the nature of a drafting amendment. I do not know if the Honourable Member asks for permission to move it. It is open to His Excellency the Commander-in-Chief to take the objection that notice has not been given, but it appears to me to be a pure drafting amendment.

The HONOURABLE MR. PHIROZE SETHNA: Sir, I only got this Bill when I entered the Council Chamber this morning.

The HONOURABLE THE PRESIDENT: I understand His Excellency has no objection to its being moved.

The HONOURABLE MR. PHIROZE SETHNA: Then I move, Sir:

"That in section 24 (2) after the words 'the District Magistrate' the following words be inserted, namely:

'on requisition in writing signed by the Chairman of the Committee'."

The HONOURABLE THE PRESIDENT: Amendment moved:

"That after the words 'District Magistrate' the words 'on requisition in writing signed by the Chairman of the Committee' be inserted."

That amendment is now open to debate and that amendment only.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I would like to second the amendment which has been moved by my Honourable friend Mr. Sethna. This will certainly improve drafting and it has therefore my cordial support.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I oppose this amendment, because generally the District Magistrate is a Civilian who knows the law better; and if it were left to any Cantonment people, perhaps

The HONOURABLE THE PRESIDENT: I do not think the Honourable Member has apprehended the purport of the amendment.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: But I oppose the amendment all the same.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, we are prepared to accept that amendment if the Honourable Member desires it.

The motion was adopted.

Clause 24, as amended, was added to the Bill.

Clauses 25 and 26 were added to the Bill.

THE HONOURABLE MR. PHIROZE SETHNA: Sir, in regard to clause 27 I may draw the attention of the House to the fact that when new cantonments are opened, Government give land free and invite capitalists to put up houses. At that time, the value of the land is next to nothing. But after a number of years, that land does acquire value. I again refer to my experience of Poona where I say properties in the cantonment have changed hands at prices which provide for the value of land. Suppose a property is sold for Rs. 30,000 and the purchaser reckons that he is paying Rs. 15,000 for the property and Rs. 15,000 for the land. Now, according to clause 27 if Government choose to acquire a property they will only pay him the value of the house but not pay him anything for the value of the land. This condition would have been quite all right in the early days when a new cantonment was opened. But in large cantonments where land has acquired value by reason of the fact of more houses having grown up in the vicinity, etc., it is not fair to pay the man whom you deprive of his property for the value of the house and not pay him for the value of the land, for which in nine cases out of ten the man himself has paid a value.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, surely this is a matter for settlement as between purchaser and purchasee. In the event of their not being satisfied as to the price to be paid, quite irrespective of whether it is the value of the land or the value of the house, the matter is referred to a Committee of Arbitration who adjudicate as to what is an equitable price.

THE HONOURABLE MR. PHIROZE SETHNA: It is only said "the value of the house"; there is nothing about the value of the land.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Still it is referred to the Committee of Arbitration in the event of disagreement.

THE HONOURABLE MR. PHIROZE SETHNA: May I point out, Sir, that the section clearly lays down that only the value of the house is to be paid. No Committee of Arbitration could therefore pay for what is not stated in the section—the value of the land.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: But the land in a cantonment belongs to the Government.

THE HONOURABLE THE PRESIDENT: I do not think the Honourable Member can speak again on a substantive new point. The Honourable Member has already spoken twice. Of course if he has anything by way of explanation he can offer that.

THE HONOURABLE MR. PHIROZE SETHNA: I want to point out, Sir, that land has acquired a value in cantonments to-day which it had not when the military authorities gave that land and invited people to build on it. In the process of time properties have changed hands and the new purchasers have not only paid for the value of the building but also for the

value of the land. That happens every day in cantonments. Consequently if you do not provide when Government acquire these properties that they should pay for the land, it practically amounts to confiscation.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: May I point out, Sir, that the details of this Bill, including the point raised by the Honourable Member, have been considered, first of all, by the Select Committee of both Houses and then by the Legislative Assembly, where they have been fully discussed and agreed to, and it does not seem to me to be a legitimate point to raise now. I have answered the Honourable Member so far as I can, but I cannot go any further.

THE HONOURABLE MR. V. G. KALE: Sir, I have not yet been able clearly to understand what my Honourable friend on the left (Mr. Sethna) wants. I understand him to say that the value of the house will be calculated independently of the value of the site upon which the house has been constructed. But I think that when the value of the house is calculated, the value of the site also is taken into consideration. The value of the house very often depends not only upon the superstructure on the land but also the land on which that superstructure has been erected; and the value of the house includes the value of the site on which it has been erected.

THE HONOURABLE MR. PHIROZE SETHNA: May I refer the Honourable Member to the definition of "house" in the Bill,—Clause 2 (f):

"house" means a house suitable for occupation by a military officer or a military mess, and includes the land and buildings appurtenant to a house."

THE HONOURABLE MR. V. G. KALE: So you are only supporting what I have been saying, namely, that the house includes the land; otherwise the trees on the property on which a house is located—that also would have to be included. So I do not think the point raised by the Honourable Mr. Sethna is one which need be taken into consideration.

THE HONOURABLE MR. PHIROZE SETHNA: I apologise, Sir. I see my mistake. I had no time to read the Bill through. I have nothing to say if the plot of land on which the house is situate is also to be paid for.

Clauses 27 to 33 were added to the Bill.

Clauses 34, 35, 36, 37, 38 and 39 were added to the Bill.

The Schedule was added to the Bill.

The Preamble was added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

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

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, in rising to support the motion now before the House, I desire to make a correction with reference to the observations which I made upon the Honourable Mr. Sethna's comments on clause 11. At that time I overlooked clause 10 (c) in the Bill which clearly states that no notice shall be issued under section 7 if the house is occupied by the owner. It is clear, therefore, that notice to vacate can be issued under the Bill only in cases of occupation by tenants or other persons and not occupation by the owner himself. The question whether at a given moment the house is occupied by the

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[14TH FEB. 1923.]

[Dr. Mian Sir Muhammad Shafi.]

owner within the meaning of clause 10 (c) will depend upon the circumstances of each case; and if the local cantonment authority take any arbitrary action in those circumstances it will be open to the owner to appeal against such action under clause 30 to the higher military authorities. In these circumstances I do not think that the owners of houses in cantonments actually occupying the houses themselves need have any misgivings or any fear in regard to the proper working of this Bill.

The HONOURABLE KHAN BAHADUR IBRAHIM HAROON JAFFER (Bombay Presidency: Muhammadan): Sir, as member of the Cantonment Reforms Committee, appointed by the Government of India in 1921, to overhaul the existing Cantonment Law, and as President of the All-India Cantonments Association, I take this opportunity of thanking His Excellency the Commander-in-Chief for the bringing of this first fragment of Cantonment Legislation to its final stage.

Sir, it was in the summer of 1920 when a deputation—first of its kind—of the members of the All-India Cantonments Association waited upon His Excellency Sir Charles Monro, the then Commander-in-Chief at Simla, and presented before him a Memo. of the grievances of the non-military residents of the Cantonments. The sympathetic reply and assurance which the Deputation then received from Sir Charles Monro, would ever be remembered by the cantonment people. The General amongst other things said "I agree with you that the present Cantonment Law, which was made half a century back, has outlived its need. It requires thorough overhauling and change. We do not wish to work separate from you gentlemen, who want Reforms. We desire to associate with you and prepare a joint scheme." In pursuance of this assurance, the Government of India, appointed a Representative Committee consisting of officials and non-officials headed by Mr. Renouf, I.C.S. The Committee had before it, an arduous task. I would be ungrateful if I did not acknowledge the services of the members of this Committee, and specially of the President, who by his sympathy, and tact successfully handled many a critical situation, where sharp differences of opinion existed between the members of the Committee. The same note of sympathy was struck by His Excellency Lord Rawlinson in his reply to the deputation of the Association, which waited upon him at Simla in 1921, and, I find, that the present Bill, is the first instalment of those good and kind assurances, which the Cantonment people have all along been receiving from the officials of the Government.

Sir, I also take this opportunity of thanking Sir Godfrey Fell, the late Army Secretary, who was responsible for the framework of this Bill, and Mr. Burdon, the present Secretary, ably assisted by Colonel R. H. Palin, who filled therein the essential and important details, and successfully piloted it through the Legislative Assembly.

I heartily congratulate His Excellency the Commander-in-Chief for this first instalment of Cantonment Reform.

The HONOURABLE MR. PHIROZE SETHNA: Sir, I thank the Honourable the Leader of the House for putting right a statement which he had made at an earlier stage of the debate. I note from section 10 (c) that if the owner occupies a house he is not to be served with any notice, but the words the Honourable Sir Muhammad Shafi used were 'if the owner actually occupies the house.' I should like him or the Honourable Moyer to

reply to state in answer to my previous query, that if an owner chooses to keep his house furnished but stays there for only a fortnight or a month in the year, will he be considered to occupy the house or not, and will section 10 (c) be applied to him or not?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Well, Sir, all I can say in respect of this query addressed by the Honourable Mr. Sethna is that each case will depend upon the particular circumstances and it is difficult to enunciate a hard-and-fast rule during the debate in this Council.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I have nothing further to add except to say that we have done our best to improve the cantonment law by the introduction of this Bill. We have not been able to embody every suggestion that has been made by the various owners of property and others who were members of the Cantonment Committee, but we have done all that we could to help owners and to improve the law which undoubtedly was in the past unsatisfactory and required amendment.

The HONOURABLE THE PRESIDENT: Before I put the question, I would just like to draw the attention of the House to the fact that this Bill was laid on the table of the House on the 31st January, so that there was ample opportunity for Honourable Members on both sides of the House to make themselves entirely familiar with the contents of the Bill.

The motion that the Bill, as amended, and as passed by the Legislative Assembly, be passed was adopted.

STATEMENT OF BUSINESS.

The HONOURABLE THE PRESIDENT: Can the Honourable the Leader of the House make any announcement as to Government business in the near future?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, meetings of this Council for official business during the ensuing week will be held to-morrow (Thursday, the 15th) and on Tuesday, the 20th February.

The agenda for 15th February was circulated last evening to Honourable Members of this House. The items therein are motions for the consideration of the Malabar (Completion of Trials) Supplementing Bill, the Indian Mines Bill, and the Indian Boilers Bill, all of which have been passed by the other Chamber, and also two official Resolutions to be moved by the Honourable Mr. Sarma relating to the draft notifications which were recently laid before this House, specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Ceylon, the Straits Settlements and the Malay States.

On Tuesday, the 20th February, the Indian Naval Armament Bill and the Workmen's Compensation Bill which have been passed by the Legislative Assembly will be taken into consideration in this Chamber.

The HONOURABLE THE PRESIDENT: That concludes the business for this morning.

The Council then adjourned till Eleven of the Clock on Thursday, the 15th February 1923.

COUNCIL OF STATE.

Thursday, the 15th February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

STATEMENT RE GOVERNMENT OF INDIA PRESSES LAID ON THE TABLE.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to lay on the table the answers to a series of questions asked by the Honourable Maharaja Sir Manindra Chandra Nandy, as promised on the 29th January 1923.

Answers to questions Nos. 58—75 laid on the table by the Honourable Mr. D. T. CHADWICK as promised on the 29th January 1923.

Question No. 58—

Total number of men whose services have been dispensed with during the year 1922, are :—

	Piece workers.	Salaried staff.
Calcutta Press	145	71
Delhi Press	82	53
Simla Branch Press	10	21
Monotype Press, Simla	...	36

Question No. 59—

(a) The following is the result of the annual classification of piece workers in 1922 :—

	No. of men who have been raised in class.	No. of men who have been reduced in class.
Calcutta Press	206	72
Delhi Press	107	24
Simla Branch Press	31	45

(b) Number of cases of class reduction of piece workers during the years in question are :—

	1918.	1919.	1920.	1921.
Calcutta Press	4	No classification.	1	Nil.
Delhi Press*	6	1	1	1
Simla Branch Press	1	4	5	16

*The reductions in Delhi were made on disciplinary grounds.

(c) As the answer to (b) above will show, it is not a fact that since the inauguration of piece system in the Government presses there were no class reductions till 1921.

(d) For many years the re-classification has been carried out on the basis of average earnings of three months—one slack, one ordinary and one busy. A full year's actual earnings were, however, taken for the general re-classification at the time of the last revision of rates of pay.

Question No. 60—

A Printing Clearing Office has already been established as an experimental measure.

Question No. 61 (a) and (b)—

The post of Deputy Superintendent in charge of the Monotype Press, Simla, has been abolished. The question of re-organising the other presses and making further reductions in the superior supervising staff is under consideration.

Question No. 62—

(a) The totals of the Fine Fund in December 1922 were :—

	Rs.	A.	P.
Calcutta Press	...	...	...
Delhi Press	...	1,985	8 0
Simla Branch Press	...	394	7 0
Monotype Press, Simla	...	193	9 0
(b) Before the inauguration of the Fine Fund the fines realised were credited to Government.	...	18 14	0

Question No. 63—

The cost of supervision including officers, clerks, menials, press supervising and storekeeping staff and branch supervision and accounts staffs, was as follows during the year 1920-21 :—

	Rs.
Calcutta and Delhi Presses	...
Government Central Branch Press, Simla	2,33,646
Monotype Press, Simla	73,048
	34,075

Question No. 64—

Government are in correspondence with the Secretary of State in regard to the detailed rules for the proposed Provident Fund for press employees and the Fund will be established as soon as the Secretary of State's orders are received.

Question No. 65—

(a) The number of piece workers on the temporary list who have applied for pension since July 1920, is :—

Calcutta Press	...
Delhi Press	...
Simla Branch Press	...
	2
	2
	2

(b) Of two of the above the pension papers are now under preparation : the other four were ineligible for pension.

(c) The highest amount drawn as pension by piece workers (since the revision of the 15th July 1920) is Rs. 45-0-0 and the lowest amount is Rs. 6-15-0.

Question No. 66—

As the Examiner of Press Accounts pointed out that the differences in calculation were ordinarily infinitesimal, the Piece-Worker's Committee did not make any recommendation for changing the present system of computation. Government have accepted this view and do not propose to take any action in regard to the matter.

Question No. 67—

Yes, as far as possible.

Question No. 68—

The cost of machinery introduced in the presses from 1919 to December 1922 is as follows :—

	Rs.
Calcutta Press	...
Delhi Press	...
Simla Branch Press	...
Monotype Press, Simla	...
	3,06,415
	1,59,136
	55,746
	21,148

Question No. 69—

(a) Compositors of the Monotype Section in the Calcutta Press are paid on time and, as such, cannot be classified. Any one desiring promotion is allowed to work on piece in the hand-composing sections and in the next year is classified on his earnings on such work.

(b) All men in the Monotype Section were promoted in 1920; since then one man only elected to be reverted to the composing section for re-classification, and he failed.

Question No. 70—

The class rates for compositors and distributors are given below :—

	Lowest class rates of compositors. Per hour.			Highest class rates of distributors. Per hour.		
	1919.	1921.		1919.	1921.	
	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	
Calcutta Press	...	0 1 0	0 1 5	0 1 4	0 4 2	
Delhi Press	...	0 1 0	0 1 5	0 1 4	0 4 2	
Simla Branch Press	...	0 1 0	0 1 10	0 0 10	0 3 0	

Question No. 71—

The information has been embodied in a statement which the Honorable Member is invited to see in the Office of the Department of Industries.

Question No. 72—

The annual cost to Government on account of Superintendents, Deputy Superintendents, Accounts and Office Sections of the presses during the years specified below was :—

	1918.	1919.	1920.	1921.
	Rs.	Rs.	Rs.	Rs.
Calcutta Press	62,232	63,054	74,453	88,733
Delhi Press	15,049	18,732	21,243	18,500
Simla Branch Press	33,674	33,903	43,656	52,404
Monotype Press, Simla	15,809	17,622	22,761	27,400

Question No. 73—

"Contingencies" mean—

- (1) Allowances, e.g., travelling, conveyance, grain compensation, allowance for compiling Secretariat and Gazette indexes.
- (2) Sanitary and hot and cold weather charges, telephone charges, charges for sweepers, etc., lighting, taxes, postage and packing, office expenses and miscellaneous, coke, coal, gas, etc.
- (3) Plant and furniture, ink, water supply and raw materials.

"Auxiliaries" mean—

Coolies, typographers, suppliers, proof pressmen, forme carriers and such other employees who help the workmen.

Question No. 74—

The Government have decided to accept the recommendations contained in the majority report of the Piece-workers' Committee with a few modifications, and orders giving effect to them have recently been issued.

Question No. 75—

(a) No machines were imported but two Comptometers were purchased locally for the Calcutta Press.

(b) (i) Rs. 3,336.

(ii) Rs. 67-8 being the pay of two junior clerks per mensem.

(iii) and (iv) The machines have not actually replaced any men yet. They have increased the general efficiency of the Accounts and Computing Branches of the Calcutta Press.

THE MALABAR (COMPLETION OF TRIALS) SUPPLEMENTING BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill to supplement the Malabar (Completion of Trials) Act, 1922, as passed by the Legislative Assembly, be taken into consideration."

I have not very much to add to the Statement of Objects and Reasons attached to the Bill, but the following very brief explanation will, I think, make the situation perfectly clear to the House.

The Martial Law Ordinance, which was applied to the Malabar area for the speedy restoration of order, among other things, made provision for a special tribunal for the trial of offences committed in connection with the rebellion. That Ordinance expired in February 1922. There was still a large number of cases to be disposed of relating to offences of which the investigation was not complete and in some of which the offenders had not been arrested. A further Ordinance was therefore passed under the title of the Malabar (Restoration of Order) Ordinance, which instituted special Courts, special Judges, Magistrates and summary Magistrates. That Ordinance in its turn expired in August 1922 leaving many cases still incomplete. Consequently, a further Ordinance was passed under the title of the Malabar (Completion of Trials) Ordinance, and that Ordinance will expire on the 19th of this month. There were still a large number of cases outstanding which could not be appropriately or expeditiously dealt with by the ordinary criminal tribunals but the Madras Government felt with regard to these that it would be preferable that any special machinery required for disposing of the charges against the persons concerned should be left to legislation rather than to the extraordinary expedient of an Ordinance. For that purpose the Madras Legislative Council passed an Act to validate one section, which is the purpose of the Bill which I now submit for the consideration of the House. Section 5 of that Act is the section in point. It is as follows:

"On the expiration of the Malabar (Completion of Trials) Ordinance, 1922, and notwithstanding such expiration, an appeal shall lie in any case in which an appeal would have lain but for such expiration, and every such appeal and every appeal pending at the date of such expiration shall be heard and decided by the High Court in cases in which under the said Ordinance an appeal would have lain to the High Court and in other cases to the Sessions Judge or an Additional Sessions Judge, South Malabar."

The whole of that Act was within the competence of the local Legislature with the exception of the provision which regulated the Appellate powers of the High Court and that provision requires the validation of the Indian Legislature. The object then of the Bill before us is perfectly clear and perfectly simple. Its object is, firstly, to preserve and to secure a right of appeal which would otherwise be lost on the expiration of the Ordinance to persons implicated in offences in connection with the disorders in Malabar; secondly, and in particular, to validate by an Act of the Indian Legislature to this matter of appeal to the Madras High Court which the local Legislative Council is incompetent to enact. I now therefore submit this Bill for that purpose for the consideration of the House.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to supplement the Malabar (Completion of Trials) Act, 1922, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: There are only two clauses in the Bill. I had better put it clause by clause. We shall as usual reserve the Preamble.

The question is that clauses 1 and 2 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to supplement the Malabar (Completion of Trials) Act, 1922, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE INDIAN MINES BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to amend and consolidate the law relating to the regulation and inspection of mines, as passed by the Legislative Assembly, be taken into consideration."

Sir, this is a very necessary piece of legislation which I bring to the notice of the House to-day. The Mines Act prescribing the rules and conditions under which mines are worked in this country dates from 1901 and is therefore already 22 years old. It is inevitable that such an old Act would not be in consonance with the changes that have been introduced by the Reforms Scheme. Under the Reforms Scheme and the Devolution Rules, the regulation of mines is a Central subject. The first object, therefore, of this Bill is to define the spheres of activity of the Central and Provincial Governments in regard to mines and the necessary conditions about the working of mines. Those spheres of activity have been discussed with the Local Governments and all are agreed upon them. The Bill reserves to the Central Government all technical questions connected with the conditions of working in mines and leaves with the Central Government the responsibility of laying down those technical conditions which must be complied with as well as the appointment of Inspectors to see that those technical conditions are observed. To the Local Government it leaves all questions connected, of a purely administrative nature such as the holding of inquiries. The House, Sir, I think, will agree that this division of spheres of responsibility is logical. It is also in consonance with the Devolution Rules. It is necessary to give legal effect to it. Therefore, that is the first object of the Bill which is brought for your consideration to-day. The second main object is that we may honour certain obligations and undertakings which have been given by this House. The House will remember that it accepted certain Conventions that were passed at the Washington and Geneva International Labour Conferences undertaking to regulate and control the employment of women and children in industries. This Bill gives legal sanction to

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that undertaking which the House then gave. For these two reasons, therefore, I think the House will agree that this is a very necessary piece of legislation. Its technical portions have been examined in detail by all the mining provinces and also by a Joint Select Committee. For the two reasons I have given I now commend it for the consideration of the House.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I welcome this Bill as a measure of social reform legislation to ameliorate the condition of labour in this country. The Bill was thoroughly examined by the Joint Committee which was presided over by my Honourable friend the Member for Commerce and Industry, and it has been made clear in the report that we kept before us prominently two main conditions. One was that we should provide for inspection in such a way that the lives of the labourers would be as safe as we possibly could make it. The main object, Sir, of this Bill is to prevent as far as it lies in human power accidents and to protect human lives. The second object was to come in line with the other countries in the world as regards labour conditions and not to allow the lives of young children to be made unhealthy or to be spoilt by living continuously underground. These are the two main items which we kept before us at the time of the meeting of the Joint Committee and the Honourable Members will see that the clauses of the Bill provide for both these items. A third subject which was carefully considered but for which they thought that the country was not yet quite ripe was the question of allowing women labour to go below the mines. Although some of us were of opinion that we should take action at once and prevent women labour from going down, it was thought by the majority that in view of the fact that about 36 per cent. of the mining population are womankind, it was necessary to go slow. Instead therefore of making any statutory provision that after a few number of years women will not be allowed to go below the mines, we have thought it best to leave the matter open and we have said in the report that it would be advisable for the Government of India to make inquiries from Local Governments, and then when the proper time comes—I hope it will be as early as possible—to legislate again to prevent women from going below the mines. For these reasons, Sir, I welcome the Bill as a very useful piece of social legislation.

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): Sir, I have very little to add to the very clear exposition of the objects of this Bill which has been given by my Honourable friend Mr. Chadwick and by my Honourable friend Mr. Lalubhai Samaldas. Mr. Chadwick has explained quite clearly what the main object of the Bill is. It has been necessitated by the introduction of the Reforms Scheme. Under the Devolution Rules the regulation of mines is a Central subject, and therefore we have had to introduce this Bill in order to define what the responsibilities of the Central Government in regard to mines are as opposed to the responsibilities of the Local Governments. Probably the clauses of the Bill which will attract the most attention are those clauses to which the Honourable Mr. Lalubhai Samaldas has drawn our attention, namely, the clauses relating to the employment of labour. This is an extremely difficult and an extremely controversial subject. Some Members of this Council may think that the Government of India have not gone far enough. We, in the Government of India, are possibly inclined to doubt whether we have not gone a little too far. We have done our best in the first place

to carry out our obligations under the International Labour Conference conventions, and that is the reason why we have prescribed in clause 23 of the Bill a weekly rest day and a weekly limit of hours of work. I am quite prepared to admit that, as conditions are at present, that weekly limit, specially as regards under-ground labour, is not likely to make very much difference. We have prescribed a weekly limit of 54 hours. To the best of my belief miners in the Bengal and Bihar and Orissa coalfields do not work 54 hours a week, but the advantage of prescribing this limit is that we thereby gain recognition for the principle, and that principle may become very important if and when a system of daily shifts is introduced. I think I am correct in saying that there is no mine manager in the Bengal and Bihar and Orissa coalfields who does not look forward to the day when it will be possible to work labour below ground in the mines on a system of shifts. We have not thought it possible under the conditions that obtain in the coalfields at present to prescribe any daily limit of hours. We have made careful inquiries into that matter not only with the Local Governments of Bengal and Bihar and Orissa but also in consultation with the mine managers actually in the fields. This question was investigated by a Committee which sat in 1920. That Committee pointed out that the main thing necessary in the fields was a system of shifts and a daily limit of hours, but their definite conclusion was that the time was premature to introduce this reform and we have had to acquiesce in that decision. Since it is not possible to impose a daily limit of hours, I am quite free to admit that the regulations we propose or the provisions of the Bill which we put forward in regard to the employment of children are not entirely satisfactory. What we should have liked to have done would have been to prescribe that children under 12 should not be employed in a mine at all, either above ground or below ground, and to have enforced in respect of children between the ages of 12 and 15 a half-time system, but since a daily limit of hours is not possible, it follows that a half-time system is not possible, and that is why we have adopted a middle course. We have prescribed that children below the age of 13 should not be employed in mines, and I think the Council will agree in that conclusion. Work down mines, specially down coal mines, is I would not say unhealthy, but certainly it is unpleasant, and I think it is right that no children should be allowed to be employed down in the atmosphere which prevails in a deep coal mine. We have gone a step further than that. We have—and I may say I would not have agreed to this had I not been reinforced in my opinion by the views of many of the leading mine managers in the coalfields—we have gone as far as to prohibit even the presence of children in mines. That is a very serious step. It means that mothers may not take their young children down the mines. At present the system of working mines is a family system. The husband cuts the coal and his womankind put the coal which is cut into baskets and carry it to the tubs, the man being paid so much a tub. It is quite possible that this prohibition of taking any children down the mines may reduce the number of women who will go down those mines and that may be a very serious matter. But we have considered the point very carefully. We do not think it right that children, small babies, should be taken down into the atmosphere of these mines. We cannot think that it is in the interests of India as a whole that babies of this kind should spend a great part of their infant years in the atmosphere of coal mines. That is the first step towards a reform that must sooner or later come, namely, the outright prohibition of the employment of women in mines: In England the prohibition against the employment of women in mines was issued as far back as the forties of the last

[Mr. C. A. Innes.]

century. It is only a question of time for a similar prohibition to come into force in India. Everybody will recognise that. As a matter of fact, in the nineties that point was put to us by the Secretary of State. It was put to us that it would be wise when the coal mining industry was still in its infancy, at once to prohibit the employment of women down mines. The Secretary of State pointed out that the longer we put off this question the more difficult it would become, and that is our position to-day. Had we adopted that advice thirty years ago, I am quite sure that the coal mining industry would have been in a healthier position to-day. As it is, owing to the fact that there has been no prohibition of the employment of women, we are faced with a very serious situation, for about one-third of the underground population of the mines consists of women, and since the coal supplies of India are hardly equal to the demand for coal in India, the House will see what a serious step it would be immediately to cut off one-third of the labour in the mines. That is why when we discussed this matter in the Joint Committee we decided that we must go slow, and that is why the Joint Committee contented itself with making a recommendation that the Government of India should take up with the Local Governments concerned the question whether we could not impose a time limit within which the employment of women in mines should be prohibited. It was suggested that we should propose a time limit of five years. All I can say is that the Government will act most certainly on that recommendation of the Joint Committee. We shall most certainly consult the Local Governments whether, specially in coal mines, the prohibition of the employment of women should be enforced within the time I have mentioned. I think that is all that I need say. I have just tried to show that we have attempted to treat this very important problem of labour in mines properly. We have devoted very serious consideration to it and we have introduced into this Bill provisions which we think are suited to the conditions as they are at present. But those provisions I hope will be merely an earnest for a further advance in the near future.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend and consolidate the law relating to the regulation and inspection of mines, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed with the detailed consideration of the Bill. I reserve the Preamble as usual.

The HONOURABLE THE PRESIDENT: The question is that clauses 1, 2 and 3 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 4, 5, 6, 7, 8 and 9 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 10, 11, 12 and 13 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 14, 15 and 16 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 17, 18, 19, 20, 21 and 22 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 23, 24, 25, 26, 27 and 28 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 29, 30, 31, 32 and 33 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 45, 46, 47, 48, 49 and 50 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Schedule and the Preamble do stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I move:

"That the Bill to amend and consolidate the law relating to the regulation and inspection of mines, as passed by the Legislative Assembly, be passed."

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend and consolidate the law relating to the regulation and inspection of mines, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE INDIAN BOILERS BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to consolidate and amend the law relating to steam-boilers, as passed by the Legislative Assembly, be taken into consideration."

This Bill is even more technical than the last but it is equally necessary. The regulations of boilers is a Provincial matter, subject to Central legislation, and I think I can show in a moment how essential it is that legislation of this class should be brought before this House. There are at present seven Provincial Boiler laws. Some of them are of a very ancient date and all of them are at variance with each other. I will not weary the House or confuse them with the distinctions and the differences in these seven different boiler laws. They are most confusing. I will only instance one case. A boiler which under the rules will be condemned in one province as unsafe for use and dangerous to human life can be used with freedom

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and is tolerated in another Province. Well, Sir, that is a state of affairs which I do not think any Central Legislature could allow to persist. The essence of all boiler laws is really the safety and protection of human life. It is obviously essential that the conditions which render it necessary to secure the safety of men who use the boilers and work near to them should be the same throughout the confines of India. That alone shews why this Act is essential.

However, it is only when one goes into the details of what should be comprised in the definition of a boiler, what connections should be considered to form part of a boiler and what conditions must be laid down, that one realises the technical difficulties of the subject. The Government of India has therefore proceeded very slowly in this matter. The question was just referred to a small expert committee which made certain recommendations, all of which have been circulated to the Local Governments for criticism. This Bill gives effect to the majority of such recommendations. It has been examined in the closest detail by a Joint Select Committee and a principle similar to the one embodied in the last Bill has been adopted. All matters relating to the technical conditions with which boilers must comply have been reserved for regulation by the Central Government. All matters connected with the purely administrative details of the Act are handed over for administration by the Local Governments. The House has endorsed that division of functions in the Bill just passed and I hope that it will accept it in this. Those regulations, that is the technical regulations, are now being worked out carefully and the Bill itself provides for due and long notice before it is brought into force, so as to afford all those who use boilers ample opportunity to comply with it. If the House will accept this Bill to-day, it will add to our laws another very useful and humane Act. With these words I commend the motion to the acceptance of the House.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I welcome this Bill as another piece of useful legislation. I want to draw the attention of the Members of the House to one amendment made in the Joint Committee. The original Bill provided for the practical abolition of the certificated system, under which certificates for working boilers are given after an examination. There was a strong feeling in Bombay and the Central Provinces—the Bombay Government being supported by the Bombay Chamber of Commerce and other bodies—that we must keep up the certificated system as it exists at present. The other provinces, Bengal and Madras chiefly, on the other hand, said that they did not want the examination for the certificates. And as a compromise the Joint Committee decided that it would be better to do away with the certificated system as a compulsory one and leave power to the Local Governments to have their own examinations and their own boiler certificates. That was the best method which the Joint Committee thought would be acceptable to all the Local Governments. That is one amendment to which I would like to draw the attention of the House for it is a matter on which there has been difference of opinion. But to enable Local Governments to have their own certificates wherever they wanted it was the only thing that was possible for the Joint Committee to do.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I too welcome this Bill. The Honourable Mr. Chadwick has

explained the principles of it and he mentioned how extraordinarily bad the previous arrangement was of each Province having its own boiler laws. He clearly put before the Council an example of what disabilities the country suffers from the Provinces having their own Acts for the control of boilers. He showed Members that a boiler might be condemned, say, in Bombay, where the boiler laws possibly were more stringent than those of another province, but that the boiler could be shifted over to the other province, installed and used, although in the opinion of the inspectors of the first province it was unsafe. Another matter which has been brought forward in this Bill is the introduction of the supervision of steam pipes as well as boilers. Steam pipes were omitted from the old Acts in all the provinces. It has now been considered that steam pipes may be regarded as an integral part of the boiler. It is just as dangerous to life to have a steam pipe in an unsound condition as to have the main boiler in an unsound condition, and I think that the part of the Bill bringing steam pipes under the control of the boiler inspector is a further great step for the safety of workmen employed in factories and places where boilers are in use. The Honourable Mr. Lalubhai has referred to one controversial subject, which presumably we shall have for discussion later on when we take the Bill into consideration, so I do not propose to refer to that now. With these few words I endorse the welcome which has been accorded to this Bill in every Province in this country.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to consolidate and amend the law relating to steam-boilers, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will proceed to take into consideration the Bill in detail, as usual.

Clauses 1, 2, 3, 4, and 5 were added to the Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, I beg to move:

"That in sub-clause (e) of clause 6 of the Bill, the words 'where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency' be omitted, and for the words 'the certificate required by such rules' the words 'a certificate of competency' be substituted."

It will be seen, Sir, that I have three amendments on the agenda paper but they really amount to one amendment, the rest being only consequential to this. The reason why I move this amendment is that the law up to this time, at least in my province and in the Bombay Presidency, has been that, whoever sets up a factory or anything where a boiler is used, he is under the compulsion to engage what we used to call certified attendants or what are called engineers. These young people were usually trained in the Victoria Technical Institute in my province—and I suppose in Bombay it is the same—and then they were asked to work for some time in a factory where a boiler of a certain power was used, and after doing that service, they were examined and then certificates of competency were granted to them. From my own experience in my province, I found them immensely useful. As a Magistrate at one time I also found they gave you help also with simple information on technical points and so on. They also helped their employers to purchase the proper kind of boiler. Being in charge they also cleaned, in addition to the boiler, any other

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machinery that there was there, and in fact they made themselves immensely useful. To my mind, it appears that their presence there was a great blessing to both employer and employee because they tried to save expense and saved not only the employees from accidents but also the employer from being exposed to suits for compensation and all that. It thus appeared to me, and I am glad to see that Bombay and the Central Provinces really started it. In some of the provinces I believe they never had this institution from the beginning and therefore they did not want it. To me it appears that this was an exceedingly useful provision and there is no information as to why it was dropped. A necessary measure has been made optional now. Why it was made optional I do not quite understand except that some Local Governments objected. Probably, those Local Governments had not so many factories or so many steam boilers working there. This is an exceedingly useful provision; it saves a great deal of trouble and my reason for putting in these amendments was to discover as to why a useful provision like this, after having been necessary and included everywhere, has been made optional on this particular occasion. There is no information about this in the papers supplied to me, so I move this amendment.

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): Sir, my Honourable friend Mr. Khaparde has complained that he has been given no information why this important change has been made in the law relating to boilers. Had my Honourable friend Mr. Khaparde read the Statement of Objects and Reasons attached to the Bill introduced last September, he would have seen the reasons why we have made this change. We have not made this change lightly. We have made this change after the most careful investigation and inquiry throughout India. The first point I have to draw the attention of the House to is the fact that the Indian Industrial Commission, as far back as 1916 and 1917, condemned the system of certified boiler attendants root and branch. Then, as the Honourable Mr. Chadwick has just informed the Council, two years ago we appointed a small expert Committee to inquire into the whole question of our boiler law and it is as the result of the labours of that very useful Committee that we are introducing this Bill to-day. That expert Committee travelled all over India and it devotes a very considerable part of its report to the question whether we should continue to make compulsory the system of certified boiler attendants. I should be very happy to send my Honourable friend Mr. Khaparde a copy of the report in which he may read a full exposition of this subject. The Committee first pointed out that the whole system of certificating boiler attendants had arisen partly out of the history of the Act. We have to remember that the boiler laws as they exist in the different provinces do not deal merely with boilers, but also deal with prime movers. Even so, the whole system arose out of a false analogy. It was copied from the marine laws relating to certificates required for Marine Engineers. The House will see there is all the difference in the world between boilers on ships and boilers on land. If your boiler breaks down when you are at sea, you must have a man to mend that boiler. In India, on land, no boiler attendant ever attempts to mend such a highly technical instrument as a boiler. Then the Committee proceeded to inquire into the reasons for these certificates. Now, what are the reasons? What does the safe working of a boiler require? It requires knowledge of three important facts—the level of the water, the pressure of steam and the fire which

converts the water into steam. The stoking of the ordinary type of boiler does not require theoretical training, and efficient stoking is the outcome not of learning but of practical experience. Then again, to ensure the safety of the boiler, it is essential that the water should be maintained at a certain level. That level is indicated in the water gauges. That again means that the gauges must be carefully watched. That does not require theoretical training. It requires merely practical training. Sir, it will be seen that the essential requirements of a person in charge of a boiler are such as are gained by experience and not by technical training. Then again, the system of certificating boiler attendants will rule out after all, the best class of boiler attendants you can get in India. It rules out the man who has been in charge of a locomotive. It rules out the man who has been in charge of a marine boiler. The expert Committee found that these were the best boiler attendants that you can get in India, but owing to the certificate system you could not employ those men. Then again, the Committee also looked at it, as we must look at it, solely from the point of view of the safety of human life. We have two provinces in India, Madras and Bengal, who have never gone in for this system of certificating boiler attendants. In those two provinces boiler owners have never experienced difficulty in obtaining the right class of attendants, and our records do not show that there have been any more accidents on boiler explosions in Bengal or in Madras than there have been in the provinces where the certificating system is in force. The definite conclusion arrived at by the Committee was that the system of certificating was of no value for the purpose of safeguarding human life and that therefore it should not appear in our boiler laws. That proposition was put to all Local Governments and was accepted unanimously by all Local Governments. It is perfectly true that the Bombay Government has since recanted on the advice of the Millowners' Association. The Bombay Government has now said that it would prefer to retain the certificating system. We have no objection at all. That is the reason why we have put in this Bill a clause which enables any Local Government which wishes to go in for a system of certificating to go in for that system. But, Sir, I submit that having regard to the observations which I have made to the House, there is no justification for the Indian Legislature to impose on all Local Governments, whether they like it or not, a system of certificating, especially since, as I have just told the House, two Local Governments have never gone in for that system, and especially as no one in this House, I think, will be able to say that the system of certificates is really essential for the safety of human life, and I put it to the House that that is the main object of this Bill.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, I have but a few words to add to those which we have just listened to from the Honourable Mr. Innes in relation to this amendment put forward by my friend the Honourable Mr. Khaparde. I should just like the Members of this Council to bear in mind that when this Bill came before the Select Committee, the question of certificated attendants to boilers had been omitted altogether from it. The Select Committee in studying this Bill considered carefully the views of the Central Provinces regarding this matter and incidentally, I may add, they listened to the views of Bombay. We therefore considered that two such large Provinces should not altogether be ignored, and I contend that the Select Committee took the right line when they put in the provision allowing Local Governments to introduce their own rules in this respect. As the Honourable

[Sir Arthur Froom.]

Mr. Innes has pointed out, we did not think that the Central Provinces and Bombay should foist their views on other provinces of such importance as Bengal and Madras. This is the only part of the Bill which does not speak for uniformity throughout India, but we saw no other way out of it except to allow the Provincial Governments to make their own rules, and I have no doubt that the Central Provinces will make their own rules respecting certificated attendants of boilers and I equally have no doubt that Bombay will follow suit. I think that we arrived at the best solution of this rather controversial matter in the Select Committee and I would suggest to the Honourable Mr. Khaparde to withdraw his amendment which I cannot support.

The HONOURABLE MR. G. S. KHAPARDE: In view of the explanation given I do not wish to press the amendment, if the Council will let me withdraw it.

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

The HONOURABLE THE PRESIDENT: The question is that clauses 6, 7, 8 and 9 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 10 and 11 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: I understand that the Honourable Mr. Khaparde does not want to move his other amendments* which are only consequential amendments.

The HONOURABLE MR. G. S. KHAPARDE: No, Sir.

The HONOURABLE THE PRESIDENT: The question is that clauses 12, 13, 14, 15, 16, 17, 18, 19 and 20 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 31, 32, 33, 34 and 35 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Schedule stand part of the Bill.

The motion was adopted.

* "That in sub-clause (c) of clause 11 of the Bill the words 'where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency' be omitted, and for the words 'the certificate required by such rules' the words 'a certificate of competency' be substituted"; and (if that amendment is adopted)

"that sub-clause (d) of clause 11 of the Bill be omitted."

"That in sub-clause (d) of clause 29 of the Bill the words 'for requiring boilers to be in charge of persons holding certificates of competency and' be omitted and for the words 'such certificates' the words 'certificates of competency' be substituted."

The HONOURABLE THE PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

"That the Bill to consolidate and amend the law relating to steam-boilers, as passed by the Legislative Assembly, be passed."

The motion was adopted.

RESOLUTION RE EMIGRATION OF UNSKILLED LABOURERS TO CEYLON.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to move the following Resolution:

"This Council approves the draft notification which has been laid in draft before the Chamber specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Ceylon, and recommends to the Governor General in Council that the notification be published in the *Gazette of India*."

Honourable Members will recollect that last year they assisted in placing on the Statute Book a Bill to regulate assisted emigration of skilled labour to foreign countries, the Bill having become Act VII of 1922. This Resolution deals with the question of assisted emigration of unskilled labour to Ceylon. Power has been taken under section 10 of Act VII of 1922 by the Government to notify the propriety and legality of emigration to foreign countries under certain conditions that may be defined with the will and consent of the two Houses, the Indian Legislative Assembly and the Council of State. I may remark in passing that the widest possible powers have been conferred upon the Legislature in this respect and I may safely say that virtually the dominion form of self-government subject to the usual statutory safeguards has been conferred upon the people of this country in this particular branch of administration. The draft notification has been placed before the Legislative Assembly and was approved by them and I now seek the assent of this House to the draft.

In pursuance of a promise made by me, a Committee has been appointed for the purpose of assisting the Government in framing the necessary conditions and rules on the subject and the thanks of the Government and the public are due to this Emigration Committee consisting of Members of both the Houses who have at a considerable sacrifice of time, energy and leisure attended the meetings both in June, and August and September of last year, and it was with their assistance that the Government have framed the conditions which are the subject matter of this notification.

Ceylon may ethnologically as well as geographically be said virtually to be a part of India. If tradition is true, more than 2,000 years ago, from Upper India there was a wave of colonists who conquered Ceylon and settled down there, and they form about three-fourths of the population of Ceylon. Later on, there was an influx of people from Southern India, and those that have settled down there as well as the labouring population form virtually about one-fourth of the population. So Ceylon may be said to have been peopled largely, if not wholly, by people belonging to India. Geographically, there is a very narrow stretch of sea, 22 miles broad, dividing Ceylon from India. Railway facilities render the journey from Southern India to Ceylon extremely easy and more than 300 men

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travel to and fro on the average throughout the year. Ceylon was under the administration of the Chola Kings in the past for some time, and latterly was administered by the Madras Government. Later on, after separation there was a free interchange of population between the two countries, and there was an Ordinance passed in 1847 whereby the Ceylon Government undertook to respect and effectually carry out the emigration laws that may be passed by the Government in India. There have been no restrictions upon emigration from Southern India or any other part of India to Ceylon and this has been going on ever since the separation of the two countries for administrative purposes. There are a large number of tea and rubber estates, the tea acreage being about 400,000 and that of rubber about 400,000. The interests of Southern India and Ceylon are bound up to a very considerable extent, specially in the matter of trade, Southern India exporting on the average as much as 11 crores of rupees worth of produce to Ceylon. The Ceylon Labour Commission has organized an agency for the purpose of taking labourers from Southern India to Ceylon, and a Committee which investigated this subject in 1917 have reported that on the whole this administration has worked satisfactorily, but have recommended certain changes which have since been the subject matter of correspondence between the Governments in India and Ceylon. The Government felt, and this Legislature also, that it was necessary to include Ceylon, the Federated Malay States and also the Unfederated Malay States within the purview of Act VII of 1922, but having regard to the peculiar conditions and relations that subsist between the two countries, they exempted them from the operation of the Act for the period of one year from the 5th March 1922, and it is therefore necessary for the House to assent to this Notification now in order that the necessary rules may be brought into effect if emigration is to be permitted to Ceylon from the 5th March 1923. The Ceylon Government pressed very hard upon the Government of India the desirability, nay the necessity, for continuing this exemption and not bringing any rules into force with reference to assisted emigration from Ceylon. They urged that having regard to the proximity of the two countries, the facility of communications, the difficulty of controlling traffic, the harassment which the people would be subjected to if there were any regulations and to the smooth working of the labour laws previously, Ceylon might be continued to be exempted, but the Government of India as well as the Emigration Committee have found it impossible to comply with this request and they therefore urged upon the Ceylon Government to agree to several conditions which would place assisted labour on a secure and firm foundation. Public opinion was not confident that everything was going on smoothly and correctly in Ceylon, considered that various abuses have crept into the system of unregulated labour in Ceylon and has been persisting in the Government of India having power to see that labour is freed from the trammels of the penal laws and other harmful conditions that prevailed in the Colony. Long correspondence ensued and we must say that the Government of Ceylon have loyally co-operated with the Government of India in all the suggestions which have been put forward and have repealed one by one all the laws which secure the enforcement of labour by means of fines or imprisonment. All such laws have been abolished. The Committee have felt further that it was necessary, if labour is to be really free, that the labourers should not be permitted to contract for more than a month, that they should have the liberty to find work wherever they please by giving notice

at the end of a month and this the Ceylon Government has agreed to. Formerly the labourer from South India although he emigrated very largely freely and not under the influence of misrepresentation or fraud found himself heavily handicapped because the cost or at any rate part of the cost which was incurred in taking the labourer from South India to Ceylon had to be paid by him later on. Then the labourer steadily got into debt. Then there was a system which was known as the *tundu*. The Head labourer or the kangani, whenever he wanted additional advances, went to the planter, especially when there was a demand for labour, and asked the planter to make further advances or to permit him to take his labourers to some other plantation which was willing to make the necessary advance. The planter was obliged to make the advance which generally went into the pocket of the kangani or he had to let the labourers go. The debt was multiplied and the labourer was virtually under the control of the estate or the kangani. Well, the Ceylon Government has abolished the *tundu* system and has penalised its continuance. The labourer is free now. He cannot be imprisoned for civil debt and the estates have been wiping off the debt due from the kanganis to them and in the space of a few years more it is hoped that the remaining portion of the debt would be completely written off, about two-thirds having been already wiped out. Having regard to past conditions the Government of India stipulated that when labour is imported from South India it should no longer have this millstone tied round its neck. It should be landed free from debt. Any advance that may be made would not be recoverable and all the expenses that may be necessary would have to be borne by a common fund so that the labourer when he goes to Ceylon from South India goes there free from any debt. He can choose the plantations. He can choose the type of labour he wishes, and we have also further stipulated that if within one year he finds that he cannot get labour suitable to him or that he cannot stay there conveniently for sufficient reason and satisfies the Emigration Agent, whom we hope to appoint hereafter for protecting labourers from India in Ceylon, that he is entitled to repatriation, he would be repatriated at the expense of the colony. I have therefore indicated that suitable safeguards have been provided so that the labourer that may emigrate from South India may not hereafter be exposed to the dangers to which his predecessors had been exposed. But neither the Committee nor the Government were very happy about the adequacy of the present wage prevailing in Ceylon. They have gone into the figures carefully and were and are under the impression that much can be done and ought to be done towards improving the wage which is being at the present time paid to labourers in the various estates. They have asked therefore the Ceylon Government to accept after inquiry the principle of a basic wage subject to a minimum, so that the labourer may have some provision for old age and sickness and that he may be able to save a little money after labouring hard in the colony for a number of years. The Committee were at first doubtful as to whether it would be expedient to fix a minimum wage at all and were advised that the natural laws if left to their operation would secure the necessary increase in wages, having regard to the removal of the penal clauses, to the provision that the labourer can bind himself only for one month, to the short distance which had to be travelled and other facilities which have been placed at the disposal of the labourers. But on further thought they decided that the departmental Committee's recommendations of 1917 under which a basic minimum wage subject to a minimum was recommended ought to be adopted in the case of Ceylon also and while not laying it as a condition precedent to emigration being allowed to Ceylon

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they urged that an immediate inquiry should be instituted into the question of wages to see whether the request of the Emigration Committee could not be complied with. The Ceylon Government have agreed to institute an inquiry immediately, but, having regard to the considerable variety in the conditions in the various estates, rubber and tea, to the difference in wages, to the piece-work system obtaining in a large number of these places, the inquiry would necessarily last some time and the Emigration Committee stipulated further that any recommendation to be made should be placed before them so that the recommendation may be considered by them before the Government finally make their recommendations to the Ceylon Government; which would then have to be placed before the Ceylon Legislature for adoption. All this would mean time. The Emigration Committee, therefore, asked the Government of India to suggest to the Ceylon Government that a rise in wages should be secured meanwhile and we are negotiating for that purpose and we hope that something will be done. The Ceylon Government has already stated that under the operation of the new conditions, the condition of the labourers has considerably improved, labour has found its feet, has found its freedom, and that, as a matter of fact, wages have slightly improved. And we may assure the House that the Government would press this matter still further on their consideration, and, provided finances permit, with the aid of the Fee Fund, we hope to be able to appoint an Emigration Commissioner to watch the interests of the labourers in Ceylon. I have already alluded to the fact that the Ceylon Government has been very prompt and generous in meeting our demands in the past. They have repealed all the penal laws. The interests of Southern India and Ceylon are vitally bound up together, on their prosperity is to some extent dependent the prosperity of some of the districts of Southern India. This free flow of labour from Southern India would relieve the congested labour markets in some districts of Southern India and thereby improve the conditions of the labourers in Southern India and that, whatever defects there may be now existing or that may be discovered hereafter would be set right by the machinery which we propose to employ for that purpose under the provisions of the Emigration Act. I, therefore, trust that this House will agree with the Legislative Assembly in considering that the conditions which have been laid down in this notification are suitable for the purpose for the present and I commend this Resolution for the acceptance of the House.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I rise to support this Resolution. I was a member of the Emigration Committee and we had certain difficulties in our way before we came to a decision on this subject. There was an atmosphere in the country that our cool labourers were not treated well in Ceylon. The *tundu* system to which my Honourable friend has just now referred was looked upon as a system that made slaves of the labourers. The amount that was spent on each labourer was always hanging over his head and whenever he had to change from one master to another he had either to make arrangements to pay the money or he was obliged to continue with the same planter. That system had to be abolished before anything could be done to allow our countrymen to go there. The Ceylon Government have accepted the proposal and the *tundu* system has been done away with. There is yet a load of debt on the kanganis which will to a certain extent restrict the freedom of movement of labourers from one plantation to another. The deputation from the Ceylon Government, or rather from the Ceylon planters and Government, tried to meet us and assured us that within a specified period they

will write off all the debts and that thereafter labour will be quite free. So far, I think the arrangements made were quite satisfactory. Some of us were very anxious that they should write off the debts all at once. But the difficulties were explained to us and we thought that, if they undertook to write off the debts within a certain period, we may accept their assurance and we did not press therefore for writing off the debts all at once. The chief improvements as suggested by the Committee in the matter of recruitment is that labour shall be free, and that there shall be no load of debt over the head of the labourer when he goes from here to Ceylon. The second condition which we insisted on was that they cannot contract for more than one month, and the third condition, which is very important, is that, if it was found that a labourer was not able to keep good health in Ceylon or that the local conditions there did not suit him, the Government or the Planters Association should repatriate him within one year at their own expense. That is a very important point which the Committee was able to get from the Ceylon Planters Association Deputation. There was a feeling, Sir, among some of the members of the Committee that, unless we get equality of status in all the Colonies, we should not allow any emigration from this country to any Colony. It was thought that, if we prevent emigration to Ceylon or the Federated Malay States or Mauritius, the Governors of those Colonies might put pressure upon the Colonial Secretary to persuade the Government of, say, East Africa to give us equality of status in that Colony. But after careful consideration it was thought undesirable to punish Ceylon and Mauritius for the fault of East Africa. We decided that we should not insist on equality of status in all the Colonies before granting permission for emigration to some Colonies but that we should insist on equality of status in the Colonies, emigration to which we were considering. We have been assured that, as regards municipal franchise, there is equality between Indians and Singhalese. As regards political franchise, it is not so, but the last letters of the Government of Ceylon gave us an assurance that, when the nominated Member ceases to hold his office, they will be glad to consider the question of giving full electoral and political franchise to Indians. We have gained a great deal from the Ceylon Government, although it is not all that we wanted, and I therefore think that for the present it is much better to be friendly with the Ceylon Government and to accept the emigration proposals as laid down by the Honourable Member.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): In supporting the Resolution, I wish to offer only one or two remarks. While I was looking into these papers supplied to us with reference to emigration to Ceylon, one thing struck me and it was this, that the condition with regard to wages was represented to be entirely satisfactory on one side, while the statistics which have been supplied on the other side go to show that on the whole wages are not as satisfactory as they should be. However, in view of the fact that an assurance has been given regarding the inquiry which will be immediately instituted and if necessary a kind of a minimum wage will be established, in view of the fact that this assurance has been given, I think we may rest satisfied for the present. But from the information as we have it to-day, it is difficult to conclude that in the matter of wages, Indian labourers in Ceylon are a happy people. Comparisons have been instituted between the wages obtained by Indian labourers in Ceylon with those obtained by Indian labourers in Southern India, but there is one consideration which must not be lost sight of, and it is this. When a cooly emigrates to a foreign country, even if the foreign

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country may be so very near as Ceylon, the conditions are different from what they are when the cooly works in his own village and in his own country. Consequently, he ought to be able to get higher wages in a foreign country than in his own, and the comparison which is sought to be instituted is therefore fallacious. I would therefore strongly urge that as early as possible steps should be taken to solve satisfactorily this problem of a minimum wage for Indian labourers in Ceylon. With these words I support the motion before the House.

The HONOURABLE MR. B. N. SARMA: I am thankful to the House for the cordial manner in which they have received the Resolution. We realise, as I have already said, that the matter of wage in Ceylon requires further elucidation and inquiry and the Ceylon Government have promised to do it and we shall do all that lies in our power to better the conditions of the labourer that may emigrate to Ceylon.

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

"This Council approves the draft notification which has been laid in draft before the Chamber specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Ceylon, and recommends to the Governor General in Council that the notification be published in the *Gazette of India*."

The motion was adopted.

RESOLUTION RE EMIGRATION OF UNSKILLED LABOURERS TO STRAITS SETTLEMENTS AND MALAY STATES.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to move the following Resolution:

"This Council approves the draft notification which has been laid in draft before the Chamber specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to the Straits Settlements, the Federated Malay States of Perak, Selangor, Negri, Sembilan and Pahang and to the Unfederated Malay States of Kedah, Perlis, Johore, Kalantan, Trengganu and Brunei, and recommends to the Governor General in Council that the notification be published in the *Gazette of India*."

In the case of the Federated Malay States and the Straits Settlements the Emigration Committee were on happier ground. They found that with regard to wages, the conditions of the labourer in the Federated Malay States were not quite so unsatisfactory as many of them felt them to be in the case of Ceylon. The distance is no doubt greater than in the case of Ceylon, but the communications by means of steamer, I think, are fairly adequate and the labourers have found no difficulty in coming back to India, especially Southern India, from which there is large emigration, whenever they wish to do so. It has been found that the labourer stays in these Federated Malay States for about two to four years and comes back generally with a saving of 80 to 200 Dollars. Many of them have got money in the Savings Bank. The Federated Malay States were also a part of British India until 1867 and there has been a free flow of emigration between Federated Malay States and India ever since. There have been no restrictions whatsoever upon such emigration. But precautions have been taken by the Madras Government to see that labour was not unduly exploited, and on the other side, in the

Straits, there has been a Labour Board appointed by the Government to watch the interests of the labourers, and the deputation which came over here from the Straits and explained their case left a very favourable impression upon the Emigration Committee. They readily agreed to the principle of a basic minimum wage and thought that their Government would not find a difficulty in accepting it, though they had no authority on the subject, and told us that in the pamphlets that are issued the wage that these labourers are able to secure in the Federated Malay States is mentioned and that no abuses have hitherto crept into the system, and they are ever watchful to see that labour does not suffer in the Federated Malay States. But the Government of India and the Emigration Committee did not rest content with these assurances, and they asked for the repeal of all the penal provisions imposing fines and imprisonment and the Federated Malay States have introduced legislation abolishing imprisonment and have promised to take further steps wherever there may be any penal clause still remaining. There has been therefore no point of controversy still outstanding. The only question that was pressed by our Committee was with regard to the admission of Indians into the Straits Settlements Service on exactly the same terms as is open to all other British subjects of His Majesty. On this point there have been negotiations. We can readily understand how they cannot make any definite promise. The interests of the Malaysians ought to be protected and we readily recognise it ought to be so. But in pursuance of our suggestion they have placed one Indian Member on the Board and I believe they have also appointed one on the Legislative Council and we hope that the relations between the two Governments will remain as cordial as they have been hitherto and even be more cordial. The Federated Malay States Government urged upon us that there was no necessity for the appointment of an Emigration Commissioner, and that was the point that was urged upon us by Sir Ahmedthamby Maricair also who knows much of these States and has connections with them. But the Committee and the Government have felt that it was necessary that the States should agree to the appointment of an Emigration agent if the Government of India choose to appoint one, and they have yielded to our request. Sir, I commend to this House this Resolution which was accepted without any discussion whatsoever in the Assembly.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I rise to support this Resolution. As the Honourable Mr. Sarma has put it, we had no difficulty in dealing with the Malay deputation. The Federated Malay States Government treated us much better. They sent a senior Government official to head the deputation. The Ceylon Government, unfortunately, did not do so. They sent a lawyer who represented more the planters' interest than that of Government. So far as the Malay States deputation went, they laid all their cards on the table. They were prepared to accept all reasonable conditions that we laid down and our difficulties in dealing with them were much less than they were with regard to the Ceylon Government. There is only one point which I would like to bring to the notice of the House here, and it is, that while Indians were qualified to enter the Colonial Service a few years back, they are now debarred from entering the Colonial Service. We asked the deputation whether they had any objection to Indians entering their Colonial Service through the regular examinations in England, and they said they had not. They were prepared, if we made

[Mr. Lalubhai Samaldas.]

any representation, to support that representation, and I hope the Government will take an early opportunity to see that this bar to enter the Colonial Service for our countrymen is removed as early as possible.

The HONOURABLE MR. B. N. SARMA: I have only one remark to offer. I must say that we, the Government, appreciate the position of the Deputation from Ceylon, and especially so because they have entrusted the advocacy of their cause to the non-officials, and I hoped and I still hope that that departure from the usual practice would recommend itself to the Members of this House. No doubt, the Chairman, the Principal of that Deputation urged as a lawyer all that could be said in favour of the Ceylon cause and possibly some of the Members thought that a less vehement advocacy might have served a better purpose. But I am sure that Ceylon labours under peculiar difficulties and had a better cause to advocate, specially on the point of exemption of Ceylon from all restrictions which may be imposed upon them under the Emigration Act. I therefore think that we ought to congratulate the Ceylon Government upon the composition of their Deputation and have no reason whatsoever to be dissatisfied with it. With regard to another remark of my Honourable friend Mr. Samaldas, I am not quite so sure whether the Federated Malay Government see eye to eye with our request with regard to the composition of the colonial service, but that is a matter entirely resting on the policy of the Colonial Office and has very little to do with the Federated Malay States as a separate integral factor. I am glad that this Resolution has met with a favourable reception at the hands of the House.

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

"This Council approves the draft notification which has been laid in draft before the Chamber specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to the Straits Settlements, the Federated Malay States of Perak, Selangor, Negri, Sembilan, and Pahang and to the Unfederated Malay States of Kedah, Perlis, Johore, Kalantan, Trengganu and Brunei, and recommends to the Governor General in Council that the notification be published in the *Gazette of India*."

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Friday, the 16th February, 1923.

COUNCIL OF STATE.

Friday, the 16th February 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

RESOLUTION RE INQUIRY INTO INDUSTRIAL FINANCE AND INDUSTRIAL BANKS.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadian): Sir, the Resolution which I have to move runs as follows:

"This Council recommends to the Governor General in Council that he should be pleased to give effect, at as early a date as practicable, to the recommendation of the Indian Industrial Commission regarding an inquiry, at the hands of an expert committee, of the question of industrial finance and industrial banks."

Sir, I claim no originality for the suggestion which has been embodied in this Resolution. The proposed inquiry, if it is carried out, will fill an important gap in our knowledge regarding the subject of industrial finance and industrial banks in this country. I may, Sir, take it that it is the accepted policy of the Government of India to do everything that is practicable and in their power to encourage and support Indian industries consistently, of course, with the best interests of the country and the people at large. It was to find out in what way this policy could be given effect to in practice, it was to find out what should be the methods of helping industries, financially and otherwise, that the Indian Industrial Commission was appointed in 1916. That Commission went into the whole question of the present position and the difficulties of indigenous industries. It also considered the question of the prospects of Indian industries and made a number of very important recommendations in connection with the steps that can be and ought to be taken by Government to support and to encourage the development of industries in this country. One of the most important questions connected with industrial development in India is related to finance. Without a sufficient supply of capital it is not possible for any country to make rapid advance in the matter of the progress of its industries. The Industrial Commission inquired into the position of industrialists in Presidency towns and in the mufassal in this regard. From the evidence recorded by the Commission it came to the conclusion that so far as Presidency towns were concerned there was not much difficulty felt by industrialists in obtaining capital, but it was capital rather of commercial than of an industrial nature. However, in the mufassal and also in the Presidency towns there were serious difficulties experienced by industrialists in obtaining capital for starting and running their industries. The Commission could not come to any practical conclusion as to the particular methods by which this difficulty may be overcome. The Commission has, however, made various suggestions as to how Governments can go to the direct assistance of industrialists by means of scientific development, by means of research, by means of technical education and so forth—matters into which we need not go on the present occasion. In all these ways Government can, of course, directly assist indigenous industries;

[Mr. V. G. Kale.]

but in the matter of finance for these industries the Commission had to inquire into the methods which are pursued in other countries. They thus came to industrial banks. They found that in foreign countries, in particular in Germany and in Japan, special industrial banks have been started and they have been of the greatest assistance to the indigenous industries of those countries. It was also discovered that the Governments of those countries were supporting these banks directly or indirectly. I realise very well that banking in different countries of the world runs on different lines. You cannot adopt the same banking system in all countries whose conditions vary. Banking in England, for example, has assumed certain shape and proportions and has also had a certain stamp fixed upon it. Specialization is a peculiar feature of banking in England. English banking has been described as very conservative, but the conservatism of English banking has been very largely responsible for the steadiness, the stability and the success of the banks in that country. In other countries, however, the banks there could not rest content with ordinary commercial banking, and consequently they had to take up industrial banking as well. Many banks in Germany are industrial banks. They take up shares in industrial ventures and in other ways they are able to give help to new industries. The Industrial Commission has put it on record that similar banks exist in Japan and it is believed that the Japanese Government gives help to these industrial banks. You may therefore have purely industrial banks or purely commercial banks, or banking business may be done by a mixed method, where industrial banks carry on the ordinary commercial operations of banking as well. The Industrial Commission, however, had not sufficient evidence to enable it to record any specific recommendations as to the manner in which industrial banks might be started in this country and might be subsidised or assisted by the Government. They have indeed laid down certain conditions which must be satisfied by successful industrial banks; and undoubtedly it is only if those conditions are satisfied that industrial banks are likely to prove a success. At the same time, they made a specific recommendation to the Government that inasmuch as they were not in a position to make a recommendation themselves in that behalf, a small expert committee should be appointed in order that it may thresh out this question of industrial banking and industrial finance. A number of questions will have to be considered by that committee—whether the industrial banks shall be provincial or Imperial in character, and what should be the relations between provincial banking and Imperial banking. Some of these are very important matters and an expert committee alone can deal with those subjects. I am afraid it may be contended that since the Industrial Commission made its recommendation, conditions have changed and consequently it is not possible and also not desirable to carry out that particular recommendation of the Industrial Commission. I do not, however, see how this difficulty of the Reforms and also of economic and financial changes which have occurred in the meanwhile, can stand in the way of an inquiry such as was desired by the Industrial Commission itself. Consequently, in order that the Government and the public may know how the primary object that the Government has in view, *viz.*, of assisting industrial development in its financial aspect, may be given effect to, this inquiry is imperatively necessary. Let me make it quite clear that I do not want Government in any way to commit themselves to any financial policy or industrial policy. I do not want Government to take any particular measures forthwith for subsidising industries or assisting industries

in some other manner. I do not want to ask Government to encroach upon the liberties which have now been conferred upon provincial Governments. I am aware that some of the provincial Governments have taken up this question of advancing industries, and in Madras a piece of legislation has been recently enacted. In the United Provinces also, this question is being managed through a Committee or Board, and industries there are being financially assisted, so that provincial Governments and provincial Legislatures are assisting industries within their own jurisdiction. But that is not the question which I am raising. The question here is an all-India one. For example, the expert committee which the Industrial Commission recommended might come to the conclusion that there should be an Imperial Bank.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): There is an Imperial Bank of India. It is in existence now.

The HONOURABLE MR. V. G. KALE: Of course, I mean an Imperial Industrial Bank. I thought Mr. Chadwick would understand, when I was speaking on an industrial question, that an Imperial bank referred to by me, was an Imperial bank started, assisted and conducted primarily with the object of assisting Indian industries. It might also be that that expert committee might ask the existing Imperial Bank to do something in the way of advancing indigenous industries. Then the relations between such an Imperial Bank and the work that the provincial Governments will be doing, will have to be determined. It is a matter, therefore, entirely one, that the Government of India alone can perform, it cannot be delegated or relegated to the provinces and the Government of India cannot shirk its responsibilities. In this matter the work of the Industrial Commission will not have been carried to its logical conclusion if this gap is left, and therefore I do not believe that the Government of India will have any strong ground to stand upon if they do not accept my Resolution. I ask the House to realise the importance of industrial finance and industrial banking. We cannot dispose of that subject off-hand. If we do want that Government should directly or indirectly assist Indian industries, first of all we shall require facts to go upon. Who is to collect these facts and who is to draw conclusions from those facts? It is only an expert committee which can do it. Therefore, the appointment of this expert committee is essential for carrying out that very policy and those very principles to which Government is already committed. With these words, Sir, I commend this Resolution to the acceptance of the House.

The HONOURABLE RAJA SIR HARNAM SINGH (Nominated Indian Christian): Sir, the motion before us involves questions of great national importance, as it affects not only the well-being of the people, but indirectly the financial resources of the State.

The report of the Indian Industrial Commission was published some years ago; but I do not know what has been done since then to give effect to the recommendations.

So long as India produces only raw materials as she has been doing, I do not see any prospect of securing the economic safety of the country. This cannot be secured, as the Commission found, without the co-operation and stimulation of the Government.

One of the chief difficulties that have handicapped Indian Industries is the lack of financial facilities. The findings of the Commission are clear and convincing on this point. "The difficulties of obtaining loans and

[Raja Sir Harnam Singh.]

financial assistance which are felt," they said, "are experienced chiefly in the case of middle class industrialists." Indians suffer in a special degree from this deficiency as they find it difficult to get any assistance from European managed banks. The Tata Industrial Bank, which is at present the only one of its kind, cannot cope with the needs of the country.

Sir, I cannot exaggerate the importance of the question. It is only the development of the industries of the country that can save us from national bankruptcy.

It is needless for me to point out the great financial difficulties which the Government have to encounter year after year. The annual Budget shows a deficit which the most clever devices of taxation seem unable to meet. I believe that the chief way, if not the only way, to our financial solvency lies in increasing the wealth of the country by developing the local industries, big and small. An industrial advancement will not only raise the standard of life in this country, but produce more room for effective taxation and the increase of revenue.

The first step towards the end is an expert inquiry regarding the question of industrial finance and industrial banks. With these few words I would strongly support the motion.

The HONOURABLE KHAN BAHADUR IBRAHIM HAROON JAFFER (Bombay Presidency: Muhammadan): Sir, I have very great pleasure in supporting the Resolution just moved by my Honourable friend Professor Kale. If I may focus, in my own way, the points he sought to make out in the course of his interesting speech, I may say that he wants Government to complete the work of investigation which the Industrial Commission had to leave unfinished in one important particular. I am aware that several difficulties will be raised against the proposal of my Honourable friend. It will be said that conditions have changed since the Industrial Commission's recommendations were made, and it is no longer necessary or possible to give effect to the suggestions embodied in the Resolution before the House. It may be contended that industrial banks to be started or assisted by Government are not a practical proposition, and that such things must be left entirely to private enterprise. Provincial autonomy may also be cited as an argument why the question of industrial banking and finance cannot be dealt with by the Central Government. I think, Sir, the Honourable Mover of the Resolution has already effectively anticipated these objections, and I am anxious to emphasise only one point and it is this. Whatever view one may hold as to the proper method of achieving the object, there is, I feel, general agreement that industries in India require the encouragement and support of the State in order to bring about the rapid economic development of the country, which every one has at heart. There can be no satisfactory industrial development without proper and adequate finance. And, how this finance is to be provided cannot be decided without an expert inquiry, such as is proposed in the Resolution before the House. The Government and the public will be all the better for the light that will be thrown on the whole subject of industrial finance by the proposed inquiry, and I trust that the whole House will unanimously support the Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, generally when any Resolution comes up, it is asked that there should be a Committee to investigate into the matter. Perhaps

such a course may be necessary to achieve the object. But whenever a Committee is appointed it involves money, and I do not think that the Government of India have got much money in these days. All the same, I think this is a useful purpose and if funds are available there will be no harm in having such a Committee. Committees sometimes are very useful. Sometimes their work is shelved. But in this case I think it will be useful. For instance, take Germany and Japan. Whenever there is any industry, unless the whole money of the public and the Government supports it, the industry cannot be a success. I am very glad that such a Resolution has been brought forward. I do not oppose it, but give it my cordial support.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, the Honourable Mover of this Resolution, Professor Kale, invites us to enter upon a very interesting line of economic inquiry. He says the Indian Industrial Commission was unable to examine this problem thoroughly and satisfactorily from the point of view of India. Certainly that Industrial Commission went into its subject as deeply, I suppose, as any Commission that ever sat. It examined nearly everybody that could help them in any way; it toured the country; it took two years over its work. I do not see what more advice could be got locally on this subject. They were, however, unable to visit Japan, Germany and Italy. If it is Professor Kale's intention that this new expert Committee should have a tour in every one of those countries, then I think every one of us would be a candidate to serve upon it. But, Sir, we in this House are not allowed to look at these points from our own individual likes and dislikes; we have to look at them from the condition of the country and the conditions in which we are living here. Now I gather from this chapter on Industrial Finance in the Report of the Indian Industrial Commission that the two points that it brings forward, to which Professor Kale refers, are these. It says at the beginning that, "often the illiterate agriculturist views with considerable doubt the deposit side, of the bank's business." Professor Kale himself said that one of the difficulties in this country was in attracting money to banks for banking purposes, especially in the mofussil. Then the report goes on and envisages a particular kind of bank. It says: "What is then required is a bank which can keep in touch with small industrialists, is able to estimate the prospect of a fairly extensive range of industries, and possesses funds which it can afford to lock up for a time in securities not readily realisable."

Well, Sir, the two conditions mentioned there are, I think, to a great extent destructive of each other and that has been one of the difficulties of getting anything concrete out of this chapter on industrial finance. It is obvious that if we are to tempt the money that is lying in the villages and small towns into productive concerns, the first thing necessary is to inspire confidence; the first thing necessary is that those who possess those capital resources should be willing to deposit them in banks, with certainty of getting them back whenever desired. That means in effect they cannot be on long-term deposits. It then follows that the receiving bank must not invest heavily in securities not readily realisable. The first thing then—and I think everybody will agree with me—that the country needs is an extension of ordinary banking and an extension of our system of cheques. That will help to mobilize the private financial resources of our country either for industries or agricultural development or for commercial enterprises. It is impossible to think that by means of a bank which will not keep its assets as fluid as those of the present banks of this country,

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those savings could be tempted out. That is obviously impossible. Such a bank in extending in the mofussil, would have to compete with other money-lending associations, money-lenders and other banks. If that bank had a large capital, as is here suggested, and tied up its funds for indefinite periods, how could it give to its customers the same terms as other banks which keep their funds more fluid? Also, if a bank ties up its funds in this manner, it is running very much greater risks. I think we have been rather misled by the catch phrase "industrial bank". A business which is sound from a business point of view is sound, whatever be the name of the institution which undertakes it. It is no more sound because in the name of the institution which undertakes it the word "industrial" occurs. Then we have also, to some extent, suffered from the glamour of what has been done in Germany, Italy and Japan. That is an interesting field for inquiry, but I would suggest to the House that, as far as Germany and Italy are concerned, which are the two chief examples, those are countries in which general banking and banking facilities have been developed from the very early times. Some of the earliest banks which were started were in Frankfort and Genoa. Those too are the countries in which co-operative credit societies have been so largely developed. In other words, those countries mobilised small credit of the small agriculturist, etc., by co-operative credit societies. They did not mobilise the resources of the small capitalist and the small agriculturist by means of industrial banks. An examination of industrial banks shows that they catered for a different kind of business. They did not act as fairly god-mothers to a wide and miscellaneous assortment of small industrial concerns. Most of them have specialised in the early stages of certain lines of industry. If you try to work out the ramifications of some of the German ones, you will find that some of those so-called industrial banks and held up to us as patterns, developed especially the electrical industry. They in fact hit upon an industry which had a future before it and this industry developed under their aegis as a trust: in other words, they were a fine financial syndicate. But that they relied on the deposits of the little agriculturist and other small resources and were prepared to finance small local works, glass works, etc., such was not the case. Similarly in Italy, one set of banks there took up and developed the hydro-electric systems. Italy is a country without coal and the hydro-electric system was just coming to the fore and under the aegis of those banks the hydro-electricification of railways, hydro-electric power schemes, etc., were introduced. Also one can see from Italy the danger which banks of this nature run. I am speaking from memory—I have not had the opportunity to look up to see if I am right. My facts are right; I am only doubtful about the name of the bank. Eighteen months or two years ago there was a severe financial crisis in Italy owing to the failure of a large Italian bank.

The HONOURABLE MR. E. M. COOK (Finance Secretary): The Banca Disconto?

The HONOURABLE MR. D. T. CHADWICK: I would rather not give the name; I may be maligning a sound bank, but it was one of the big banks of Italy. They, like other banks, had gone forward to develop a particular branch of industry. While others had been attracted by hydro-electricity, they had been largely interested in iron and steel. During the latter portion of the war there was an enormous development in iron and steel industry and they had advanced large sums of money to the

Ansolda Works. After the war there came a big slump in iron and steel and just like any other industrial syndicate, that bank went down. Whilst some of those banks heavily committed in industry have absolutely found themselves unable to continue, others which conduct pure banking business have been able to weather the serious depression. It is not going to encourage, it is not going to help us to mobilize the small savings of industrialists by tempting them to invest in a body which is definitely going to develop industries on terms and conditions at which no business man would look. That, Sir, is as far as we have seen at present, and I submit that whilst the practice of these countries forms a very fertile and interesting field of inquiry for our economists in this country it is for them to pursue their inquiries as individuals and shew that these banks can solve the proposition I have put before.

We have been asked, Sir, "what has the Government of India done?" The Government of India began to examine this chapter. On came the Reforms Schemes, and industries and the development of industries became a provincial transferred subject. As such, the Government of India are prevented under the Devolution Rules from devoting funds to that object; it is disallowed; there is no question, if a Committee be appointed, of their recommending that Government of India should subsidise such a financial institution. In fact we should not be able to do so, as the Government of India. Nearly every province examined this question of industrial banking in their own province. I will read what Bombay said; it has an advisory industrial Committee of which I believe my Honourable friend Mr. Purshotamdas Thakurdas was or is a Member

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): I was a member.

The HONOURABLE MR. D. T. CHADWICK: I only wanted the value of his great support. This matter has been discussed by the Bombay Advisory Committee. They were of opinion, firstly, that the organization of industrial banks should be left to private enterprise, and, secondly, that in view of the depressed condition of industries, there is no possibility of arriving at a practical solution in the matter of industrial banks.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Will the Honourable Member tell me at what meetings they said so?

The HONOURABLE MR. D. T. CHADWICK: In 1921: and they recommended a scheme by which the Local Government should advance loans to particular small industries. The United Provinces Government have held their own expert inquiry, a different, an independent inquiry, and have come to the same conclusion, that the aid is not to be sought by ordinary banking or by a bank instituted with the support of Government, but by direct assistance. They have also come to the conclusion that the best way to mobilize the credits and funds in the mofussil which now lie idle, is by the banking with which we are now familiar. This is in fact a Provincial subject. Madras has already told us what they are doing, and in the face of this, Sir, I submit that my Honourable friend was perfectly right when he said that we ought to be careful upon what Committees we spend our funds. They have cost much in recent years. As this is a Provincial subject and Local Governments have not asked the Government of India to undertake any such inquiry; further as, so far as we can see, the industrial banks which are held up as models do not solve the problem that confronts us in India, I submit that we should not at this

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moment spend our funds in appointing a Committee of Inquiry. I do not want the House to think that the Government is unsympathetic. If our economists like Professor Kale from a study of conditions in Germany, and Italy, and Japan can bring forward important facts to show that these banks can help small industrial concerns, the proposition will not be looked at askance but we shall be very glad to be informed of it and to re-examine the question.

The HONOURABLE NAWAB MAJOR MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-official): The Resolution as it stands is a very moderate one. It simply asks for the appointment of an expert Committee to investigate into the desirability or otherwise of the establishment of an industrial bank in India. So far as the bank will constitute the depository of small savings of scattered communities, it will bring within the reach of the industrial world the capital that was lying idle in the coffers of several respective owners. The question arises as to which of the industries are most entitled to be assisted with capital through the industrial bank. So far as the manufacturing industries are concerned, they are already utilizing the enormous capital of innumerable private banks, but the agricultural industry has so far been neglected by the capitalist community. This industry forms the solid backbone of Indian society because it provides the most primary needs of human nature. It is not justifiable therefore that an industry which is essential for human existence should be so neglected without even an attempt to give adequate support. Therefore, if an industrial bank be established, agriculture should have the foremost claim upon its support. The industrial bank should help the co-operative credit societies by advancing to them sufficient capital at a low rate of interest and thus contribute materially towards the rapid development of agriculture on scientific lines. Moreover, some of the industrial magnates have already accumulated large capital and it is desirable that they should invest at least a part of it for the benefit of the agricultural industry. I am willing to support the Resolution provided ample assurances are given that the claims of agriculture will not be superseded by any of the industries that are of secondary importance as compared to agriculture.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Sir, I rise to support the Resolution. Banking is a subject of such wide importance to the development of India in the commercial, agricultural and industrial lines that I do not think this House can disagree with the very modest demand put forward by the Honourable Mover of the Resolution. I think it can very aptly be said without the slightest fear of being challenged that India has not too many facilities even in the field of commercial banking or of agricultural banking. Whilst no doubt we have a number of very important and rich Banks in India, I think it can be said without fear of contradiction that so far as commercial India and the Indian commercial community by itself is concerned, there is a good deal that still requires to be done. If any proof of this was required, I would only cite the undertaking that was taken from the Imperial Bank when it was started that it would start a certain number of Branches within a certain period all over the districts of India. While very much requires to be done in commercial banking, the question raised by my Honourable friend opposite regarding the necessity of banking facilities for agricultural India cannot also be overlooked. No doubt co-operative banking has done considerable work during

the last few years since it was started, but he will be a bold man who will say that it has covered anything like the field that is before it, open for further work, for more concentrated work, and, if I may say so, for work that will reach the humblest and perhaps the most needy tiller of the soil. While these two questions therefore still call for all the consideration and all the sympathy that the Government can extend to them, the question of industrial banking may for the time being in the eyes of some pale into a bit of unimportance; but I do not think it is one which can be rejected by this House summarily. The aspirations of India in the direction of the industrial development of India are fairly well-known. In fact, the Industrial Commission, although it was started when the war was on, and the British Empire needed all the assistance that India could give it for the purpose of carrying on the war by being industrially developed, there is no doubt about it that there is such a good deal that requires to be carried out even of the recommendations of that Commission. But latterly, Sir, the appointment of the Fiscal Commission has perhaps increased the interest of the Indian public in this question, and if I may say so, the interest of England in this aspiration of India. In order that India may develop industrially on the right lines, Indians mainly, and many non-Indians also, feel that a very substantial measure of fiscal protection is necessary for India. The question is at present awaiting solution by the Government, based on the Report of the Fiscal Commission. Side by side with this, the Honourable Professor Kale has brought up this very interesting question, the question of financial help to industries.

I may very frankly say that the opposition to this Resolution by Government as put forward by the Honourable Mr. Chadwick has not at all surprised me. The traditions of England for the last century or half-century, whatever you like, are against any protection to industries. Whatever may have been the means employed by England at the early stages when she was at that stage of development in which India is to-day, whatever may have been the conditions then, I am quite prepared to understand the difficulty of this generation of Englishmen as far as industrial protection or State aid for industries is concerned.

The HONOURABLE MR. D. T. CHADWICK: Sir, I made no statement at all upon protection or my views on it.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: I said both protection as well as financial aid by the State for industries. I know that the Honourable Member did not say a word about protection or fiscal policy. I am sorry if I said only one, but I think I also mentioned financial help for industries by the State. We are told that catch phrases and the examples of Japan and Germany should not mislead us. Whilst I fully understand the sincerity of the views of my English friends, both officials and non-officials, may I point out to them that it is equally necessary for them to bear in mind the example of some countries at any rate which may have achieved considerable progress in the realm of industrial development by methods perhaps fundamentally different from those which England has adopted, and which may have enabled her to build up her industries. I submit that the examples of Japan and Germany are not to be despised or rejected summarily. All that the Honourable Professor Kale wants is that an inquiry should be held. If *prima facie* there was no ground for an inquiry of this nature, why, the Industrial Commission itself would not have made any such recommendation. And that takes me on a little into the details of the difference between industrial banking and commercial banking. Industrial banking, such as Professor Kale may have in his

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mind, appears to me to be different from commercial banking in this sense. In commercial banking the loans are for comparatively short periods, three months, six months, at the most a year. Industrial banking—I am now referring to industrial banking of the right sort only, capable of helping industries substantially—is possible only when industries can be given loans for a long period of years, two, three, five, and at times perhaps ten years. Then the loans have to be at a certain rate of interest so that the industries receiving the loans may be able to count on meeting fixed charges on their enterprises during that preliminary period. Now, any such banking and any such financial assistance can only be managed, in the present condition of India at any rate, by one party and one party alone, and that is the State. The Honourable Mr. Chadwick referred to a certain bank with which I had the honour to be connected till about six months back. That bank was started with the idea of helping Indian industries. It did do a fairly good bit in that direction during the first few years of its existence. Whilst I do not wish in the least to give away any of the secrets of that bank as far as its difficulties or its achievements in that direction are concerned, I think I am entitled to say that many on the Bank did come to the conclusion that any substantial measure of financial assistance for industries whilst they are being developed can be given only by the State; for, it is only the State that can find ways and means and resources up to a certain amount of money for a period of five or ten years. In the way that India is at present situated financially and commercially, nothing very substantial may be possible for the next few years. I am quite prepared to hear from my friend the Honourable Mr. Cook that the Government treasury at the moment is not in too affluent circumstances to undertake anything like that. But I am sure he will not be so bold as to say that conditions, as far as Government finances are concerned, may not change within the next five or seven years. And after all the Honourable Mover of the Resolution has not given any time limit within which this inquiry should be carried out and within which the report on the inquiry should be put into operation. That only shows the modesty of the Resolution and how non-committal it is as far as Government are concerned.

I feel, Sir, that examples of some countries where industrial banking has been introduced by the State, as quoted by the Honourable Mr. Chadwick, need not discourage us in undertaking an inquiry like this. It is rather the fashion lately to point to certain countries where certain policies failed or suffered bitter experiences, to point to certain countries where protection has led to the impoverishment of the masses; but after all, as far as the development of countries is concerned, in this world does not one country take a lesson from another, improve the method and then find out if that modification would not perhaps suit it? And after all, if the suggested Committee of experts say that industrial banking will not suit India, why, I think Professor Kale will himself be the first to say, "all right, let us not touch it." I do not think that these examples of the bitter experiences of countries here and there ought to discourage this House from recommending Government to undertake this inquiry, for I am sure the Industrial Commission themselves must have had information about these examples and the example of all other countries in the world which tried this and which may have in some cases found it unsuitable. The Honourable Mr. Chadwick referred to an opinion given by the Industries Committee of Bombay. I have been connected with the Industries Committee of Bombay Presidency ever

since it started, before the Industrial Commission was appointed, and when it was called the Indigenous Industries Committee. The particular meeting, the minutes of which I think the Honourable Member mentioned here, I was not in India for and therefore was not present at. But I can fully understand and explain to this House the recommendations of the Bombay Committee—I am now only putting my own construction on those recommendations: I do not want anybody to run away with the idea that I am telling the House what exactly was at the back of the minds of the Members of the Committee. The Committee in Bombay may have felt that in view of the fact which has been emphasised by the Honourable Mr. Chadwick before this House that industries is a provincial subject, perhaps asking for an industrial bank would be a cry in the wilderness. But the 12 Noon. underlying principle is there. Even in the recommendation of the Bombay Committee they have said that contributions should be made by the provincial Government for the development of industries, and that is the underlying basis of the Resolution and the recommendation of Professor Kale. Even the Industrial Committee of Bombay said that in suitable cases the Government of Bombay should make certain contributions or give certain substantial help to the industries concerned, so that, after all, with all the compliments that the Honourable Mr. Chadwick paid to Bombay, even Bombay does not appear to favour the view of the Government of India. Even they feel that in these matters help by the State is necessary. The Honourable Mr. Chadwick referred to the difficulties which the State encounter in these matters. I fully realise the difficulties and I think it is a difficult task. But I think it is just because it is a difficult task that Government should help the public at large to explore the whole question and bring out all the prominent points about it and then put them before the public. And, it may be that Members like the Honourable Mr. Kale and my Honourable friends here who have spoken in favour of agricultural banking may say that before we take up industrial banking, we had best push on with agricultural and commercial banking. But I submit that the case for inquiry stands on strong grounds and I should be very very much disappointed if Government turn it down. And one of the reasons given for turning it down by my Honourable friend over there has been that these Committees and Commissions cost money. I should very much like the Honourable Member to have told the House what it is that the Government undertake that does not cost money. Why make so much about a lakh or even few lakhs that may be spent at the instance of popular demand in order to meet the popular wishes and spent for the purpose of examining certain problems which stare the country in the face in order that the country may be developed? While I stand for economy and any economy that you can make, I think this is rather being overdone, and I hope that any such plea against this Resolution will not appeal itself to this House. I was disappointed to see the Honourable Mr. Chadwick endorsing that, but I do think in matters like this that is the last point that should be brought up. Not that I am in favour of a multiplication of Committees and Commissions. In fact, I feel that there comes a certain stage when even the non-official world and the non-official element in the Councils get a bit tired of committees and commissions. But I do not, therefore, think that anybody is justified, least of all the Government, in saying to the House "Oh, it costs money," for I can point out a hundred other ways in which Government may, if they are so disposed, be able to make up for not only that loss of money which may be spent on such committees and commissions of inquiry but also perhaps benefit by the results.

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And that brings me to the last important point that I would like to bring forward and submit to the House. When Committees and Commissions are appointed, do Government really follow up the recommendations of these Committees and Commissions? Do they fully go into these thoroughly and see whether they have done full justice to all the recommendations which any Committee or Commission may have taken so much pains to put before the public in all its aspects? Only if the Government of India will ask each department which had a Committee or Commission sitting to go into the subject with which it may be concerned, to put before Government a synopsis of the various recommendations—and I am now referring to the important recommendations of any such Committee or Commission and trying to find out how far the Government have followed up these—Government will find that the money spent on such Committees and Commissions has not been fully utilised by themselves. The fault is often not with the public which demands the appointment of the Committee or Commission or the Council which recommends it, but is perhaps with Government, for they do not examine and follow up all recommendations and say which of these recommendations could or could not be accepted. The Resolution that the Honourable Professor Kale has put before the House appears to be a very modest one. It may cost a little money, but I think it will pay in the end either by showing constructive method of industrial advance or by absolute satisfaction of the House and the public that that line of action is not feasible or desirable. Anyway, Sir, I submit that the House would not be justified in rejecting the Resolution.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, after what my Honourable friend Mr. Purshotamdas Thakurdas has said in support of this Resolution, he has not left much for me to say. Why I support this Resolution depends upon the following grounds. At the present time the money market is very tight and even very sound and very first class commercial firms find difficulty to borrow money from banks to the full extent. The banks themselves, I am sorry to say, have for some time past been in such a position themselves that they have not been able to finance the industries liberally. Even the few banks that do finance the industries have not been able to give them full and material assistance. Agriculture and industry go hand in hand and one is interdependent on the other. If my information is correct, we know that a big company like Tatas and an Indian State like Patiala had to go to England to borrow money for their industries as they could not get money cheap enough here. My Honourable friend Sir Umar Hayat Khan Tiwana said that appointment of these Commissions means money. I would only say a word in reply and that is that this expenditure of money is bound to bring in a return later on, and so it is not a waste of money, but an investment. During the war many small industries sprang up, but I am sorry to say that many of them have stopped owing to want of Government patronage and owing to want of financial facilities. At present Banks which do finance industries cannot finance them sufficiently, because they do not want, as the Honourable Mr. D. T. Chadwick said, to tie up big sums of money on long terms. Whether the industry is sound or unsound does not arise, because even very sound and very paying industrial companies find it very difficult to be financed. The Honourable Mr. Chadwick said that Industries is a provincial subject and so the Government of India is not justified in finding the money to meet the expenses of the Committee which is proposed by the Honourable

Mover. Only yesterday we were dealing among others with the Boiler Act, which, as far as I understood, was also a provincial subject. But when that provincial subject takes the importance and nature of an all-India subject, I think the Government of India is quite justified in meeting the expenses of committees, such as the one proposed by the Honourable Mr. Kale. When the Government of India appointed the Fiscal Commission, the idea underlying the appointment of such a Commission was that all the reasonable recommendations that the Commission made were to be considered. This Resolution only draws the attention of the Government of India to give its consideration and attention to this request. With these few words I give my hearty support to the Resolution.

The HONOURABLE MR. V. G. KALE: Sir, I do not think that I need take up the time of the House for any length because the Honourable Mr. Chadwick has been already answered by my Honourable friend Mr. Purshotamdas Thakurdas in a very able and convincing speech. All that the Honourable Mr. Chadwick said amounted to this, that there are a number of difficulties in the way; but that did not meet my position. He was not able to show why an inquiry should not be undertaken by Government. He tried to make out that I had belittled the importance of the work that the Industrial Commission had done. I never said that the Industrial Commission had not gone thoroughly into the whole question. What I meant to point out was that the Industrial Commission itself was not satisfied with the work it was able to do in one particular or satisfied with the evidence that was recorded before it in that connection; and it was for that reason that they left that particular aspect of the question to be threshed out by a special committee. To show that I was not drawing upon my imagination when I made my remark, I will quote to the House the very words of the Industrial Commission. The Commission said:

"We consider that the establishment of industrial banks, working on approved lines, is of sufficient national importance to justify Government assistance; but we do not feel that we have sufficient material before us to enable us to formulate a definite scheme for industrial banks, whether of Provincial or Imperial scope. We ask, therefore, for the appointment, at the earliest possible date, of an expert committee to consider what additional banking facilities are necessary for the initial and for the current finance of industries; what form of Government assistance or control will be required to secure their extension on sound lines as widely as possible throughout the country; and whether they should be of Provincial or Imperial scope, or whether both these forms may not be combined in a group of institutions working together."

Now, these words in the report of the Industrial Commission will leave no doubt in the minds of Honourable Members that the fact that the Provinces are alive to their duties and responsibilities as also to their newly acquired freedom, with respect to the development of industries and are actually taking certain steps to develop their own industries, does not stand in the way of the carrying out of the recommendation contained in this Resolution. On the contrary, there are several matters which the Government of India alone can investigate and these cannot be left to the Provincial Governments. My Honourable friend quoted certain observations of the Bombay Industries Committee. The Industrial Commission itself has referred to one of the recommendations of what they call the Bombay Advisory Committee, who positively stated: "We favour the establishment of an industrial bank"

The HONOURABLE MR. E. M. COOK: I rise to a point of order. I cannot hear the Honourable Member speaking.

The HONOURABLE THE PRESIDENT: Order, order. Members must not converse in an audible manner when the House is being addressed.

The HONOURABLE MR. V. G. KALE: I was quoting from the Industrial Commission's report certain suggestions made by the Bombay Advisory Committee showing how the Committee favoured "the establishment of a Central industrial bank or similar organisation with a large capital and numerous branches, designed to afford financial support to industries for longer periods and on less restricted security than is within the power or practice of existing banks." Now the facts that have been cited by the Honourable Mr. Chadwick do not in any way minimise the importance of this recommendation. He will pardon me if I say that no *obiter dicta* either from him or from me will be able to do the work which an expert committee was calculated to perform. He has given us examples of the failure of banks in Italy and in Germany. Now, the Industrial Commission itself had these examples before it, and the expert committee will certainly go into those examples. It is not for me or for any Honourable Member here to say that this is impossible and that that is impracticable. It is because I do not want anybody to say this that I want the expert committee. He was kind enough to ask private individuals to make inquiries into this question. We know what is the fate in store for inquiries made by private bodies or private individuals and what confidence is reposed by Government itself in such inquiries. Certainly private individuals would be quite willing to undertake such work provided Government facilitates those inquiries; but it is not right on the part of Government to leave the matter entirely to private enterprise. As a matter of fact, however, the Industries Commission has laid it down in clear terms that the Government should have such an inquiry made at the hands of experts. I do not think that any more remarks on my part are necessary, and I will appeal to the House to support me in this Resolution.

The HONOURABLE MR. D. T. CHADWICK: Sir, I think from my Honourable friends who have been opposing me I have received a great deal of support to my main contention. What I put before the Honourable Professor Kale was the conflict in the Report of the Industrial Commission between spreading the system of banking amongst small agriculturists and other small capitalists and the essentials of so-called industrial banking. These last were well explained by my Honourable friend Mr. Purshotamdas Thakurdas. I went on to say that this question of industrial banks was definitely placed before each Province, and what I quoted here was in reply to the definite conclusion of the local Committee on whether or not an "industrial" Bank was needed in Bombay. What I said to Professor Kale—I did not say that Government rejected this Resolution at all—what I said to him was merely this. I pointed out that difficulty, and said if he and other economists would give us more data to reconcile what seemed to be a contradiction, then undoubtedly the question would be examined again. Also my Honourable friend Mr. Purshotamdas Thakurdas clearly supported me. From his own personal experience with his own bank which tried this work, he, I understand, came to the conclusion that at present the only way to help many of these small industrial concerns was by a direct advance of funds from Government. That is not a bank. It has no connection with banking. It is solely a matter for a Local Government,—a loan by the Local Government. A reason too why we do not agree to appoint an expert Committee at this stage on this question, and why we ask for more information about it from those who are interested

in it, is that there is not the slightest doubt that, if Government appoints a Committee to examine any such questions like this, it raises immediately hopes—and possibly false hopes—throughout all the country. It raises the charge afterwards that nothing is done. And we have not before us, so far, enough evidence to convince us in any way that the solution of this problem, though we will examine it very carefully, can be devised on these lines. I would refer to the case of Italy. I did not merely point to a bank that was unfortunate. I admitted and said that many of those banks have succeeded, but all went out for big industries. What this Resolution is talking about is small industries: and if my Honourable friend can only help us in his researches to reconcile the two, I have not the slightest doubt that Government will be very ready to meet him, but we do not want to raise false hopes by an inquiry of this kind that Government will be able to put forward funds freely to start such banks or to give loans to industries; or to lead people to think that now they are going to get money cheap on terms no business man would consider. That is what I fear.

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

"This Council recommends to the Governor General in Council that he should be pleased to give effect, at as early a date as practicable, to the recommendation of the Indian Industrial Commission regarding an inquiry, at the hands of an expert committee, of the question of industrial finance and industrial banks."

The motion was adopted.

RESOLUTION RE THE ADOPTION OF A SYSTEM OF COMPULSORY NATIONAL MILITARY TRAINING AND SERVICE.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I ask the permission of the House to allow me to amend my Resolution in terms of the notice placed on the table . . .

The HONOURABLE THE PRESIDENT (to His Excellency the Commander-in-Chief): Any objection?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: No objection.

The HONOURABLE MR. PHIROZE SETHNA: My amendment is to add the words "in any form suited to the condition of the country" after the word "service" in the second line. My amended Resolution would read as follows:

"This Council recommends to the Governor General in Council that the system of compulsory national military training and service in any form suited to the condition of the country be introduced . . ."

The HONOURABLE THE PRESIDENT: Would it not be better to add those words after the word "introduced"?

The HONOURABLE MR. PHIROZE SETHNA: All right, Sir, it will then read:

"This Council recommends to the Governor General in Council that the system of compulsory national military training and service be introduced in any form suited to the condition of the country and that a Committee with a non-official majority be appointed to report as to the manner in which this object may be attained."

[Mr. Phiroze Sethna.]

Sir, I own to a feeling of pride and satisfaction at being able to bring forward this Resolution, for I consider it to be of a vast and far-reaching importance. I feel it a privilege to be able to submit for the consideration of this House and of Government a question with which I believe is bound up the re-making of this land into a great and mighty nation fully capable of defending her frontiers against foreign aggression, however formidable, justifying her claim to complete self-government, and exercising her influence not only in the common councils of the great British Commonwealth but also on the steady and peaceful development of the whole world.

The military problem of India with its many aspects and phases is a problem which at the present moment is engaging as serious attention of the Indian public as is the problem of self-government itself. It has always aroused considerable interest, nay even considerable passion. If Honourable Members will turn to the debates in both Houses, they will find that Indian Members have always taken a keen interest in the question of the military policy of this country. The Report of the Army in India Committee was published in 1920. The reformed Councils came into existence early in 1921. In its very first Session a Resolution was brought forward in the Legislative Assembly that a Committee consisting of Members of that House be appointed for the purpose of considering the recommendations made by that Committee, popularly known as the Esher Committee. Be it said to the credit of Government that that Resolution was accepted without the least hesitation; a Committee was appointed to consider the recommendations and to formulate its proposals. These proposals then came up in a series of Resolutions before the Assembly in the same Session and were duly passed. They laid down very sound principles in regard to the Indian military policy and methods of military administration. Without hesitation and without exaggeration, I make bold to say that in these Resolutions, responsible Indian public opinion for the first time under British rule, voiced itself in clear and emphatic terms in regard to the proper military police and the methods of administration that should be followed by Government. Of these Resolutions I particularly request the attention of the House to two,—one, in which it was stated that in view of the need for the preparation of India to undertake the burden of self-defence and in the interests of economy, it was essential that a serious effort should be made to organize and encourage the formation of an adequate Territorial Force on attractive conditions and to introduce into the Indian Army a system of short colour service followed by a few years in the reserve. The other urged the appointment of a Committee for the purpose of examining and reporting upon *inter alia* the best method of giving effect to the natural rights and aspirations of the people of India to take an honourable part in the defence of their country for the attainment of full responsible Government which has been declared to be the goal of British policy. The first Resolution has already been given effect to. In regard to the other, I had sent in a question this Session, Question No. 136, to which His Excellency the Commander-in-Chief replied only two days ago saying that the Sub-Committee of the Committee of Imperial Defence have reported to His Majesty's Government, but that the Government of India however have not yet received a copy of the Sub-Committee's Report. I would like to assure His Excellency that this House and the country await with interest the publication of that Report as the country is anxious to know what recommendations the Committee have made in order to satisfy

the natural rights and aspirations of the people of this country to take upon themselves the burden of national self-defence. Sir, this will show that with the rising tide of the movement of self-Government, there is a genuine desire, a desire which is getting stronger and more insistent every day that the public must take part in the defence of the motherland.

In the very interesting and perhaps animated debate which took place in the September 1921 Session of the Assembly at Simla on the motion of Rai Bahadur Mazumdar on Indian autonomy, the then Home Member, the Honourable Sir William Vincent, made the following very suggestive and pregnant remarks. He said:

"The other great test of a claim to Dominion self-Government in my opinion is the military strength of the country; that is, its power to defend its frontiers from invasion by a foreign country, to maintain internal tranquillity, and to resist various disintegrating forces within its own borders. And here I will ask Honourable Members a question. Is any Honourable Member here prepared to say that by 1926 or 1927 or by 1930 this country will have an Indian army officered by Indians which will be capable of defending the frontiers from external aggression and capable of preventing internal disorder?"

He went on by saying:

"If I had been a non-official Member of this Assembly

mark these words—

"the one consideration that I would have constantly pressed upon Government would have been the development of an Indian army officered by Indians, because on that really rests very largely the future political progress of this country."

Sir, I for one do not entirely agree with the late Home Member in the view he expressed that this country cannot have an Indian army within a very short time. I hold that where there is a will there is a way. If Government are determined that India *shall* have a national army officered by her own sons, fully equipped in every branch, thoroughly trained in the most up-to-date methods; and if Government go the right way about to do it, there is no reason why this country will not have a truly national army within a reasonably short time.

But the point which I desire to make from the speech of Sir William Vincent is that he was perfectly right when he insisted upon the Indian public to constantly agitate and to strenuously work for the evolution and the development of a truly national army, in order that the country may become self-reliant and self-sufficient militarily no less than politically and economically. India must depend upon herself to defend herself against foreign aggression as also maintain internal peace and tranquillity. Not only therefore is a national army necessary, but the people of this land of all classes and communities irrespective of race, caste, creed or colour must be made compulsorily to serve in the army and serve for a stated period. I venture to submit that the time has arrived for Government to take up this question in right earnest and to make a beginning and an adequate beginning.

I will now lay before the House some of the reasons why I contend that compulsory military training is absolutely necessary in the interests of India. My main reasons are three. In the first place, we have been told that until we are able to defend ourselves we will not get the right of complete responsible self-Government. This, Sir, is the most essential reason. In the second place, if compulsory military training is enforced, it will help to revive and foster a martial spirit in the land which did exist to a greater extent in the days gone by than it does today. And lastly, if the military strength of this country is enhanced and

[Mr. Phiroze Sethna.]

improved, it will enable the Empire to draw upon the vast manpower of this country in the hour of need, in the hour of Imperial peril. Let me enlarge my arguments a little further.

We understand quite well that if we want to have full responsible self-Government we must at the same time undertake the responsibility of national self-defence, for the position would be anomalous and it would be radically unsound to expect to get self-Government and at the same time to expect the British to go on continuing to defend our frontiers as well as do the work of maintaining internal peace and tranquillity. As regards the maintenance of peace and tranquillity in the country itself, the position is perhaps simple. Self-Government connotes the ability to prevent civil disorder as far as possible, and if in spite thereof there is disorder, to be able to put down such disorder. I say advisedly, as far as possible, because no country in the world can completely prevent civil disorder. In fact if that is to be the test of self-Government, perhaps no country on the face of the earth would be entitled to justify its claim to be called a self-governing nation. It would be a truism to say that a country is self-governing or a free country if it cannot by means of its national forces suppress civil disorder which may disturb the even serenity and current of its life. But it assumes a somewhat different character when the question is one of repelling foreign invasion. It would then be too much to maintain that the responsibility of self-defence is the exclusive concern of that particular country which is threatened by foreign invasion. Membership of a great Empire such as the British Commonwealth would have no meaning, no value, if any one component part receive help from the others, and for those others to sit quiet with their hands folded. Fortunately, the British Commonwealth has recognized the principle of coming to the aid of that part which may be threatened with invasion. India may therefore claim such help in the hour of need. But notwithstanding that, I say it is but right that not only India but every component part of the Empire must endeavour to be sufficiently self-reliant to take care of itself even against foreign invasion. Therefore it is absolutely necessary that the people of India should be trained and prepared to undertake the work of self-defence and that as soon as possible.

In this matter, however, I find that we are moving somewhat in a vicious circle. When we ask that Swaraj be conceded—not Swaraj in its spiritual sense or that indefinable mystic or occult form of Government with which our friends the non-co-operators seem to be so much obsessed and the pursuit of which like the pursuit of a mirage has caused much misdirection of public spirit and energy and done such incalculable harm but when we ask that dominion status—government of the people, by the people and for the people—be conceded, we are told that we are not ripe enough for it because we cannot hold our own against foreign aggression. On the other hand when we demand the creation of a national army officered by our own sons we are told we cannot get this for a long time to come. It follows therefore that we are to continue in our present form of tutelage and as a dependency for an indefinite time. Heaven only knows when Government will consider that we are ripe enough to hold our own against foreign aggression, ripe enough to be given responsible self-Government and ripe enough to become equal partners in the

great British Commonwealth. If it is held that in order to obtain self-Government, it is necessary to have the power of national self-defence, then it is the bounden duty of Government to help us to evolve and develop that power to the fullest extent to enable us to take up the task of national self-defence as early as possible, and consequently to obtain responsible self-Government. A thoughtless policy of drift or the outworn policy of slow progress may have been good in days gone by. It may be very convenient, it may suit vested interests, but such a policy will complicate the Indian problem and embitter—perhaps embitter for good—the relations between India and England. I therefore hope that Government will adopt a bold and courageous policy, a policy based on complete trust in the people, a policy which will pay for itself by the results that will follow, and I appeal therefore to the House and the Government to recognise that the system of compulsory military training and service in some form or other will alone bring about this result.

My second reason is that compulsory military training will help to revive and foster a martial spirit in the land which existed to a greater extent in days gone by. We know there is now a division between the different races of this country of martial and non-martial races and enlistment in the regular Army is made almost exclusively from what we call the martial races. Now, we do not for one moment grudge this appellation which is given to certain races and which appellation they have earned by the prowess they have displayed on scores of battle-fields and by countless deeds of bravery and heroism. But, Sir, martial spirit is not the exclusive privilege, it is not the monopoly of the one race or the other, of this or that community, nor is it something that as it were falls from the heavens above and grows where it listeth. It is the natural product of national traditions, national habits, national opportunities and national training. Time was before the advent of the British when there was no such distinction as martial and non-martial races, when every grown up man—and aye some grown up women too—could wield the sword and fire a shot. Even the metaphysically-minded Brahmin, ordinarily intent on meditation or the riddle of existence or absorbed in the performance of his religious ceremonies, could prove the warrior in him when occasion arose, as witness the history of the Peshwas and the Brahmins of the Deccan. Sir, it is the policy of the British that first disarmed the Indian public and then subjected them to a slow but effective process of emasculation that is responsible for the artificial creation among them of the division of martial and non-martial races.

My third ground is, that if the military strength of this country is enhanced and improved, it will help the Empire in its hour of trial. Does anybody believe that the great war is the last word in the conflict of nations, that there will be no other great war in the future, that the security of the Empire is assured by the solidarity of the Allies and the League of Nations, that the avowed object of the great war, namely, to end war, has been fulfilled, that a new era of perpetual peace has dawned upon the human race or that the dream of the poet and the philosopher has come true that there is now going to be a universal reign of law and order? If there is anyone who thinks so, he lives in a fool's paradise. There is already such corroding suspicion, such profound distrust, such exasperating jealousy, such bitter sense of disappointed hopes and frustrated ambitions, of wrong cruelly inflicted and of advantage unjustly taken amongst the nations of the world, great and small, that unless the Gods themselves intervene and prevent it, we must be prepared to face another

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military training and service is a measure both impractical and unnecessary. Before, however, I deal with the various aspects of the question in detail, there is a larger, and if I may say so, a higher consideration which I think I ought to place before this Council in the first instance. The consideration is one that arises out of the fact that India is a Member of the League of Nations. I would ask the House to reflect seriously whether it would be consistent with India's membership of that League and with the responsibilities and obligations which attach to such membership to adopt the proposal which my Honourable friend recommends. Members of this House

1 P.M. are all no doubt aware that in many quarters and for many years before the war conscription was held to be a menace to the peace of the world; and it is a strong conviction of many thinking people that conscription was one of the causes which led to the Great War. Now with the experience of that war behind us, it is held by many that the true path towards peace lies in the reduction of the size of the national armed forces of the world, and not in an increase of their capacity either for defence or for aggression. I do not wish to suggest that if we had universal compulsory military training in this country, there would be a practical danger of India following the example of Germany in the same or even in a different sphere, but it must be remembered that if the principle of compulsory military service and compulsory military training were to be applied to a country of the size of India, and if the policy were to meet with the success at which it would necessarily aim, India's potentialities would be enormous. I want the House to look at this larger aspect of the question which I put forward, and to say whether at this stage of the world's history, when the world is endeavouring to recover from the results of a devastating war, when the desire of all should be towards the maintenance of the general peace, whether, in these circumstances, it would be consistent with her international ideals for India to be contemplating a proposal of this nature, or even to appoint a Committee to discover whether a policy of this nature was feasible or not. I turn now to the more practical aspects of the question. From purely natural causes, a compulsory system cannot be absolutely universal. The system must in any circumstances and in all countries presuppose the creation of an elaborate machinery for the purpose of registering those liable to the obligation, of classifying them according to the degree of obligation which can be imposed upon them, of ensuring that each shall be called up and shall perform the quota of service or training assigned to it, of dealing with exemptions and other almost innumerable details which are indispensable in any system which envisages compulsion. I will give the House some examples of what I am referring to, taken from the regulations which have been adopted by one of the countries in the world which have adopted this system, and I may say one of the smallest countries in the world. The country is subdivided into districts, recruiting is carried out under the supervision of a senior military officer, who is assisted as regards the examination of recruits by a Medical Board composed of three medical officers and by literary and gymnastic examiners. Each recruit undergoes three examinations,—a literary examination to test his educational standard, a gymnastic examination to test his physical strength and his agility, and a medical examination to ascertain if he possesses the necessary physical and mental qualities to serve in the Army. The recruits are then classified in various ways according to their age, their physical capacity and suitability for service,

in the different arms. Claims to exemption are received and decided upon by the local tribunals, exemption being given temporarily or permanently as the case may be. Then there is a further distribution of the recruits among the various branches of the Army as different periods of training are prescribed varying in those different branches,—branches such as the infantry, the cavalry, the artillery, the fortress troops, the engineers, the medical and the supply Department and the transport services. Similarly an elaborate machinery is maintained for the purpose of training and instruction and also for the inspection, but I need not weary the House with further details. Imagine a system of this kind applied to a country like India, with a population of 320 millions composed of heterogeneous elements, with the added difficulty of distance and of the relatively deficient communications. It will be evident to the House that the purely mechanical difficulties of applying a compulsory military system to India places really the proposal of my Honourable friend beyond the range of practical politics; and even if the country were prepared to face the mechanical difficulties involved, the cost of the registration staff, the cost of the instructional and the training staff, the cost of the equipment which will be required for training purposes would render the proposal, I might almost say, grotesque. Supposing that we had proposed or that my Honourable friend had laid this matter before the Retrenchment Committee—for instance, I wonder what view they would have taken. However, it is quite unnecessary for me to go into further details in this respect. After all, in India it is unnecessary to adopt any system of compulsion for the purposes of the defence of the country. We can rely with confidence on the voluntary efforts of those who have a natural predilection for the profession of arms. Our experience in the last war, when the Indian Army had to be very largely expanded, was both encouraging and satisfactory; and if a further ^{expansion} were needed, it is to be found in the ready response which had ^{been} recently made to the recruitment for the Territorial Force. My Honourable friend knows something of this himself, and I have recent evidence to show that in other parts of the country also besides Bombay the force may well develop into an effective second line of the Army. The Territorial Force furnishes an adequate opportunity for those anxious to enter the army: and a Territorial Force possesses an advantage which conscripted forces do not always possess, namely, that the Government of the day can control and regulate it. I presume the House will recognize that this is in itself a very important factor. But above all things, as the regular and the territorial forces are based on voluntary service. Provided that the voluntary principle is capable of producing the numbers we require, and provided also that it is on the whole the cheaper expedient, which it is, it is clearly the principle to which a country which has liberty as its ideal should rigorously adhere. The objections to compulsory service in India are so numerous and so strong that even if my Honourable friend's proposal was merely to the effect that a Committee should be instituted to examine the question, even then I say that the expenditure involved by the appointment of such a Committee would be wholly unjustified. Its inquiry could only be academic. The Committee itself would cost a sum of money which our revenue could at this moment ill-afford. It would not be a Committee sitting at headquarters and disposing of the question expeditiously; but it would have to tour all over India to examine conditions in the various provinces. It would have to study the idiosyncracies and the peculiarities of every class, caste and creed, and it would involve, as I have said, an expenditure which certainly at the present time we should not be justified in incurring. Any form of compulsory military training as

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applied to India would have to absorb Census Department. It would require a large and elaborate medical section; it would involve an immense machinery for registration, exemption and distribution, and would thus constitute a huge organization entailing large expenditure for which the State would receive no adequate return. For these reasons therefore I must oppose the Resolution.

The Honourable Mover has referred to the controversy that went on on this subject before the war in England under the guidance of Lord Roberts and Sir Ian Hamilton. But the problem then confronting us (for I was taking part in the movement myself) in the United Kingdom was absolutely different to the problem which is confronting us in India to-day; and it is for that reason that the views that I now hold in reference to India are not the same as those which I then held in reference to the United Kingdom.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I would like to ask first if this Resolution is to be withdrawn. If so, I should not take the time of the House.

The HONOURABLE THE PRESIDENT: If the Honourable Member wishes to speak he can do so. But he cannot ask a question.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I oppose this motion. Many people, inquisitive and otherwise, who know nothing of the army have been attacking its organization in one form or another. I am sorry that I was not present when Sir Dinshaw Wacha moved his Resolution the other day, and for that I ask the Chair for forgiveness.

The efficiency of the army has already been reduced by 50 per cent. by the reduction of the cavalry to one-half, and thus deprived the employment those who had been true to their salt and who for generations, it was generation had been the anchor of the army ship. In the infantry too one of our best classes of soldiers has been approached by agitators, but I am glad to say that as yet they are not very much affected. India is a country which can never form one nation. It is as big as Europe with Russia left out, and when the Germans, French and the English become one nation then perhaps we also will become one nation. But in Europe at least there is to a great extent one religion, while the conditions of the people are much more alike than they are in India. In India we have many religions and many castes, some martial and some not. When in some castes a person is taught not to kill an ant or other insect, how is he going to kill his enemy. In the army once we did try a non-martial class, and we all know the result. They proved a failure. An Arabic proverb goes that any man who makes an experiment which has already been made gets no new result. If of employment is a trust for those who have to spend it in the best interest of the country and to spend it in a wrong manner will not be doing duty to the country. It is a well-known fact that the martial classes of India kept the Germans at bay in Flanders on a portion of the front at which the Germans were attempting a turning movement. After our troops were relieved, the troops of another European power came in their place, and the Germans got through them and we nearly lost the war. That splendid body of cavalry which under General Allenby made the first victorious move in the war has already been reduced. Public money is required for useful work and not for Utopian ideals. I hope the House will not allow it to be spent on runaways.

Then Sir, why do we want such a big army? Are we going to attack any other country? We are not going to do so. I think the army we have already got is quite sufficient for our purposes.

In India there are two classes of people, one who want trouble and one who want to keep the country quiet. If we take in everybody into the army, we will have to take also those men into the service who want to create trouble and they will do so in the country. I was on the Esher Committee, and I opposed this short service scheme very strongly. The fact is we are not a fighting nation; we have certain classes who have fighting traditions, and we fight as men. It has been proved that a youth has not the strength to fight as soldiers are required to do. For the training of such raw material, as His Excellency has already said, we have a territorial force. It has many different units in it; one is a University Corps, and we have found, Sir, that some of these young men in such a Corps are not able to do a route march of more than six or seven miles, and after all physical fitness is one of the essentials for a good soldier. There is no room for immature young men specially in the Indian army.

There is only one thing about which I should like to say a few words. We are very proud of having Indian officers attached to units, but I hope that instead of having only one Indian officer in a cavalry or infantry unit, where he is often ragged by the English officers, it may be possible to have one particular unit in which they can be kept together. But, at the same time, the difficulty is to educate a good officer, it requires money; and, unfortunately, the best fighting people have not got money. But if you go and get the sons of those who are very wealthy and make them officers, they will be

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I rise to a point of order. Is it relevant to the discussion?

The HONOURABLE THE PRESIDENT: The Honourable Member is really straying away from the main point, but I trust he will come back to it.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, it has been said that we want Indian officers. I think, Sir, that I am speaking on what is relevant to the Resolution. If we want this ideal, I must say something about Indian officers. If we train these Indian officers (drawn from non-martial classes) and if we train them and make them in charge of the best soldiers, and if they get frightened and run away, the others also will run away. As regards the ideal of an Indian army, we have already seen that many times India has been invaded. Since the English have come in, we have been so organised that we have been able to withstand the attacks from outside. But, what is the cause? One of the causes is the British Army. The British Army is the nucleus, as I have seen myself, and that is the backbone of the army. Especially if we have trouble in the country, if we have got the English Army from England, if anything goes wrong, they will defend the country and keep it quiet. So, I do not think we can dispense with that element and we should not. I am not against the idea of the Honourable Mover, but there are certain things that I want to put before the House. No doubt, if this ideal is kept up to the extent that only martial classes are organised, I think it will be an asset, and will be useful for England also in case of future trouble. Everybody could not become a soldier. The reason why certain

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people, Suders and Waish, and others are classified as non-military classes is that they have been so from time immemorial. Then, Sir, in the past, nations from the North-West have come and invaded India; the reason is that when certain invading classes remain here for 25 or 50 years, they become degenerated. That is one of the reasons why I want fresh English blood from England to defend India always. It is just like this, Sir. All people know about horses. If you put a cart horse

The HONOURABLE MR. LALUBHAI SAMALDAS: I rise to a point of order, Sir. Is this relevant to the Resolution before the House?

The HONOURABLE THE PRESIDENT: I think the Honourable Member is perfectly in order in referring to horses.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: The reason why I want to classify the best fighters and others separately is this. If a cart horse is put on the race, it would not do, and similarly if a race horse is put on to a cart, it cannot pull a cart. People in India are like that, especially in the North. If a boy is weak he is unable to stand the cold and dies; the theory of the survival of the fittest is correct. There are some places where there are people with limbs like our fingers. How on earth can they fight? With these few remarks, Sir, I very strongly oppose this Resolution.

The HONOURABLE THE PRESIDENT: I think it will be convenient for the Council to adjourn now for lunch and meet again at a quarter to three.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock. The Honourable the President was in the Chair.

THE MARRIED WOMEN'S PROPERTY (AMENDMENT) BILL LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules I lay on the table a copy of a Bill further to amend the Married Women's Property Act, 1874, which was passed by the Legislative Assembly at its meeting held on the 15th February, 1923.

RESOLUTION RE THE ADOPTION OF A SYSTEM OF COMPULSORY NATIONAL MILITARY TRAINING AND SERVICE.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, the object underlying the Resolution is a very laudable one and it could not have been put better before this House by any other Member. The Honourable Member has put before us our ideals. He has drawn attention to our sense of self-respect and to our unfitness for self-Government if we do not organise a system of compulsory training to defend our frontiers. He has drawn attention to the remarks of the late Home Member and I congratulate him on his

eloquent and persuasive speech. He has put a new life into our deliberations, and it is with regret that I rise to oppose him.

His Excellency the Commander-in-Chief drew attention to the practical aspect of the question, and, in view of the difficulties pointed out by him, it is difficult to agree with the Honourable Mover. I propose to make only a few observations. The Resolution seeks to break the monopoly of the so-called martial classes and also to introduce compulsion in military service. The Honourable Mr. Sethna said that there was a time in India when there was no distinction between martial and non-martial classes. Here I disagree with him. The time may have been before the Vedic era, before the times of Manu, or in pre-historic days; but, so far as we have been able to gather, the four classes among Hindus, namely, Brahmins, Kshatriyas, Vaishyas and Sudras, have existed from the Vedic times. If Vaishyas had been a martial race at some period of Indian history, there would have been a remnant of this element in some of our Indian States. We have got Jat Maharajas, we have got Rajput Maharajas, but is there one Mahajan Maharaja in India? No, and why? Because the Mahajans or Vaishyas, and all other commercial communities, were never the martial races of India. The Honourable Colonel Sir Umar Hayat Khan has alluded to the religious sentiments. The non-martial races believe in *Ahimsa Paramo Dharma*, that is, not to destroy any life is the best Dharma. It is not the fine physique that makes a man fit for the Army but some other inherent qualities are needed. Here I am tempted to quote a story that appeared in the *Rajput Gazette* in September or October last. It was stated therein that one of the late Maharajas of Kashmir—I think it was Maharaja Sir Rangbir Singh—took it into his head or was advised to recruit a battalion of Kashmiris. Kashmiris have got a very fine physique and he thought they could very well fill the Army. He got together enough Kashmiris to form a battalion. Arrangements were made for their training and after a year they looked very fine and consequently a Durbar was held by the Maharaja. The General of that Army was called and the Maharaja addressed him saying, "You have now to take your battalion to the Gilgit frontier, to defend the frontier, and to relieve the Sikhs and Dogras who are there." The General saluted him in right military fashion and said, "Sir, I am prepared to obey your orders, but I want one thing. Let me have two Sikh sepoy to defend the armoury." Everybody laughed. The Maharaja was enraged and said "What do you mean?" The General said, "I do not lose anything if the whole army is looted; it is in your interests, Sir, that I am asking for the services of two sepoy to keep a guard on the barracks. Two sepoy will not cost you more than Rs. 60 per mensem and you should not grudge them." The Maharaja took the hint. He at once disbanded the battalion and there was an end of that fine show.

I am all for increasing the Indian element in the Military Department. Our Ranjit Singhs and Sivajis should not certainly stop at the post of Risaldar-Major or Subadar-Major. We should have a much larger element of Indian officers in the Indian Army, but that should be drawn from the martial classes.

Comparisons are odious, Sir, but we have to resort to them when measures like this are being discussed. The memories of the great war are fresh in our minds and it would be instructive to take stock of our doings during the war. The martial classes came forward with the best of their manhood; they shed their best blood for the defence of the Empire; they

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[Lieut. Rao Bahadur Chaudhri Lal Chand.]

fought equally well both in the frozen fields of Flanders and in the burning sandy deserts of Mesopotamia. What did the non-martial classes do? I will not attempt a reply. I would only point to the poor response to the call for University double companies and for the Indian Defence Force. At first Government wanted to recruit men for the University Corps from among the non-martial classes, but, when they realised that no one was coming forward, they appealed to the martial classes and Honourable Members will be surprised to learn that the majority of the men who went into the Punjab University Corps came from the martial classes. The Territorial Force battalion tells the same tale; and, as the Delhi Territorial Force is at present undergoing a training in the New Cantonments, Honourable Members have only to go down to the New Cantonments to find out how many of the recruits belong to the martial classes and how many to the non-martial classes. Even among the martial classes it is not every district that can lay claim to military traditions. The lists of deserters during the war show that the new element could not be depended upon. The districts which did not furnish recruits to the Army before the war showed the largest percentage of deserters. But why multiply examples to show that it is the inherent qualities of martial races in India that fit them for service in the Army and that a change in the present policy on this point to-day will be committing national suicide. The fact is that all persons are neither fit for nor willing to join this service. People are neither willing nor fit for this service. The ideals set forth by the Honourable Mover are very high, but we should not ignore facts, as has already been pointed out by His Excellency the Commander-in-Chief.

If this army is needed to do away with the present costly army without endangering the defence of our frontiers, then my reply is that this is impossible at the present moment. If it is a pastime for peace days, then we are too poor for such amusements. With these few words, Sir, I beg to differ from the Honourable Mover and would suggest to him to withdraw the Resolution.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, to begin with, I must apologise that being unaware of the fact that such a Resolution was coming up for discussion, I did not bring my military books, and in the absence of these I tried to get the necessary references from the Military Department, but as their library is at Simla, I could not avail myself of it. The few observations that I am going to make are based upon my personal experience and the knowledge that I have gained during my military career.

The Resolution as it stands is objectionable on several grounds. First, it is objectionable on the ethical grounds in so far as the adoption of this Resolution means the violation of the ethical principle of establishing a world-wide peace. As India has recently joined the League of Nations, the training of her entire population will be considered a standing menace to the peace of the world.

The second objection is the economic objection. It, however, is the most serious one against the contemplated adoption of a compulsory national training and service. It is impossible to provide funds to impart adequate training to all the adult male population of such a vast country

as India. The next practical difficulty arising in this case is that a sufficient number of efficient instructors will not be available to train such innumerable heterogeneous mass. The impossibility of providing adequate equipment to all the men undergoing compulsory training is self-evident and needs no further elucidation. Those persons who have any practical experience of military work know fully well how difficult it is to train efficiently even a small number of recruits. Moreover, modern warfare being a highly technical and scientific subject, it takes a much longer time and trouble to bring up the recruits to an adequate standard of efficiency. Therefore, the difficulty that I am pointing out is not imaginary or based upon any theoretical consideration of the subject. I assert from personal experience that it is an insuperable difficulty and it will become almost formidable when the entire male population of the country will have to be trained.

There are three systems of military organization prevalent in the world:

(1) The universal compulsory military training as advocated by some of the eminent military authorities of Germany, such as Von Clausewitz and others of his school up to Von der Goltz. This system was firmly established in Germany after the Balkan War and it could only be practicable for a small country like Germany which had attained the highest pitch of discipline and the best military organization in the world before the war. But to introduce this system in such a huge country as India which is almost a Continent is absolutely impossible.

(2) The second system is conscription. Under this system any number of troops can be raised and the organized strength can always be maintained by fresh drafts of recruits through conscription every year, but pre-requisite is to definitely settle the specific number of troops necessary for the adequate defence of a country. The French Army furnished the most complete example of the working of this system before the Great War. Conscription has certain advantages over the universal service system—

(a) Under the former system, only those persons who are physically fit are selected for training, whereas under the latter even the unfit are included amongst those who receive training.

(b) Under conscription, only the requisite quota of recruits is taken up to make up the deficiency whilst under the universal service system the entire male population of military age is subjected to military discipline when the deficiency is only for a small number. But conditions in India do not seem to warrant the application of this system even.

(3) The third system is known as the voluntary, which may either be long service or short service. England adopted the short service system before the war. Another modified form of the short service system is known as the Militia, which is generally known in India by the name of Territorial Force. This form of organization is being tried in India as an experiment. I have some knowledge of this form of service as I am serving at present as the President of the Advisory Committee of the Territorial Force of the North-West Frontier Province. But this system of partial and periodical training is still in an experimental stage and its success or failure would therefore become evident in due course.

All these systems were resorted to in Europe to obviate the ever-recurring difficulty of the shortage of the Standing Army under the voluntary system, but here in India no difficulty has ever been experienced in getting

[Major Nawab Mohamed Akbar Khan.]

a sufficient number of recruits under the voluntary system which did not fail us, even during the Great War. I therefore fail to see the motive of the Resolution. If any shortage in the number of recruits voluntarily offering themselves for enlistment is feared, about which I do not know, I would suggest the introduction of conscription amongst the martial races of India, through which we can easily raise an Army of one million strength, and I think the military requirements of India have never exceeded this number.

Some of the disadvantages of compulsory national service have already been indicated. Under this system, as remarked before, some of the non-martial races that have no natural adaptability for a military service will unnecessarily be dragged to undergo this irksome training. The training of these non-military classes has before now been tried, but with extremely discouraging results. Maharaja Sahib Gulab Singh of Kashmir made an attempt to impart military training to the selected men of Kashmir under the most efficient instructors available. This regiment of artillery was very smart on the parade ground, but, as the tradition goes, it completely failed in action. Again during the recent war a few regiments were raised from amongst the non-military races and an enormous amount of money was wasted on their training and equipment, but in spite of the fact that the most efficient training was imparted to them, these regiments did not achieve even a tolerable success. During the Great War, I had the opportunity to serve with a highly efficient and well-drilled unit of the Indian Army at Aden, chiefly recruited from the most brilliant and respected high class of India, but on active service, owing to certain complicated arrangements of messing, they did not quite come up to the standard, and hence the composition of the regiment had to be changed. It is evident from these instances that compulsory military training to all the classes, irrespective of their natural adaptability, is useless and a sheer waste of money and energy. In these circumstances, the replacement of the voluntary system by any other system seems inadvisable.

Another thing that during the debate struck me was this, that voluntary system being a sort of contract, it gives the Government the option of selecting the very best material found suitable for the army. Well, why remove that option from the hands of Government, and force on them a material that will not be so advantageous to the country in case of a big war? I cannot understand the motive of some people because if a man wanted to employ an artificer he would rather try to find an efficient artificer and not an indifferent one for the salary he was prepared to give.

In these circumstances I have felt backward in supporting this Resolution, though I have a great regard for the Honourable Mover of the Resolution. I do not see my way to supporting him.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, I wish to support the proposition. The position as it has developed in the course of the debate here appears to fall under four heads, more or less. I shall deal with them briefly. I may say that the important words that fell from His Excellency the Commander-in-Chief have been mostly amplified and paraphrased by the opposition speakers, or some of them at least. The first objection put forward is that India is a very large country with a population of 320 millions and therefore it is impracticable, and that word "impracticable" again has been further

translated into impossible. Well, I remember in my younger days reading that Napoleon said that "impossible" was not a word in his dictionary. Impracticable comes next door to it. I say that it is genius and the test of genius to make the impracticable practicable, to make the impossible possible. And if genius exists anywhere in India it has to devise means by which this large population can be trained. One of my friends said, why should it be trained? We have no need for a larger army; we have defeated the greatest enemy that ever existed and therefore what need is there for our having a larger army. In reply to that I say that there is a Latin proverb that if you wish to have peace always think of war. If we want to have peace and if we are never to be disturbed at all, we had better be ready at all points and for all contingencies and at all times. So that, from my point of view, that disposes of the question of impossibility, or inutility and impracticability.

The last time I was speaking about border races I made an observation which was looked upon as a joke and afterwards I was congratulated upon having made a joke. But that really was not a joke; I was stating a fact. I had better draw attention to the words of the Resolution. They are "national military training and service" in such a form as may be suitable to the conditions of the country. So that it will be seen that training comes first and service afterwards, and both these are to be given in a form which will be most suitable to the existing circumstances of India. Now these three things have not been quite clearly understood by those Honourable Members who have opposed the proposition. National does not mean universal. National means training given in continuation of the traditions of the nation and in such form as the nation will assimilate. It does not mean universal, for which I think it has been mistaken. That is why they said, there are 320 millions of people and how can you train 320 millions. That is not the question. Then comes the training; and training is what I suppose my Honourable friend who moved the Resolution lays the greatest stress upon. Military training has a great many virtues, the first being the realization of the sense of discipline. Another virtue which it inculcates is that of obedience; thirdly, you learn how to act in unison, and so large units of thousands act like one man. India at the present moment does require this training. Whoever has watched the present political situation knows that there is very little cohesion among us. We are like an army of which every member is a Commander-in-Chief with no soldiers behind him. That is not a desirable state of things. My friend therefore rightly desires national organization and training to inculcate obedience and foster the ability to command. All these things are acquired, not by sitting at home, not by reading books, but by going through the discipline and the evolutions of military service. If these things are introduced into the national life and carried out as they should be, then in all probability the present condition of something like chaos will disappear and order will come in its place. In order to refute this part of the case my friends have cited the four-fold division of the Hindus, Brahmans, Kshatriyas, Vaishyas and Sudras. Then they say there is the question of heredity and a great deal has been made out about the martial races. I will deal with these points in turn. There is a four-fold division in the Hindu Shastras, but that is for times of peace; and if you read on further you will find that when there is trouble and revolution, when there is a foreign invasion, then it is laid down that the Brahmans should bear arms; much in the same way as the German Professors came out to command armies, so the Brahmans taught the people military arts and

[Mr. G. S. Khaparde.]

in times of revolution and foreign invasion took command of the army. It is further said that the Vaishyas, Sudras and even women ought to bear arms when there is a revolution or foreign invasion; and in the history of Rajputana will be found many instances of the honourable part which women have played, like Boadicea did and many others whom I might mention. Therefore it will be seen that this four-fold division of the Hindus does not operate against military training, and my friends who depended upon that have relied upon a broken reed. They did not know that even ladies took up arms in the last resort. (A Voice: "Ladies of the martial races took up arms, not others.") I did not like to bring up that matter, but since it has been brought up I will deal with it. What has made the martial classes? Were they born martial or is it their training which has made them martial classes? I have a great faith in heredity, but still I think that it is their training, their environment, the discipline to which they have been subjected, which have had more to do with it. If a man was brought up as a cowherd and sent into one of those hills where I have a village I suppose you would soon see him running away from a fox. Then again that argument goes against the whole theory underlying modern military organization. During the recruitment for the recent war was a man questioned as to whether he belonged to a martial class or not. Modern nations, western nations and our own Military Department in particular have a firm belief and faith in their own training in the matter of turning out good soldiers. They think they can lick any man into a soldier. They take him away; put him for three months in this branch, three months there and similar periods elsewhere, and they turn out a good soldier. So that training has a great deal to do with it. And though I have a great pride in heredity, I still think that heredity amounts to very little without the training. If the training was not given the martial qualities of the soldiers would not be so much in evidence. My friends have told a story of a Kashmiri, and I may be permitted, Sir, to tell one of a quaker. A quaker is a person who answers to our Jains in India, one who has a dread of taking the life even of an insect. A ship was starting on a long expedition in the days of good Queen Bess, a hazardous venture. A quaker desired and offered to go as well, but the crew said, 'What is the use of taking a quaker along with us on such an expedition as this? We want a man who can fight.' Ultimately the quaker concealed himself as a stowaway and went off in the ship. In the course of its voyage the ship was attacked by pirates; the quaker was also on deck and a pirate boarded the ship at the point where he was standing and the quaker said to him, "Stay brother; thou hast no business here," and he embraced the pirate and threw him into the sea. That is what the quaker did for him. Now, that goes to show if anybody is properly trained and brought up under good surroundings, he can do a soldier's duty very well. It all depends on the training and bringing up. There is no good saying that a particular people do not belong to the martial class. That does not count much.

Now, we take up the second question. That question is of economy. It was asked, where all this money was to come from? How is it to be spent? How is it to be done? To that my reply is, it may cost a little in the beginning, but ultimately it may mean great saving by establishing a large system of reserves so that you can curtail your standing army, you can curtail many of the expenses, and according as necessity arises, you may call up the reserves. You will see that the whole country will

come to your help. That would not be like going for recruiting when the war is actually on. When the war was on, we were trying here to induce the agriculturists to drop their ploughs and take the sword and tried to march them. If you had a proper system of reserves in India, all that expense and trouble would have been reduced. After all, Army is the insurance against war; and if we could train up so many people, we shall become so strong that I suppose nobody on the face of the earth will think of fighting with the British Empire where Indian soldiers are to be taken in account. So, that question of economy, to my mind, takes a very secondary place.

The third argument that has been put forward and dealt with at very great length is how to give this training. How many teachers would be required? How many trainers would you require? How many servants would you require? There should be a large department. I quite agree that we should have a large department, but that will be a very useful department, and perhaps better than many others that exist now and on which money is spent. Only the other day I was reading a book written on Education, education in the Army, and it was found that soldiers sitting in the trenches had long evenings and they had to wait and they found it a very difficult thing to manage. You must not only take care of the physical strength of the soldier, but you have got to take care of his moral spirit or morale as it is called. How are his spirits to be kept up? They introduced small schools, they gave them lectures, they gave them little performances, and in that way there was a system of education developed. There is a book of 500 pages written by Lord Gorell. He shows how education is the necessary path to military training. He also shows how military training is enhanced and how a soldier is helped by being brought up in a school, with a little literary dash, with certain other stories told, and so on. Now, if this training is to take place and if it is carried out—as I have an idea that it should be—then there will be no difficulty. All our school-masters can be made teachers of military art; they can be given a little training which they can introduce in the schools, and in that way we can give military training to people in the whole of the country. You know, Sir, that every boy who reads a novel imagines himself to be a hero. I have often wished that I were Ivanhoe; children will easily take to it and learn it. Some of them have got a natural military instinct. But it is not the monopoly of the martial races alone. I said previously that the criminal tribes should be put on the Frontier; they will do very good work. These tribes are the very people who could be brought round by military training. They were so employed by former Kings. They will become good scouts. All this comes to the old argument which I adduced the other day. This will be quite suitable to the nation. There is division of labour during times of peace. For times of war, for the time being, ignore this division of labour and make everybody into a soldier. There will be full value in the end for the preliminary training which we may give them at this time. Now, there is no war on hand, and we can slowly improve. The school-master will gradually teach the boys. There are many retired officers who are seeking employment and I suppose they can be had cheap enough and they will give the training very well, just in the same way as other things are taught in the schools. Why should not the first elements of military training be given through schools? The Government itself has set an example by making University Corps and Territorial Forces. This will merely be extension of that system and it should be more persistently carried out. I do not see where all these

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objections that have been urged come in at all. There is a further point. It is said that

The HONOURABLE THE PRESIDENT: I am sorry to interrupt the Honourable Member; but if he has taken the part of Ivanhoe, I must on this occasion take the part of the Templar and remind him that his time is approaching to a close and that he must bring his remarks to a conclusion as soon as convenient.

The HONOURABLE MR. G. S. KHAPARDE: I will close with this remark that I have got to make. Unfortunately, during this argument, people who have great faith in heredity have omitted training, and people who have got faith in training have omitted heredity. If both are combined and genius—we are talking of military genius here—is brought to bear on this question, it will be found to be the most practicable of all practicable questions, and the learning, the training, the capacity to command and all these things will come in their due course. In the old Council I moved a proposition of this kind, but that was disposed of in the usual way by the rule of the majority. I am glad to see that that proposition has come in here again, and I heartily support it and I hope that our Council will carry it without division.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, after the lengthy debate which has taken place, I do not want to make more than two or three observations. Unfortunately, certain extraneous considerations have been imported into the debate about what I must regard as an artificial distinction between the so-called martial and non-martial races. A reference was made to Shivaji and it was said that he was able to perform great feats of valour because he belonged to a martial race. But if my Honourable friend opposite will read his Mahratta history more deeply, he will come to discover that this very Shivaji created commanders and armies out of people who were not regarded as Kshatriyas. Most of these people were "Shudras," and worse than "Shudras" and mere cultivators. If you go to their descendants to-day, you will see no signs of any possibilities of soldierly or martial qualities in them. It was out of this kind of material that Shivaji was able to make an efficient fighting machine.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Shudras are not the same as cultivators. If a man cultivates land, he is not a Shudra.

The HONOURABLE MR. V. G. KALE: What I was pointing out was that they were not of our 'martial' races. And coming to the point urged by my Honourable friend about Brahmins, I find that he said they are given only to contemplation and are not useful for anything else. But I hope my friends living in Northern India and on the Frontier cannot have forgotten that it was a Brahmin leader from the Deccan who triumphantly led his horses as far as Attock. Brahmin soldiers and commanders fought in and led armies and helped to establish an Empire and to maintain that Empire against the invasions of the so-called 'martial' races. My Honourable friend Mr. Khaparde has put it quite rightly that it is the spirit that you arouse among the people, the national spirit and the spirit

of liberty and also the training that you give them, that makes a soldier out of a man. That is what is wanted in India at the present moment. I wish now to refer to the opportunities that there are in our colleges and universities in this regard. I should very much like that military training is made compulsory for a candidate who would pass his B.A. examination. I would certainly move in my University that such a rule should be made, provided we get an undertaking from the Military Department that assistance would be given in the matter of training students. And the reason why a larger number of these educated men and students are not coming forward to receive military training, is that they do not get the necessary encouragement and facilities that are needed. I have put a number of questions in this Council in this behalf. I have received complaints from those who are already members of the Indian Territorial forces, especially the University Training Corps, that they are not properly treated and do not know where they stand and what their prospects will be. Even this simple information is not vouchsafed to them. How are our young men in these circumstances to come forward to receive training? What is required is real encouragement. If that is given, certainly large numbers will eagerly come forward. I would have hesitated to support the Resolution of my Honourable friend had it stood as it was put down on the paper, but he has modified that Resolution and he has made it quite clear that he does not want that conscription should be made universal in this country. What he requires is a beginning; and the method by which that compulsory military training is to be carried out is to be left to a committee of inquiry to recommend. We are, therefore, not committed now, and are not going to commit ourselves to any amount of expenditure, and I do not know whether it will not be possible to cut down the present military expenditure in order to provide for the increase that will ensue if this policy is put into force. I do not want to ask my Honourable friend here (Honourable Mr. Purshotamdas Thakurdas) to give out any secrets, but perhaps he might throw some light upon the question whether it would be possible to spend any amount upon compulsory military training if a scheme were to be inaugurated, and at the same time to cut down the existing military expenditure. I heartily support this Resolution.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the Resolution. The request contained therein does not amount to conscription. The Honourable Mover simply wants that this experiment may be given a trial in any way suited to the conditions of the country. My friend the Honourable Sir Umar Hayat Khan and the Honourable Chaudhri Lal Chand have referred to a proverb "Don't kill even an ant"—"Ahimsa Paramo Dharma." I may remind my friends that the clan and the very people who advocated this maxim have had the first Emperor in India,—I refer to the King Asoka. Asoka belonged to Jains or Budhas, whose great verdict was "Ahimsa Paramo Dharma." My friend Chaudhri Lal Chand has said that among the Ruling Princes and the Maharajas we find only the martial classes, and not "Mahajans" and those martial classes he confines to Jats and Rajputs.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: No.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I may inform that we have Ruling Princes among Brahmins. His Highness the Maharaja

[Rai Bahadur Lala Ram Saran Das.]

of Travancore and His Highness the Maharaja of Benares and the late Temal Naik among the Shudras may be cited as examples. My friend Nawab Major Mohamed Akbar Khan some time ago, when he was attached to the 1st Brahmins, told me that in the Great War he found that Brahmins were the best fighters.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: Yes, I admit it

The HONOURABLE THE PRESIDENT: Order, if Members desire to allow explanations from any Member, they should sit down so that the Honourable Member may have an opportunity of rising. Two Members may not be on their feet together.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am glad that my friend has admitted what I have said regarding the gallantry of the Brahmins. As far as non-Brahmins are concerned, Sir, that do not belong to martial classes, I may mention the name of General Hari Singh Nalwa and General Todar Mal. Martial class, Sir, as far as I understand, in the olden days, as far back as the time of Manu, was confined to *Kshatriyas* only, and as my Honourable friend, a veteran of the House, Mr. Khaparde, has said, in time of war, difficulty or need, every other class has to come forward to fight, so I need not dwell much upon that subject. I can say, for instance, that even among very notorious dacoits we find the names of Jabru Barber in Punjab and Tantia Bhil in Maharashtra who did not belong to the martial classes. Of course dacoity also is a martial spirit misdirected. His Excellency the Commander-in-Chief did observe that the present policy all over the world is to reduce arms and armaments. We know that Sir, but we do realise that during the time of the Great War man power was wanted and Britain had to depend mostly on India for its man power. In case the man power of India is trained in military tactics, it will be a great strength to the British Empire, and no power in the world will ever dream of taking arms against the British or the British Commonwealth. Before I conclude I want to say, Sir, that according to the Hindu *shastras*, even the Jats in those days did not form part of the martial classes. They were cultivators and as such were classed as *bunniyas* (Vaishyas) but the time has now come when they have developed themselves as a martial class. In the same way, Sir, times are now changed. In the old days every class was trained as a class, and now as that classification is not rigidly observed, I think every class is fit to be given military training. With these few words I support the Resolution.

The HONOURABLE RAJA SIR RAMPAL SINGH (United Provinces Central: Non-Muhammadan): I cannot deny myself the pleasure of taking part in this interesting discussion. In my opinion the racial question that has been brought into this discussion is not quite proper. The Mover has simply asked the House to accept that a committee be appointed to go into this question and, if possible, to devise measures for national compulsory education. Well, in my opinion those who belong to the martial classes will be the first to take advantage of the Resolution when it is brought into effect. So there appears to be no need for feeling any grudge if the other classes, whom some people call non-martial classes, be also elevated to the same level. The question before the House is simply that

a committee be appointed to deliberate over this question and to come to certain conclusions. Long ago, it was pressed upon the Government by the public that free and compulsory education should be introduced into the country. After a long time, the Government acceded to the demand of the public. Even now, this free and compulsory education has not been introduced into all the towns and cities, not to say anything of the villages. But some steps have, however, been taken and, gradually, it is hoped that the measures that have been taken will be of benefit to the country. In the same way my friend the Honourable Mr. Sethna has asked for a Committee, and I think it would be quite proper for the Government to accept the Resolution and appoint a Committee to go into this question.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): Sir, I rise to support the Resolution before the House. Whether the Resolution meets with the approval of Government or not, whether it is passed by the House or rejected, I have not the slightest doubt that the aspirations that the Honourable Mr. Phiroze Sethna gave vent to in moving the Resolution are the aspirations of the country and of the Indian public unanimously. The most distressing feature of the discussion on the Resolution appeared to me to come forth from—and I will say that with all apologies to them—two at least of the three expert non-official Members intimate with the martial classes. As pointed out by the Honourable Raja, who just spoke before me, unfortunately two of these experts,—and I am sure one of them at least—the Honourable Lieutenant Lal Chand,—introduced the question of martial classes and non-martial classes. I have taken down a few of the words that he used. He said that “the Resolution aims at breaking down the monopoly of the martial classes.” I had still to learn, Sir, until to-day, when I heard it from him, that there was any question of a monopoly of the martial classes in this year of grace 1923. Indeed, I did not know that there was anybody in this House who sympathised with the Brahmin who still maintained that he would now allow the non-Brahmin to be on a level with him. I really wonder if my Honourable friend over there thinks that the non-Brahmin in trying to come up to the Brahmin is doing a wrong thing. He asked a pointed question whether there was a Mahajan Maharaja at all. May I ask him whether he would object to a Brahmin who acted as a merchant? Does he object to a Pariah or an untouchable Hindu coming up here and sitting on the same Bench with him or with me in this Council Chamber? And, if he does not do that, I really wonder if he has not been carried away, perhaps by justifiable pride for the services that he may have rendered to the British Government and to India during the last war in trying even to indicate—I am sure he could not have meant it—that he would oppose anything that would lift up the non-martial classes to the level of the martial classes. I maintain, Sir, that that cannot be the aim or the object of His Excellency the Commander-in-Chief. I go further and say, that, if anything in that direction was at all seen, His Excellency the Commander-in-Chief and the Government of India would be the first to say all classes should be on the same footing. I venture to say and I think it is very necessary that it should be clearly understood and stated in this House, and I say it with all deference, with the greatest respect, and with all acknowledgments of the services rendered by the martial races of India, whether in the last war or up till now, that this House would not tolerate any monopoly of any class, whether it be of Brahmins or non-Brahmins, of merchants or non-merchants, of vakils

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or non-vakils, and, with all deference to my two friends over there, of martial classes or non-martial classes.

I would only refer to the unfortunate jeering remark that my Honourable Tiwana friend thought fit to make at the University Corps. There is no doubt about it that the University Corps have only recently started. If, in the opinion of my Honourable friend over there, the University Corps do not come up to anything like the efficiency that they ought to have, there is all the more reason that something on the lines of what my friend the Honourable Mr. Phiroze Sethna suggests should call for his sympathy and support. Instead of that the Honourable Member said: "Look at the University Corps. What do they do? They could not walk more than five miles." Does the Honourable Member think that in these days, with keen competition, when India has got to run the race with other countries, the issues are going to be decided in this way. We wish to associate ourselves and take our place side by side with the most powerful, the richest and the most advanced races or countries in the whole world. If that is his aim, as I have no doubt it must be the aim of all my three friends opposite, I do think that no measure that will bring the non-martial races to the standard of the martial races ought to be turned down on that score. I hope I have not misunderstood their meaning and their motives and that they cannot mean to keep back any measure that may raise the non-martial races to the level of the martial races and that they will give me and my children a helping hand in bringing us up to the level of the gallantry of these friends of mine opposite. I hope that they will realise that just as nobility has its own obligations in India, the martial races ought to have their own obligations towards the humble *mahajan* races, even if they deride us.

With these preliminary observations, Sir, regarding the lead which I thought our non-official martial races representatives were going to give us on this Resolution, I would just like to say a few words in connection with what His Excellency the Commander-in-Chief said on this Resolution. It was gratifying to hear that the Resolution, as moved by my Honourable friend, Mr. Phiroze Sethna, had some sympathy from His Excellency the Commander-in-Chief. It has to be borne in mind, Sir, that, in spite of the eloquence that the Honourable Mr. Phiroze Sethna used, in spite of the study that he must have made of this proposition before he moved it here, he is, after all, if I may say so with deference to him, a mere layman. It is quite possible that there are certain defects in the draft Resolution as submitted by my Honourable friend to the House. I was looking forward to some hint from His Excellency the Commander-in-Chief which, if accepted by my Honourable friend, might enable His Excellency to accept the Resolution. I do not know whether I may still hope that this Resolution, instead of meeting with, as my Honourable friend said, the usual fate in this House, would be accepted by His Excellency the Commander-in-Chief in some modified form or another. But there were one or two points which His Excellency the Commander-in-Chief urged as to why this Resolution or the spirit of this Resolution could not be accepted by Government, and I would like to refer to those points briefly. His Excellency said that the League of Nations forbids the acceptance of a Resolution like this. The League of Nations has been useful in India in certain directions. It has

given India a seat in the Council Chamber where all the important nations of the world sit and, as far as I am aware, I am speaking subject to correction, that is about all the advantage we have derived. The next advantage that the League of Nations has offered us is what the late Sir William Meyer, the High Commissioner for India in London, said, that we have got to pay a very substantial sum to the League of Nations Secretariat in Geneva. Beyond that, I have still to hear and learn what further advantages the League of Nations has brought us. Not that I doubt that it is going to benefit us in the long run, but if the League of Nations has some fundamental rule which comes in the way of this very natural aspiration of India, I think the Government of India would find it very instructive to make an analysis and find out how many nations who have joined the League of Nations have observed every one of its regulations and how many have yet to do so. We have done a great deal, we have been carrying through all our labour legislation because it has been dictated by the League of Nations; in other matters we are keen to respect the League of Nations, but in this one point if the League of Nations comes in our way—I honestly believe, Sir, there is a way of getting round the difficulty if we put it correctly to the League of Nations, and then they may themselves perhaps say "It is high time that India should have some sort of military training for her children, as the rest of the world have been having."

The next question that His Excellency the Commander-in-Chief mentioned was the question of cost,—prohibitive cost, he said. The Honourable Professor from Poona asked me pointedly whether I could throw any light. I suppose it was a question for the Retrenchment Committee, His Excellency the Commander-in-Chief said. I hope the House will not mind it if I say that, whatever the Retrenchment Committee may have to say in this connection, it will be known to them through the proper channel within a fortnight, and I do not think I can oblige my Honourable friend from Poona to-day regarding anything that the Retrenchment Committee may have to say on this score. But I cannot help feeling, Sir, that no Retrenchment Committee, in the light of the feeling in the country, in the light of the ultimate saving, as pointed out by my Honourable friend, Mr. Khaparde, that might result from the acceptance of a scheme like this, could say that a few lakhs that might be spent on this would be mis-spent or would be an extravagance. And again, as I pointed out this morning, I may say again that my Honourable friend's Resolution does not say that action should be taken within the next year or within the next six months; if Government accept the Resolution, whenever they can find the necessary funds, etc., Government may have an inquiry made.

I feel, Sir, that the right of moving Resolutions in an assembly like this is given to non-official Members—which 4 P.M. the non-official Members value very highly—not because the non-official Members always command for the purpose of justifying their Resolutions the expert knowledge and the detailed information which enable an Honourable Member in charge of a Government Department to accept it outright. This right of moving Resolutions has been given to non-official Members with the view that they may be able to ventilate in the House and bring to the notice of Government the hopes, the aspirations and also the grievances of the public. If this is the underlying principle on which the non-official Members value this right of moving Resolutions here, I submit, Sir, that my Honourable friend on my right has done full justice to this Resolution and has

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reflected the popular feeling in a most living, vivid manner; and it is now up to Government, as represented by His Excellency the Commander-in-Chief, equally to rise to the occasion; to point out to my Honourable friend if there are any defects in the Resolution which prevent him from accepting it and ultimately to accept the spirit underlying the Resolution: It does not matter if the funds necessary for it are found within six months or later. With these remarks, and repeating my great deference to all the martial races members, and hoping that they will not misunderstand me, I give my very cordial support to this Resolution.

The HONOURABLE THE PRESIDENT: I think the Council did not quite understand the position as regards an Honourable Member desiring to offer an explanation. The rule is a perfectly simple one. If when an Honourable Member is speaking, another Member rises and wishes to make an explanation, then, if the Honourable Member who is speaking gives way, the explanation can be made. If the Member speaking does not give way, the other Member must wait till he has terminated his speech; and then he may rise and ask the Chair whether he may offer an explanation. The rule is a perfectly simple one and cannot cause hardship. Two Honourable Members cannot be speaking together.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I heartily associate myself with the Honourable Mover; and I also agree with the many speakers who have so eloquently supported him with their reasoning. I am very gratified at this debate, for it has shown at least one feature that the debate is of more than the average order, which is sometimes noticed in the House of Commons, and I am even more gratified to see that this Council has shown what latent ability exists which reveals itself when crucial questions come before it. Having said so much, I am not going, Sir, to detain the Council very long. Practically, all that had to be said has been amply said. I shall not go over the old and exploded fallacy about martial and non-martial races. This distinction dates back ages and ages ago and, as you know, the ancient Spartans called themselves a martial race, and twitted the Athenians by calling them non-martial. And yet, you are well aware that the Athenians defeated the Persians at the battles of Marathon and Salonica, the Persians who were the masters of the ancient world before Alexander. That disparagement still goes on, Sir,—there is nothing however like martial and non-martial. It is all the spirit of a nation that makes it martial or non-martial. The distinction is illusory, but I am not going to discuss this ethnological question any further. I do say, however, this: that military training has been acknowledged by all the nations of the world as essential, namely, that they should defend themselves against their aggressive neighbours. Therefore, there ought to be some sort of military training. In civilized times we find different kinds of training. The military training may be a voluntary one, or it may be by conscription, or it may be by a combination of both. All these are varieties of the same fundamental object. The fundamental object is, whether a nation should be trained or not for purposes of self-defence. I do not think there is any nation in the world who would deny that they must have some kind of training for the purpose of defending themselves against their invaders or aggressors, whether they may be next-door neighbours or further away on the

borders. Well, that being the case, Sir, what is the proposition before the House? It is simply this: that a Committee should be formed which will go over the whole question in its various aspects and see how far military training can be given or not, and what methods may be deemed most suitable. He is willing that we should, of course, abide by the decision of that Committee. Practically, there is nothing at all excepting this. The Honourable Member says that military training is one of the aspirations of our people. He says: "I am putting this aspiration before you; will you kindly see whether this can be satisfied. Appoint a representative Committee and see what it says. If the Committee says, 'no,' that it is injurious, drop it; if it proposes certain suitable methods, why then not consider and adopt them." But, Sir, I find that what has happened in this assembly for some time past is this: whenever some non-official Member brings forward a reasonable Resolution, the official Bench on the opposite side, I may call it the Front Bench, adopt an attitude of *non possumus*. They all mechanically say: "we cannot accept it." Why not? They pose as if they are the greatest authorities in the world and that their refusal was the last word! Sir, it has been said that autocracy is at an end, we are now democratic; that we are going to be a self-governing nation; we are a rising democracy, and yet we must obey autocracy! Democracy is considered as a machine by these autocratic gentlemen who say, 'you may have your democracy, but we are the men in power, you must go thus far and no further.' That is not the right way of a self-governing organization. That is not the spirit of self-Government, that is not the spirit in which the British Government has given us the Reforms. Nothing of the kind, Sir, and I am rather sorry to notice lately that every time that a non-official Member rises and puts forward a very simple proposition in a very simple and frank spirit, it is said on the other side "No, we cannot accept it" and forthwith they adopt an attitude of *non possumus*. Sir, Government have been saying that the non-co-operators are in reality "Nihilists," that is to say, to every proposal made to them they say 'no.' What are these Government members here doing? They sit on the front Benches and say "No, we cannot accept. No, we won't allow it." Is that a consistent or reasonable attitude to adopt? I hope not. The Commander-in-Chief is the greatest non-co-operationist in this respect and so also was my friend Mr. Chadwick yesterday. That won't do, Sir. Times are changing. This is a transition stage, and I think the front Bench will do well to understand that there is a democracy, that there is a public spirit which actuates it and that they should adapt themselves to these changed conditions; there should be adaptability on their part to the changes and to principles as well. There ought to be political sagacity and many other political instincts in order to carry on the Government fully with the consent and the co-operation of the people themselves. I do not see at present any co-operation here at all. For the last three days I have been seeing that there is none. The moment a non-official Member brings up a useful proposition the Government says, "No, we won't accept it." If that is the case, it would be better to shut down this Council altogether and let the Departments carry on their work as they used to do before. Let the Commander-in-Chief say, "Here I am, like President MacMahon, and here I mean to stand."

Sir, I heartily support the Resolution.

The HONOURABLE MR. PHIROZE SETHNA: Sir, I will begin my reply by tendering my cordial thanks to those Members of the Council who have

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supported me in this Resolution and supported me so warmly. I will next turn to the objections of my Honourable friends, and I will begin first with the three Indian Honourable Members of this Council who happen to be connected with the army for a series of years. My Honourable friend Colonel Sir Umar Hayat Khan took exception to the fact that I, a layman, should encroach upon his province, so to say, and speak upon a subject with which he is so closely identified. Let me assure him, that if I ever venture to bring forward a Resolution, or if I ever attempt to speak on any subject, I endeavour to do so after some little study, perhaps as much study as my Honourable friend devotes to the numberless subjects upon which he addresses this Council. In addition to Colonel Sir Umar Hayat Khan, the Honourable Major Mohamed Akbar Khan and the Honourable Lieutenant Chaudhri Lal Chand have also wound up their speeches by opposing me. Sir, if you closely follow the tenour of their speeches you will see that they amount to an approval of the principle which I have laid down in my Resolution. They all agree that there ought to be a national army, that the existing framework should be strengthened and improved, and yet with an inconsistency that I cannot comprehend they say they oppose my Resolution. I therefore appeal to them that consistently with the speeches which they have made,—if they do not choose to support me, that they will at least withhold their votes, which is the least they can do.

Much was made by these three Honourable friends of mine of the fact that there are several communities in India, such as the Sudras and others, who cannot possibly attain a martial spirit; and one Honourable Member went on to say that the martial spirit must be the monopoly of the races inhabiting India in the north. My friend the Honourable Mr. Kale dwelt at some length on the class of men whom the great Shivaji converted into soldiers and the Honourable Chaudhri Lal Chand intervened by saying that cultivators are not Sudras. Will he tell me if the Ahirs of the United Provinces, if the Mahars, if the Bhils, if the Bhanjaras are not Sudras? Will he tell me if they have not rendered very efficient military service, perhaps as efficient as that rendered by soldiers of races to whom a martial spirit is credited. Then again, Sir, take the Mahrattas of the Bombay Presidency. I believe His Excellency the Commander-in-Chief will bear me out when I say that it is the opinion of more than one military authority that the Mahrattas in the last great war rendered as efficient service as any other Indian soldiers from the north or elsewhere. The proposal of my three Honourable friends amounts to confining the martial races to the north. What then follows? When we are to have complete self-government, according to them we are to have martial anarchy, for it is only they who can take charge of the military and come down if they chose upon the southerners. It is to prevent that and to cultivate a martial spirit amongst all classes that I have brought forward my Resolution. In this connection I forgot to quote a very pertinent extract from the dissenting minute of Sir Krishna Gobind Gupta, Member of the Esher Committee. It will give a complete reply to my three Honourable friends. Sir Krishna Gupta said:

"It has thrown an unusually heavy military burden upon one province, the Punjab, the evil effects of which are already becoming apparent. It has been the fold of recruitment outside the borders of British India, bringing into the Indian army men who are not British Indian subjects, such as the Pathans from the North-West

Frontiers and the Gurkhas from Nepal. The trans-frontier Pathans have been discredited and no longer form any appreciable part of the Indian army."

and he rightly goes on to say:

"The area of recruitment should be extended to all parts of India and everything should be done to stimulate a material and patriotic spirit which decades of discouragement have repressed but never wholly extinguished."

I now go on, Sir, to the objections made by His Excellency the Commander-in-Chief. Some of them have already been dealt with and dealt with very pertinently by my Honourable friends who have spoken on behalf of the Resolution. I hope that I will not omit to reply to any one of the important objections which His Excellency Lord Rawlinson has advanced. Sir, in the first place I must thank him for two things, one for allowing me to amend my Resolution. That amendment will satisfy His Excellency Lord Rawlinson and the House that I did not pin it down to any particular form of compulsory military training and service. My amendment modifies "compulsory military training and service" by the addition of the words "in any form that may suit the condition of the country," and I am very glad that my Honourable friend on the left (Mr. Purshotamdas Thakurdas) has enlarged upon that point in the course of the speech he has just made and has appealed to His Excellency that if he chooses to modify it still further in any way and allow the country to have compulsory military training in any limited manner or degree we shall be only too willing and content to accept his amendment instead of my amended Resolution. The second thing for which I would tender my thanks to His Excellency is the remark which he made to the effect that he sympathises with me in the Resolution I have brought forward. I am afraid, Sir, I have got to be content with his verbal sympathy and nothing beyond that; for almost in the same breath His Excellency pronounced my Resolution as grotesque, impracticable and unnecessary. Now, Sir, he called it grotesque because he thought it was absurd to propose that 320 millions of people should be trained compulsorily and universal compulsory military training introduced. I made it absolutely clear in my opening speech and those who have supported me have done likewise, and I repeat again once more emphatically that we ask for nothing of the kind. I leave it to the Committee to make suggestions after duly considering all the *pros* and *cons*. Therefore, it cannot by any stretch of imagination be called grotesque. He further says it is impracticable and unnecessary, and the reason for that is our membership of the League of Nations. My friend the Honourable Mr. Purshotamdas has told us what is the value of the League of Nations to this country. It consists at the present moment of our being given a seat in that august body but better still of our having to pay and perhaps pay very substantially as our share of the cost because, so far as I remember, payments have to be made in accordance with the population of a particular country, and therefore India has the empty honor of doing next to nothing in the League of Nations, and paying for it very handsomely. But, if His Excellency says that being a Member of the League of Nations we must follow the rules laid down by the League of Nations, may I ask His Excellency if other nations do likewise? Was not France asked to restrict her military armaments? Did she do so? Further, did not President Harding of the United States of America when he invited different nations to the Washington Conference only last year to consider not only the naval reductions, but also military reductions, did he not press upon France to agree and did not France point blank refuse to decrease her military strength because of the situation in which she was placed? Does my Honourable friend

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find fault with France? (His Excellency the Commander-in-Chief: 'Yes.') Moreover, the conditions in countries like France, Germany, Italy and other countries are quite different from ours. Not only are they Members of the League of Nations, but their neighbouring countries are also Members of the League of Nations. What is our position? We have Afghanistan, we have Bolshevist Russia, we have Turkey as our neighbours. Are they Members of the League of Nations? Is not that a good reason to bring forward my Resolution and will not my Honourable friend, His Excellency Lord Rawlinson, withdraw his objection on that particular ground?

Again, Sir, dwelling further upon this point, may I remind His Excellency that the Brussels Financial and Economic Conference which was held only two years ago under the aegis of this very League of Nations, to which he referred, laid down expressly that every country which is a Member of the League of Nations should not spend more than 20 per cent. of its total income on military expenditure. Does my Honourable friend, His Excellency the Commander-in-Chief, subscribe to that theory? Is he not spending more than 67 crores in India? Was not that the amount last year, and which was not 20 per cent. but 50 per cent. of the total revenues of the Central Government? If His Excellency desires us to conform to the conditions laid down by the League of Nations, I trust His Excellency will be the first to follow it religiously himself in that matter of the military expenditure of this country.

His Excellency next referred to conscription. I know very well, that conscription stinks in the nostrils of Britishers. His Excellency the Commander-in-Chief said that it was because of the system of conscription in the Continent of Europe which proved a menace to the world that we had the great war. I say emphatically 'No'. My point is that if England herself had conscription, we never would have had that great war. Germany would never have characterised the British Army as that "contemptible little Army," and, Sir, the history of the world from 1914 to this day and for many more years to come would have been, if England had conscription, very different altogether. The great war, which has set back the pace of civilization which was responsible for the great holocaust of men, money and everything else,—which has retarded the progress of the whole world not for the 4 years that the war lasted, but perhaps for a generation or two—that great war would have certainly been avoided if only England had conscription and in which case Germany would never have taken the rash step it did.

His Excellency next opposed my motion on the ground of economy. He called my Resolution impracticable on that ground. If I take credit for anything, I may say that as a business man I have never endeavoured to bring forward in this House or any other body to which I belong anything which I honestly consider impracticable. It is because I believe that the system, which I advocate will in the long run prove economical,—and I hope the Committee will be able to satisfy themselves upon it, and if I am called before it I shall be able to prove that it will eventually prove economical and no mistake. I say, Sir, it is because I believe it is practicable, because it is economical, because you can reduce your strength of the regular army of 2½ to 3 lakhs and have larger reserves, I contend that it will cost the country certainly less than the 67 crores of rupees a year that it is now doing. I urge this House to accept my Resolution.

For it is neither grotesque, nor impracticable, nor unnecessary as the Honourable the Commander-in-Chief has tried to make out.

The Commander-in-Chief also said that if the Resolution were adopted, the cost of the training staff and the registration staff would come to a very large amount. I say, he is proceeding on a wrong assumption. I do not want universal compulsory military training. Then, His Excellency dwelt on the Territorial Force. His Excellency will remember that during this Session I put a question which is numbered Question No. 143, in reply to which His Excellency himself, only two days ago in this House, said there were on 1st January 1923, 11,531 men in the Indian Territorial Force and 2,879 in the University Training Corps, between the two, a little over 14,000, which is a mere drop in the ocean; and I would ask His Excellency to consider if he is satisfied with this.

The HONOURABLE THE PRESIDENT: I must warn the Honourable Member that he is approaching his time limit.

The HONOURABLE MR. PHIROZE SETHNA: Thank you, Sir. I have much to say but I must close if my time is up. I will end my reply with an earnest appeal to the Commander-in-Chief, in the terms of the appeal made by my two Honourable friends around me that if His Excellency has any objection to accept my Resolution in the manner in which it is worded in spite of the amendment which the House was good enough to allow, I for one, and I am sure all my supporters, will be only too glad to accept any reasonable proposal which may be put forward by him and which if he does, in the words of my veteran and Honourable friend, Sir Dinshaw Wacha, will mean that the Government are willing to co-operate and not to non-co-operate with us.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, as I said when I addressed the House earlier in this Debate, there were certain aspirations, I described, in the speech which my Honourable friend had made, with which I was in sympathy. I may go further perhaps and say that in so far as his desire for the appointment of a Committee to examine this subject goes (though I am not prepared to accept it, at the same time I do see what he is aiming at), my feeling is—and I speak on behalf of my Honourable friends on these Benches—my feeling is that in so far as the question of a system of compulsory national military training and service is concerned—apart from anything that it may do, apart from any effect it may have on what is called the martial and non-martial classes, with which I am not concerned—in so far as that is concerned, we have a feeling of considerable sympathy. But, as a matter of practical politics, it seems to me,—and after all I have some knowledge of what this means, some knowledge of what machinery is actually required to carry out a system of this sort particularly if it is the one, and essential one which my Honourable friend has put in his Resolution, of compulsion—I say unhesitatingly that it is not a practical proposition. I have described it, as my Honourable friend has reminded me, as grotesque, impossible and unnecessary. I am afraid it is, and I am afraid it is because, in a huge country like this with the enormous difficulties both of transportation and communication, you will find that, even if such a scheme was devised for its institution, that it would give you in no way the objects that you apparently desire to attain. One of the speeches that appealed to me more than any other that I heard on this motion was that of my friend

[H. E. the Commander-in-Chief.]

Sir Dinshaw Wacha, because he insinuated, if he did not say so direct, that I myself was a non-co-operator. It is the last attitude that I wish to adopt, and I would be only too glad if I saw any practical use in this Committee, to meet my Honourable friends by agreeing to it, but it appears to me that the question that you are going to give them to examine, that the problem you are going to put before them, that the terms of reference you will have to give to that committee, will assign them a task impossible to carry out. Much as I would like to meet the suggestions of my Honourable friends opposite, I do not feel that I can acquiesce in this, because I am the person who is responsible for devising every possible economy in our military expenditure in this country, and the question that you would put before this committee is so impossible for them to solve, that I do not think you are justified in spending the money necessary to appoint that Committee, and for these reasons therefore I am afraid, much as I would wish to meet the wishes of my friends, I must oppose the Resolution.

The Council then divided as follows:

AYES—10.

Ayyangar, Mr. K. V. R.
Harnam Singh, Raja Sir.
Kale, Mr. V. G.
Khaparde, Mr. G. S.
Purshotamdas Thakurdas, Mr.

Rampal Singh, Raja Sir.
Ram Saran Das, Mr.
Ray, Raja P. N.
Sethna, Mr. P. C.
Wacha, Sir Dinshaw.

NOES—14.

Akbar Khan, Major Nawab.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. E. M.
Crerar, Mr. J.
Forrest, Mr. H. T. S.
Lal Chand, Lieut.

MacWatt, Major-General R. C.
Miller, Sir Leslie.
Rawlinson, H. E. Lord.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Umar Hayat Khan, Col. Sir.

The motion was negatived.

RESOLUTION *RE* NECESSITY OF CENSUS OF PRODUCTS OF
BRITISH INDIA.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-official): Sir, I beg to move that:

"This Council recommends to the Governor General in Council the great importance, economically and financially, of taking a census of production of British India, every ten (10) years, classified according to the Provinces, showing particulars specified as under:—

1. Outturn of agricultural products from all sources, forest included.
2. Output of manufactures and industries worked by power other than manual.
3. Output of hand-looms and divers other handicrafts and industries so far as statistics are obtainable.
4. Output of minerals and mineral oils.
5. Outturn of salt, including rocksalt.
6. Outturn of opium.
7. Outturn of State-owned and private liquor distilleries.
8. Miscellaneous."

The HONOURABLE THE PRESIDENT: I would suggest to the Honourable Member that, as the hour is late, and as he has now moved his Resolution, it might be convenient to him and also to the Member who has to reply to the Resolution, for the debate to stand over till the next non-official day. We will give the Honourable Sir Dinshaw Wacha priority, if that is his wish.

The HONOURABLE SIR DINSHAW WACHA: I agree, Sir.

The HONOURABLE MR. D. T. CHADWICK: I quite agree.

The HONOURABLE THE PRESIDENT: In these circumstances, therefore, the Council will now adjourn till Monday, the 19th February, 1923, at 11 o'clock.

COUNCIL OF STATE.

Monday, the 19th February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

PROFESSOR HORNE'S REPORT.

145. The HONOURABLE MR. V. G. KALE: With reference to Question No. 50, asked in this Council on 24th January, 1923, will Government be pleased to state:—

ERRATUM.

On page 809 of the Council of State Debates, Vol. III, No. 22, in line 20 of the Honourable Mr. Purshotamdas Thakurdas' speech—
for the word "now" read "not."

no useful purpose would be served by asking for a detailed report now.

(b) The following brief summary may be of interest to the Honourable Member. Professor Horne gave two lectures a week at Harvard University from January to June 1921 in the Harvard University Department of History and Government. The subjects chosen were "Indian Administration," "The Government of British India," etc., and general questions of economic and ethnological importance pertaining to India as well as historical and political subjects. Professor Horne also visited California where he delivered a series of lectures and addresses on such subjects as "The Movement towards responsible Government in British India," "The Present Political Situation in British India," "Dyarchy," and the like. There is good reason for believing that Professor Horne's work met with a gratifying measure of success.

JEVONS ON "MONEY, BANKING AND EXCHANGE IN INDIA."

146. The HONOURABLE MR. V. G. KALE: Will Government be pleased to state—

(a) if it is a fact that Government have purchased from Professor H. Stanley Jevons the copy-right of his book entitled "Money, Banking and Exchange in India";

(b) what is the total amount of money Government have paid to Professor Jevons in this connection;

(c) how many copies of the book have been printed and what has been the total cost of printing it to Government?

The HONOURABLE MR. E. M. COOK: (a) There is no question of copy-right. It is a Government publication which Professor Jevons was deputed to write.

(b) Rs. 7,079.

(c) 3,000 copies at a cost of Rs. 2,565.

LOSS ON OVER-BUYING GUARANTEE TO EXCHANGE BANKS.

147. The HONOURABLE MR. V. G. KALE: (a) Will Government be pleased to state if they ever considered the question of asking His Majesty's Government to make good to India her loss of over Rs. 3½ crores on the liquidation of the over-buying guarantee to Exchange Banks, a reference to which has been made on page 5 of the Memorandum on exchange gains and losses, placed on the table of this House a few days ago?

(b) Is it not a fact that this loss would, in the ordinary course of events, have fallen upon the British Treasury if it had not been borne by the Indian Government, inasmuch as it arose out of the financing of exports indispensable for the prosecution of the war, the financial responsibility for which belonged to the British Government?

(c) Will Government be pleased to say if they propose to consider the question in the interest of the Indian exchequer?

The HONOURABLE MR. E. M. COOK: The Government of India do not think it is possible or desirable to reopen the question of the incidence of the charge referred to. The granting of the guarantee was regarded by the Government of India of the day as necessary in the interests of the Indian currency system as well as in the general interest of the successful prosecution of the war and the charge was accepted at the time as a proper charge on Indian revenues. The suggestion that the loss would in the ordinary course of events have fallen on the British Treasury is incapable of substantiation in fact and is really a matter of argumentation on hypothetical data.

PROVINCIAL COUNCILLORS AND MINISTERS.

148. The HONOURABLE MR. PHIROZE SETHNA: (a) Will Government be pleased to state if replies have been received from the provincial Governments concerned in regard to a reduction in the number of Executive Councillors and Ministers, as suggested in a Resolution moved in the Council of State on 6th September, 1922, and if the same will be placed on the table?

(b) Are Government aware that one of the Indian Members of the Executive Council of the Government of Bombay will vacate his seat on or about the 15th March, 1923, and will they request His Excellency the Governor of Bombay not to appoint a successor?

The HONOURABLE MR. J. CRERAR: (a) Replies have been received but further inquiries are being made, and Government are not therefore prepared to publish the correspondence.

(b) Yes. The appointment of Members in permanent vacancies is not made by the Governor of Bombay but by His Majesty the King. Government do not intend to advise the Secretary of State that any change should be effected on the occurrence of the vacancy mentioned by the Honourable Member.

PRINTING OF CURRENCY NOTES IN INDIA.

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

- (a) if Major Willis has been deputed to England to report on the subject of printing currency notes in India;
- (b) has Major Willis proceeded alone or is any official or non-official Indian or European sent with him;
- (c) is it correct that Major Willis has already before now expressed his opinion against printing currency notes in India and, if so, were Government aware of such views being held by him?

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

(b) No one else is associated with Lieutenant-Colonel Willis in this inquiry.

(c) The information in Government's possession does not support the suggestion made by my Honourable friend.

RESOLUTION RE NECESSITY OF CENSUS OF PRODUCTS OF BRITISH INDIA.

The HONOURABLE THE PRESIDENT: The Council will now resume the discussion on the postponed Resolution* which was moved by the Honourable Sir Dinshaw Wacha.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I presume it is not necessary to read the Resolution again, because I moved it last time. This is a simple Resolution, requesting the supply of statistical information which may by and by be of great national value as far as the ascertaining of national income or at least one part of it is concerned. I have gone on the lines of the census of production which under the Parliamentary Act of 1906 was taken in England; but I have not followed all the lines adopted there. In my opinion, and in the opinion of those who agree with me, this statistical information would be very useful, and I want that the census should be taken every ten years, but not earlier. As far as the items are concerned most of the statistics are already published by the Government of India, but in a very scattered form. I believe the Honourable Member when he replies to this Resolution will be able to say if all this statistical information which is enumerated can be put in a small blue book like the one I hold in my hand with some explanatory notes and observations. I think

* "This Council recommends to the Governor General in Council the great importance, economically and financially, of taking a census of production of British India, every ten (10) years, classified according to the Provinces, showing particulars specified as under:—

1. Outturn of agricultural products from all sources, forest included.
2. Output of manufactures and industries worked by power other than manual.
3. Output of hand-looms and divers other handicrafts and industries so far as statistics are obtainable.
4. Output of minerals and mineral oils.
5. Outturn of salt, including rock-salt.
6. Outturn of opium.
7. Outturn of State-owned and private liquor distilleries.
8. Miscellaneous.

[19TH FEB. 1923.]

[Sir Dinshaw Wacha.]

it will be most useful to Honourable Members, and not only to Honourable Members but to the whole country. I would also say that each province may perhaps have some of these statistics translated into the vernaculars, because I believe that a good deal of statistical and most valuable information which the Government supply on these subjects is ignored or neglected by the public for this simple reason that many, even the most intelligent enough, do not understand English. I do not know what value to attach to these statistics. If these are translated into the vernaculars, I am quite sure that we shall be able to educate the ordinary public in the villages and districts, while they will prove most helpful to the Government. Perhaps fewer questions will be put, because the information could be found ready at hand scattered here and there now in the bluebooks. For these reasons, and particularly having regard to the value of this kind of information which would be furnished every ten years, I think we shall be very much benefited if Government carry out the suggestion made in this Resolution. We shall then know pretty exactly what the national income is and Government would be better able to judge whether they can impose new taxes or not; anyhow it would serve as a reliable index to the purchasing power of the people for bearing further taxation in the future. Therefore, Sir, I hope that this Resolution will be passed and that this time anyhow there will be *non possumus* on the part of the front Bench.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I shall take only a very short time in dealing with this Resolution. This Resolution recommends to the Governor General in Council the great importance, economically and financially, of taking a census of production of British India every ten years. I wish to say, Sir, straightaway that the Government of India accept the principle of the Resolution. As has been pointed out by the Honourable Mover, many of the statistics are already published, but they are scattered in different publications and are not easily available for the general public. The whole of our statistical publications are at present under review and we will do our best to bring them together and put them into such a form as he requires so that they may approximate towards a census of production.

There is one point, however, which I wish to refer to and that is with regard to items 2 and 3 of the Resolution—output of manufactures and industries worked by power other than manual, and output of hand-loom and divers other handicrafts and small industries. The Honourable Mover will agree with me that the statistics that we require should be figures which are reasonably accurate—I do not say accurate to the last unit, but which will give us reasonably accurate figures that can be treated with reasonable confidence. Figures of any other sort are of no use to anybody and will only mislead people. This question of a census of production was examined at the Imperial Statistical Conference in London in 1920 and the point I have now mentioned was emphasised there. In fact a Resolution was also passed that legislation was necessary to obtain reasonably correct returns from factories. Many factories object and object rightly to giving returns for publication by Government in such a form that the work of the factory can easily be identified. For, Sir, it is obvious that by doing so, they would be giving away valuable information to their competitors, not only trade competitors in their own country, but trade competitors all over the world. So important is this, that in the British

CENSUS OF PRODUCTS OF BRITISH INDIA.

Act the compilers of the census of production are prohibited from publishing these returns in any form in which the output of a particular factory could be deduced. Those who are engaged on this work of compilation are subject to conviction, if they improperly disclose any information, and may become liable to imprisonment for two years with or without hard labour. Well, Sir, the time is not ripe in India to introduce here legislation of that kind. Further, in England the census of production cost £120,000, and in the United States it cost £160,000. We are not able to afford that money at present, and I am certain that the House and the Honourable Mover will agree with me that they do not desire that that form of legislation should be introduced in India. All Local Governments were consulted on this question two years ago, and they were mostly of the opinion that whilst such legislation would be needed the present was not an appropriate time to introduce it. I hope I have made the position perfectly clear that we cannot undertake that form of legislation. Subject to that I am perfectly ready to accept on behalf of the Government the Honourable Member's Resolution to recast the form of the statistics that we now have. We will do our best to put them in the shape in which the Honourable Member desires, and I hope that will meet his wishes.

The HONOURABLE SIR DINSHAW WACHA: Sir, legislation on this subject was not my intention at all. My intention was only this. Government has a Statistical Department, and I want that it should be able to collect and put in a better and handy form for reference all the scattered statistics which are now published in different blue-books. At the same time, my intention is to collect these statistics for British India alone. Of course, if we can collect statistics from Native States also, so much the better. I remember very well two or three years ago, my friend Mr. Findlay Shirras, who had charge of the Statistical Department, was willing to get more agricultural statistics from Mysore, Hyderabad and some of the States of Kathiawar, and I suggested to him the way in which he might go forward in this matter. Whenever they are approached in a friendly manner, they voluntarily assist the Government in one way or another, and if the Government in this matter also approach them in a friendly manner some of the principal States are sure to supply the valuable information. But whether they do or do not, it matters little; but so far as the statistics of British India are concerned, I desire that they should be collected and published in a better form for general information. However, Sir, I thank the Honourable Member for Commerce for agreeing to the suggestion made by me in regard to this matter.

The Resolution was adopted.

RESOLUTION RE OPPORTUNITIES TO INDIANS FOR QUALIFYING FOR SECRETARYSHIPS, ETC.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): I find, Sir, subsequent to my giving notice of this Resolution,* notice of another Resolution was given by the Right Honourable Srinivasa Sastri. It appears, Sir, that the terms of his Resolution are vastly

* "This Council recommends to the Governor General in Council that early effect be given to the Resolution passed by this Council in September, 1921, regarding the increasing opportunities to be given to Indians for qualifying themselves for appointment to the offices of Secretary, Joint Secretary and Deputy Secretary in various departments of the Government of India."

[Saiyid Raza Ali.]

different, so far as I can see, from the terms of the Resolution standing in my name on the agenda paper to-day. What I request you, Sir, is, to kindly let us know whether, if I move my Resolution to-day, the Resolution of which notice has been given by the Right Honourable Srinivasa Sastri will be blocked under Standing Order 69. My point is that his Resolution deals with the Indian Members of the Indian Civil Service, whereas the Resolution which is on the agenda paper to-day does not deal with the Members of the Indian Civil Service; it deals with those who do not belong to that Service, and as such, what I want to know is whether, if I move my Resolution to-day, it will operate in any way as a bar to the moving of the Resolution of which notice has been given by the Right Honourable Srinivasa Sastri.

The HONOURABLE THE PRESIDENT: The Honourable Member must first let me look at the two Resolutions.

I think I shall have to rule that they are substantially the same for this reason. It is perfectly true, as the Honourable Member pointed out, that the Right Honourable Srinivasa Sastri's Resolution refers to Indian Members of the Indian Civil Service and therefore is slightly more restricted, but I observe that the Honourable Member's Resolution which is on the agenda to-day refers to the posts of Secretaries, Joint Secretaries and Deputy Secretaries. Unless my recollection is wrong, those are posts which are normally speaking reserved for Members of the Indian Civil Service. Therefore, obviously his Resolution is substantially the same as the one of which notice has been given by the Right Honourable Srinivasa Sastri.

The HONOURABLE SAIYID RAZA ALI: Before, Sir, you give a definite ruling, I would ask you to kindly refer to Schedule III of the Government of India Act, from which it will be seen that the posts which are mentioned in my Resolution are not reserved for Members of the Indian Civil Service.

The HONOURABLE THE PRESIDENT: My reading of the Act is entirely different. I will read the Schedule to the Honourable Member: It provides for reservations in the case of "The offices of Secretary, Joint Secretary and Deputy Secretary in every department except the Army, Marine, Education, Foreign and Political and Public Works Departments: Provided that if the office of Secretary or Deputy Secretary in the Legislative Department is filled from among the Members of the Indian Civil Service, then the office of Deputy Secretary or Secretary in that Department, as the case may be, need not be so filled." So practically with the exception of the Army, Education, Foreign and Political Department Secretaryships, the Resolution is covered. The only difference is as to those three departments, that is to say, your Resolution is wider than that; but I think it is substantially the same Resolution. It would be extremely difficult for me, therefore, to keep the debate within reasonable limits to avoid re-discussion on the Right Honourable Srinivasa Sastri's Resolution what must arise on a debate on yours.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Would it follow then, Sir, that if the Right Honourable Srinivasa Sastri brings forward his Resolution, it will be open to us to deal

with appointments for Indians who are not members of the Indian Civil Service, which is practically the Resolution of my Honourable friend Saiyid Raza Ali?

The HONOURABLE MR. PRESIDENT: I am not laying down any rule as to the conduct to be followed by the Honourable Saiyid Raza Ali. If he moves his Resolution, clearly it will cover the whole of the Resolution of the Right Honourable Srinivasa Sastri which therefore cannot be moved. The Honourable Saiyid Raza Ali's Resolution is wider in that the departments to which I referred are excluded from the Right Honourable Sastri's Resolution. Therefore if the Honourable Saiyid Raza Ali moves his Resolution, he must necessarily cover the whole ground, but whether the Right Honourable Member moves his Resolution or not is a matter for his consideration.

The HONOURABLE MR. PHIROZE SETHNA: May I point out, Sir, that the Honourable Saiyid Raza Ali's Resolution will not cover the other Resolution as the Right Honourable Sastri's Resolution deals also with departments other than Army, Marine, Education, Foreign and Political Departments?

The HONOURABLE THE PRESIDENT: That is exactly what it will cover. It covers the Secretaryships of all the departments.

The HONOURABLE SAIYID RAZA ALI: My information is that the only point of difference between the Right Honourable Srinivasa Sastri's Resolution and mine will be only with reference to the Legislative Department and no other.

The HONOURABLE THE PRESIDENT: The Honourable Member pressed me to assist his own decision by giving a ruling. I have given a ruling, that, if he moves his Resolution, he will block the Resolution of the Right Honourable Srinivasa Sastri. Whether the Honourable Member should move his Resolution to-day or not is entirely a matter for him to decide.

The HONOURABLE SAIYID RAZA ALI: Well, Sir, in view of the ruling which you have given, and seeing that the terms of the Right Honourable Srinivasa Sastri's Resolution are more comprehensive, I do not propose to move my Resolution but I will give notice of an amendment to the Resolution of my Right Honourable friend Srinivasa Sastri.

The HONOURABLE THE PRESIDENT: I would ask the Honourable Member not to be under any misapprehension. His Resolution is more extensive, and not less extensive, than the Resolution of the Right Honourable Srinivasa Sastri. If he wishes to get a discussion on the whole matter at a later date he can move as an amendment to the Resolution of the Right Honourable Srinivasa Sastri the words necessary to bring it into accord with his wishes. The scope of his Resolution is certainly wider than that of the Right Honourable Srinivasa Sastri's Resolution, and that is why he will be blocking that Resolution if he moves his Resolution to-day. I leave the matter entirely to him.

The HONOURABLE SAIYID RAZA ALI: Then, Sir, I do not propose to move my Resolution.

The HONOURABLE THE PRESIDENT: It is for the Honourable Member to decide.

RESOLUTION RE RADIO COMMUNICATION.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I do not wish to move my Resolution.*

RESOLUTION RE IMPOSITION OF AN EXPORT DUTY ON BENZINE AND PETROL.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I beg to move the following Resolution that stands in my name:

"This Council recommends to the Governor General in Council to take into immediate consideration the desirability of imposing a duty on benzine and petrol exported from Burma and other Indian provinces to foreign countries."

Sir, I wish to place the following facts before the House for their information. The price of petrol is Rs. 1-14 per Imperial gallon in Calcutta, the equivalent of 11 annas per Imperial gallon in New York, and of Rs. 1-8 per Imperial gallon in London, and of 8½ pence per Imperial gallon in Belgium. From the above figures it will be seen that even the British price of petrol is grossly inflated but the British public are fully aware of this and have cut down their requirements until, according to the latest motor trade papers, every available petrol storage depôt at Home is packed full of petrol, and the overstocked position is such that a further reduction in price of 4d. per gallon is anticipated.

The public in India has not previously agitated on this question as it was confidently anticipated that the Indian price of petrol would be reduced in common with reduction in Great Britain, but, as the last reduction of 5½d. per gallon in England on October the 1st has not been followed by an equivalent reduction here, the question now requires investigation. My Honourable friend Mr. Chadwick, in answer to my question put in this Council a few days ago, said:

"The export of petrol from Burma was

18,934,711 gallons in 1917-18,
22,600,532 gallons in 1918-19 (plus 90 gallons from Bengal),
36,222,584 gallons in 1919-20,
18,856,640 gallons in 1920-21,
20,156,323 gallons in 1921-22,
8,722,875 gallons in 1922 (April to September).

The amount of excise duty levied on this in India was:

Rs. 25,39,000 in 1917-18,
Rs. 34,36,000 in 1918-19,
Rs. 41,42,000 in 1919-20,
Rs. 54,26,000 in 1920-21,
Rs. 69,32,000 in 1921-22,
Rs. 39,38,000 in 1922 (April to September)."

* "This Council recommends to the Governor General in Council that he be pleased to take steps:—

- to provide direct radio communication between India and the United Kingdom without further delay;
- to proceed in the matter independently;
- to enter into an agreement with private enterprise for the erection and maintenance of an efficient service which will provide an adequate link in the proposed Imperial scheme, provided that such private enterprise is incorporated in India; and
- to request the Secretary of State to impress on the Imperial Government the urgency of this matter and to take steps for the erection and running by the same private enterprise of the necessary reciprocatory station in the United Kingdom."

IMPOSITION OF AN EXPORT DUTY ON BENZINE AND PETROL.

The value, as estimated by the Customs authorities and the Oil Companies, was:

				Equals value per gallon.	
				Gallons.	Annas.
£152,053	in	1916,	on	25,190,961	1'4
£153,987	in	1917,	"	24,637,848	1'5
£120,205	in	1918,	"	18,934,711	1'5
£141,253	in	1919,	"	22,600,532	1'5
£289,537	in	1920,	"	36,222,584	1'5
£176,803	in	1921,	"	18,856,640	1'5

which on an average works out to about 1 anna 4 pies per gallon. It will thus be seen that in 1921 alone over 1,800,000 gallons of petrol were exported from Burma absolutely duty free, and, while this 18 millions was estimated as being worth a total value of £176,803, which equals approximately 1'5 annas per gallon according to the petrol companies' own valuations, the motorist in Calcutta was paying Rs. 2 per gallon. Can it be possible that Government are so free with money that they do not require any revenue whatever from this vast volume of exported petrol, while at the same time they are so hard-pressed for money that they have to impose a tax of six annas per gallon on all petrol consumed in India? The reason that exported petrol bears no tax whatever while petrol used in India bears a six-anna tax is being eagerly sought by motorists throughout India, as there must be some explanation of this queer differentiation.

As Government are in various ways drawing several crores of rupees of taxation annually from motor users and the motor industry, a change of front is absolutely essential if they desire to continue obtaining this huge yield, as under the present enormous burdens the whole system of mechanical transport in India is practically paralysed and unemployment and enormous financial losses are rife to a degree which is evidently not realised at headquarters, but the position is assuming such gravity as to resemble a crisis and it is no exaggeration whatever to say that during the last two years in Calcutta alone the automobile trade is said to have suffered losses aggregating more than 50 lakhs of rupees, apart from similar losses in other parts of the country, in addition to which Government has lost a tremendous amount of revenue from potential motor car users who have found it impossible to purchase and use motor cars while the present costs due to prohibitive import duty and overwhelming petrol taxation are so high. Apart from the gross unfairness of singling out this one particular industry for such onerous taxation the whole policy of Government towards the motor car has in the past been one of repression, presumably owing to the inexplicable use of the word "luxury" in connection with motor cars, and this tendency is now so very pronounced that the position has been reached where a continuance of the present policy will entail the death of the goose that lays the golden eggs. If, in the face of the agitation now spreading so rapidly through India, the monstrous oil monopoly continues to have such a baneful effect on life in India, it will become necessary to enact legislation on the lines of the antitrust laws found necessary in the United States of America to protect the public from the extortions of bloated profiteers.

Sir, if the Government accepts this Resolution, they will in the first place add quite a substantial amount to their revenues annually. At

[Rai Bahadur Lala Ram Saran Das.]

present the Government imposes six annas per gallon excise duty on petrol consumed in India, while no export duty is levied on motor spirit exported. During a period of five years ending in March 1922 it appears that the total amount of petrol exported from India was about 118 million gallons. The total amount of petrol consumed in this country during the same period has been about 60 million gallons, which has brought in an excise revenue of no less than 2½ crores. If an export duty at the same rate of six annas per gallon had been levied, the Government of India would have obtained an additional revenue of 4½ crores in the last five years. Export of petrol from India free of duty is at present costing the Indian Exchequer about 90 lakhs a year. I believe, Sir, in these days of financial stringency Government cannot afford to give up any source of revenue.

Perhaps my Honourable friends on the Government Benches might tell us that the imposition of an export duty on benzine and petrol would stop the export of such commodities, or anyhow restrict it. I freely say that an export duty on petrol will not at all restrict the export, but, Sir, I do not believe that the imposition of such a duty will not help the Indian exchequer. The latest news from America tells us that the existing oil-fields in the United States of America are being unduly exhausted, and that they are now taking steps to restrict the export of petroleum with a view to conserve this commodity for home consumption. The political conditions in Russia and Caucasasia are not as yet such as to enable Russian oil to be put on world markets. The only competitor of Indian motor spirit as far as my knowledge goes, is perhaps the Anglo-Persian Oil Company and not the Asiatic (Shell) Oil Company. Under such circumstances, Sir, I submit India possesses in respect of her petrol practically the same monopoly as she possesses in respect of tea, rice or hides and skins. I do not therefore believe the imposition of an export duty on petrol and benzine will restrict its export at all. But, Sir, even supposing the imposition of an export duty does restrict to a certain extent its export to foreign countries, even then I contend it would be beneficial to India. In answer to a question by my Honourable friend Mr. Sethna the Government in February last replied that the then price in England of petrol exported from Burma was 2s. and 3½d. per gallon but since then it has dropped to Rs. 1-8. In Upper India the price of petrol is on an average more than Rs. 2 per gallon. If the effect of imposing an export duty on petrol would be to restrict its export to foreign countries, it would be all the better, for it would make a larger quantity of petrol available for consumption in this country and would thereby reduce its price. In these days when every one of us wants to promote industries in India, it is necessary that we should have easy transport facilities. Petrol in these days takes so important a part in the industrial reconstruction of a country that its conservation for home consumption has now become quite essential. Sir, India requires a large amount of cheap petrol for its own industries, and it can ill afford to squander it in foreign lands. So if the imposition of export duty on petrol to a certain extent restricts its export to foreign countries, we should not at least mind.

There is one more point, Sir, that I would like to touch on. I am told that the cost of production to the Oil Companies in Burma is about 1½ annas per gallon. They sell it in Rangoon at the rate of Rs. 1-10 or Rs. 1-12 per gallon. Deducting 6 annas per gallon excise duty and 1½ annas per gallon cost of production, the Oil Companies still

make a profit of Rs. 1-2½ or 1-4½ per gallon. A few days, back, in reply to Mr. Spence, the Honourable Mr. Innes said in the Legislative Assembly that though petrol supplied direct to the Military authorities is exempt from the usual excise duty, yet no reduction in price is allowed by the Oil Companies on such purchases. Sir, this is profiteering of the worst type. Export of petrol free of duty has made it profitable for the Oil Companies to export petrol to foreign countries in ever larger and larger quantities. This tariff policy has made it possible for these Companies to reduce the quantity of petrol available for consumption in this country. No reduction in prices charged for petrol supplied to Indian Military Departments in spite of the exemption of Government stores from excise duty shows that the policy of Oil Companies is to restrict the supplies of even the Government. Not only does this tend to reduce the supplies of Government, but it also compels the State to spend more on petrol than what they should have spent in view of the exemption of Government stores from the payment of customs and excise duties. I submit, Sir, the present policy of Government in connection with the export of petrol is objectionable from all points of view. Whether we look at the problem from the revenue point of view, whether we look at it from the point of view of conservation of essential commodities for consumption in the country, or whether we look at it from the point of view of putting a stop to profiteering we are irresistibly driven to the same conclusion, i.e., of putting an export duty on the export of benzine and petrol. I don't necessarily ask Government to impose an export duty of six annas per gallon. I leave this matter to their discretion, fairness and justice. In the interests of industrial regeneration of this country I contend that our policy should be to abolish excise duty on petrol consumed in this country and to levy a moderate and reasonable duty on its export to foreign countries.

With these few words, Sir, I put forward this Resolution for the favourable consideration of this House.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I am in entire accord with the Honourable the Mover in the Resolution that he has brought forward. Motor cars are no longer a luxury. They have practically become a necessity of life for business people. But what with the high customs rate of 30 per cent. it has prevented many a man from going in for a motor car for use in his business; and worse still, the high price of petrol that we have to pay also makes it prohibitive in many cases to make use of a motor car. As the Honourable Lala Ram Saran Das has pointed out, it is a perfectly anomalous position that Burma petrol which is sold in Calcutta at Rs. 1-14 per gallon, and in Bombay, if I remember rightly, at Rs. 1-15 per gallon, can be sold in spite of a high import duty in England at the low rate of Rs. 1-8 per gallon. The position, I say, is anomalous. It may be due to profiteering; it may be due to other reasons of which I am not aware; but it is the business of Government to see that the public of this country do get petrol at a reasonable rate.

Sir, sympathising with the Honourable Mover as I do, and holding the same views as he does, I may be allowed to mention that I have been carrying on correspondence on this very subject with the Finance Department. The reply I received was that the matter would receive due consideration at Budget time. Budget time, as we know, is very near, and the Budget will be placed before the Legislature within about ten

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days from now. It would be advisable therefore to wait and see if the Finance Department have, in response to the wishes of the Indian public, expressed not only in correspondence such as I have referred to, not only by the Resolution which my Honourable friend has brought forward, but also by constant agitation in the Press—I say, let us wait and see if in response to the same, Government do intend to levy a duty of this kind in the Budget.

On an average within the last 5 years, nearly 20 million gallons of petrol have been exported from Burma to Europe, in addition to which in 1921-1922, nearly 3 million gallons were exported to Egypt. Consequently if a duty were levied of only eight annas per gallon, it would bring in, in these days of stringency, to Government the handsome amount of a crore of rupees, which is well worth considering. As I have said, it is not unlikely that Government are giving this matter their consideration at the present moment and I therefore propose that the discussion of this Resolution be postponed to some later date in March. We shall have seen the Budget by then and if Government have not included it, then when the Resolution comes up again it will be competent to us to request Government to take up this matter and I think the request will be in time to be included in this year's Finance Bill. I hope therefore the Honourable Lala Ram Saran Das will accept my suggestion for allowing the Resolution to stand over till some non-official day in the first half of March.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I am not in charge of this Resolution on behalf of Government, but I should like to say that personally I support the suggestion made by my friend the Honourable Mr. Sethna. It is extraordinarily difficult—in fact, impossible, to deal with a Resolution of this kind on its merits at a time like this. As the Honourable Mr. Sethna has pointed out, this suggestion for an export tax on petrol has been before Government, having been brought to their notice by certain interests, and is under their consideration. But I think Honourable Members will find on reflection that it is really impracticable for Government to be drawn into discussing what is really a budget matter before the Budget actually comes out. In consequence, I anticipate that my Honourable friend Mr. Chadwick will find it impossible to deal with this case on its merits; he would simply have, I imagine, to talk round the subject and not on its merits. I think probably it is in the general interests that this proposal should be discussed at some time on its merits. If it is included in the budget it will come up for discussion as a matter of course; if it is not included in the Budget, then it can also come up if this debate can be adjourned to some non-official day in March.

The HONOURABLE THE PRESIDENT: We are in some difficulty in regard to this matter as the Leader of the House is not present. It is not possible to adjourn the Resolution to an unknown date, because as you are aware the course of non-official business is determined by the ballot. If Government are in a position to give, and if any representative of the Government could say that they could give a Government day for the further discussion of this Resolution, then I will put the amendment to the House; but unless that is the case I am not prepared to put the motion for postponement.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I think the Government would be ready to give an official day if no non-official day is available.

The HONOURABLE THE PRESIDENT: Under those circumstances, I will put Mr. Sethna's proposal as a definite amendment for discussion, viz., that this debate be postponed to a date to be provided for by the Government in March after the Budget. That question is now open to discussion.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): I rise merely to say, Sir, that I think the proposal put forward by my Honourable friend Mr. Sethna is a very right and proper one. It has been further explained by the Honourable Mr. Cook and I hope that Honourable Members of this Council will accept it.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, the reason which led me to put forward this Resolution before presentation of the Budget was that the Government of India may be in possession of the views of this Honourable House; but in case this Honourable House wishes me to postpone the consideration of this Resolution

The HONOURABLE THE PRESIDENT: It is not for the Honourable Member to postpone it.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: If that is the ruling, Sir, as the discussion of this Resolution has been guaranteed by the Government to be taken up on an official day, I leave over this Resolution for consideration later.

The HONOURABLE THE PRESIDENT: I do not know whether the Honourable Member who is now speaking on the amendment that the discussion be postponed is supporting it or is against it. He ought to make that clear to the House.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I support the amendment on the grounds put forward by the Honourable Mr. Sethna and the Honourable Mr. Cook.

The HONOURABLE MR. E. M. COOK: I take it the understanding is, Sir, that some sort of date should be provided, not necessarily an official day, the idea being that if there is time on a non-official day so much the better; but if not, the Government will provide an official day.

The HONOURABLE THE PRESIDENT: The point must be made clear and there must be no misapprehension about it. The course of non-official business is determined by the ballot; this Resolution is already down on the paper; it can be discussed to-day; it cannot be postponed to any non-official day because the non-official days will be balloted for. The only way that a definite postponement can be obtained is by the Government giving a promise that on some day set down for official business this Resolution shall be taken. It is quite necessary that this should be clear; otherwise the House may be misled.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): I hope, Sir, that the Government does give the undertaking implied by you. As far as I can understand the Honourable Mr. Cook, he did not give an assurance that the discussion would be arranged for on a particular Government day. Unless an assurance is forthcoming, that the

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Government will arrange to have this discussion on a Government day, I do not think we should postpone the debate at all. I would rather have the debate continue and arrive at a decision, unless Government promise to give a definite day for the debate.

The HONOURABLE MR. B. N. SARMA: I have already said that the Government will provide an official day for discussion of this subject.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): I only want to say this, that I think it would have been better if we had continued the debate. I think the Resolution was so ably moved that everybody would have

The HONOURABLE THE PRESIDENT: The Honourable Member will then have an opportunity of voting against the amendment.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I am against the amendment, Sir.

The HONOURABLE THE PRESIDENT: The question is that the discussion of this Resolution be postponed to some date in March subsequent to the presentation of the Budget, that being a date to be found by the Government on a Government day.

The motion was agreed to.

The HONOURABLE THE PRESIDENT: The Resolution will therefore stand over till a date to be subsequently notified.

The Council then adjourned till Eleven of the Clock on Tuesday, the 20th February, 1923.

COUNCIL OF STATE.

Tuesday, the 20th February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

BILLS LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table the Bills which have been passed by the Legislative Assembly at its meeting held on the 19th February 1923. They are:

- (1) A Bill to amend certain enactments and to repeal certain other enactments.
- (2) A Bill to consolidate the law relating to the Government Paper Currency.

THE PRISONERS (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce a Bill to amend section 29 of the Prisoners Act, 1900.

This is a very small measure and I need add very little to the Statement of Objects and Reasons. Section 29 of the Prisoners Act empowers the Governor General in Council to move any prisoner confined in any prison to any other prison in British India, and sub-section (2) of the same section confers similar powers upon the Local Governments to make similar transfers within their own jurisdiction. Some inconvenience has been experienced because the jails in Berar, which are under the administrative control of the Government of the Central Provinces, do not come strictly within the terms of section 29. The situation now is that some of the jails in Berar are partially unoccupied whereas many of the jails in the Central Provinces proper are unduly congested. It is very desirable, therefore, in the interests of administrative experience to enable the Local Government to effect these transfers. This is particularly desirable because several of the recommendations of the Jails Committee for the amelioration of the condition of prisoners, such as, for instance, the separation of first offenders from other classes of offenders, cannot be properly carried out unless Local Governments had authority to effect these transfers. There are other considerations of a minor character, but the above are the principal objects which this Bill is designed to meet. I therefore move for leave to introduce this Bill.

The HONOURABLE THE PRESIDENT: The question is that leave be given to introduce a Bill to amend section 29 of the Prisoners Act, 1900.

The motion was adopted.

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

THE INDIAN NAVAL ARMAMENT BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

"That the Bill to give effect in British India to the Treaty for the Limitation of Naval Armament, as passed by the Legislative Assembly, be taken into consideration."

The Statement of Objects and Reasons explains fully the purpose and significance of the Bill and it is unnecessary for me to say more than a few words in support of the motion. The Treaty for the Limitation of Naval Armament was signed at Washington on the 6th February 1922 on behalf of His Majesty the King-Emperor and certain other Powers, the object in view being to contribute to the maintenance of the general peace and reduce the burden of competition in Naval Armament. The British Parliament has already passed an Act to give effect to this Treaty and it is here proposed to enact a separate but corresponding Statute which will give effect to the provisions of the Treaty so far as British India is concerned and will contain special provisions necessary to meet Indian conditions. In view of the principles which the Bill embodies and the purpose which it seeks to achieve, no further justification is required from me. I move now that the Bill be taken into consideration.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect in British India to the Treaty for the Limitation of Naval Armament, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill. We will reserve the Preamble as usual.

The question is that clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Schedule stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was adopted.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect in British India to the Treaty for the Limitation of Naval Armament, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE WORKMEN'S COMPENSATION BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, as passed by the Legislative Assembly, be taken into consideration."

The House is invited to-day to open an entirely new field in the labour legislation of this country and sow therein a new kind of seed. Hitherto, we have only interfered by legislation in regulating the relations of employers and the employed by providing for safeguards in the industry and by regulating the total number of hours of work. To-day, however, we are experimenting with a new kind of law. It therefore behoves us, Sir, as careful husbandmen to be as careful as we can to clean the ground thoroughly and sift the seed so as to make the conditions of trial as favourable as possible. It is incumbent on us to see that when this field comes to harvest it shall not yield a crop of litigation and disputes but some useful grain. That is not an imaginary statement. From a law of this nature it is very easy to get a crop of litigation and disputes. This principle that employers should be responsible for giving compensation to those of their workmen who get damaged or hurt in the course of their employment has been accepted in very many countries of the world. It is not a new one, but it is new and entirely new in India. If, for a moment, we look round, we see many employers in India who are extremely careful of the conditions under which their labour works, but as industry develops and machinery becomes more used and more common, we know that there are and will be employers who are not so scrupulous and not so careful. This Bill is not purely a humanitarian Bill. It has been found in other countries that as a result often of legislation of this nature and of placing of these obligations on employers, employers of the class I have mentioned become, as a rule, more careful of the conditions under which their labour work. On the other hand, the workmen feel greater security and safety in the conditions of labour and the provision made for them in case of accidents. Therefore, I say, Sir, that this Bill is not purely a humanitarian one, but it is fraught with very considerable economic possibilities, and we must look at it carefully not from the point of view of our feelings but from the point of view of its economic possibilities and of its possible economic results. It lays on the employer an obligation to pay compensation in certain cases. In so much as it does that, it puts an added cost on to his shoulders and that ultimately will mean an added cost to the consumer in this country in some form or another. Therefore, Sir, it is indeed to our interests to see that the cost that is placed upon the employer is reasonable and right and is not likely to be excessive. Thus, there are two points that we have got to bear in mind. One is to try and prevent this legislation from becoming a source of litigation and disputes, and secondly, to prevent it being too onerous on the employer and at the same time to see that it affords a fair right and just treatment for the workmen. The means by which this has been attempted to be gained are by making the provisions of this Bill as precise and as simple as possible. Everybody who knows at all the conditions of labour in this country, how liable it is to migrate on the slightest excuse to its own village, how easy it is not only for the labour of this country but for anybody to malingering when they get a chance, will realise that the placing of an obligation such as this on the employer is apt to

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open avenues for grave abuse by the workmen. At the same time, if we can satisfy the workmen that they are going to get good treatment, that they are entitled to compensation if hurt, and are not merely dependent on the charitable instincts of the employer for the time being, we may hope to help in building up a steady labour force without which the industries in this country cannot develop.

This Bill has been threshed out very carefully, first of all, by circulation amongst Local Governments, then by an *ad hoc* committee, then circulation again, and ultimately by the Joint Committee to which it was referred for detailed examination. The whole tendency of their work has been to aim at precision and simplicity. In Schedule II of the Bill, the industries to which it is applicable are specified. This is a fairly comprehensive list, but it is far from being a complete list. It applies definitely to those industries which can be called in any way by their nature hazardous. Provision is made for extending it to other hazardous industries, or such as may be deemed hazardous from time to time. But there has been no attempt whatever to make this a wide or a general Bill covering every kind of employment. Further, we have specified in the Bill the amount of compensation which a workman is to receive, and thirdly, we have specified those who should benefit under the Bill in case of the death of a workman. There we come to a very controversial point, because we have not followed the principle of dependency but the principle of relationship. The intention of doing so is obvious. It was in order to prevent as far as possible litigation and disputes as to who exactly were the dependants of a deceased workman at the time of his death. Also, a special machinery has been put up in order to deal speedily with the disputes and questions arising under the Bill. Efforts have been made under the Bill to try and compel, or insist, or make it almost essential to have a medical examination at an early stage. Thus, Sir, if the Bill be examined carefully from the purely humanitarian point of view, there is not the slightest doubt that many could be able to suggest improvements in it. But in an experimental measure of this sort, it is above all things necessary, and the thing that is most desirable is, that the workman should know clearly what his rights are, that the employer should know what his obligations are, and that the machinery which may be erected to give force to them should be as simple and as easy in its operation as possible. The details are difficult to work out, but these I claim to be the guiding principles upon which this Bill has been framed. It has been scrutinised extremely carefully by different Committees word by word and I commend it to the consideration of the House.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhamadan): I am sure the measure now introduced will be considered by all sections in this country as indeed a very beneficent one in the interests of our working classes. If India wants to advance and advance fast politically, it must prove its ability to do so by the ready acceptance of social legislation like the one now before the House. If we compliment Government on having brought forward this measure I think we are equally thankful to capitalists, namely, the employers of labour, for accepting the measure without any demur and what is more, as those who were on the Joint Committee will bear me out, in having in some cases gone even one better than the recommendations that were submitted in the original draft. This is a happy augury. This Bill, as the Honourable Mr. Chadwick has just

now explained, aims at placing the principles and the privileges under the Act in a manner more simple than is the case in the corresponding Act in the United Kingdom. We follow in the main the principles and the provisions of the English Act, but in preparing this Act due regard has been paid not only to the conditions of this country but also to the habits of its people. In trying to do so, perhaps, in one particular we have not been able to meet public criticism satisfactorily and that is in regard to the very wide powers given to the Commissioner. Of course, as I have said, nothing better could be done, because our first endeavour is to bring about simplicity in the working of the Act. Let us hope therefore that the different Provincial Governments will exercise the very greatest care in the selection of men whom they appoint as Commissioners. Not only should they be men of sufficient legal knowledge but they should be men of high integrity and probity.

Another criticism that has been advanced is that perhaps this measure is far in advance of the times so far as India is concerned, that in England they waited for nearly a century after the beginning of the growth of industries before the Employers' Liability Act and several years later the Workmen's Compensation Act were introduced. I hold, Sir, that if this Act is introduced in this country at an early stage when industries are just beginning to develop, the early introduction of such an Act may prove the means of bringing about a better understanding between labour and capital in this country and thereby perhaps avoid the many pitfalls which have, as we know, beset the path of labour and capital in the West.

Sir, I should like to say one word in regard to the deletion of the original clauses 3, 4 and 5 of the Bill relating to the Employers' Liability Act. The Joint Committee were of opinion that they may best be removed from the present Bill. In fact it would appear that the original Committee on whose recommendation the Bill was drafted were themselves in doubt as to the inclusion of these sections. The main point of difference between the Employers' Liability Act and the Workmen's Compensation Act is this, that whilst in the Workmen's Compensation Act, the employee is not required to prove any negligence on the part of the employer, he is so required in the Employers' Liability Act, but what is more, since the introduction of the Workmen's Compensation Act, nearly 25 years after the passing of the Employers' Liability Act, the Employers' Liability Act has practically become a dead letter in the United Kingdom. As that is so, the House will admit the Joint Committee have acted very wisely in dropping those sections in our Act which deal with the Employers' Liability Act.

There is another point to which I should like to refer and that is that the Act is made to commence from the 1st July 1924. This is advisedly done. The departure is a very novel one and if employers were not given time to make satisfactory arrangements for carrying this risk, perhaps, it would act very harshly on some employers who unfortunately may have accidents in their factories affecting a number of people. The original committee on whose recommendation and advice the Bill was drafted had the benefit of the guidance of one of the ablest men in this particular line of insurance—Mr. McBride, himself the Chairman or a former Chairman of the Accident Insurance Offices Association in England. I have no doubt that with what he has seen himself in this country and with his acquaintance with the manner in which the Bill was drafted, he

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will be able to prevail upon the English insurance companies and I doubt not their example will be followed by the Indian companies to accept risks under the Workmen's Compensation Act and charge rates in this country which, though in the beginning are not exactly on a level with the rates charged in the United Kingdom and elsewhere, will be sufficiently reasonable and that they will not prove a burden on the industry. With these words I support the Bill.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): As one who is neither an employer of labour nor in any way identified with the labour movement, I can claim to take a somewhat impartial view, if I may say so, of the provisions of the Bill that is before this House. The principle underlying the Bill, Sir, is a very simple one. In fact it has been the effort of two committees which have dealt with this Bill as also of those who have drafted it, to make it as simple and easy in working as possible. There is no doubt that the increasing use of machinery and the growing complexity in industrial activities make it incumbent that some sort of protection against risks should be given to those who are employed as workmen. Up till now, as the House is aware, there has been no provision under any law to pay compensation to those workmen in cases where they have suffered temporary or permanent injury. The Bill, among other things aims at protecting the interests of workmen and compensating them in case of injury. The machinery that is provided by the Bill is a simple one. Without taking away the jurisdiction of the Civil Courts, the Bill provides for the appointment of Commissioners who will be easily accessible to workmen and who will expeditiously dispose of all disputed cases between employers and workmen. The Bill no doubt contains many provisions greatly beneficial to workmen, but I am not quite free from doubt whether in the present undeveloped state of our industrial life some of its provisions will not press too heavily on small employers of labour. So far as large employers of labour who make use of complicated machinery that exposes the workman to great risks are concerned, I have no doubt, Sir, that the provisions of the Bill are on the whole fair to employers and very largely equally fair, except perhaps in a case or two, to workmen. But I am not quite sure, Sir, whether the small employer of labour will also be in a position to find funds to work out the provisions of the Bill. I have no doubt, however, Sir, that in course of time such small employer will get himself accustomed to its provisions, and by a careful use of the provisions of the Bill will be in a position to discharge the additional burdens that are laid upon him. I welcome the Bill, imperfect though some of its provisions may be.

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): Sir, I must thank the Honourable Mr. Sethna and the Honourable Mr. Raza Ali for the cordial welcome they have given to this very difficult Bill. I am quite prepared to admit that there are, as Mr. Raza Ali has pointed out, imperfections in the Bill. As I have said, it is a very difficult Bill and it is inevitable that when we are drafting for the first time a Bill of this kind for India, there must probably be imperfections in our draft. We are trying to adapt to Indian conditions legislation which has grown up in entirely different conditions. But if there are imperfections, Sir, I can only hope that time will bring them to light, and that we shall at a

later time correct them. This Bill, I wish to emphasise, is admittedly an experimental Bill. The Honourable Mr. Sethna has made one or two criticisms regarding the Bill. He has suggested that possibly we have given too wide powers to the Commissioners. Well, Sir, as Mr. Sethna has himself pointed out, we did that advisedly. Our object was to provide the simplest possible machinery for deciding any questions or disputes which may arise under this Bill. But I entirely agree with Mr. Sethna that a heavy responsibility will lie upon Local Governments in selecting officers for this very responsible post of Commissioner, and the Honourable Member may rest assured that when we address Local Governments in regard to the provisions of this Bill, as undoubtedly we shall have to do, we shall draw their attention to the very great importance of exercising the greatest care in the selection of these officers. The Honourable Mr. Sethna, again, suggested that possibly it might be held that this Bill was in advance of the times. But he went on to supply the answer to the question which he had raised: nothing has surprised me more, Sir, than the very cordial reception, the favourable reception which this Bill has received from employers throughout the country. I confess that I was surprised, but I think I know the reason. I think that employers in the country recognize, and no one can gainsay, the justice of the principle underlying this Bill. They recognize that legislation for compensation to workmen has been passed in most countries of the world, in practically every civilized country of the world, and they recognize that that legislation is bound to come in India. And I think, Sir, that they see that it is very much better that that legislation should come by consent on the part of employers, by agreement between the employers, the workmen and the Government, rather than that this legislation should be forced upon employers by a long course of industrial strife. That was the way in which legislation of this kind was brought about in England; it was the fruit of a long period of strife and stress and struggle between capital and labour. We in India are more fortunate. We have before us and in front of us the experience gained in other countries, and that is why we have elected to put this Bill before the country in order that the country may apply to India in good time the results of the experience gained in other countries. And, Sir, we were not disappointed. As Mr. Sethna said, we are under a great debt of gratitude to employers throughout the country for the very favourable reception they have given to the Bill. Mr. Raza Ali suggested that the Bill might press hardly upon the small employer of labour. Well, Sir, we had that danger in mind when we drafted the Bill, and that was one of the reasons why we did our best to limit the scope of the Bill. We tried to limit it as far as possible to hazardous industries and to organized industries, and I hope that in that way we have reduced the burdens which this Bill, this legislation, may throw upon the small employer; and also the small employer has a remedy in his own hands. I am quite sure that, as Mr. Sethna has said, this Bill will give rise to a great increase in the habit of insurance in this country, and the small employer will no doubt take advantage of the facilities which Insurance Companies will assuredly offer in respect of this Bill; and if they do, I do not think that we need apprehend that the Bill will impose an undue burden upon those small employers. If the Bill leads the small employer to pay more attention to the safety of the workmen who work for them, then that will be all to the good. I think, Sir, I have dealt with all the points raised so far in this debate, and it only remains for me again to thank the Honourable Members who have spoken for the reception they have given to the Bill.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, this is a one-sided Bill, because it does help the labourers, but I do not think it helps so much the employers or capitalists. In these days of democracy everybody naturally goes in for this small class, but after all I think the employers should also get some sort of help. I just put before the House the case of a mill-owner who collected money,—and whose mill was burnt the other day. He collected some 5 lakhs on exorbitant rates of interest. The mill was burnt up, and I think he lost all the money. Nobody who gave him any capital could realise it. Now supposing there had died about 100 men,—from where would he bring this money to compensate them? That is why I say that in places this Bill would be very impracticable. Again, Sir, sometimes, awarding compensations to an employee, the employer may not have got the means to give it. If one man gets the compensation, the other man is absolutely hit. Perhaps so that all people dependent on him will suffer. I hope that in such a case the Commissioner will be judicious and see that the poor employer and his family does not suffer any more than the other man. I hope this point will be given due consideration. With these few remarks, Sir, I neither oppose nor am in favour of the Bill.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, as an employer of labour, I give my hearty support to this Bill. One thing which I have not been able to follow from the provisions of the Bill is that an exception has been made in the case of railway employees and other workmen employed in various Government concerns.

The HONOURABLE MR. D. T. CHADWICK: No.

The HONOURABLE THE PRESIDENT: If the Honourable Member wishes to address the House, he shall address his remarks to the Chair.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I cannot find out whether the provisions of this Bill apply to men working on the Railways or in various other Government concerns and I should like the Honourable the Commerce Member to throw some light on this question.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, the Honourable Mr. Chadwick and the Honourable the Commerce Member have placed the principles underlying the Bill so lucidly that very little remains to be said. They have taken advantage of the spirit of compromise and good will that is now prevalent in India, not only amongst the labourers and the employers, but amongst other communities too as was noticeable in the other place at the time of the debate on the Racial Distinctions Bill. It was due to that spirit of compromise that this Bill has been passed without any material alteration in the other House and I am quite sure that it will be passed unanimously in this House also. We can take pride, Sir, in the fact that this is the fourth legislative measure of social reform that will be passed since the new Reforms came into existence. That is a big item on our credit side, Sir. Although for this thanks are due in the main to the Government of India as represented by the Commerce and Industry Member, still thanks are due also to the representatives both of employers and labour in both the Houses. There is only one point, Sir, on which I would like the Honourable Member to give an assurance of the same kind as he was

pleased to give in the other House, and that is that the question of seamen when they are working in vessels registered outside British India will be taken up as early as possible. There were, as the Joint Committee says, certain legal difficulties in the way of applying the measure to those vessels. But when the debate proceeded in the other House, the Honourable the Commerce Member was good enough to say that he will take up the subject as early as possible and that further provision for the Indian lascar seamen will receive his early attention. I hope he will not forget to take up this matter soon. With these words, Sir, I welcome this Bill.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, as a Member of the Committee of the Bombay Millowners' Association I also welcome this Bill. In fact, this Bill was sent to the Committee some time before the Joint Committee began their discussion, and it was carefully gone into and suggestions were made, and I am glad to see that many of their suggestions have been adopted by the Joint Committee. There is only one remark I wish to make in regard to what fell from my friend the Honourable Mr. Sethna. Of course, this is a legislative measure of social reform. But we know that it is the spirit of the age that has done it. The spirit of humanity is now more prevalent amongst all classes in the world and that has forced on this kind of legislation. No civilised Government could remain long without having legislation of this character in reference to both capital and labour. As far as the Bombay millowners are concerned, I may observe that this question of compensation has been considered and practically carried out by millowners long long before even the Government or anybody else thought of it, and they have been doing their best in cases of accidents and in cases of death to recompense either the injured workman or his family and children. This way of compensating in a very liberal manner has been the practice in the Bombay mills for the last 25 years. I may add that in the mills I have the honour to represent, I myself drafted some 22 years ago all the rules with reference to injuries, deaths and even retirement. Many other mills have been known likewise to give compensation. So that, as far as Bombay millowners are concerned, I may say that they have long long been in advance of this social reform legislation that is spoken of. I repeat that it is owing to the world-spirit of humanity. The humanitarian views that are prevalent in all parts of the world and the enlightened self-interest of the capitalists themselves demanded that this sort of compensation should be made. I therefore heartily welcome the Bill. Aye, the Millowners themselves have welcomed it, and I feel sure that the Bill will be unanimously passed.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, so much has been said in the way of welcoming this Bill that I won't detain the House with a speech, but I think, perhaps, as representing the Bombay Chamber of Commerce, I too should add a word of welcome to this very important measure. The Bill, I think, as presented to this House is a good one. I do not think it would become me to eulogise it very much more than that because I happened to be on the Joint Committee. The Joint Committee had many discussions to deal with. I will also say we had many arguments most of which were settled satisfactorily, and the result has been the Bill which is before us here to-day. I think it is a good one. It is a progressive measure. We have tried to be fair both to the employers and to labour and I heartily recommend it to this Council.

The HONOURABLE MR. D. T. CHADWICK: Sir, I thank the House for the very cordial welcome which the whole of this Bill has received. In reply to my Honourable friend Rai Bahadur Lala Ram Saran Das, I would point out that railway servants are specifically included in the Bill. Further also are all other employees of Government who if the work they were engaged upon was such as would bring them under the scope of the Bill if it were performed privately are subject to the Bill. As regards the question of lascar seamen, that is a difficult one. I can renew the promise referred to by the Honourable Mr. Lalubhai Samaldas, it is being and will be considered. What the Honourable the Commerce Member said elsewhere was that he was quite prepared, when they had cleared up that difficult question of completing the Bill with which they were engaged for the moment, to make further provision for Indian lascar seamen and he hoped that that would be accepted as a reasonable solution for the present of this very difficult question. I have nothing more to add, Sir.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill. We will reserve the Preamble as usual.

The question is that clause 1 stand part of the Bill.

The motion was adopted.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, there stand in my name two amendments to paragraph (d) of the first sub-clause of clause 2. Of these two I do not move the first, but shall proceed with your permission, Sir, to deal with the second. The second is that in that part of the clause, after the words "minor son" the word "unmarried" be substituted for the word "minor", and that between the word "daughter" and the words "minor brother" be inserted the words "married daughter who is a minor".

The House will see the alternation at once. The clause at present reads: "Dependant" means any of the following relatives of a deceased workman, namely, a wife, husband, parent, minor son, minor daughter, minor brother or unmarried sister, and includes certain other persons. It seems to me that, as it stands, there is an anomaly because an unmarried daughter who is not a minor gets nothing and an unmarried sister when her brother dies gets compensation. There seems to be no reason why an unmarried sister who is not a minor should receive compensation when an unmarried daughter who is not a minor does not. An unmarried girl may be at the same time the daughter of a living father and sister of a living brother. Now, she will be, in that event, in all probability supported if supported by any one,—supported by her father and not by her brother. Yet, as this definition is framed, if the brother, being a workman, meets with an accident which results in his death she will be compensated although she has not lost her supporter, whereas if her father died she will get no compensation although she has lost her supporter: and that for the simple reason that she is over 15 years of age. That appears to me to be an anomalous position which I believe the framers of this Bill and the

Honourable Member in charge of it will be perfectly ready to remedy. There are two ways in which this anomaly can be removed. In order to place these two unmarried girls on the same footing with regard to receiving compensation, either put in the word "minor" before the words "unmarried sister" in which case they will stand on the same footing, or you can substitute for "minor" in the case of the daughter the word "unmarried" in which case also they would stand on the same footing. I have chosen in my amendment the latter course, mainly because it seems to me that that is the juster, the more equitable course, a course which will provide for a class of persons who may be small but who will be in all probability real dependents. I am aware that the framers of the Bill have discarded the doctrine of real dependency in framing their definition. But where, as you have here, there is a case of choice between confining your compensation based upon the definition of relationship to the case of two girls who will probably be real dependants, it seems to me better that you give them compensation than that they should be excluded from a right to enjoy it. I have asked why a daughter who is unmarried but not a minor is excluded, and it has been suggested to me that in working class families in India there is no such thing. Sir, if there is an unmarried sister who is not a minor, of course, there may be an unmarried daughter who is not a minor, but I pass that over because it is possible that the idea of the framers of the Bill was to confine the grant of compensation in the case of the unmarried sister also to minors, and the unmarried sister who is over 15 has so to speak slipped in unnoticed. Therefore, I do not make that point, but I think that the statement that there is no such thing, practically no such thing as an unmarried daughter who is over 15 years of age, is probably inaccurate for one thing and if it be accurate, if the number of persons who occupy that position is so small that it is negligible, then I think the inclusion of their names, it is obvious, would do nobody any harm. But I am satisfied that the number of these cases which will arise of unmarried daughters and unmarried sisters who are above the age of 15 will not be negligible though it may not be great. We are legislating not only for the Hindu and Muhammadan communities among whom it may be early marriage is very much the rule to which there may be but rare exceptions, but we are legislating also, as I understand the position, for everybody, the Indian Christian, the Anglo-Indian, the European, whose families may belong to the working classes and the members of whose families may be workmen within the meaning of this Act. Undoubtedly, in the case of all those three communities there are unmarried girls of 15 years of age and over: the number of cases which will arise in consequence of that fact will not, I dare say, be great but will not I believe be negligible. But in any event whether it is practically negligible or not, that is no reason why in the few cases which do arise compensation should not be granted to them as well as to others. In Indian Christian families I believe there are often girls, daughters who have attained the age of 15 before they are married. In Anglo-Indian families I think that that is often so; in European families I know it is almost invariably so, and there is no reason why these cases should not be provided for. Objection may be taken, as the definition is framed, that if we admit these unmarried girls who are over 15, we are legislating unfairly against the interests of employers by granting compensation to able-bodied females of mature age who can earn their own living and are not dependent on anybody. Sir, the objection is sound. That is due to the defect in the definition. It is due to the Bill not providing the real and true test of dependency but only an artificial age limit instead. But

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[Sir Leslie Miller.]

there is no reason apparent to me why an unmarried sister and an unmarried daughter, able-bodied and independent though they be, should necessarily or probably be more independent than a widow, husband, father, grandfather as the case may be; but all these persons may be entitled in certain events to claim compensation whether they are really dependent or whether they are independent, and they will all generally be above the age of 15. I therefore only propose to bring into line with theirs, the case of the unmarried daughter. The second part of my amendment

12 Noon. does not introduce any change in the law. It is merely necessitated by the fact that under the first part the minor daughter is replaced by the unmarried daughter. It is therefore necessary in order to preserve her right (and I do not want to take it away) that the married daughter who is a minor should also be entitled to compensation.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I support the amendment because if girls at that age do not get compensation I think there will be many sorts of trouble. From the point of view of morality also, I support it.

The HONOURABLE MR. C. A. INNES: This definition of dependent has been subjected to examination on more than one occasion by numerous gentlemen who have got far greater acquaintance with the intricacies of relationship in India than I can claim to have and it is a very curious fact that this is the first time that this particular point which has been brought to notice by my Honourable friend, Sir Leslie Miller, has emerged. The real reason is, I think, that unmarried daughters above the age of 15 are very few and far between in India. At the same time, there may be, as Sir Leslie Miller has pointed out, cases where girls above the age of 15 are not married and there may be a few cases of hardship with the definition as it is at present, and that being so I am quite prepared to accept the amendment moved by my Honourable friend.

The HONOURABLE THE PRESIDENT: The question is that the following amendment be made:

"That in part (d) of sub-clause (1) of clause 2 of the Bill after the words 'minor son' the word 'unmarried' be substituted for the word 'minor' and that between the word 'daughter' and the words 'minor brother' be inserted the words 'married daughter who is a minor'."

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

"That in sub-clause (f) of clause 2 (1) of the Bill the words 'or body of persons whether incorporated or not' be omitted."

This is a purely drafting amendment. The point is that those words are unnecessary. The House will notice that in the first line of sub-clause (f) the words occur 'Managing Agent means any person', etc., and under the General Clauses Act which governs the interpretation and meaning of words, 'person' used in any Act or Bill includes 'persons' and also includes 'any body of persons whether incorporated or not, if it is not hostile or repugnant to the general sense of the clause'. Therefore under the General Clauses Act, these words are not necessary. It will also be a disadvantage to retain them as they might lead a Court to apprehend that some subtle difference was being drawn between the meaning of the word 'person' in the first line and the body of persons, whether

incorporated or not, in the third line. That is the reason for making this amendment.

The HONOURABLE THE PRESIDENT: Before I put that amendment, I would point out to the Honourable Member that a similar phrase occurs in clause (e).

The HONOURABLE MR. D. T. CHADWICK: I am advised that had clause (e) been worded in the form "Employer means any person", etc., then those words would not have been necessary but I am told that those words must come in in clause (e) as it simply reads "includes any body of persons", etc. It is a subtle point which I admit I have had a little difficulty in seeing.

The HONOURABLE THE PRESIDENT: I merely draw the Honourable Member's attention to it, because he cannot seek to amend clause (e) after we have passed on to clause (f).

The HONOURABLE MR. PHIROZE SETHNA: Do I understand that the Honourable Mr. Chadwick desires to eliminate those words in sub-clause (f) because they are redundant, as the definition of the word 'employer' includes it?

The HONOURABLE MR. D. T. CHADWICK: No.

The HONOURABLE MR. LALUBHAI SAMALDAS: I could not quite realise why the words "whether incorporated or not" are kept in clause (e) and why the same words in the following clause are to be omitted. I am not a lawyer but as a layman it looks to me that if you are going to omit these words from sub-clause (f) it will be better to omit them from the definition of employer and word both the sub-clauses in the same way.

The HONOURABLE MR. C. A. INNES: This is a point which we might leave to the drafters. We are advised that in clause (e) there is no objection to the inclusion of those words and that in clause (f) the words are entirely unnecessary and redundant having regard to the provisions of the General Clauses Act. It is entirely a drafting point. We may leave it at that.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, before you put clause 2 as amended, there is one observation which I should like to make in connection with the doubt expressed by my Honourable friend Rai Bahadur Ram Saran Das, as to whether employees under the railways come within the purview of this Bill or not. If the Honourable Member will turn to definition (n) of sub-clause (1), he will find, leaving out the words which are unnecessary, "workman" means a railway servant as defined in section 3 of the Indian Railways Act.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Not permanently employed.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Not permanently employed in any administrative, district or sub-divisional office.

The HONOURABLE THE PRESIDENT: The question is that clause 2, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE SAIYID RAZA ALI: Sir, I move:

"That in paragraph (b) of the proviso to sub-clause (1) of clause 3 before the words 'in respect of' the words 'except in the case of death or permanent total disablement, in either of which cases he shall be liable to pay half the compensation which he would otherwise have been liable to pay' be inserted."

The Bill, as has been explained, has been carefully considered by more Committees than one. I may be excused, Sir, if I inform the House that the Bill as originally drafted and introduced in the Legislative Assembly contained a provision which was numbered as clause 6, sub-clause (i) (b), which provided that if a workman committed a negligence or misconduct by contravening the rules made in this behalf by any firm and which were duly explained to him, and if an accident was caused thereby which resulted in the death or permanent disablement of the workman, he or his dependents would be entitled to half the prescribed compensation. It seems, Sir, that the Government of India as then advised—and they had been advised at that stage by a very competent and strong Committee—were of opinion that, in justice to the workman, it was necessary, if his negligence or misconduct resulted in a very grave accident, to allow some compensation either to him or to his dependents. The Bill thereafter was circulated among various influential societies, societies of capitalists and employers of labour—and they are always influential; opinions were also asked for from Local Governments, and in the light of those opinions and representations received, the Joint Committee of the two Houses proceeded to formulate their decisions. It was pointed out there, and it was pointed out again when this Bill was before the Legislative Assembly, that most of the opinions invited were against the retention of this clause. Now, Sir, literally that may be true. But I venture to say that if those opinions are scrutinised, it will be found that those who opposed the retention of this clause were societies and associations of capitalists and employers of labour. I do not mean to say that due weight should not be attached to those opinions. But I do not think it is a correct position for the Government to take, to say that the vast majority of opinion in this country was against this provision. On referring, Sir, to those opinions, I find that of all the Governments consulted, only one Government, namely, the Central Provinces Government, deemed it necessary to express any opinion on this question; and that opinion, as the Government Benches well know, was not at all hostile to this clause; in fact the opinion of the Central Provinces Government was that instead of making provision for awarding half compensation to the workman or his dependents as the case may be, the provision might be modified in such a manner as to award compensation not exceeding half that amount to those concerned. No other Local Government, Sir, it appears, thought it worth its while to give any opinion, so that the position, so far as the opinions invited are concerned, is this; on the one hand, we find a well organized, influential, solid block of capitalists and employers of labour, for whom I have great respect—one has always great respect for them—on the other hand, we find an ignorant, totally disorganized, helpless labouring class, with Government holding the balance between them. Fortunately, it appears that the Local Governments did not seriously

trouble themselves about this question, but to the credit of one Government it must be said that it expressed an opinion, and that opinion, Sir, so far as it went, was in favour rather of labour than of the solid phalanx of capitalists. That, Sir, was the position when the Joint Committee entered on their deliberations. The net result of the report submitted by the Joint Committee was that this provision in favour of the workman was deleted. I think, Sir, I will not be guilty of betraying the secrets of the Joint Committee when I say that this provision was deleted by a narrow and a very narrow majority indeed.

The HONOURABLE SIR ALEXANDER MURRAY (Bengal Chamber of Commerce): I rise to a point of order.

The HONOURABLE THE PRESIDENT: I notice a considerable laxity in debate in referring to matters which happened on Select or Joint Committees. I think the rule should be that a Select Committee's or a Joint Committee's Report is the only means of bringing before the House the deliberations of the Joint Committee or Select Committee.

The HONOURABLE SAIYID RAZA ALI: I find, Sir, that my observations were in strict conformity with the ruling that you have given. As a matter of fact those who have gone through the Report will find that there are as many as 4 minutes of dissent on this point. The Report says that.

The HONOURABLE THE PRESIDENT: Then the Honourable Member is in order.

The HONOURABLE SAIYID RAZA ALI: Then, Sir, the Bill went to the Legislative Assembly. Now there, I must say that the enthusiasm of those who are interested in labour outran their discretion, with the result that the amendment that was sought to be inserted in this Bill was one to give full compensation to a workman in case of death or serious permanent disablement being caused owing to any accident which was attributable to his misconduct or negligence. The result was, Sir, that the wisdom of that House did not sanction a measure of that character being placed on the Statute Book, and now we have got to deal with it. The whole question can be looked at, Sir, from three different points of view. The first is as to whether the Government are not estopped, if I may say so not having got over the habits of my profession, from raising this issue here and saying, 'though we made originally a provision in the Bill for awarding compensation to workmen, we find, after all, that we must give now a go-bye to that salutary provision.' Now, the second question, Sir, will be how far we can follow the provisions of the English law on this question, and the third and the real question will be having regard to the interests of capital on the one side and labour on the other, what is the most equitable, what is the most fair way of dealing with this question. Now, Sir, I do not propose to take advantage of technicalities of law, though I am entitled to present them to Government. In fact, it appears that in the statement of objects and reasons which was circulated along with the Bill as it was introduced in the Legislative Assembly, Government laid some stress on this important measure. It appears, Sir, that the view of the Government then was:

"If the workman himself is directly responsible for the accident, the employer should not ordinarily be liable for compensation. An exception is made in the case where very serious results arise from the accident, as it is felt that to deprive a workman of all compensation in such cases would act as a great hardship. Half the usual compensation is therefore allowed in cases where the workman is killed, or is completely disabled for life."

[Saiyid Raza Ali.]

That was the view of Government at that time. My submission is that this departure of policy that has been made by Government clearly under pressure exercised on behalf of the capitalists and employers of labour is not justified. It appears that on the whole Government's first thoughts were the best thoughts which held the balance between the two contending parties. Now, the next question as I said, Sir, would be how far we can derive inspiration from the English law on this point. I am not one of those, Sir, who would go in for a servile imitation of the English law on every point whether it suited the conditions obtaining in this country or not. But, Sir, other things being equal or almost equal I think it would be unreasonable to shut our eyes to the provisions of the law as they obtain in that country, especially on a question of this character. When we know that industrial life in England is very highly developed, we can certainly with advantage follow the provisions of her law unless it is made out that the conditions obtaining in this country are vastly different. The provisions of the English law, Sir, are more sympathetic and go much further than the principle that is embodied in my amendment. In fact, section 1, sub-section (2), clause (c) of 6 and 7 Edward, Chapter 28, enacts:

"If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed."

A perusal of the debate that took place in the House of Commons in December 1906 when this measure was before that body is very instructive. I regret, Sir, that the time at my disposal does not allow me to go through it. All the same I must say that most of the objections that were raised against the retention of the clause as originally embodied in the Bill were gone through very carefully in the House of Commons. I believe the course of the debate in this House will run along the grooves that were marked out in the other House. The position, Sir, broadly stated, is this. The industrial life of the country is becoming more and more complicated due very largely to the increasing introduction of machinery. In times gone by the workman was not called upon to handle any dangerous machinery at all. Now, owing to the changed conditions of life, he is engaged in handling very complicated machinery during the course of his employment. It is clear that labour in this country is not as intelligent, as educated, and as informed as labour in Europe. The misconduct that has been defined in clause 3, sub-clause 1 (b), falls into three categories, and every one of them, in fact, lays stress on the wilful negligence or misconduct or wilful disregard of any rule on the part of the workman. Sir, I appreciate the force of the argument that if a workman brings about a catastrophe on himself owing to any wilful disregard of any instructions given or of any wilful serious misconduct, he should not be entitled to any sympathy from this House. I must say that I fully appreciate the force of that argument. But, Sir, the law as it is embodied and as it has come before this House goes much further than that. If a workman acts negligently or shows any misconduct in the discharge of his duties, and if he injures himself no doubt he should not be entitled to any compensation. But what is the law as it is embodied in the Bill which the Government want us to pass? It says that if the negligence results in very serious accident, so serious that the man is killed or is permanently disabled for the rest of his life, then it should be open to the employer to hurl his negligence or misconduct at his face and say, "You disregarded the

instructions given or you showed this misconduct which was responsible for the accident, and therefore you or your dependants are not going to get a pie." With great respect, I submit, Sir, that this is not a proposition which will find acceptance at the hands of any reasonable body of persons, much less I hope of this Council. The employer says: "This accident is not due to any fault of mine. Therefore you must take the consequences." The reply that I would venture to make to that proposition is that no doubt, as I have said, in the case of minor accidents, the man should not be entitled to any compensation. But is there any man who would believe that simply with a view to get a few hundred rupees out of the employer or the capitalist a man would go and get himself killed? We have heard of the proverb that one should not cut his nose to spite his face. But here it appears that the suspicion that is raised against the workman goes much further than that. It assumes that the man deliberately would court death in order to make a provision for his wife and children or would consent to become a permanent invalid in order that he might draw a paltry pension of a few rupees for the rest of his life. Sir, is this a proposition that would commend itself to any reasonable man? Is this a proposition that will find favour at the hands of any man who has experience of the conditions of labour in this country? I strongly hope not.

Then, Sir, it is pointed out that after all it is not for the employer of labour to make provision, it is for the State to take action by instituting a system of national insurance. I do not think I should take any serious account of that argument. It involved a very big question but it is advanced by employers on behalf of labour in order to avoid their duties in relation to workmen. I hope and sincerely hope that a time will come when the State will embark upon a scheme of national insurance, but that time is not yet, and surely it should not be open to employers to advance that argument with a view to shirk, if I may say so, their own duties.

Advantage is taken of the proposition that after all, if you give half the compensation to a workman or his dependants in those circumstances, it will hardly be compensation but that should be called by the name of compassionate allowance. It is said, if a compassionate allowance is to be given in this case, why not give similar allowance in the case of a man who is killed down in the bazar or on a highway? It is said that there is no difference between the two cases. Now, the difference is so obvious that I do not think I should trouble this Council seriously about it. Here, in this case the man is killed really because he is employed in doing certain work which involves considerable risks. No doubt, death or permanent disablement is caused owing to the negligence of the man, but if he were not employed in that dangerous trade or in the handling of that risky machinery, this accident would not have happened. That, I submit, makes all the difference between this accident and the accident occurring on a highway.

Then we are confronted with an argument which asks us to make no difference between these cases and the case of a man who is charged with the offence of murder. It is argued that if a man commits murder and is put on his trial and is hanged, should it be the duty of anybody to provide for his wife and children? The argument goes further and says, should the State or anybody else in the circumstances make it their business to provide for the wife and children of the man who has been murdered? It is said that since it is not their duty to provide for the

[Saiyid Raza Ali.]

wife and children of the murderer or for the wife and children of the man who has been murdered, it is no longer the duty of an employer to provide for the wife and children of the man who has been killed by an accident. The difference between the two cases seems to be so very vast that no very serious argument need be urged in controverting it. In the former case the man kills another deliberately. In the latter case, the man, in consequence of a mistake, kills himself while doing the work of his employer and therefore it should be the duty of the employer to provide for his wife and children.

After all, the principle underlying the whole Bill which is before this House is that an industry that creates risks for those who are employed in that industry should make compensation to those persons who are injured in consequence of being employed in that industry. That is the broad principle on which the whole edifice of this Bill that is before this House has been built. And I submit, Sir, that when an employer shirks his responsibility and refuses to make any payment in the case under discussion, he contravenes the principle that forms the basis of the whole Bill.

Before I conclude, I might just refer to the debate to which I casually referred in the earlier part of my speech. When the English Bill was before the Commons in 1906, the portion that I read out to this House was proposed by no less a man than Mr. Herbert Gladstone, the son of the great Prime Minister of England. He found supporters, staunch supporters among public men of the first rank. One of the supporters of this measure was Mr. F. E. Smith, the present Lord Birkenhead. It also appears that one of those who helped in the passing of this measure in favour of awarding full compensation to the workman or his dependants when the workman dies or is disabled, in consequence of his own wilful negligence, was no less a man than Mr. Daniel Rufus Isaacs, the present Lord Reading. It is, Sir, during his Viceroyalty that this measure is being introduced into this House. Among the authorities that I can quote on my side are to be found not only the illustrious son of a former illustrious Prime Minister, but the late Lord Chancellor of England and the present Viceroy of India. I hope that this House will give serious consideration to my amendment. It is not at all pretentious. In fact in the other House they tried to cast their net too wide. They wanted to give full compensation to the man or his dependants in case of death or disablement. On the other hand, I follow the original wording of the law, the law as originally proposed by Government

The HONOURABLE SIR ALEXANDER MURRAY: May I rise to a point of order? Is the Honourable Member at liberty to refer to the other House regarding what took place there in connection with this Bill? (A Voice: "In this Session.")

The HONOURABLE THE PRESIDENT: I thought the Honourable Member referred to the House of Commons.

The HONOURABLE SIR ALEXANDER MURRAY: He referred to the Legislative Assembly.

The HONOURABLE THE PRESIDENT: I did not know that Sir F. E. Smith was a Member of the Legislative Assembly!

The HONOURABLE SAIYID RAZA ALI: I was not referring to anything to which I could not refer. Surely, it is open to me to refer to the result

of any debate in the other House. We are not trying to cast our net too wide. In fact, I have followed the original wording of the Bill. In the case of an unfortunate man who is killed or permanently disabled we propose to give not more than half the compensation to his wife or children. No doubt the present is an unequal contest. On the one side we have very influential and well-organized capital. On the other side we have this disorganized body of labourers. With these words I commend this amendment to the acceptance of the House.

The HONOURABLE THE PRESIDENT: Amendment moved:

"That in paragraph (b) of the proviso to sub-clause (1) of clause 3, before the words 'in respect of' the words 'except in the case of death or permanent total disablement, in either of which cases he shall be liable to pay half the compensation which he would otherwise have been liable to pay' be inserted."

That amendment is now before the House for discussion.

The HONOURABLE SIR ALEXANDER MURRAY: Sir, the Honourable Saiyid Raza Ali, in speaking to the motion that this Bill should be taken into consideration, stated that he appeared neither as an employer nor as a workman. While speaking to this particular amendment, he has told us and I am sure we have now all realised from his remarks that he is a lawyer by profession. Like every lawyer who has got a pretty bad case to bolster up, he referred to the authorities of bygone days. He referred in particular to what took place in the House of Parliament when the Workmen's Compensation Act of 1906 was under discussion. Now, anybody who has studied labour legislation at Home knows that a particular wave of public opinion passed over the United Kingdom at that time with results which many politicians now regret. Not only was the Workmen's Compensation Act passed or rather the amended Act as we now have it, but also the Trade Disputes Act and other legislation, which people interested in labour problems are not very proud of to-day. As a matter of fact, if I remember aright, the particular clause to which he invited reference in the Home Act, that is section 1 (2) (c), was not in the original Workmen's Compensation Act of 1897 at all. It was one of the things drafted into the Bill during this wave of public opinion at Home and it is a much wider clause than the particular one we have now got to refer to. Before dealing with that, however, I would like to go back as a humble employer of labour to explain the position not from the lawyer's point of view but from the point of view of a practical employer and I hope a practical workman. As Mr. Raza Ali said himself, in his opening remarks, this Bill is an attempt to make the law as easy and as simple as possible for all concerned. No such provisions exist in the law as we now have it. I do not really know if there is any common law in India or not but in the common law at Home no provision exists for a workman getting any damages out of an employer for an accident unless he can prove negligence on the part of that employer. We start off therefore with the position that under the present law here no workman can get any compensation or damages or whatever you call it. Now, employers in the past have been in the habit of giving compensation to workmen who have been injured and to the dependents of workmen who have been killed but in these enlightened days these injured workmen and the dependents of deceased workmen consider that to be a charity and they say, "we no longer want charity, we want our rights". They insist that the law should be changed and legislation brought in to provide that in the case of accidents, no matter whether due to the negligence of

[Sir Alexander Murray.]

the employer or not, compensation should be paid. Employers on their side accept this as a fair proposition and they are prepared to accept responsibility for all accidents which they can be expected to prevent. The workman on his side says: "If you meet me to that extent, I am prepared to limit the amount of damages which I can claim from you" and under the present Bill as we have it before the House an attempt has been made for the employer to give away something and for the workman to give away something. Now, if you will refer to Chapter II, section 3 (1) of the Bill, you will find that the employer accepts responsibility but there is a proviso that he will not accept responsibility unless there has been total or partial disablement for a period exceeding ten days, with which we have all agreed, and then the proviso goes on to say that he will not accept responsibility in respect of particular injuries. Now, under the Home Act, the wording is entirely different. As the Mover of this amendment says, it is a much wider law than we have here and we had that in view in the Joint Committee when the matter was under discussion. The Home law refers to serious and wilful misconduct of the workman. We have dropped all that out in this Bill and we deal with three specific cases. Employers say "We accept responsibility for all accidents of every description, with the exception of these particular accidents, namely, injury to a workman resulting from an accident which is directly attributable to the influence of drink or drugs, wilful disobedience or wilful removal of special safety devices." Now, I think, that puts a workman in a favourable position. Having accepted responsibility, the employer has to pay in every case unless he can prove certain things. Under this particular clause the onus of proof rests upon the employer. It is not a mere matter of opinion. We have got to come forward before the Commissioner and prove that the workman was wilfully disobedient to an order, that a workman wilfully removed or disregarded a device or that he was under the influence of drink or drugs, the last a very difficult thing to prove in this country from my experience. It is also very difficult for the employer to prove that the workman has been wilfully disobedient or to prove wilful removal or disregard of safety devices. Now, that being so, I really think that the Mover of this Resolution was talking far too widely when he said that the employers wish to escape and get out of the liability that attaches to a manufacturing industry. There is give and take on both sides. We accept responsibility. The workman concedes certain things. We say that we will be responsible for accidents but will not be responsible if you deliberately do certain things and I personally think that it is most unreasonable on the part of anybody to expect that we should pay in such cases. The workman says: "We no longer want charity. We want to have rights." But I say that if a man deliberately does things contrary to orders he has no rights at all. He simply falls back again on charity. He cannot have it both ways and it is for this reason that I am strongly opposed to any consideration being given to this particular amendment. I shall therefore vote against it.

THE HONOURABLE MR. C. A. INNES: Sir Alexander Murray has dealt in great part with arguments advanced by Mr. Raza Ali. There are one or two points which I wish to make. In the first place Mr. Raza Ali suggested that Government were estopped from opposing his amendment. I am afraid I cannot accept that statement. It is perfectly true that in the original draft of the Bill, we had a clause corresponding to the provision which Mr. Raza Ali wishes to insert. The Honourable gentleman has

failed to notice, as I explained most carefully when I introduced that Bill in the Legislative Assembly, that that Bill was introduced purely as a tentative and an experimental draft; we regarded it mainly as a basis for discussion, and I said that most carefully. We circulated that Bill to Local Governments and commercial bodies throughout the country, and now I must correct a misstatement which no doubt undesirably Mr. Raza Ali has made. He has quite correctly said that practically every employers' association in India strongly opposed this particular provision. He then went on to say that the Local Governments had not taken the same line. He suggested that only one Local Government referred to the provision at all, and that not in condemnatory terms. That statement, Sir, is entirely incorrect. Six of the eight principal Local Governments objected entirely to this particular clause, and the Local Government to which Mr. Raza Ali himself referred, namely, the Government of the Central Provinces, also objected to the clause. It is true that they made certain alternative suggestions in the event of their opposition being overruled, but that does not alter the fact that they objected to the clause. Naturally, Sir, when we find this consensus of opinion against us, not only among Local Governments but also among employers of labour, when we find that the Joint Committee—a particularly strong Joint Committee, if I may venture to say so—also objected to this clause, I think that the Government are certainly entitled to take the view that the clause should not be supported by them now. As a matter of fact when we first took up this question of workmen's compensation, we had no idea of introducing any clause of this kind; it was merely a suggestion thrown out in the July Committee and was adopted as a sort of compromise by that Committee. The only reason why we included it in our original Bill was that that Bill proceeded on the principle that in dealing with a difficult and controversial subject of this kind, the wisest plan was to follow the recommendations of the Committee as closely as possible. Now, Sir, I have dealt with that part of Mr. Raza Ali's case. After listening attentively to the rest of the speech, I must confess that I was unable to discover any very strong argument why we should accept his amendment. He had no agreement at all, so far as I could make out, except that the English law contained the provision. Sir, this part of his speech reminds me of a phrase in a lecture given to me by one of my Dons in Oxford which phrase stuck in my memory; that lecturer said that formerly people used to quote authority in order to stifle criticism; now-a-days the tendency is to quote authority merely in order to knock it down. Now, Sir, Mr. Raza Ali evidently dates from the older days since he is trying to quote authority in order to stifle criticism in this House. He has quoted to us provisions of the English law. It does not matter two straws to me what provisions there are in the English law on this point. What we want to know is whether those provisions in that law are such provisions as commend themselves to our sense of fairness and to our sense of logic; and I have never yet been able to discover any particular reason why the English Parliament included this particular clause in their Bill. I think the Honourable Sir Alexander Murray put his finger on the point when he said that at that time there was a wave of feeling across the country which led to the introduction into labour legislation of clauses which cannot be defended on grounds of reason. Mr. Raza Ali then proceeded to say that it was grossly unfair to penalize dependents of men for what he was pleased to call negligence. He said that the reason why a man who had been killed in the circumstances with which this clause is dealing should get compensation is that the man had been killed in an employment. I presume that his argument was intended to show

[Mr. C. A. Innes.]

that his death in that case was a risk of the industry. The whole theory of workmen's compensation is that we compensate people for risks of the industry. Now, as the Honourable Sir Alexander Murray has pointed out, we are not dealing here with risks of the industry. I ask this House, if a man gets drunk and then walks into a paper mill and if, by reason of that, falls into a digester, is that a risk of the industry? Of course not; he dies merely because he got drunk. It is grossly unfair that the employer should be called upon to pay any money at all to the dependents of that man. It is not a thing that the employer can guard against; it is no doubt very hard on the dependents of that man, but surely, the experience of this world is that whenever a man commits anything of that kind, gets drunk, commits a murder, it is his dependents who suffer,—and that is what happens in this case. Is that any reason why the employer should pay? I suggest not. I suggest, Sir, that in this Bill we are trying to do our best to be fair to workmen, on the one side, and to be fair to employers on the other. I suggest that it is not fair to make the employer pay compensation for accidents which *ex hypothesi* arise by wilful and serious misconduct on the part of the workman himself. That is the whole case against Mr. Raza Ali. It is unfair to make the employer compensate a workman for accidents which arise by the workman's own default and which the employer could never have prevented. One more argument, and I have done. As Mr. Chadwick has pointed out this morning, one of the main objects, one of the main reasons, why we have been encouraged to go along with this legislation is that we hope this legislation will ensure that employers will take more and more care for the safety of their workmen. Now, Sir, if we include the clause that Mr. Raza Ali suggests in this Bill, we destroy one of the incentives which we hold out to the employer. If the employer has to pay whether or not,—if he has to pay whether he has provided safety devices or not, if he has to pay even when those safety devices have been provided, well, we take away from him half the incentive to put in these safety devices. We do not give him any encouragement to make these rules and devices for safety, and we destroy in that way part of the utility of the Bill. As I pointed out, Mr. Raza Ali has got no argument at all in favour of this clause, except that it occurs in the English Act; and I have yet to find anyone who can explain to me with logic or good reason why that clause should have appeared in the English Act. We are legislating for India, not for England, and I submit that it is up to us to have a Bill suitable to the conditions of this country, and a Bill which accords with our own ideas of logic and reason. I hope, Sir, that this House will not accept this amendment.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I rise to oppose this amendment, not to support it as my friend says. The reason why I do so, Sir, is that a lot has been said on the clause, but this Bill has come here after being sifted in Committees and Councils of very able men. Now it has come here, and I hope that as the majority of the House is composed of about the ablest Members, this amendment will receive the same fate as it ought to receive, namely, that this amendment should not be accepted. Sir, everybody who is living must earn; he earns by keeping a shop in the Bazar, or ploughing or by various other things, and if a man goes to work at machinery, he goes there because he wants to get food in that way. The employer is getting him a living and doing him a great deal of service. If this man commits any mistake, he not only loses his own life but 100 or

200 more men may also be killed by an explosion of the Boiler and the property of the owner may also be destroyed. How much criminal it is to have so many men killed in addition to this man himself being killed? I would like here to refer to the fact that two students came to London where they did themselves well. They were driving a motor car which bumped into an obstacle and the man who was not driving told his companion who was driving, "You had better drive carefully". The other man thereupon said, "I thought all along that you were driving". If a man in such a mood goes and meets an accident, I don't think he deserves much consideration at the owner's hands. In the same way, Sir, if an employé who is on his way to the mill is run over on the way, I do not think the millowner is going to pay any compensation. He cannot say "I was going to the mill and it was only on the way that I got killed". A man roaming about the bazar may get killed. I do not think there is any difference between getting killed in the mill or anywhere else. On these considerations, Sir, I strongly oppose the amendment.

The HONOURABLE MR. PHIROZE SETHNA: Sir, in addition to the very powerful and cogent objections raised by the Honourable Mr. Innes to the amendment moved by the Honourable Saiyid Raza Ali, I may be allowed to add one more, and that is from an insurance point of view. I think it has been clearly laid down that the idea of Government is not to burden the industry any more than they can help and I would like to point out to the Honourable the Mover of this amendment that the inclusion of what he proposes would certainly enhance the premium rate and there is therefore greater necessity to drop it. My Honourable friend has said in very clear terms so far as I remember that he would have no sympathy with a man who wilfully and deliberately goes and harms a factory and thereby causes an accident, but it is only in case of what he calls "a mistake" that he will have any sympathy. Now, Sir, what he calls "a mistake" is a deliberate attempt on the part of the employee to harm himself and possibly harm others. He also went on to say that he cannot possibly conceive of anybody committing suicide by this means. If that is so, then he need have no apprehension in regard to the clause remaining as it is. And if he thinks that there might be a case or two of a man who for the sake of a few hundred rupees would like to commit suicide then I would ask him, what is the difference between a man committing suicide in this way and a man committing suicide by placing his head under a passing railway train. The dependants of the man who puts his head under the railway engine gets nothing whereas he wants the millowner in this case to be mulcted of a few hundred rupees.

The HONOURABLE SIR ARTHUR FROMM: Sir, like the previous speaker, I wish to make one point which has not been referred to by my Honourable friends who have got up before me. In his opening remarks the Honourable Mr. Raza Ali sought to make capital out of the fact that it was the employers who objected to any payment being made in connection with accidents arising out of the fact that the workmen were under the influence of drugs or had disobeyed the express orders issued for their safety and so on. He tried to make capital out of the fact that the objections came from employers; I think he called them capitalists. Well, of course, that was perfectly true. Who else did he think would object? Of course it was for the employers to object.

Earlier in the debate, Sir, I think the Honourable Member for Commerce remarked how gratifying it was to find that the employers had

[Sir Arthur Froom.]

accorded such a warm welcome to this Bill and I think my friend the Honourable Mr. Sethna said that not only had the employers received this Bill with a warm welcome but, in many instances, in their opinions on the Bill when it was circulated amongst them, they went a step further in favour of the workmen. They all very naturally objected to payments to men who were under the influence of drugs or who had disregarded precautions for their safety taken by their employers. Sir, I strongly oppose this amendment.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): Sir, I am sure that I will shock the feelings of many people here when I say that I heartily support the amendment moved by my Honourable friend Mr. Raza Ali. The interests of the landholders and of the capitalists are sometimes considered to be identical, especially in cases in which questions of compensation to labour and to workmen are involved, and it is this feeling especially which has created a bond of sympathy and created a kind of unholy alliance between these two people. Although in this Bill the interests of the landlords are in no way touched, but as a matter of fact the landlords think that in the near future perhaps the same fate will overtake them which they imagine is now overtaking the capitalists. Sir, I would appeal to the enlightened self-interest of both these classes and would urge upon them the necessity of treating questions like this in a sympathetic manner. Labour is not at present represented in this Chamber and when it does appear on the scene I think they will make the position of those who find themselves very strong in this Chamber very difficult, and I think that they must even now show by their attitude that even if labour is not represented in this Chamber, the Members will now as then work in an impartial manner and consider the interests of labour as though it is even now represented here. The Honourable Mr. Innes in his argument, while refuting the Honourable Saiyid Raza Ali, said that the labourer deserves no mercy (these were not exactly his words; I think he implied this in what he said) because he gets drunk and wilfully and deliberately misuses the machinery and brings the fate on himself. Well, Sir, we see that an Indian labourer, who is ignorant, who is half starved, whose wits are all scattered, goes to a workhouse where a highly elaborate machinery is working and he is asked to manage it. If such a person comes to grief and kills himself or injures himself, is he to deserve no mercy and get no compensation? Is there no idea of humanity or justice? When we see that he does not deliberately court death and bring misfortune on himself and his family, what should our conduct be in such circumstances? Do not the feelings of humanity clearly dictate that such a man must be treated generously? It is by such hostile feelings that a feeling of estrangement is created between capital and labour and it is exactly this feeling which in a country like India where the masses are poor will breed feelings of Bolshevism and absolute hostility against the capitalist class. There is in the Legislature, both in the Lower House and the Upper House, a strong representation of the capitalist class and I think both by their influence and by their capital they can kill the interests of labour, and as they have done in the lower House I fear the same thing may be repeated in this House. But we must face facts as they exist. We must look into the future. We must see what is going to happen with regard to labour in the world and especially in India. We must treat these questions in a sympathetic

manner and must be generous to the conditions of labour. All those enlightened people here, those specially who possess capital, may not be disposed to listen to these arguments, but I appeal to their enlightened self-interest and ask them to support the amendment which my Honourable friend Mr. Raza Ali has brought forward before the House. With these few words I strongly support the amendment.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I rise to oppose the amendment. In the Punjab in particular, the industries are in an infant stage and the workmen do not properly understand how to handle machinery and so accidents are frequent. In Bombay, Bengal and the other Presidencies, where the workmen have fully developed their common sense to understand the working of machinery, the mill-owners do not so much mind the introduction of this measure as we people of the Punjab do. But as this is rather a humanitarian measure we raise no objection to it. Being a millowner in the Punjab I may just relate one accident in my mills which happened a few years ago to illustrate how the Punjab labourer, being new to machinery, does meet with accidents. One of the mistries owing to some fault of his was punished by the engineer and this mistry out of spite took some scrap steel turnings and put them into a bearing of the second motion shaft and seeing the engineer coming and out of fear of being noticed concealed himself in a dangerous place in the Rope Alley where there was every possibility of his being killed. The instructions which are given by the manager or engineer are ignored by the workmen and the guards which are put on the gear wheels and various other places of danger are sometimes, as a matter of convenience, taken off and put aside. Of course, everybody likes to be generous but that can be done only as far as it is proper and permissible. I think this Bill as it has emerged from the Assembly is quite an adequate measure and we must wait for some time before we introduce such changes which cannot at present be borne by the employers in places where the industries are new and are undeveloped.

The HONOURABLE MR. LALUBHAI SAMALDAS: I need hardly say that I rise to oppose the amendment. My Honourable friend Mr. Raza Ali had an innings against capital. It is very easy to nag at it. Those who do not put their hands into their pockets to pay the labourers but merely want to spouse their cause with words can abuse other people, and can easily pose as friends of labour without really doing any good to labour.

The HONOURABLE SAIYID RAZA ALI: There was no word of abuse, if I may say so.

The HONOURABLE MR. LALUBHAI SAMALDAS: The speech of my Honourable friend Sir Zulfiqar Ali Khan who supported his amendment did credit to his heart which went out to the labourer. He spoke as a philanthropist, and as a humanitarian, but even he, unfortunately, said that there was an unholy alliance between the agriculturists and industrialists. If you wipe off the agriculturist from the country, and wipe off the industrialist also to break that alliance, what class is going to remain and thrive in the country? It is all very well to say that there should be no estrangement between labour and capital. What really brings on estrangement between the two sections is speeches like these in the House. To say that capital is opposed to labour is really doing the former a very great injustice and will only help to raise feelings of labour

[Mr. Lalubhai Samaldas.]

against capital. I know that my Honourable friend Sir Zulfiqar Ali Khan never meant it, but unfortunately his speech will have the effect of giving rise to bitterness between capital and labour. It must have been noticed that Honourable Members either representing labour or posing as friends of labour very often make remarks which lead other people to believe that they are the greatest friends of labour and that the capitalist wants to sweat labour, to harm labour, to injure labour and even to kill labour if possible. That attitude is really regrettable and I hope that in this House such speeches will not again be heard. With these remarks I would draw the attention of the Honourable Mover of the amendment and his supporter that the clause as it stands makes it quite clear that exemption from payment shall be given if the labourer suffers from an accident which is directly attributable—and I want to draw the attention of the Honourable Saiyid Raza Ali and the Honourable Sir Zulfiqar Ali Khan to the words “directly attributable” and also to the word “wilful” in sub-clauses (2) and (3). If a man wilfully does something to harm himself he cannot surely claim any compensation from his employer. He does deserve sympathy as my Honourable friend Sir Zulfiqar Ali Khan said. By all means help the man or his children by raising a humanitarian fund and I believe the employers of labour will be the first to contribute largely to the fund *pro rata*. If there is a fund we will be only too glad to put our money in that fund, but surely a man who wilfully does harm to himself has no claim as such on the employer of that man and that claim, if made, will be refuted. I hope that the House—I wanted to say unanimously—if not unanimously, at least by a large majority, will throw out the amendment.

The HONOURABLE MR. D. T. CHADWICK: I propose that the question be now put.

The amendment was negatived.

Clause 3 was added to the Bill.

The Council adjourned for Lunch till Quarter to Three of the Clock.

The Council re-assembled after Lunch at Quarter to Three of the Clock. The Honourable the President was in the Chair.

The HONOURABLE THE PRESIDENT: The Council will now proceed with the consideration of the Workmen's Compensation Bill.

Clauses 4, 5, 6, 7, 8, 9, and 10 were added to the Bill.

The HONOURABLE MR. D. T. CHADWICK: Sir, there is an amendment in my name which with your permission I should like to alter slightly. The amendment as it stands reads:—

“that in sub-clause (3) of clause 11 of the Bill, after the word ‘employed’ the words ‘without having been so examined’ be added.”

Instead of that I beg to move:

“that the words ‘without having been so examined’ be inserted after the word ‘leaves’, in sub-clause (3) of clause 11.”

The sub-clause would then read:

“(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.”

Without the addition of these words the clause might be read to penalise a workman who was examined on the first day of the three days' notice and thereupon immediately left for his village, which, of course, would be absolutely against the sense of the Bill. Under the previous sub-clause a workman gives notice of an accident and then an employer can ask him to submit himself to a medical examination within three days. The original intention was that his right to compensation should be suspended if he did not submit himself to such examination. But of course if he submitted himself to that examination on the first day and then left there was no reason to suspend his right to compensation. The effect of the amendment is to protect the workman in such circumstances. I move the amendment, Sir.

The HONOURABLE THE PRESIDENT: The amendment now under discussion of the Council is:

“that in clause 11, sub-clause (3), the words ‘without having been so examined’ be inserted after the word ‘leaves’.”

The HONOURABLE MR. PHIROZE SETHNA: Sir, must I confine my remarks to the amendment which the Honourable Mr. Chadwick has just moved, or may I speak on the whole clause?

The HONOURABLE THE PRESIDENT: Not till this amendment has been disposed of. The only matter now before the House is this particular amendment.

The question is:

“that in sub-clause (3) of the clause under consideration after the word ‘leaves’ the following be inserted, namely:—
‘without having been so examined’.”

The motion was adopted.

The HONOURABLE MR. PHIROZE SETHNA: May I now speak on the whole clause, Sir?

The HONOURABLE THE PRESIDENT: Certainly.

The HONOURABLE MR. PHIROZE SETHNA: Sir, it seems to me that the Joint Committee did not realize the full significance of this sub-clause (3) as it has been framed, inasmuch as the only punishment which a workman will be liable for if he goes away before submitting himself to a medical examination is that he will not get any compensation for the period that he is away. If he chooses to return, as I suppose he will, he will certainly be entitled to compensation for the period thereafter for which he is not able to work. The point that I want to make is this. A person who is injured may choose to go away to his native village; at the time of his going away the accident or injury which he has suffered may be very slight, so much so that had he chosen to remain and properly attended to, he might have been cured, or at any rate the consequences might not be so bad as those brought about by his going away for a time to his native village where perhaps he is

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absolutely neglected. In fact, a man might have a small cut on his finger and by neglect due to his going away from the place where he would have had the benefit of medical treatment, that cut might result in gangrene and perhaps necessitate the amputation of a limb. That, Sir, has not been fully realized by the Joint Committee, and the proper course to my mind would have been to lay down that a man who goes away before submitting himself to a medical examination should have no claim whatsoever; and I wonder, Sir, if I might be allowed at this stage to move an amendment.

The HONOURABLE THE PRESIDENT: Do I understand that the Honourable Member wishes to delete sub-clause (3)?

The HONOURABLE MR. PHIROZE SETHNA: What I want to say is that his right to compensate shall be "dropped" and not "suspended". That is, he will not be entitled to any compensation whatever.

The HONOURABLE THE PRESIDENT: I will put the sub-clauses in this form.

The question is:

"that sub-clauses (1) and (2) of clause 11 stand part of the Bill."

The motion was adopted.

The HONOURABLE THE PRESIDENT: That clears the question of sub-clauses (1) and (2). If I put sub-clause (3) separately to the Council, would not that meet your point? Sub-clause (3) is under consideration. No amendment has been moved; the Honourable Mr. Sethna, as I understand him, wants the deletion of sub-clause (3) altogether.

The HONOURABLE MR. PHIROZE SETHNA: I think, Sir, it will be an amendment if I move the deletion.

The HONOURABLE THE PRESIDENT: If that is all no amendment would be necessary and I will put it to the Council separately that sub-clause (3) stand part of the Bill.

The HONOURABLE MR. PHIROZE SETHNA: Rather than delete it, I would allow the sub-clause to stand and substitute the word "dropped" for the word "suspended" and end the sub-clause after the word "dropped".

The HONOURABLE THE PRESIDENT: If the Honourable Member means that the right to compensation should be "dropped", that means depriving the workman of the right of compensation. If the Honourable Member has any other proposal of a more limited nature to put before the Chair or the House I shall be glad if he would explain his point.

The HONOURABLE SAIYID RAZA ALI: I think, Sir, that my Honourable friend by substituting the word "dropped" for the word "suspended" will land himself in further difficulties because . . .

The HONOURABLE THE PRESIDENT: The Honourable Saiyid Raza Ali must bear in mind that at this moment there is no amendment before the House. He can speak on the question that sub-clause (3) stand part of the Bill, while the Honourable Mr. Sethna is considering his position.

The HONOURABLE SAIYID RAZA ALI: In the absence of any amendment, Sir, I can only deal with the general objection that has been taken. The question was carefully gone into by the Joint Committee of which the Honourable Mr. Sethna was a Member and having regard to the great hardship which a workman would be subjected to if out of sheer ignorance he left the place without having undergone a medical inspection and were therefore to be debarred from claiming compensation for all time it was decided that it would meet the wishes of employers if this medical examination was insisted upon and if the right to have the workman medically examined was given to employers. If the man refuses to have himself medically examined, he will have no right to any compensation for that period. That I take it, Sir, should meet the wishes of the employer. Mr. Sethna has in order to illustrate his point taken a very extreme case. That sort of objection can be raised in a number of cases of which this would be only one. Those who know anything about criminal cases will remember how a trivial injury may develop into an aggravated malady which might ultimately cause death, but surely the responsibility for that cannot be borne by the man who caused the injury. In the same manner I do not think that if a man leaves without having himself medically examined and his injury subsequently develops into a serious malady, it should subject him to the disadvantages of forfeiture of his compensation. I think the law as it is worded sufficiently safeguards the rights of the employer as well as of the workman.

The HONOURABLE THE PRESIDENT: Looking again at the proposal made by the Honourable Member, I think the method which I originally suggested will not meet his point. It would seem necessary to substitute the word "abrogated" for all the words commencing with the word "suspended" up to the end of the sub-clause. But before I allow this amendment to be moved I should like to hear whether the Government Benches desire to resist it on the ground of lack of notice.

The HONOURABLE MR. D. T. CHADWICK: Yes, Sir, we had no notice of this amendment and it is a vital amendment to the Bill.

The HONOURABLE THE PRESIDENT: I do not think I can uphold the objection and will allow it to be moved.

The HONOURABLE MR. PHIROZE SETHNA: For the reasons I have already explained I moved that in sub-clause (3) of clause 11, the word "abrogated" be substituted for the words "suspended until he returns and offers himself for such examination" at the end of that sub-clause.

The HONOURABLE SIR ALEXANDER MURRAY: This section is somewhat complicated and caused a good deal of trouble in the Joint Committee and also in the discussions of some months ago. To get to a proper understanding of the subject, we have to go back to clause 10 under which notice of an accident is necessary before a claim can really arise. Not only is a notice of an accident necessary but medical examination also is necessary to substantiate the accident and the claim. Under clause 11 (1) an employer is given 3 days within which to have the workman examined but under the Bill as it stands it is quite possible for the workman having suffered some injury, it may be a small injury or a serious injury, to file his notice and go away back to his own home wherever that may be. Now, in some of the jute mills in Calcutta, speaking of something with which I am familiar, the great majority of the workers, 60, 70 or even 80 per cent. of the

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workers come from Bihar and Orissa, from the United Provinces and from Madras and it is quite a common thing to have practically only 10 per cent. of the total labour force residing permanently in the immediate vicinity of the mill and another 10 per cent. or so some little distance away. Now, when an accident takes place, there is a natural inclination on the part of the workman to get back not only to his temporary lodgings in the vicinity of the mill but also to his permanent abode and to his wife and children who are probably up-country. We recognised this and in order to meet that an attempt has been made in this clause to meet all circumstances. When an accident takes place we are particularly anxious that a medical officer should examine the injured man before he leaves the immediate vicinity of the workers. We do not say that the man has got to stay there for all time until he gets better or worse but we do say that we ought to be given the opportunity of having him medically examined. Under this clause 11 (3) if a workman leaves the vicinity of the works and goes away up-country his right to compensation is suspended until he returns and offers himself for medical examination. Now, personally I would like to have some machinery for having a workman examined before he leaves the vicinity but I do think that the Honourable Mr. Sethna is going too far when he says that having gone away the workman should never have any right to compensation for his injury. I agree that the right to compensation should remain suspended until such time as he does return to be examined. It is quite true that gangrene or some other complication more serious may set in and it is for that reason we have endeavoured in the Bill to get the machinery tightened so that before the workman leaves the works he may be properly examined with a view to arrest any gangrene or put right the injury as quickly as possible. Now, Mr. Sethna suggests that this should be abrogated. It is inconsistent with the principle that has been already accepted at Home. In the debate this forenoon it is true it was stated that we are not prepared to accept everything that is done at Home but it so happens that this particular section is really a repetition of clause 4 of Schedule I of the Home Act. It also reads: "His right to compensation shall be suspended until such examination has taken place" and that is the wording here—"His right to compensation shall be suspended until he returns and offers himself for such examination". On a subsequent amendment which is to be moved by the Honourable Mr. Chadwick I shall have to say something more in this connection, but in the meantime I feel that we are not justified in saying that the mere departure of the workman up-country should abrogate the right to compensation for all time. It should certainly be suspended until he returns but should not be abrogated.

The HONOURABLE MR. C. A. INNES: I should like to supplement with a few remarks what Sir Alexander Murray has just said. I should like to point out that the Honourable Mr. Sethna was a Member of the Joint Committee and that the Joint Committee left this part of the Bill in what I may venture to call a very much more unsatisfactory state than it is now. The Joint Committee of which I have said the Honourable Mr. Sethna was a Member left the Bill as follows: It provided that within 8 days after notice of an accident was given, if the employer offered to have the workman examined free of charge by a qualified medical practitioner, the workman should submit himself to such examination and the Bill left it at that. It did not say where the examination was to be and it did not say what the penalty for failure to submit himself for medical examina-

tion was on the part of the workman. Consequently when the Government examined the Bill after it came from the Joint Committee, we saw that there was a hole in the Bill there, and we devised, as Sir Alexander Murray has pointed out, on the lines of the English Act, the provisions which now appear as clause 3 of the Bill, where we provide that the workman must remain in the vicinity of the place of his employment for three days in order that if within that period the employer offers medical examination, the workman should submit himself to such examination. Now that is a great thing gained by the employer. And we also provide a penalty for the workman who disregards that instruction and leaves the vicinity of the place of his employment before he has submitted himself to such medical examination. I am quite prepared to admit that from the employer's point of view this right of calling upon the workman to submit himself to medical examination as soon as possible after notice of accident has been given is a very important right indeed. Accordingly we have stated that if the workman goes away without submitting himself to such examination, then that workman's right to compensation shall be suspended until he returns and so submits himself. Mr. Sethna has pointed out that a workman with a cut in his finger may go away from the vicinity of his employment, but owing to not being properly cared for by a qualified medical practitioner, that cut in the finger may set up gangrene or something of that kind. It is perfectly true, Sir, that in cases like that aggravation may set up, but we have provided in clause 11 (5) for this very contingency. We have provided for aggravation there. Well, the matter before the Council is whether the penalty we provide is severe enough. The Honourable Mr. Sethna says that if a workman goes away to his own home,—to his own home, mark you—without submitting himself to medical examination, his right to compensation must disappear altogether—should be abrogated. I am prepared to admit that it is a logical argument. On the other hand, the Council must remember that it is a very drastic suggestion indeed. We all know how the Indian workman is attached to his home, what strong tendency he has to return to his home as soon after he is injured as possible. I agree with Sir Alexander Murray that it would be too severe to impose a penalty that the man must lose his compensation altogether, and I hope that the Council will not agree to that suggestion. I think that at this stage, I may say, Sir, that this amendment has been rather sprung upon us, I think at this stage it would be very unfortunate if that amendment were carried. It would make a very vital alteration in the Bill, and I hope the Council will agree with the view which has been taken so far that the penalty provided in clause 3 of the Bill is in all the circumstances of the case sufficient, and I hope, Sir, the Council will not agree to this amendment.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan):

Sir, I strongly oppose the amendment. Throughout this morning we have been hearing that this Bill is a compromise.

I did not intervene in the debate, though I was not satisfied with some of the provisions of this Bill, because, after all, the provisions have been arrived at after prolonged consideration and have been so framed as to meet both the employers and the employee. My Honourable friend's amendment practically takes away from the employee the chance of getting the compensation which is the object of this Bill to give him. The employers in this country have to take Indian labour as it is. Labour in India is illiterate and

[Mr. V. G. Kale.]

backward, as we all are aware; the workmen do not understand their own interests, and, on account of their religious and social prejudices, are likely to go away, against their own interests, from the place where they are working, and in this way they are likely to lose all their compensation. In these circumstances, the Legislature has to take into consideration the facts of the situation, and has to stretch a point in favour of Indian labour. The employers themselves must feel sympathy for the workmen in this connection, and they cannot stand upon their logical rights. Logically, the employers may be right, but practically, I think, it would be a very great hardship to the employees for us to insist upon this amendment. I therefore oppose the amendment.

The HONOURABLE MR. PHIROZE SETHNA: Sir, I beg to ask for leave to withdraw my amendment, after the explanation which the Honourable Mr. Innes has given.

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

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move as an amendment that sub-clauses (4) and (5) of clause 11 of the Bill be renumbered (5) and (6), respectively, and that after sub-clause (3) a new sub-clause be inserted. It is a little different from what has been placed on the notice paper, and with your permission I should like to substitute it.

The HONOURABLE THE PRESIDENT: Will the Honourable Member read it?

The HONOURABLE MR. D. T. CHADWICK: New sub-clause (4):

"Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased workman."

The HONOURABLE THE PRESIDENT: Does the Honourable Member consider that there is any change of substance, or is it merely a change in wording?

The HONOURABLE MR. D. T. CHADWICK: It is a mere change in wording, to bring out the intention of the amendment more clearly.

The HONOURABLE THE PRESIDENT: Then he may move it.

The HONOURABLE MR. D. T. CHADWICK: Under the sub-sections which we have just disposed of, a workman has the right to return and submit himself for examination—he may go away to his village and return provided he submits himself for examination. This clause is intended to meet the case of the workman who goes away and dies. It is highly undesirable that if the man who lives has rights under the Act, his relations and those who might benefit and others should lose all claim under the Act just because he happens to die. It does not make it compulsory on the Commissioner to order the employer to pay such compensation: it leaves it entirely to the discretion of the Commissioner who is appointed to deal with these matters; there may be extremely hard and harsh cases, and it is to meet those harsh cases that I now ask the Council to insert this clause. Also the Bill as drafted allows a man to go away but assumes he must live. It must be made clear what would happen if he dies.

The HONOURABLE THE PRESIDENT: To the clause under consideration amendment moved:

"That sub-clause (4) and (5) be renumbered (5) and (6), and after sub-clause (3) the following sub-clause be inserted:

(4) Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman."

That amendment is now open to discussion.

The HONOURABLE SIR ALEXANDER MURRAY: Sir, I very much regret having to take exception to this amendment. As has been said more than once to-day, this Bill is in the nature of a compromise. The Honourable Mr. Kale has just said so, and the same thing was said this morning by other speakers. The compromise that we arrived at in the Joint Committee and that was approved of in another place is contained in the Bill before us; and I personally feel that it is good to leave well alone. In arriving at the stage that we are now in there has been some dissatisfaction, a great deal of negotiation and a good lot of give and take on both sides, and I personally feel that we are opening up the way for further discussion if we insert an amendment of this description. The acceptance of this amendment will necessitate going back to another place, and it does not necessarily follow that that other place will accept the amendment; nor does it follow that it will be satisfied even with that amendment, it may open up other points in connection with this particular clause. My objection to the proposed new sub-clause (4) is that under clause 11 (1) medical examination is provided. It is provided for in two cases—the first examination where the accident has just taken place, and where it is advisable that the employer should be given the opportunity of having the workman medically examined before he leaves for his home up-country. In the second place where the workman who is in receipt of half-monthly payments under the Bill shall submit himself for such examination as may from time to time be necessary. The re-submission for examination is provided for in the Bill and to that extent I have no objection to the proposed clause (4). That is to say, if a workman has once been medically examined, and then goes home, and at a future stage it is desirable to have him re-examined, I have no objection—I hope this will meet the Honourable Member—in a case like that to compensation being paid to the man's dependants in the event of his dying. But I do object to a workman who has had an accident filing a notice and leaving the same day or the next day or within three days and going home, which as far as Calcutta is concerned, may mean Madras, United Provinces or the Punjab. I do object to the workman filing a notice of the accident and going home without giving us an opportunity of having him medically examined.

The HONOURABLE THE PRESIDENT: Has the Honourable Member got an amendment on the paper to that effect?

The HONOURABLE SIR ALEXANDER MURRAY: No, Sir. I have not actually put forward an amendment, but with your permission and with the permission of the House, I wish to press for the consideration of the Honourable Member an amendment.

The HONOURABLE THE PRESIDENT: Of course these amendments have been on the paper for some days and had the Honourable Member wished to move an amendment to them, it was desirable that he should have formulated his amendment.

The HONOURABLE SIR ALEXANDER MURRAY: I very much regret, Sir, that owing to other preoccupations the amendments before us were not received by me until last night, and this particular amendment, although it does not materially alter the substance of the amendment of which we received notice, is certainly not the amendment of which notice was given last night. With your permission, therefore, and provided the Honourable Member opposite does not take any objection, I hope that I will be allowed to submit an amendment to the Honourable Member's amendment.

The HONOURABLE THE PRESIDENT: I should like to hear the Honourable Mr. Chadwick on this. I understand he is in charge of this Bill.

The HONOURABLE MR. C. A. INNES: May I give a word of explanation, Sir?

The HONOURABLE THE PRESIDENT: Certainly.

The HONOURABLE MR. C. A. INNES: I understand, Sir, that the amendment which the Honourable Sir Alexander Murray proposes to move is

The HONOURABLE THE PRESIDENT: Asked for leave to propose.

The HONOURABLE MR. C. A. INNES: has asked for leave to propose is to the effect that he would not object to the Commissioner directing payment of compensation to dependants of a deceased workman in the event of the deceased workman having refused to submit himself to medical examination, not the first medical examination, but the second or third medical examination.

The HONOURABLE SIR ALEXANDER MURRAY: That is so, Sir.

The HONOURABLE THE PRESIDENT: That is to say, there should be one medical examination.

The HONOURABLE SIR ALEXANDER MURRAY: That is my point, Sir.

The HONOURABLE MR. C. A. INNES: I do not think that that amendment will carry the House very far, and it is not worth making, because the Honourable Member is aware that the second, third and fourth examination is in the case of workmen who are in receipt of half-monthly payments, that is to say, they are men who are temporarily disabled by comparatively trivial injuries. The Honourable Member will see that clause 11 refers to the offer of medical examination to the workmen who are injured and it goes on to say:

"Any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time."

The subsequent medical examination is only in the case of workmen who are in receipt of half-monthly payments by reason of comparatively trivial injuries, and so, if I may put it to the Honourable Member, his suggestion does not carry the House particularly far.

The HONOURABLE SIR ALEXANDER MURRAY: May I, with your permission, move the amendment, Sir?

The HONOURABLE THE PRESIDENT: I should like to know from the Honourable Mr. Innes or any Member of Government whether they object to this amendment being moved, not on the ground that it is not a good amendment, but on the ground of want of notice. That is the point I wish to ask.

The HONOURABLE MR. D. T. CHADWICK: I do object, Sir.

The HONOURABLE THE PRESIDENT: I think, on the whole, that I must rule this proposed amendment out of order in the sense of lack of notice since objection is taken by Government. Of course it is open to the Honourable Member to vote against the whole clause, but inasmuch as Government stand on their rights, I think on this occasion I should not be justified in allowing the amendment to be moved. The Honourable Member (The Honourable Sir Alexander Murray) can speak on the merits.

The HONOURABLE SIR ALEXANDER MURRAY: Well, Sir, if I am not allowed to move the amendment as you have just ruled, I would like to take exception to the amendment now before the House. I feel, Sir, that we are actually inconsistent in putting forward an amendment of this description. We have provided in the Bill—as the Honourable Member himself said a few minutes ago—that the workman should stay for three days in the vicinity in order to allow us to have a medical examination. As I read the Bill—the Honourable Member will correct me subsequently if I am wrong—the workman is not bound to stay for three days in the vicinity of the mill. As I understand it, the workman might give notice within three days, and having given notice, might depart for up-country before we have had an opportunity of having him medically examined within three days, and I feel, Sir, this is absolutely inconsistent. For instance, this morning we were discussing another amendment put forward by the Honourable Mr. Raza Ali, and agreed that if a workman wilfully disobeys an order or wilfully does something that he ought not to have done, we ought not to meet him. Here we have a workman who also is not acting right and yet his dependants may get compensation. That is not the spirit in which the Bill has been framed nor is it the spirit in which it was discussed in the Joint Committee. I say that if a workman suffers an accident and gives us notice, we have three days in which to examine him and he ought not to be allowed to leave for up-country until examined. But having gone up-country in spite of the provision which is made for his medical examination, I maintain that until he is medically examined his right to compensation should be suspended. As the Honourable Member said a moment ago in reply to the Honourable Mr. Sethna, we took the principle of the English Act in this particular case. We used actually the words in the English Act. And I should like to point out that clause 4, Schedule I of the English Act provides that the right to compensation shall be suspended "until such examination has taken place." But clause 20 of Schedule I of the same Act says that:

"Where under this Schedule a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension."

It is agreed, I take it, that until he is medically examined, not only his right to compensation and to take proceedings is suspended, but he

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also forfeits all compensation in respect of the period of suspension. The whole theory of the Act at Home shows that so long as he absents himself from medical examination, so long his rights under the Act are suspended, and he only revives that right when he submits himself for medical examination. I was proceeding to say a moment ago that I am prepared to accept that principle so far as the second examination or the third or fourth examination is concerned, but as regards the first examination, I think it is unfair to the employer and it is unfair to the workman himself that he should be permitted to go up-country without being medically examined. We all know how long annuitants live. If we give an annuity to a man, he will live for a long time. I believe it has been the experience—certainly it has been my experience—that where an old man in our employment has been given an annuity, he lives on for a long time because it is in the interests of all concerned to keep the annuity alive. But where an old man has been given a lump sum of money and goes home, it is nobody's interest to keep that man alive, and I can give comparative figures showing that where there is an interest in the family to keep the old man alive, he lives long, and where there is no interest, having received a lump sum of money, he may die soon. What is to be the result in this particular case if the amendment proposed is given effect to? In effect, it means that the workman may immediately run away up-country, after giving notice but before he has given an opportunity of being medically examined. There is really no interest except the ordinary interest of relationship to keep the man alive because the relations will get a lump sum whenever he dies. It is quite true it is in the discretion of the Commissioner and I take it that the Commissioner will not in all cases direct compensation to be paid. I would like to provide what I have been unable to move in an amendment; what I wish to propose is that so far as the first examination is concerned it ought to be compulsory. The workman or his dependants ought not to be entitled to compensation until such time as he has been medically examined. Our intention really was—I think it was the intention—that the man would be examined, but so far as I can find out, that has not been provided for. For that reason I oppose the amendment as it is now before the House.

The HONOURABLE SIR ARTHUR FROMM: I agree with my Honourable friend Sir Alexander Murray. The intention when this clause was discussed in Joint Committee was that the man should be medically examined. When the Bill was first introduced the period for examination was seven days and we thought that that was too long to keep a man within the vicinity of the place where he had the accident. We reduced it to three days, and our idea in reducing it to three days was that of compelling him to remain within the vicinity of the place where the accident happened, as I have said we decided that seven days was too long to keep a man there when he would be wanting to go away to his country. The Honourable Mr. Sethna has recently withdrawn the amendment he put forward in connection with a man who did not present himself immediately for medical examination but left for his home, came back, and was examined afterwards. If we accept the amendment put by the Honourable Mr. Chadwick, what is the position? An accident has occurred, the man runs away to his country, the employer loses sight of him, and knows nothing more about him and there is no time limit. He may die six months hence,

he may die of something totally different from the effect of the accident, and a claim is received that he died from the result of the accident which happened perhaps six months previously, during which period the employer has had no trace of the man. I am not arguing this against the interests of the employee or the workman. I think Honourable Members will bear me out that I have always supported everything in fairness for the workman, but I put to them that this amendment is seeking to place too great a liability on the employer. I have no doubt that the Honourable Member in charge will say that after all it is left to the discretion of the Commissioner. But I do not think we should place the Commissioner in that position. I do not think we should give him discretion in these cases. This amendment is immediately in contradistinction to what we have been discussing. It has been agreed that a workman's compensation, when he runs away without medical examination, should be suspended, but that as soon as he comes back to be medically examined then he is entitled to claim compensation; we agreed to this, though, as I have said, it was the intention of the Committee when they reduced the period during which a man should present himself for medical examination—reduced from seven days to 3 days—that he should remain in the vicinity where he was injured and undergo medical examination. I cannot support this amendment. I think it is placing too great a liability on the employer. All trace of the man is lost. He has a minor accident, disappears up-country, it is not known what happens to him, he may die some time afterwards, he may die of the accident or from the result of the accident, or he may die from a totally different cause, but if he does die, whether it was as a result of the accident or from a totally different cause, I feel sure there would be a claim for compensation against the employer. I recommend to Government to drop this amendment altogether.

(At this point the Honourable Mr. Innes rose.)

The HONOURABLE THE PRESIDENT: I would ask the Honourable Member (the Honourable Mr. Innes) whether he has not already spoken on the merits of this amendment?

The HONOURABLE MR. C. A. INNES: I was trying to meet a further amendment which the Honourable Sir Alexander Murray wanted to move.

The HONOURABLE THE PRESIDENT: I would draw the Honourable Member's attention to the danger of speaking to the merits on a point of order. But he may speak again.

The HONOURABLE MR. C. A. INNES: The Honourable Sir Alexander Murray suggested that I was going back on a compromise and he said that the wisest course was for this Council to stick to the terms of that compromise. I am prepared to take up that point and I am prepared to show that I am not going back in any way upon a compromise. As I have said before, when this Bill left the Joint Select Committee, we left it in the position that "where a workman has given notice of an accident, he shall, if the employer within three days offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination." Sub-clause (2) as it emerged from the Select Committee then went on to say:

"If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner.....his right to compensation.....shall be suspended until such examination has taken place, unless in the case of refusal he was prevented by any sufficient cause from so submitting himself."

[Mr. C. A. Innes.]

All we have done in the Bill which is now before the Council is to clarify the position which the Joint Committee's report had left obscure. We have made it clear that the workman must remain in the vicinity of the place of his employment until he has submitted himself to an examination if that examination is offered by the employer. We have also said that if he leaves the place of his employment without submitting himself to such examination his right to compensation shall be suspended. All we are trying to do in this particular amendment is to try and provide for hard cases which may arise. It has been put to us and it has been put to us strongly that you may have the case of a man who falling very ill goes off at once to his native place. It has been put to us that the Indian workman lays very great stress on being allowed to die in his own native place and it has been suggested to us that if a workman, severely injured in the course of his employment, goes off at once after giving notice of the accident, and dies there, this clause would operate hardly. We have tried to provide for what has been represented to us to be a very real hardship, by giving the Commissioner power in cases like that to give compensation. The Commissioner will not give compensation in every case. He will naturally require proof that the injury did take place, he will naturally require proof that the injury was not aggravated by the man's absence, or by the man's leaving the vicinity of the place of his employment before a medical examination took place. I say, Sir, that we have not departed in any way from the compromise. If we did depart from the compromise, we departed from it in the interests of the employer that we should clarify these clauses by moving amendments in another place. I hope the House will see that this amendment is a reasonable amendment and is intended to meet cases which may be really hard cases.

The HONOURABLE MR. PHIROZE SETHNA: I am afraid I am not satisfied with the explanation given by the Honourable Mr. Innes. If sub-clause (3) of this Bill made it easy for an injured person to go away without a medical examination, sub-clause (4) makes it still easier. Clause (3) enables a man to go away and the only punishment that is meted out to him is that he will not be entitled to compensation for the period that he is away. Clause (4) however makes it very easy for him, so that if he goes away and the injury gets worse and he dies his dependants get full compensation, and nothing less. Therefore, Sir, these two clauses, the one which has just been passed and the one which is now under consideration are if anything, an incentive to the workman to avoid medical examination in the first place and to go away to his native country as soon as he possibly can. On the other hand, if Government withdraw this new clause (4), or the House throws it out, then I shall not be sorry for having withdrawn my previous amendment, because if clause (4) does not stand, the workman will realize that if he goes away and as a result of his going away he dies, then his dependants get nothing. I do hope, therefore, Sir, that the Government will consider this from the point of view I am placing before the House.

There is still one other point of view which I would like to place before the House and that is in regard to insurance. If the proposed latitude is allowed to a workman to go away when he pleases and not to submit himself to medical examination and to consequent proper medical treatment immediately after the injury, the insurance authorities will hold that in nine cases out of ten the position of the injured person will become much worse

for want of proper medical aid in his native village, and consequently they will be fully justified in charging a higher rate of premium than they would otherwise do.

The HONOURABLE MR. V. G. KALE: Sir, I support the amendment and my reasons for doing so are the same as I gave on a previous occasion. We are not taking into consideration the mentality of the Indian labourer when we try to apply to him certain standards which may be enforced in the case of educated classes or workmen in western countries. Our friends here say that the workman should remain in the vicinity of the place of his work to be medically examined and should not go away up-country. But those who understand the frame of mind of workmen, know how strong a prejudice sometimes they have against remaining in a certain place to which you want to confine them. They would sometimes rather sacrifice their lives than remain if you compel them to remain in a certain place. After all, what does this amendment do? It only gives discretion to the Commissioner. In certain circumstances, if he is satisfied that there is sufficient ground for the payment of the compensation, then and then only that compensation will be allowed. Employers need not be unnecessarily frightened at having to pay any large amounts of money. The cases in this connection will be very rare.

My friend on the left is interested in premiums and insurance, but I do not think that the payments that employers will have to make will be increased on these grounds, and only a very few cases will arise in which compensation under this clause will be given at the discretion of the Commissioner. Therefore, in the interests of the working classes, ignorant and unorganized as they are, I think the amendment should be accepted.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I think the amendment proposed by the Honourable Mr. Chadwick is most reasonable and is based on justice and equity. What it provides is that if a workman leaves the place of his employment and while in his country dies there, then the compensation shall be given to his heirs and dependants. It seems to me that this power will rest at the discretion of the Commissioner and therefore the employers should not be afraid of this power. I strongly support the amendment.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, I rise to support the amendment. I want to ask one question, but before asking that, Sir, I would like to refer to sub-clause (3) in which it is laid down that if a man goes away without medical examination he is liable to be penalised in so far as he will not receive compensation during the period of his absence. Under the proposed new clause (4) he is not penalised to any extent unless the words "direct the payment of compensation" mean that the Commissioner shall have power to pay as much compensation as he thinks fit after inquiring into the merits of the case. If that is the meaning of the clause, I have nothing more to add. Otherwise I would suggest a verbal alteration, namely, that the words "within the limits prescribed by the Act direct payment of so much compensation as he thinks fit" may be substituted for the words "if he thinks fit, direct the payment of compensation." I would like the Honourable Mr. Chadwick to say whether he has any objection to my moving that amendment.

The HONOURABLE MR. D. T. CHADWICK: I have no objection whatever to that amendment.

The HONOURABLE THE PRESIDENT: I do not think that Government can take the line of objecting on ground of lack of notice to one amendment and offering to accept another to the same sub-clause.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to support my Honourable friend Sir Alexander Murray. He has explained the case fully and I need not take up any more of the time of the Council to elaborate it any further. In the Punjab in particular the workmen do not realize the advantages of proper medical treatment, and in case this amendment proposed by the Government is accepted, the employers will be put to a further liability. I therefore oppose the amendment.

The HONOURABLE SAIYID RAZA ALI: Sir, I have been used to the spectacle of a steady flow of sympathy from the Government Benches to this side; That is not a new thing. But this afternoon I have been watching a similar flow from capitalists and employers towards labour in the course of this debate. Many Honourable Members who are employers of labour have said that they are very much in sympathy with labour, yet when it comes to a practical proof of their sympathy, I do not see any very strong signs of it. The fact is that labour in this country is very ignorant. But it is much cheaper also than it is in western countries. If that is so, as Professor Kale put it, you have to take labour with all its limitations.

The HONOURABLE THE PRESIDENT: The Honourable Member must really get closer to the amendment.

The HONOURABLE SAIYID RAZA ALI: I am just speaking to the amendment. Objection is taken that if a labourer feels inclined to visit his home it may be that he will go off there without undergoing medical inspection and that in that event it is rather unfair to employers to be called on to pay compensation. My submission is that it is purely a discretionary power which is given to the Commissioner. It would seem that capital, which has never trusted labour, is striving to raise a suspicion against the Commissioner himself. The Commissioner is not bound to support the application of the labourer. In these circumstances it seems to me that my Honourable friend has no reason to doubt the integrity of the Commissioner and he may as well leave the case in his hands.

As to the last suggestion made by Mr. Lalubhai Samaldas, my interpretation of the amendment before the House is, Sir, that the words "direct payment of compensation" do not mean the payment of the full amount of compensation and not a pie less. In fact, it would be open to the Commissioner to pay the compensation either in full or in part as he deems under the circumstances of the case reasonable. Therefore my Honourable friend Mr. Lalubhai need be under no apprehensions on that score.

The HONOURABLE MR. D. T. CHADWICK: Sir, I only want to take up one point and that is the one raised by the Honourable Mr. Sethna in regard to insurance. After all the House will realize that this relates to cases of men who die, and not every man who leaves his employment and goes to his village necessarily dies. The number of cases are not likely to be very numerous. So far as the insurance is concerned, they will form, I venture to suggest, a very small proportion of the number of accidents which are likely to be covered under this Act.

The HONOURABLE MR. LALUBHAI SAMALDAS: Is the Mover of an amendment entitled to a reply?

The HONOURABLE THE PRESIDENT: Of course not. I am glad to see that the Honourable Members are alive to points of order.

The HONOURABLE THE PRESIDENT: The question is:

"That sub-clause (4) and (5) of clause 11 of the Bill be renumbered (5) and (6) and that after sub-clause (3) the following sub-clause be inserted:

(4) Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased workman."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 11, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 12, 13, 14, 15, 16, 17 and 18 do stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

"That to sub-clause (2) of clause 19 of the Bill the words 'or to enforce any liability incurred under this Act' be added."

Under certain sections of this Act the employer and the workman can come to an agreement, especially in the cases in which a workman is receiving half-monthly payments. Section 3 (5), which I would ask Honourable Members to look at for a moment, prevents the workman from going to a civil court for damages, but according to the Bill as at present drafted, no machinery is provided for aiding him to enforce an agreement such as that described which he has come to. This amendment empowers the Commissioner to enforce it. The whole idea of the Act is to prevent the workman from going to a civil court and to prevent the civil court from interfering to enforce a liability incurred solely under this Act. That duty will devolve upon the Commissioner.

The HONOURABLE THE PRESIDENT: The question is:

"That to sub-clause (2) of clause 19 of the Bill the words 'or to enforce any liability incurred under this Act' be added."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 19, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 20, 21, 22, 23, 24, 25, 26 and 27 do stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: I beg to move:

"That clause 28 of the Bill be renumbered as sub-clause (1) of clause 28 and to the said clause the following sub-clause be added, namely:

"(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force."

This amendment follows the amendment which I have just brought to the notice of the House. Section 28 (1) deals with registration of these agreements and we wish to make these valid and enforceable under this Act and this Act alone. One of the clauses of the Indian Contract Act reads:

"Every person is competent to contract who is of the age of majority according to the law to which he is subject and who is of sound mind and who is not disqualified from contracting by any law to which he is subject."

We have taken 15 as the age at which a minor becomes an adult for the purposes of this Act while under the Contract Act 18 would be the correct age. Under this present Bill a workman aged 16 could make an agreement with his employer. That agreement must be a valid one and enforceable under this Bill. We do not want those between the ages of 15 and 18 to be debarred from making such a contract or agreement as they would be if this clause of the Indian Contract Act were still held to rule the present Bill. That is the main reason for bringing in this amendment.

The HONOURABLE THE PRESIDENT: The question is:

"That clause 28 of the Bill be renumbered as sub-clause (1) of clause 28 and to the said clause the following sub-clause be added, namely:

"(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 28, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 29 and 30 do stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: I beg to move:

"That in clause 31 of the Bill, after the words 'under this Act' the following words be inserted, namely:

'whether under an agreement for the payment of compensation or otherwise'."

This is a verbal and consequential amendment following the one which the House has recently adopted, for making these agreements between employers and workmen enforceable under this Act. Means, however, have to be provided for collecting any sum due in enforcing such agreements. This amendment permits that.

The HONOURABLE THE PRESIDENT: To the clause under consideration amendment moved:

"That after the words 'under this Act' the following words be inserted, namely: 'whether under an agreement for the payment of compensation or otherwise'."

That question is now under debate.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 31, as amended, clause 32, clause 33, and clause 34 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule I stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I wish to move:

"That for clause (iii) of Schedule II the following be substituted:

'(iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act'."

The House will remember that it was very recently that we passed a new Indian Mines Act consolidating our old Act; at present in this Bill the references are to the old Act. This amendment substitutes references to the new Act.

The HONOURABLE THE PRESIDENT: To the Schedule under consideration amendment moved:

"For clause (iii) the following be substituted, namely:

'(iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act'."

It ought to be "or"?

The HONOURABLE MR. C. A. INNES: 'Or in any mine'—clause 3 has been deleted.

The HONOURABLE MR. D. T. CHADWICK: Yes, Sir, if you please.

The motion was adopted.

HONOURABLE MR. D. T. CHADWICK: In clause (vi) (b) of the same Schedule, I beg to move this amendment:

"That after the words 'and is' the words 'has been' be inserted."

As amended, it will then read as follows:

"A building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been, or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof."

As it is at present, if a building is designed to be not less than 20 feet and in the course of erection a workman suffers an accident whilst the building was only 15 feet high, he would have a right to compensation. But if such a building were being pulled down and the accident happened when it was only about 15 feet, we are advised that without the words "has been" being inserted, the man would lose his right to compensation. That contradiction is ridiculous. This amendment remedies it. Sir, I move to insert the words "has been".

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: I wish to move:

"That for clause (vi) (c) the following be substituted, namely:

'(c) a bridge which is, has been, or is designed to be more than fifty feet in length'."

This is a purely verbal one, and is intended to make the wording in regard to bridges similar to that used in regard to buildings.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule II, as amended, stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule III stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule IV stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: I understand that the Honourable Member does not wish to make the motion that the Bill be passed.

The HONOURABLE MR. D. T. CHADWICK: I would like to defer that, Sir.

The HONOURABLE THE PRESIDENT: I think the rest of the business might stand over.

The Council then adjourned till Eleven of the Clock on Wednesday, the 21st February, 1923.

COUNCIL OF STATE.

Wednesday, the 21st February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

RESOLUTION *RE* ADMINISTRATION OF AJMER-MERWARA.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I move that:

"This Council recommends to the Governor General in Council that a Committee be appointed, including a certain number of the elected Members of the Indian Legislature, to inquire into and report on the following questions:

(a) whether the present system of administration in Ajmer-Merwara offers sufficient scope for the realization of the political aspirations of the people; if not, what steps should be taken to satisfy such aspirations; and

(b) whether it is advisable to amalgamate Ajmer-Merwara with the United Provinces or any other major province."

Sir, neither a Hindu, nor a Mussalman, nor a Britisher can be indifferent to the welfare of this tiny province, the administrative headquarters of which are situated at Ajmer. Ajmer was the capital of a powerful Chauhan dynasty and its famous Raja Visaldeo conquered Delhi about the middle of the 12th century and thus established the united kingdom of Delhi and Ajmer. Hindus feel attracted towards this beautiful province which is inhabited by many of their people and in which is situated the holy Pushkar. Ajmer, Sir, is venerated by the Mussalman community because the famous Chishti saint has his Dargah here, and it is in the valley of Ajmer that his tomb is situated. Under the Moghul Emperors Ajmer was one of the powerful *Subas* and not a few of the Moghul Emperors spent a considerable portion of their time in Ajmer. Coming to later days, and tracing the connection of the British with this province, we find, Sir, that it was at Ajmer that Sir Thomas Roe, the Ambassador from King James I, had his first audience of the Moghul Emperor Jehangir in January 1616. In this way it will be seen that all the important communities that live in this vast continent have a strong tie with this small Province. Now, its history since the advent of British rule may be stated in a few words. It was ceded by Dowlat Rai Scindhia in 1818 to the British. From 1818 to 1832 the officers in charge of Ajmer corresponded, first with the British Resident at Delhi, and subsequently with the British Resident for Malwa and Rajputana. From 1832 to 1871 it remained under the administration of the United Provinces, which were then known as the North-Western Provinces. The separation came in the year 1871, when the Province of Ajmer-Merwara was formed into a Chief Commissionership under the Foreign Department of the Government of India and was placed under the Chief Commissioner who since then has been the Agent to the Governor General for Rajputana. This arrangement, Sir, continues up to the present

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day with this difference, that instead of the Foreign Department, the control by the Government of India is exercised now through the Political Department. Sir, the area of this tiny province is 2,711 square miles and according to the latest census report, namely, the report for 1921, the total population is 495,271, or about half the population of an average size district in the United Provinces. It has three sub-divisions, namely, Ajmer, Merwara and Kekri. The present administration consists of the Chief Commissioner, who is not only the Local Government, but is the final court of civil and criminal, appellate, and revisional jurisdiction. Below the Chief Commissioner is an officer who is known as the Commissioner and whose administrative, civil, criminal and revenue powers are, in fact, larger than the powers of a District Magistrate and Collector in the United Provinces or in the Bombay Presidency. Under him are various officers belonging to numerous departments, through which the complicated machinery of the present-day government is carried on. The question then arises, Sir, whether it tends to the happiness of the people to let the present arrangement continue or whether the time has now come when an exhaustive examination of the whole subject should be undertaken with a view to amalgamate this province with any major province. In view of the past historical associations of Ajmer with the United Provinces, I have recommended its amalgamation with the latter, but I must at this stage clearly point out that I do not by any means emphasise that point, the real object being to bring within the reach of the people of this province the many blessings which the sister provinces, much larger in size, enjoy. At the very outset I invite the attention of this House to the important fact that the people of this province have not been given the benefit of the reforms which were introduced into the major provinces by the Government of India Act of 1919. If the arrangement that existed up till 1871 had continued up to the present day, there is no doubt that the people would have participated in the scheme of reforms that is in force now. That, in itself, Sir, is a very serious grievance, of which the people of this province are deeply conscious, and to which they have not hesitated to give expression from time to time. What, in fact, has led to the voice that they have raised against the present arrangement not being heard from end to end of the country is the tremendous excitement through which this country has been passing or has passed during the last three years. I am sure that, but for this excitement, the public and the Government would have heard much more on this question. It is very difficult, Sir, to conceive of the introduction of a scheme of reforms in this little province with a population of, as I have said, less than half a million. Now, the best solution under the circumstances would be to put it under a more progressive and a bigger administration. But that is not the only disadvantage from which the people of Ajmer-Merwara at present suffer. It will be very difficult indeed, Sir, to recount all their grievances. I propose to state the important, reasonable and legitimate grievances from which they suffer and which I strongly feel it is the duty of Government to remove. One of the important considerations which arises out of this question is as to whether the people of the province have full opportunities of development or not. It would be obvious to every one who would look into the internal conditions of this province that no such opportunities are at present available to them. One of the greatest difficulties, Sir, with which the people are faced, in fact, is the limited scope that is offered for the utilisation of local talent. I need hardly state that the desire to serve in important offices under the State

has always been looked upon as a very important matter by the people of this country. That was so, that is so, and I may say that will continue to be so for many years to come. Now the highest office to which a man in that province can rise is, I daresay, that of an Extra Assistant Commissioner, though I do not conceal from myself the fact that an Additional Sessions Judge has lately been appointed. Then, on the top of it comes the consideration of the competing claims of the people of the province as against the claims of those who, for purposes of exploitation, have gone over to this province either from the United Provinces or from the Punjab.

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

It will interest this Council to know that in the public services the outside element almost preponderates, as many of the offices are held by people who belong either to the Punjab, Agra or Delhi. In fact, I have not the least hesitation in saying that if a plebiscite were taken on the question of the amalgamation of Ajmer-Merwara with a major province, then the people of the province almost to a man would cast their votes in its favour, and I am equally certain that the outsiders who are exploiting the province would unanimously vote against it. That in itself should show that the grievances of the people are real and legitimate. It is not always a safe guide or a convincing argument to appeal to one's own experience or knowledge, but what opportunity I have had of consulting the wishes of the people of the province has produced the impression upon me that the people are extremely dissatisfied with their present status. Perhaps the Government are in a better position to form a proper estimate of the feelings of the people, inasmuch as, if I mistake not, Sir, not many years ago one or two officers were deputed to go into this question. The report, as far as I am aware, submitted by them has not been published, but one of those officers I happen to know was a member of the Indian Civil Service from the United Provinces. As I said, the report has not been published, but from the absence of any action taken either by the Imperial Government or by any Local Government, it appears that certain difficulties were probably found in the way of introducing any changes in the administration of this province. It may be that certain objections were raised in certain quarters. In the absence of the report I am not in a position to state as to what led to the dropping of the proposal which was under consideration then. But I would lay a certain amount of emphasis, Sir, on the fact that since the new Provincial Governments have been in power from the beginning of 1921, the old state of affairs has ceased to exist. In the provinces, at any rate, the people are actively associated with the conduct of public affairs. They have a well defined share in the Government of every province, so that if an inquiry, as has been suggested by me, were to be carried out, I doubt not that the people of the United Provinces and the Bombay Presidency would be in a better position to acquaint the Governments of those provinces with their real feelings on this question than could have been the case in the past. The limited opportunities that are open to the people of this province constitute an important consideration, as also the difficulties that are experienced in the way of promoting and transferring public officers. It follows from the very nature of the case that the field for such promotions and transfers is narrow. There are only three sub-divisions as I have pointed out, so that the scope for promotion is not much, and a stage is reached in the career of almost every officer when you find it almost impossible

[Saiyid Raza Ali.]

to transfer him, because there is no corresponding office in any other place in the province where he can be transferred. The result is that a man serves for 15, 20 or even 25 years in Ajmer, and he is tied down to that place for the rest of his life. Now there are two serious objections to this. The first of course is that, so far as the officers themselves are concerned, they are denied all opportunities for acquiring a broader outlook, larger experience, and coming into contact with towering personalities in the region of administration or in the realm of science and letters. In fact, the whole vision becomes narrow, the whole view becomes cramped, with the result that Ajmer has come to be a pool which is full of stagnation from which and to which there is no flow. This must naturally react and be prejudicial to the growth of a proper tone in the administration. So far as the people, again, are concerned, it is very detrimental to their interests because we know that public officers are after all human beings and they come to be liked by some people and disliked by others. If there are no transfers, that tends to retard the growth of a healthy public life among the people. I concede, Sir, if instead of one district there were four, five or six districts where opportunities of promotion and transfer would be more numerous and could be easily arranged, the arrangement would not be open to this objection. But as it is, there is this tract with a population of half a million, consisting of three sub-divisions, which is as large in fact as about half a district in the major provinces. If you carve out half a district in the Bombay Presidency or the United Provinces and set up in it the whole costly machinery of a modern civilised Government, you will see how difficult it will be to carry on an administration of that character. Then, Sir, another very serious objection that can be taken to this administration is on the ground of its costliness.

Now, my knowledge and limited experience of the Retrenchment Committees tells me that nothing is more dangerous than to place a cut-and-dry scheme showing where and how saving can be effected. It was open to me to recommend the abolition of certain offices and the reduction of certain public officers, but I realise, Sir, that nothing is more dangerous than that. That work cannot be done without instituting an exhaustive inquiry into the whole matter. I was not, therefore, tempted into making any specific recommendations by way of retrenchment. But I do hope the House will agree with me that the present administration is, from the nature of that administration, more costly than would be the case if it were brought under the Government of a major province. I do not want to go further than this, and I will rest content with saying that considerable reductions . . .

The HONOURABLE THE CHAIRMAN: I must warn the Honourable Member that he has only two minutes more left to speak.

The HONOURABLE SAIYID RAZA ALI: I will try to wind up my remarks Sir. I content myself with saying that it follows that if you bring this administration under the United Provinces Government or the Bombay Government, then it would be much less costly than it is to-day. I am at the fag end of my speech, but looking at the figures, Sir, I find that in the year 1913-14 the total revenue, Imperial and local, of this province was not more than Rs. 13,06,010, whereas the expenditure amounted to Rs. 20,20,441. In 1914-15, the revenue, both Imperial and local, was Rs. 16,33,824, whereas the expenditure was Rs. 20,00,810. Coming to the year 1920-21, we find

that the revenue amounted to Rs. 24,72,695, whereas the expenditure was Rs. 24,87,114. Now, these figures are very eloquent in themselves. They show, as a matter of fact, that this province at least in certain years has been spending more than its revenue permitted it to spend. This is a very serious state of affairs. Everywhere, Sir, we have large deficits in the Budgets. In this province one would not be prepared to expect any deficit, and yet we find that even there, they are faced with a deficit. The sources of expansion of income are not very many, and therefore, I submit, the best way of introducing economy will be to bring about the amalgamation which I recommend. One word more about the costliness of the administration, and I have done. It is very unfair to the people that they should be denied the opportunities of having what I should call the requisites of modern times, namely, a medical college, an engineering college, a forest college, an agricultural college, co-operative banks and societies, technological institutes and other very costly paraphernalia of a modern progressive Government; either you wish to have them or not to have them in Ajmer. If you want to have them, there is no money to found these expensive institutions, and if you do without them, you subject the people to very serious grievances, because unless these people have resided in those provinces for a certain number of years, they would be treated as outsiders there. Therefore, the grievance of these people becomes doubly grievous. I do not recommend any cut-and-dry measures to be taken, but I do submit, Sir, that it is high time to institute an inquiry into the whole subject, so that the Committee appointed by Government, and not by the Legislature itself, may be in a position to go into the entire question and make recommendations which, on the one hand, would satisfy the legitimate aspirations of the people, and, on the other hand, would tend to reduce the expenditure which the tax-payer has to incur in running the costly administration of this province. With these words, Sir, I commend this Resolution to the acceptance of this Council.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I think the Honourable Mover of this Resolution was entirely justified in his confidence that the welfare and prosperity of the people of the province of Ajmer-Merwara would command universal sympathy and solicitude. In addition to the facts that he has mentioned, I may remind the House that in Ajmer is situated one of the most renowned and revered Muhammadan shrines in India. I may also remind the House that seven miles from Ajmer is the *tirth* of Pushkar, almost equally venerated by the Hindus. Therefore, there is sufficient reason why Ajmer should command the sympathy of those two communities, and, if for no other reason, its interesting and romantic history and its present circumstances would command an equal degree of sympathy from all communities in India, from all communities represented in this House. So far, Sir, I am in entire concurrence with my Honourable friend, and I hope to show, although I cannot on behalf of Government accept the precise terms of the Resolution which he has moved, that the Government of India has shown a degree of solicitude and of interest in this important question which is proportionate to the considerations which have been urged. Only one or two words—I am not attempting to follow my Honourable friend in his retrospective historical summary,—I believe one or two words with regard to the general conditions of the province should be sufficient to explain to the House many of the difficulties which have arisen in its administration. Ajmer-Merwara is a small British province which is practically enclosed by

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the Indian State territory of Rajputana. It has, as the Honourable Mover has pointed out, an area of about 2,711 square miles and a population of about 500,000. In other words, it is approximately of the size of an average district in the United Provinces, somewhat larger in area, but considerably smaller in population. Its geographical separation from British India has undoubtedly been the cause of very considerable inconveniences and difficulties, and that fact is sufficiently indicated by the changes which have from time to time been made in the administration of the province and which have been enumerated by the Honourable Mover. Well, Sir, those facts are quite sufficient to make it clear to the House that the problem presented by the administration of Ajmer-Merwara is by no means a simple one. It is not susceptible of any summary and ill-considered solution. As a matter of fact, in order to consider these difficulties, a Committee was appointed by the Government of India in 1921. The Committee consisted of two experienced officials, one a political officer, specially qualified to deal with the peculiar political problems which necessarily arise in a territory completely surrounded by Indian State territory, the second a very experienced judicial officer, well qualified to deal with the peculiar difficulties relating to the judicial administration which arise in the province; and the Committee was completed by two Indian Members elected by the District Board of Ajmer-Merwara and the Municipal Committees of Ajmer and Beawar respectively. I think the House will agree with me that that was a Committee very well constituted to consider the matters referred to it. It had very sound official representation in the two directions in which expert knowledge was particularly required, and it had two local representatives elected by responsible bodies in the province who were qualified to represent the public opinion of the province.

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

The terms of reference of that Committee, Sir, were as follows :

"To report whether, with a view to enable Ajmer-Merwara to participate in the Reforms, it would be advisable that Ajmer-Merwara should be re-transferred to the United Provinces both administratively and judicially."

I should like to point out that these terms of reference anticipate in their essence the terms of my Honourable friend's Resolution. The Committee considered the matter in all its bearings and the conclusion at which the majority of them arrived was that, on the whole, the merger of the province in the United Provinces would probably be the course best adapted to secure an efficient and economic administration, and at the same time that participation of the public of the province in the Reforms scheme, which it was one of their duties to investigate. Well, Sir, the next stage in the proceedings was necessarily a reference to the Government of the United Provinces, because it is obvious that a Provincial Government could not be asked to accept responsibilities so important, possibly financial liabilities, without very full consideration. The view of the United Provinces Government was unfavourable to the proposal to merge the Province of Ajmer-Merwara in the United Provinces. They pointed out that Ajmer is over 500 miles from Allahabad, 400 miles from Lucknow, and about 150 miles from Agra, the nearest important centre in the United Provinces; that the local conditions in Ajmer-Merwara were in many respects very different from those which obtain in the United Provinces, and that consequently their officers, on whom would devolve the

responsibility and detailed administration, would be dealing with an environment, with facts and with problems entirely unfamiliar to them; further, as it was an admitted fact that Ajmer-Merwara was a somewhat backward tract as compared to the more advanced provinces of India, that circumstance alone would probably necessitate the appropriation of considerable provincial funds, which the province could ill afford to spare for the special benefit of Ajmer. They pointed out in particular the regrettable fact that Ajmer-Merwara is not a very fertile area and has in the past suffered severely from famine and scarcity, and they were apprehensive that on that ground alone serious financial liabilities would devolve upon them. Well, Sir, I think the House will admit that these are considerations which require very careful scrutiny and examination. The Government of India proceeded with their investigations on a somewhat more limited ground. They investigated the possibility of improving the efficiency and decreasing the expense of judicial administration, and that matter was also referred to the United Provinces. Various difficulties arose with regard to this question also, though the United Provinces Government showed a very ready disposition to do all in their power to assist in this direction. Having considered all these matters, the Government of India came to the conclusion that the question of the merger of the province still required further consideration. It was undoubtedly only fair that the questions of financial liability raised by the United Provinces should be again carefully examined before that Government should be approached once more and that is the stage which the inquiry has at present reached. The Finance Department are now working out an estimate of what the Provincial revenues of Ajmer-Merwara would be on the basis of the Reforms allocation, and when that has been done, further progress with the negotiations will be considered. It is possible that this solution may ultimately be found impracticable. There are, of course, other possible solutions. I agree with my Honourable friend that it probably would be impracticable to attempt to set up in a province which is hardly so large as an average district of the United Provinces, a complete self-contained Government with Parliamentary institutions of its own. But another possible alternative, and it is an alternative which will be carefully considered by the Government of India in the event of other solutions not being found feasible, is that of giving the Province of Ajmer-Merwara some direct representation on the Indian Legislature. I think, Sir, I have said enough to show that the Government of India have not been oblivious of the important considerations raised by my Honourable friend. He has referred to the grievances of the province. He spoke of the lack of opportunity for development, of the limited scope for the utilization of local talent, but I put it to the House whether those consequences are not consequences of the geographical and natural features of the area. They are not irremediable. We hope that with the march of events remedies can be applied, but if my Honourable friend suggested that these grievances were in any degree the fault of the local Administration, I think the good sense and judgment of the House will acquit them. There is one point which I desire to make before I conclude. The Honourable Member, though he naturally was not prepared to propound a definite solution, very strongly indicated his views that the correct solution was merger in a major province, and from many points of view that is an attractive solution. He observed that he had had little opportunity of consulting public opinion on the subject, and I should like to say on that point that the investigations of the Committee did disclose a very considerable cleavage of

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opinion in the matter. The more educated classes of the community and the official classes generally, seemed strongly impressed with the advantages of that course, but there were very large sections of public opinion to whom the idea was by no means attractive. I merely insert this as a word of caution, because I think the House will agree with me that it would be very undesirable to come to any conclusion regarding the future political destinies of this area until public opinion in that province has been more fully instructed in the nature of the remedies which it is proposed to apply to it and is more qualified to arrive at a judgment on the matter.

The HONOURABLE SAIYID RAZA ALI: May I know the date of the recommendation of the United Provinces Government, I mean the reply of the United Provinces Government.

The HONOURABLE MR. J. CRERAR: That was in the year 1921.

I have only this to say before I conclude. My summary of the proceedings undertaken by the Government of India in this matter will, I hope, be quite sufficient to satisfy my Honourable friend and to satisfy the House that the prosperity and the interests of this province, and, more especially, the possibility of granting it a reasonable degree of participation in the reforms, have been very carefully considered and are being very carefully considered. I do not know, Sir, whether what I have said will suggest to my Honourable friend the desirability of withdrawing his Resolution. I do not wish to press that course upon him if it does not commend itself to him. But, if he does not, I am unable, on behalf of the Government of India, to accept the proposal for another Committee. The matter has, as I have already said, been very carefully considered by a Committee so constituted as to be very well qualified to deal with it. The indiscriminate appointment of Committees has been commented upon in a very recent sitting of this House, and the expenditure which is involved is very serious. That is a consideration which we are bound to have in mind, particularly at the present time, and, in view of the fact that a very competent Committee have already considered this question in all its bearings, that their recommendations are now before the Government of India, are being carefully considered, and will form the basis of a further communication to the United Provinces Government, I should very strongly deprecate any suggestion for the appointment of another Committee.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I am obliged to the Honourable Mr. Crerar who has dealt with the subject in a reasonable and, what on this occasion I should call, a sympathetic manner. He has not kept any cards up his sleeve but placed them on the table. He has taken us through an unvarnished statement of facts. I must say that I thoroughly appreciate the difficulties which Government must feel in appointing a second Committee.

But, Sir, before I deal finally with that question, I will review the remarks of the Honourable the Home Secretary in a few words. I must confess to a sense of deep disappointment when I learnt from my Honourable friend that the United Provinces Government have set its face against the recommendations of the Committee on certain grounds. Now I do not propose, Sir, at this stage to traverse the grounds taken by the United Provinces Government.

In fact, I know Ajmer-Merwara myself and, as I stated, I have had a few opportunities of coming into contact with the people of that province. Now the people there are ethnologically the same as the people of the United Provinces. They speak the same language and in their manners and customs they are very much like the people of the United Provinces. Now the objection that has been raised by the United Provinces Government, and of which I was not quite sure till it was communicated to me by the Honourable Mr. Crerar, is the financial objection. Finance, Sir, is a matter of living reality, and that is not a matter with which any one of us can easily trifle. I have laid before this House the financial condition of Ajmer-Merwara. I do not think that, so far as this objection goes, the United Provinces Government is unreasonable in refusing to take over the administration of Ajmer-Merwara unless it is assured as to what extent the Government of India would be prepared to help the United Provinces Government, if there is a deficit, as I have shown was the case for several years, in the budget of Ajmer-Merwara. I think, Sir, I will be perfectly justified in inviting the attention of the Government of India to a consideration of this question from a somewhat different point of view from that which was taken by the Honourable Mr. Crerar. As it is, if there is a deficit, the whole of it, Sir, has to be borne by the Imperial Exchequer. It is the Government of India which cover these deficits if they occur in any year. Will it not be practicable to come to an arrangement with the United Provinces Government enabling that Government to take over the administration of that province and to run it on the lines which obtain in the United Provinces, provided that, if in any year—and there are lean years, unfortunately, in Ajmer-Merwara where everything depends on the supply of water and where the annual rainfall is scanty—there is a deficit, then that deficit might be covered by the Government of India making a grant to that extent in that particular year to the United Provinces? I do not think really it is impossible to come to a financial re-adjustment of the entire problem to the satisfaction of both Governments.

I was very glad to learn from the speech of my Honourable friend that, in any case, the Government of the United Provinces is prepared to help the Ajmer-Merwara administration on the judicial side. I purposely refrained, Sir, in my opening speech from going into that question, but, as would occur to any Honourable Member of this House, that is the weakest point in the administration of Ajmer-Merwara. The Chief Commissioner is of course not

a lawyer himself. He does his best, but he has a large number of civil and criminal appeals and revisions to hear and it is highly desirable that cases involving a consideration of the confirmation or setting aside of capital sentences, as also civil appeals involving intricate questions of law and relating to property worth lakhs, should be heard by a Bench consisting of two Judges. It is impossible to set up that machinery in the province of Ajmer-Merwara. As a matter of fact, it is impossible to give a whole-time Judicial Commissioner to Ajmer-Merwara. As I said in my opening speech, such cases are heard by the Chief Commissioner who has to find time for the disposal of such cases, both criminal and civil. So the best solution of this in any case would be, as hinted at by the Honourable Mr. Crerar, to make provision for such cases being heard by any High Court, be it at Allahabad or Bombay. But it is very desirable that there should be two Judges to hear appeals. I must say that the proposal that was made by the Home Secretary, namely, the alternative of giving representation to this province in the Indian Legislature has left me rather cold.

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That alternative will leave them practically in the same condition in which they are to-day. What representation can be given to a people who number less than 5 lakhs? Even one Member on the Legislative Assembly would be too much, and I do not think the Government of India can really manage to appoint one member to the Council of State. But even if two members are given, I do not think that will lead to the betterment of the condition of the province in any way. The really important question is to amalgamate it with another province. That, I submit, Sir, with great respect, is the only possible, reasonable and practicable proposition. Now I cannot press, Sir, for the appointment of a committee in view of the statement made by my Honourable friend. I do not want to insist on that; but what I do press for before I sit down is that the Government of India will be pleased, since we have a changed Government in the United Provinces, to reopen the question with a satisfactory re-adjustment of the financial measures and to negotiate on this important question with the United Provinces Government. I have no doubt that if a proper re-adjustment of the financial question is arrived at, there will be no difficulty in amalgamation. I do not at least anticipate any in the way of the present United Provinces Government taking over the administration of the Province of Ajmer-Merwara. I say that as a non-official. I do not know the real attitude of the United Provinces Government.

I find that as a Committee has already gone into the whole question, it will not serve any useful purpose if I press for the appointment of a second Committee. More or less that is unnecessary in view of the statement made by the Honourable Mr. Crerar. I would therefore ask the leave of this House to withdraw my Resolution.

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

RESOLUTION *RE* COGNIZANCE BY LEGISLATURE OF MATTERS ON WHICH GOVERNMENT OF INDIA HAS UNDERTAKEN LEGISLATION [MODIFICATION OF RULE 23 (1) OF THE RULES OF BUSINESS].

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

"This Council recommends to the Governor General in Council that steps be taken that Rule 23 (1) of the Rules of Business for the Council of State and the Legislative Assembly and the corresponding Questions Rule be so modified as to permit the Indian Legislature to take cognisance by Resolutions and Questions on matters on which the Government of India have already undertaken legislation, as for example the Princes Protection Bill."

Sir, with your permission, I propose to read Rule 23 of the Government of India Act which I refer to in my Resolution and which I suggest should be amended along with the corresponding Rule on Questions. Rule 23 is as follows:—

"23. (1) Every Resolution shall be in the form of a specific recommendation addressed to the Governor General in Council, and no Resolution shall be moved in regard to any of the following subjects, namely:

- (i) any matter affecting the relations of His Majesty's Government, or of the Governor General or the Governor General in Council with any foreign State;

- (ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and
- (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's dominions."

The second part of the Rule says:

"(2) The decision of the Governor General on the point whether any Resolution is or is not within the restrictions imposed by sub-rule (1) shall be final."

Honourable Members will see from the Rule that I have read out that Members of the Indian Legislature, of this House as well as of the Legislative Assembly, are debarred from moving Resolutions which deal with any one of the five following classes:

- (1) Resolutions dealing with any matter affecting the relations of His Majesty's Government with any Princes or Chiefs under the suzerainty of His Majesty.
- (2) Resolutions relating to any matter affecting the relations of the Governor General with any Prince or Chief.
- (3) Resolutions regarding any matter affecting the relations of the Governor General in Council with any Prince or Chief.
- (4) Resolutions relating to the affairs of any Prince or Chief.
- (5) Resolutions relating to the administration of any Prince or Chief.

There is a corresponding Rule in regard to Questions, which is Rule 8, in which the exceptions are identically the same. The House will therefore see that both Questions and Resolutions in the five classes I have enumerated are not allowed in either House of the Central Legislature. As you will also notice, the Rule further provides that it is not competent for the Indian Legislature to deal with any question which may be the subject of adjudication by a Court of law which has jurisdiction in any part of the British Dominions. The House will therefore see that there are six different categories of questions and Resolutions on which the Indian Legislature is prohibited from dealing with. My Resolution therefore proposes an amendment to Rules 23 and 8, and asks for an amendment only in those cases where Government choose to bring in legislation and not otherwise. Then, that being so, I submit that my Resolution must be considered to be a perfectly reasonable one. If the Government choose to bring forward any matter relating to these prohibited subjects, then only the Legislature should be given an opportunity of taking cognisance of the same by means of Questions and Resolutions. I submit again that my amendment is a perfectly reasonable one, for I contend that the present position is simply anomalous. If Government want to introduce legislation on any one of the subjects I have enumerated, that legislation has to be undertaken with the assistance and the co-operation of the Legislature, but the Legislature can neither interpellate nor move Resolutions in the manner that I have indicated. The Legislature can however take cognisance of a Bill when Government choose to introduce one and it is then open to Members to speak if they like at yard's length or criticise to any extent they desire but it is not open to them to move Resolutions or put questions otherwise.

Sir, in the wording of my Resolution, I have instanced the Indian Princes Protection Bill. Leave to introduce that Bill was not given in the

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Lower House. It was, however, consented to by this House and it is now before the two Houses of Parliament and is awaiting the assent of His Majesty under section 67 (b) (2) of the Government of India Act. I will not be guilty of transgressing the limits of my Resolution in referring to the merits or the demerits of that Bill or to refer to the action taken on it by the Legislative Assembly. My object in referring to it is simply to drive home the one fact that though this Council passed the Bill and has therefore taken cognisance of a matter affecting the relations of Government and Princes, yet if any Honourable Member of this House had of his own accord chosen to take upon himself to move in this House a Resolution advocating protection to the Princes on the identical lines which Government themselves have put forward in the Bill, such a Resolution would have been summarily turned down on the ground that it affects the relations of Government and Indian Princes. Even after the Bill is passed and comes into operation it will not be open to us to put any questions or Resolutions. This shows how anomalous is the position created. The Legislature is asked to legislate, but it will be presumption on its part if it dared to ask any question or move a Resolution. The right of putting questions and moving Resolutions is not co-extensive with the right of legislation. In fact, as the rules stand at present, it is less than that of legislation. This, in my opinion, should cease and the right of asking questions and of moving Resolutions must be made co-extensive with the right of legislation, and that in case legislation is undertaken and enacted, under any of these subjects laid down in Rules 23 and 8, then the Legislature should be invested with authority to move Resolutions or ask questions. The House will see that I have placed a limitation on my Resolution. I only want an amendment in cases where legislation is undertaken and not otherwise.

I will now ask the House to consider this question from a more general and a broader point of view. The main question arises from the relations between the Native Princes and the British Government. I feel confident that at all times the Indian Legislature will do ample justice to the rights of Indian Princes. I go further and say that they will always stand up for their interests, for their rights and for whatever privileges they are entitled to under the respective treaties which these Princes have with the Government of India. Further, however much we may disapprove of autocratic Governments and however much we may also disapprove of the existing methods of administration in most Indian States, and however keen may be our desire to see that these Native States emulate the example of the British Government, of which they are such trusted and devoted friends, yet we shall be content if these Native (*The Honourable Mr. V. G. Kale*: "Indian")—I beg their pardon—we shall be content if these Indian States will endeavour to liberalise their Governments if not on lines on which the Indian Government is liberalised yet to whatever extent they possibly can to suit their peculiar conditions, and their relations with the Government of India, and at the same time calculated to satisfy the legitimate aspirations of their subjects,—aspirations which those subjects of Indian States hold in common with their fellow brethren in British India. Then, again, I would like to impress upon them that the Indian Legislature does not by any means and will not by any means seek to bring any undue pressure to bear upon these Indian Princes and Chiefs so that they may do away with autocratic forms of

Government and resort to more constitutional and democratic forms of Government. We leave it to their good sense to do what they can to emulate the Government of India and elevate themselves from the position of autocratic Princes to the higher and nobler rôle of constitutional rulers as time goes on. But, if we owe a duty to our Indian Princes and Chiefs, we likewise owe a duty to their subjects.

The HONOURABLE THE PRESIDENT: I think the Honourable Member is rather travelling beyond the scope of his Resolution.

The HONOURABLE MR. PHIROZE SETHNA: I have to give reasons as to why the rule should be amended.

The HONOURABLE THE PRESIDENT: The Honourable Member's Resolution, as I read it, desires to bring before this House the point that where legislation has been undertaken, in that case and in that case only the rule should be modified, and he must confine himself within the limits of his own Resolution.

The HONOURABLE MR. PHIROZE SETHNA: If you confine me like that, it narrows me down to a very small extent. However,

The HONOURABLE THE PRESIDENT: The Honourable Member should have drafted his Resolution wider. (Laughter.)

The HONOURABLE MR. PHIROZE SETHNA: I was going to say, Sir, that we now live in times when the days of autocratic Governments are numbered all the world over, and that consequently even the subjects of Indian States would like their Governments to become more constitutional and more democratic. Now, Sir, the subjects of the Indian States themselves recognise that the Indian Princes and Chiefs are responsible to the Indian Government for the proper administration of their States and if the same Indian Government are now becoming more amenable to Indian public sentiment and opinion, they expect their own rulers also to do likewise. I may be permitted to quote from the Montagu-Chelmsford Report in regard to the relations that should prevail between the British Government and the Native States. The distinguished authors of that Report say:—

"The policy of the British Government towards the States has changed from time to time, passing from the original plan of non-intervention in all matters beyond its own ring-fence to the policy of 'subordinate isolation' initiated by Lord Hastings; which in its turn gave way before the existing conception of the relation between the States and the Government of India, which may be described as one of union and co-operation on their part with the paramount power. In spite of the varieties and complexities of treaties, engagements, and sanads, the general position as regards the rights and obligations of the Native States can be summed up in a few words. The States are guaranteed security from without; the paramount power acts for them in relation to foreign powers and other States, and it intervenes when the internal peace of their territories is seriously threatened. On the other hand the States' relations to foreign powers are those of the paramount power; they share the obligation for the common defence; and they are under a general responsibility for the good Government and welfare of their territories."

There is a continuation from the same Report, which is also very appropriate, and which says:—

"In the second place, we cannot disregard the fact that the general clause which occurs in many of the treaties to the effect that the Chief shall remain absolute Ruler of his country has not in the past precluded and does not even now preclude 'interference with the administration by Government through the agency of its representatives at the Native Courts.' We need hardly say that such interference has not been

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employed in wanton disregard of treaty obligations. During the earlier days of our intimate relations with the States British agents found themselves compelled, often against their will, to assume responsibility for the welfare of the people, to restore order from chaos, to prevent inhuman practices, and to guide the hands of a weak or incompetent Ruler as the only alternative to the termination of his rule. So too, at the present day, the Government of India acknowledges as trustee a responsibility (which the Princes themselves desire to maintain) for the proper administration of States during a minority, and also an obligation for the prevention or correction of flagrant misgovernment."

Sir the object with which I have read out these quotations is to show that the Government of India have undertaken certain obligations with regard to the correction and prevention of misgovernment in the Indian States. With the gradual transfer of power to the people of India, is it not right that this obligation should be shared by the Indian Legislature with the Government of India, and is it not right that the Indian Legislature, at all events, should be placed in a position to bring to the notice of the paramount power instances of any flagrant abuse or serious grievances of the Native States?

The HONOURABLE THE PRESIDENT: The Honourable Member is again going out of the scope of his Resolution. The Resolution is drawn in a perfectly limited manner. It merely asks that where the Government of India have undertaken legislation with regard to the subject matter of the Rule, it should be open to this House or the other House to put questions or Resolutions. The Honourable Member is going much beyond the scope of the Resolution and I must ask him to obey my ruling on the point.

The HONOURABLE MR. PHIROZE SETHNA: Very well, Sir, I will confine myself to the Bill the Government passed recently, I mean the Bill giving protection to Indian Princes. Now, Sir, according to that Bill, Indian Princes have been given protection against any seditious attacks that may be made on them by the Indian press. May I ask, is it not reasonable that the Indian Legislature should also have the right to call attention to the grievances and wrongs of subjects of Indian States which may also find expression in the press? Sir, an instance of that kind has recently cropped up. Honourable Members of both Houses of the Legislature have received copies of a petition signed by one Mrs. Sundrabai Palshikar of Indore. If a fraction of the grievances enumerated in that petition are correct, then, I say, it is impossible to withhold our sympathy from the woman and her husband who appear to have been so grievously wronged, and it is equally impossible for us not to condemn the scheming high-handedness and wickedness which have reduced this couple to a state of destitution and misery. Sir, this has been the subject of a memorial to the Viceroy, copies of which memorial have been sent to the members of this House. The subject has been in the press and it would be quite appropriate to be allowed to be discussed here, or to have questions put about it, but under the existing rules this cannot be done. If the Princes stand in need of protection, it follows that their subjects stand in equal or even greater need of protection. Supposing a prosecution is lodged under the Indian Princes Protection Bill, is it not right for us to put any questions or move Resolutions in regard to any such prosecution? Evidently it cannot be done under the present Rules 23 and 8, which is a perfectly anomalous condition to which I have drawn the attention of the House, by my Resolution, and I hope that the House will accept my Resolution and Government in their turn will agree to modify the rules to the limited extent that I suggest.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, I have ventured to intervene at this early stage in the debate on this Resolution in order to state, for the information of the House and more particularly for the benefit of those Honourable Members who may intend to take part in the discussion, the views held by the Government of India with regard to this Resolution, as clearly as is possible, in connection with a matter which Honourable Members will, I am sure, recognise is of the utmost delicacy. The Honourable Mr. Sethna has read to the House the terms of Rule 23 (1) of the Rules of Business which he seeks to modify on the lines mentioned in his speech. It is unnecessary therefore for me to take the House through that rule once again. But what I do wish is to invite the attention of Honourable Members to the principle underlying that rule. Honourable Members must have noticed that the rule in question can, broadly speaking, be divided into two parts; the first part referring to matters connected with the relations of His Majesty's Government and of the Government of India with Foreign States or with Indian Princes and Chiefs, and the second part connected with the affairs of any such Prince or Chief or the administration of the territory of any such Prince or Chief. Now I am sure Honourable Members know that, generally speaking, the relations of His Majesty's Government, or of the Government of India with Foreign States, or with Indian Princes and Chiefs, as the case may be, are regulated not by legislation but by treaties entered into between the two parties. Moreover, I am sure Honourable Members, with reference to the second part of the rule, recognise that Indian Chiefs and Princes are heads of Sovereign States under the suzerainty of the British Government, and in consequence it is obvious on *a priori* grounds and on general constitutional principles that any interference by the Legislature of British India into the affairs of these Sovereign States would, generally speaking, and if I may venture to say so, rightly, be resented by those Princes. We should, I am perfectly certain, here in British India resent any interference by the Ruling Chiefs or Princes or by their Legislatures into the affairs of British India. These two principles I ask Honourable Members to bear in mind when dealing with the recommendation embodied in the Honourable Mr. Sethna's Resolution.

Sir, there is one more important consideration to which I ask leave to refer. Honourable Members are aware that the provision embodied in rule 23 and the corresponding rule connected with the right of interpellation is not a new one. That provision existed even in the rules framed under the Act of 1909 which embodied what are known as the Minto-Morley Reforms. Moreover, in so far as the future is concerned, almost every scheme of further constitutional development which has been formulated, not by those hopelessly impractical idealists who have put forward all sorts of unconstitutional paper schemes, but by sincere well-wishers of the country having respect for the constitution, I mean, Liberals and other constitutionalists, has fully recognised that, until the grant of full responsible Government to India, foreign and political affairs shall continue to be under the exclusive control of the Governor General in Council. I venture to think that this is as it should be. For, in the first place, relations between the British Government or the Government of India and Foreign States or Indian Princes, as the case may be, must continue to stand on an entirely different footing from any other constitutional problem. Honourable Members will remember that in response to the Resolution which I had the honour of moving in the old Imperial Legislative Council in the year 1915, India has already been admitted

[Dr. Mian Sir Md. Shafi.]

by His Majesty's Government as well as the Dominions into the Imperial Conference. Now, those of us who recognise—and I am sure the Honourable Mr. Sethna recognises it—that the future of India must lie within the British Empire, and that the position of India in relation to Foreign States must be that of an integral portion of the British Commonwealth, and foresee the future constitutional development in so far as relations with Foreign States are concerned

The HONOURABLE THE PRESIDENT: I must warn the Honourable Member that, if he travels beyond the scope of the Resolution, it will be quite impossible for me to confine other Members to its scope.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: I quite realise that position. Sir, but may I say that the point which I had before me when I was putting forward these arguments is that the relations of the British Government and the Governor General in Council with regard to Foreign States can find really no place in these rules, and, therefore, my Honourable friend's Resolution really

The HONOURABLE THE PRESIDENT: I merely desire to warn the Honourable Member of the danger of going beyond the scope of the Resolution.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: I shall confine myself to it, Sir. That being so, I venture to point out that it is inconceivable and, at any rate, in the highest degree improbable that any legislation will ever be introduced by the Government of India into the Indian Legislature concerning matters, to quote the language of the Rule, "affecting the relations of His Majesty's Government or of the Governor General or the Governor General in Council with any Foreign State," and, therefore, I submit that there is no occasion for any modification in this respect in the rule which my Honourable friend suggests.

Now, turning to the Indian Princes and their affairs and their administration, the basis of the Resolution which has been put forward by my Honourable friend, as has been frankly stated by him, is the Princes Protection Bill which passed through the two Houses of the Legislature only the other day.

The HONOURABLE MR. PHIROZE SETHNA: It passed one House of the Legislature, not two.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Yes, it was discussed in one House and passed through the other.

The HONOURABLE MR. PHIROZE SETHNA: That is now correct.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: In that sense it did pass through both Houses.

The HONOURABLE MR. PHIROZE SETHNA: The word you used was "passed".

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: The Bill passed through both Houses; I did not intend to use the word "passed" in its technical sense. Well, Sir, the principle which my Honourable friend seeks to enforce is this that, where any one of the matters described in this Rule comes within the cognisance of the Legislature, that matter ought to be subject to the right of interpellation and of moving Resolutions by Members of the Legislature. Well, Sir, let us in the first place see what the Princes Protection Bill actually does. Now, I venture to think that the effect of the Princes Protection Bill really does not fall within the four corners of the principle, the recognition of which my Honourable friend is seeking in his Resolution. All that the Princes Protection Bill seeks to do in effect is that the spreading of disaffection against a Prince or the bringing of a Prince into contempt or hatred by means of writings in British India should be an offence triable by our Courts. In this connection let me invite the attention of Honourable Members to the provision embodied in clause 3, sub-clause (2) of that Bill, This is how it runs:—

"No person shall be deemed to commit an offence under this section in respect of any book, newspaper or other documents 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."

It will thus be seen that, in so far as any maladministration in any Indian State is concerned, or, in so far as the actions of any Prince in relation to his State are concerned, there is absolutely no prohibition in the Princes Protection Act of *bona fide* comments or *bona fide* discussion of such administration or of such actions. I contend therefore that the Princes Protection Bill, which merely, strictly speaking, expands the provision of section 124 A, does not in itself come within the purview of the Resolution which my Honourable friend has moved to-day. For in itself it does not affect the relations between the Governor General and the Indian States or the Princes. Nor does it in itself in any way relate to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief. What it does is it makes the spread of disaffection and bringing into hatred or contempt of any such Chief in British territory by means of writings an offence in British territory triable by our Courts; and in consequence that Bill itself does not fall within the purview of the principle which my Honourable friend seeks to enforce by means of his Resolution.

But, Sir, I go still further and I say this, that the Bill has not yet been placed on the Indian Statute Book, as my Honourable friend himself has recognised. It has not become the law of the land, and therefore no occasion has yet arisen and no occasion may ever arise (Hear, hear) to enforce the proposition which is embodied in my Honourable friend's Resolution. Even supposing that this Bill becomes law, there may be no occasion whatever in future for enforcing that Bill.

The HONOURABLE MR. PHIROZE SETHNA: You are very sanguine.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: My Honourable friend's Resolution, or rather the recommendation embodied in my Honourable friend's Resolution is, therefore, premature and inopportune.

[Dr. Mian Sir Md. Shafi.]

There is one further consideration to which I wish to invite the attention of the House. According to section 129A of the Government of India Act, where any matter is required to be prescribed or regulated by rules under this Act, and no special provision is made as to the authority by whom the rules should be made, the rules shall be made by the Governor General in Council with the sanction of the Secretary of State in Council and shall not be subject to repeal or alteration by the Indian Legislature or by any local Legislature. And sub-section (3) of this section lays down that any rules to which sub-section (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days which that House has sat after the rules are laid before it, praying that any of the rules may be annulled, His Majesty in Council may annul the rule and that rule shall then be void but without prejudice to the validity of anything previously done thereunder.

Honourable Members are aware that in accordance with the provision embodied in this section the Rules, one of which my Honourable friend now recommends should be modified on the lines suggested by him in his Resolution, were laid before the two Houses of Parliament, were subject matter of consideration by the Joint Committee of the two Houses, and subsequently received the sanction of the Secretary of State. He and the House generally will, therefore, recognise that before this rule can be modified in the manner in which the Honourable Mr. Sethna wishes it to be modified, the proposal must first, in accordance with the provisions laid down in section 129A, be laid on the table of the two Houses of Parliament and must subsequently receive the sanction of the Secretary of State.

The HONOURABLE MR. PHIROZE SETHNA: Where is the harm in so doing?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: I ask my Honourable friend this question—Does he consider that the present is an opportune moment for doing so?

The HONOURABLE MR. PHIROZE SETHNA: Why not?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Well, I will not expatiate on that point. I will not dwell on that point any further, and I will say to him, can he not conceive that the Secretary of State might say there is no occasion for the modification of this rule and on that ground negative the recommendation which my Honourable friend seeks to make in regard to the proposal put forward.

The HONOURABLE MR. PHIROZE SETHNA: He has negated many other recommendations.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: And, therefore, there is the more necessity for care and caution in proceeding with regard to a constitutional matter of this importance. I would, therefore, submit that there is neither any occasion for the modification of such rule nor is this

the opportune moment for doing so. The Government of India have no desire to close the door on further constitutional development within the four corners of the Act which my Honourable friend seeks to obtain; but they consider that there is in the first place no occasion for the amplification or the modification which my Honourable friend seeks to effect, and they further think that the mere passage of the Princes Protection Bill has not in any way necessitated nor does it in any way require the modification which he has in view.

On these grounds the Government of India oppose my Honourable friend's Resolution. But before I conclude, as an Indian I should like to say this to my Honourable friend Mr. Sethna—Action at the psychological moment may be productive of results in regard to future constitutional developments, but action at an inopportune moment will not only end in failure but may and does very often prejudice the very object you may have in view when the proper occasion arises. I would, therefore, as an Indian, appeal to my Honourable friend to withdraw his Resolution.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, may I at this stage ask the Government Member for some little information in connection with his speech?

The HONOURABLE THE PRESIDENT: The Honourable Member may address the House and if when he has spoken the Member for Government is inclined to give the information he will doubtless do so in his reply, but at present the Honourable Member should address the House or rather the Chair.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I have heard with great interest the exceedingly illuminating speech of the Honourable Member who has just spoken on behalf of Government. As far as I am able to understand the Honourable Member, he laid emphasis on two points. The first is that our relations,—the relations of the Government of India, with the Princes and Chiefs are generally governed by treaties, and therefore it is not only undesirable but highly impolitic for this House to interfere with the treaty relations of the Imperial Government. The second point on which equal emphasis has been laid—and I have closely followed the Honourable Member—is this, that the Princes and Chiefs in their territory have their own sovereign and integral rights, have their own affairs to look after, and it will be undesirable for any member of this Council or the Indian Legislature to question any act of such Prince or Chief in this Council either by an interpellation or by a Resolution, and if such a thing is done it would be a violent interference, just as much as this Council would resent any interference by Princes or Chiefs with regard to matters relating to the Government of India. Now, I do not for a moment wish to state that there is no force in these arguments advanced by the Honourable Sir Muhammad Shafi, but I am afraid the Government has misunderstood to some extent the scope of this Resolution. If I have correctly followed Mr. Sethna's speech and if I have correctly grasped the purport of his Resolution, it is simply this, Mr. Sethna does not make an unqualified demand of any sort. His Resolution does not seek to give or confer an unqualified right of Resolution or interpellation in any matters in which limitations have been imposed by rule 23(1). The difference is this. Once the Government has initiated legislation, he wishes to remove a barrier in respect of the legislation already undertaken

[Sir Maneckji Dadabhoy.]

and not with reference generally to any matter affecting the relations of the Government of India with any Prince or Chief. If this difference is kept in mind, with great respect to Sir Muhammad Shafi, I entirely fail to see the force of the arguments that have been advanced by him in opposition to this Resolution. In the first instance, I may say that I am not sure whether such a practice prevails in England or any other European country. I do not for a moment—I may be wrong and my Honourable friend will correct me—think that once an important Bill has been introduced in the House of Commons, any member is debarred from moving a Resolution or asking a question in connection with the subject affecting the relations of His Majesty's Government with any foreign country. I am not aware of any such rule, and if there is no such rule in such an advanced and civilised country like England with its advanced Parliamentary institutions, if they have not thought it desirable to impose a restriction of this kind, I, Sir, fail to see why such a restriction should be imposed in this country. Then, Sir, after all, what is the power which this House has in the matter of Resolutions and questions? You are aware, Sir, and the House is fully aware, that when an interpellation is made on any matter, the Government may give a curt reply and say that the public interest does not permit the Government at that stage to make a statement on the question. It could easily fence itself and evade answering any question on the plea that public interests do not permit or that any undue criticism of any Native State has been sought to be introduced by such interpellation. In the second place, what is the effect of a Resolution? A Resolution, after all, even in these advanced Councils and under the Government of India Act, is merely a privilege of moving a recommendation which is of an advisory character. The Government of India is not bound to adopt the Resolution. The Government of India may evade giving a direct reply to the Resolution. I therefore do not think that the incalculable mischief, which has been referred to by Sir Muhammad Shafi, would result from the exercise of this power. There is another way of looking at the question too. After all, I am sure this Council and the Members of the Indian Legislature can be trusted to this extent, that they are not likely unnecessarily to interfere with the domestic affairs of the Indian Princes and Chiefs; but where such affairs are palpably inconsistent with the amelioration of India generally, I fail to understand what difficulties, what objections, there could be in bringing only those matters prominently to the notice of the Government of India. Sir, after all, will anybody say that the interests of Indian States, situated as they are within British India, are in any way different or in conflict with the greater interests of the inhabitants of British India? I say, Sir, that under the present constitution, whether it is of the Chamber of Princes, or the Council of State or the Legislative Assembly, all the members therein are working for one cause and with one object and motive and that object and motive is no other than the advancement generally of the country, and if a question is sought to be put or a Resolution is moved in this Council affecting a matter of which the Government of India has itself taken cognisance, I do not think it will cause such hardship or it will create such an annoyance as the Government Member has indicated. I am of opinion, Sir, that once the Government of India has taken cognisance of a measure or of a Bill, once the Government of India has vested itself with the right of moving a particular Bill or Resolution, it would be impossible and it would be iniquitous to hold the hands of the

Council and put a barrier and an impediment in the matter of moving a Resolution or asking a question, which might generally affect that matter. I am afraid, Sir, that in my opinion the real scope and extent of this Resolution has not been appreciated and I hope the Government will accept the principle underlying this Resolution, which, to my mind, does not overstep any healthy or salutary restrictions and limitations imposed under Rule 23.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I rise to support this Resolution, but at the same time I want to make it quite clear that I do not agree either with my Honourable friend Mr. Phiroze Sethna or my friend Sir Maneckji Dadabhoy in thinking that this House should have the power to make inquiries by interpellation or by moving Resolutions about the internal affairs or the internal administration of any Indian State. In making such a demand, I believe that both my friend on the right and Sir Maneckji Dadabhoy exceeded the limits of the Resolution. If they had confined themselves to the actual wording of the Resolution, as ruled by you, Sir, I think this difficulty would not have arisen, nor would the Honourable the Leader of the House have been obliged to intervene, and sound a very grave and serious note of warning. I think it was necessary, and sound a very grave and serious note of warning, because we do

1 P.M.

Sir, that this note of warning should be sounded, because we do not want to say anything in this House that would in any way appear to the Princes of the Indian States as interference in their internal administration. As the Honourable Mian Sir Muhammad Shafi put it, we would resent any interference in our work by them and their Councils. In the same way, they have every right, under the treaties, to resent any interference in their internal administration by this Council. Perhaps the Honourable Mr. Sethna was carried away by the details of the representation to which he referred. Even if that is so, he need not I think have referred to any Indian State, or to the alleged bad management thereof. We here have merely to look to the affairs of British India and the work done in British India, so far as it may affect the Indian States, or criticism of the Indian States made in British India. As the Honourable the Leader of the House has said, the Protection of Princes Bill is merely an amplification of 124 A and refers to the criticism in British India against the administration of Indian States—criticism which may be of a seditious nature. While agreeing with my Honourable friend in this and also taking note of the fact that this may not be the psychological moment to go to the Secretary of State for India for the amendment of the rules, which as a Member of the Government of India he ought to know more than we on this side of the House know, I yet think the Resolution which my Honourable friend Mr. Sethna has moved is in a way quite right and not premature as the Leader of the House has said. I will take the House back to the time when the Protection of Princes Bill was passed here. We felt, and I believe some of the Members of the Government also felt, that the Bill could be amended and made more suitable to the needs of the Indian Princes. But we felt that after the recommendation made by His Excellency the Viceroy under the certifying powers, it would not have been advisable to make any alteration. To meet that difficulty, we practically unanimously approved of the Bill and passed it, but I asked for an assurance that, as soon as the Bill was passed, the defects in the Bill would be remedied by the Honourable the Home Member, and that assurance was given by him. Now the practical difficulty under the existing rules which faces us is this, Sir. Supposing Government do not take any action

The HONOURABLE SIR MANECKJI DADABHOY: My Honourable friend, Sir, is going beyond the Resolution.

The HONOURABLE THE PRESIDENT: I think the Honourable Member is the one Member who has confined himself to the Resolution.

The HONOURABLE MR. LALUBHAI SAMALDAS: Thanks, Sir. If the Honourable the Leader of the House or the Government of India do not find time to attend to this question, it will be open to us, under section 60B, subsection 3, which governs the relations of the Government of India with foreign Princes or States, to bring in a Bill to remedy the defects in the Protection of Princes Bill. To do that we shall have to go to the Governor General in Council and get his sanction. If that course is open to us and if that sanction can be obtained, where is the objection to our moving a Resolution asking Government to remedy the defect? If a private Member can bring in a Bill to remedy the defect, is there any objection to his asking Government, through a Resolution, to remedy that defect? That is the difficulty that faces us in the way of moving these Resolutions. If this bar which prevents us from moving any Resolution on the subject were removed, we would be able merely to send our recommendations to the Governor General in Council, knowing full well that, as the Political Department is in possession of the treaties and knows all that is going on in the States, Government will be in a better position to prepare a Bill of such a character. I therefore want the Government of India very carefully to consider this proposal so that this bar, which prevents us from moving a Resolution, while section 60B allows us to introduce Bills, should be removed.

I will refer to one other Bill, not quite of a similar nature, but one where the rights of the Indian States were concerned. He will find a similar difficulty later on in regard to that Bill if we have to move a Resolution on the subject. I am referring to the Cotton Transport Restriction Bill. Under the treaty rights some Indian States have the right to export cotton to any British Indian ports. The House has passed the Bill which restricts these rights. Now, if we find later on that some of the clauses of that Bill should be amended so that the States which have the power under treaty rights to export cotton through British ports may be allowed to do so, we can do so very well by Resolution, and then leave Government to draft the Bill making necessary amendments in the Act. I therefore want that the bar that is put in in regard to moving Resolutions should be removed, but removed only in such cases where Government have sought our help in passing legislative measures. I do not want to go further, but where Government want our assistance in passing a Bill, surely they ought to leave it open to us to amend it either by a new Bill or by Resolutions, or by forcing their hands through questions. That is the reason why I support this Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir I cannot see the difference between the Kings outside India and the Kings inside India. If we take Afghanistan and Portugal, I think the kingdom of the Nizam of Hyderabad is so big that both these countries could fit into it. Every kingdom is a State and the same is true about the States in India. Sir, our King Emperor is only called Emperor because

he is King of Kings. If these are not kings, of course that is not quite right. Then, Sir, the same House that, after very careful consideration, passed a Bill, is going back on it to-day because in a way this Resolution practically will negative the same Bill which was passed. I think the House, when they have once passed a Bill, will not wish to go back on it.

The HONOURABLE SIR MANECKJI DADABHOY: Nobody wants to go back on it.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Then it is said the Princes should follow all that is done in British India. I say, God forbid if they did. I say it for this reason that in the States there is respect for law. Here we see laws broken every day and the same sort of legislators go and pass resolutions

The HONOURABLE MR. PRESIDENT: Honourable Members will now see the danger of going beyond the terms of the Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I only say, when we have passed this Bill in this House, I think we should not go back on it.

The HONOURABLE MR. J. P. THOMPSON (Political Secretary): The Honourable Mover of this motion, Sir, has, as you have ruled, travelled very far beyond the meaning that the ordinary reader would attribute to it. When I first read the Resolution, I saw that it was susceptible of two interpretations, but I could not believe that the Honourable Member would have desired to raise in such an ambiguous form the larger question which he wished to discuss this morning. I therefore proceeded on the assumption that the Honourable Member would discuss the Resolution interpreted in the way in which you yourself, Sir, have interpreted it, and, on that understanding, the Government of India have considered the line which they should adopt in dealing with it. Had the Honourable Member dealt with the Resolution on these narrower lines, I should, I think, have been able, and I still hope that I may be able, to give him the soft reply which would put us all at one again. But, if the other question which you have ruled out of order were to be raised, I can only say that I have no hope that, at present, or, so long as the constitution of India remains what it is, the Government of India would be able to hold out any promise of any concession. I am grateful, particularly grateful, to my Honourable friend Mr. Lalubhai Samaldas for his intervention in this debate. He has taken the same interpretation of the wording of the Resolution that we have taken, and, on that ground, I can meet him. I do not say that Government is prepared to give him what he asks for, because Government does not know whether the Honourable Member fully realises all that he asks, but they would, at any rate, be able to give him an answer which I trust would meet him and which would, to some extent, alleviate his apprehensions.

I do not propose to follow my Honourable friend Sir Maneckji Dadabhoy into the parallelism which he has sought to establish between the position in India and the position in England. I feel that, if I did so, I should be laying myself open to your censure. Nor do I feel able to follow him on another

[Mr. J. P. Thompson.]

matter which does come within the scope of the Resolution as I have interpreted it, namely, into that part of his speech in which he endeavoured to make out that what he was asking for was but a very little thing. He said that a Resolution has no binding force. No more it has, but it is the speeches that are made on a Resolution that count; it is in them that we get the words which wound and the phrases which cause heartburning and resentment. That, as regards the States, we wish to avoid.

The Honourable Mr. Lalubhai Samaldas referred to the assurances which were given by Sir William Vincent in the debate which occurred in this House last September. I will read to the House the assurance in the words in which it was given: "If this Act proves to be defective in its operation or there are any amendments which are found to be necessary, I give an undertaking that they will be considered by the Government of India in the most careful manner." Then he went on to say that the particular amendment, which was then under discussion, was not one in which he thought there was anything, but he promised to have it further examined later. That is the position. A question has been asked in this Council, I am not sure whether it is by the Honourable Mover, as to the intentions of Government in regard to giving effect to that assurance and an answer will be given, I understand, on the 26th of this month. The question had to be postponed owing to my absence with His Excellency the Viceroy on tour.

Now, Sir, I think I have cleared the ground and got back the Resolution to the meaning which I gave to it when I first considered it, and which my friend the Honourable Mr. Lalubhai Samaldas has put upon it. The Government of India is really grateful to the Council of State for the attitude they took up towards this Bill when it was placed before them under unusual and somewhat embarrassing circumstances last September, and the last thing in the world that Government want to do is to adopt an uncompromising attitude to what they regard as being in itself, on paper, not an unreasonable suggestion. The position is this, that Government has passed a measure giving protection to the Princes against the abuse of the right of criticism. It has provided certain safeguards which it hopes will be sufficient, but at the same time it is quite likely that, some time, some Honourable Member may wish to raise the question of whether Government have been using their powers under that Act in a proper way. As the rules stand at present, it would appear to be probably impossible for an Honourable Member to raise that question by Resolution or by formal interpellation. I say probably, because the mere fact that we are discussing this Resolution to-day shows, I think, that Government and that you, Sir, are prepared to place an elastic interpretation on those prohibitions. If the Government had insisted on a literal interpretation of Rule 23, I doubt very much whether, even in the form in which it has come before us, and certainly not in the spirit in which it has been discussed, this Resolution could have been brought forward. At the same time, as my Honourable friend Mian Sir Muhammad Shafi has pointed out, we have got to look at this question in a practical way. The Act has not yet come into effect. It will be time to talk about this Resolution, that is to say in the sense in which you have ruled that it should be discussed, when the Act is in force. We trust that the mere presence of the Act on the Statute Book will give all the protection that is required. If that hope proves illusory, we

may still hope that the prosecutions, the rare prosecutions, which will be undertaken, will carry their own approbation with them and that they will leave no room for criticism. That, at any rate, we can only know when the Act has been in force for some time. I have already referred to the interpretation which has been put on the rules which has permitted the discussion of this subject to-day and which has permitted the answering of a question which will come up for reply in the course of the next few days; and what I maintain and what the Government of India maintain, is that it cannot be contended at present that there is any practical necessity for making an amendment in the Rules. This practical point, as my Honourable friend Sir Muhammad Shafi pointed out, is one of great importance. We have not merely got to convince ourselves. We have got to convince the Secretary of State and Parliament, that the amendment is necessary—to convince them, that is to say, that there is something more than an academic case, an academic grievance. I have often found it useful in a matter of this sort, when there are two courses of action before me, to put myself in the position of a man who has adopted one of these courses, and subject myself, as it were, to cross-examination by hostile counsel. Let us assume that the Government of India have decided to make a recommendation to the Secretary of State in the terms of the Honourable Member's Resolution as interpreted by you. The Government of India is in the witness box. Let us assume that my Honourable friend is the hostile counsel. The Government of India has stated its case and the cross-examination begins. The first question is "You want to amend the rules?" "Yes." "Why?" "Well, an Act has recently been passed which may possibly land us in difficulties in this matter." "Is that Act in force?" "No." "Do you know for certain that it will come into force?" "Well, we have heard that a Resolution is to be moved in the House of Commons advising His Majesty not to give his assent to it." "Then where are the practical difficulties that you anticipate? Not only is it impossible that any practical difficulties should yet have arisen, but it has actually been shown that the rules have been interpreted in such a way as to make it unlikely, or at any rate, as little likely as possible, that such difficulties will ever arise. Where, therefore, is the necessity?" "Ah, well, one never can tell; it is always possible that difficult problems may arise and that we may find ourselves in a difficult position."

I cannot help thinking, Sir, that the cross-examining counsel—as my Honourable friend knows cross-examining counsels are not very kind to the people they are cross-examining—might refer to the well-known case of the White Knight. That immortal cavalier, as you will remember, Sir, insisted on tying to his saddle-bow a mouse-trap, not because he had ever heard or known of mice running about on a horse's back, but just in order to enable him to deal with them should they happen to do so. I feel, Sir, that that is to some extent the position in which the Government of India might find themselves if they tried to persuade the Secretary of State of the practical necessity of introducing this amendment into the Rules. But the cross-examination, I feel sure, would not stop there, because there are serious objections to the course which is proposed in the form in which it is recommended by the Honourable Member's Resolution. "You want to amend Rule 23(1)?" "Yes." "Rule 23(1) is divided into three heads (as the Honourable Member pointed out)." "Yes." "Then your amendment will affect all those three heads equally?" "That is so." "Then the effect of your Resolution would be to make it possible for this Council to discuss a prosecution under the Princes Protection Act while it was still before the

[Mr. J. P. Thompson.]

Courts." Well, you might say, "The Governor General could always step in to stop such a discussion under Rule 22". So he could, but is it sound political sagacity to propose an amendment which will put you in this position and make it necessary for you to call in the Governor General as a *deus ex machina* whenever you get into difficulties? I do not feel that it is. The advice we should get, I think, from the Secretary of State if we put up such a proposal before him would be to go away and think it over again until we had some practical experience to show exactly what difficulties we expected to face and exactly what proposals were necessary to obviate them. The fact is, Sir, that we do not know at present, and I think the wide range of the discussion that has taken place has shown this—we do not know at present exactly where the shoe pinches or whether it is going to pinch at all. The latitude which has been allowed in the interpretation of the Rules may be all that is required. But I am prepared to give an undertaking that if that latitude is not sufficient, Government may be prepared to consider the recommendation which the Honourable Member has made. We do not wish, as my Honourable friend Sir Muhammad Shafi said, we do not wish to close the door absolutely in the Honourable Member's face or in the face of any other Honourable Member who may sympathise with his suggestion; but my friend will realise that in touching on these particular constitutional reservations, we are getting on to rather dangerous ground, and we want to see clearly before us before we move forward. These Rules have been framed with deliberate care and reverence for the constitutional position by what I may call the united wisdom of India and England, and we should not, I think, lightly disturb them. Any amendment at present may carry us further than we wish to go and may carry us in the wrong direction; and what we want, what Government desire, is that before they take any step at all they may have the light of experience before them, to show exactly in which direction they are to move and how many steps they should take in that direction.

The HONOURABLE NAWAB SIR BAHRAM KHAN (Punjab: Nominated Non-Official):* Sir, I rise to oppose the Resolution which has been moved by my Honourable friend Mr. Sethna. Already the Honourable Sir Muhammad Shafi and the Honourable Mr. Thompson have sufficiently shown the impracticability of the Resolution. I agree with my Honourable friend Colonel Sir Umar Hayat Khan that when this Honourable House has passed the legislation after careful consideration in Simla last Session they should not undo it by this Resolution here to-day, as this will bring in lots of obstacles into the Bill already passed. The Ruling Chiefs are the Shields of the Empire and thus fully deserve protection at the hands of the Government with which they are bound by treaties which should be respected. This Resolution will uselessly wound the feelings of that loyal and tried body and will also create commotion and hitches in the way of legislation; for this reason I strongly oppose the Resolution.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, two very forcible speeches have been made on behalf of Government, and I think that it is a matter for serious consideration on our part whether, in view of the conciliatory attitude that has been taken up by

Government, we cannot come to terms. So far as the argument advanced on behalf of Government, namely, that the Princes Protection Bill was passed under very exceptional circumstances and there will be no occasion, at least there is none likely to be, to pass any similar Act in the near future, is concerned, I should say that that cuts away the very ground from under the feet of Government; because, in that case it would be open to us to say, "If there is going to be no occasion to pass similar legislation there will be no occasion for us to give notice of questions or Resolutions, and so you need entertain no apprehensions on that score." I, for one, see the force of the argument underlying the Resolution of the Honourable Mr. Sethna, namely, that it is not fair that when you pass a piece of legislation you should take away the right of the Legislature to question the wisdom of that measure at any time thereafter either by raising a discussion in the form of Resolution or by eliciting information in the form of questions. I think that the ground taken by the Honourable Mr. Sethna is very strong indeed, but on the other hand I quite realise, Sir, the force of the argument advanced on behalf of Government that after all it takes more than one party to make valid rules; Government and the Opposition must also be parties. Now, the Secretary of State in Council and Parliament must also be parties. I request my Honourable friend the mover of the Resolution to seriously consider whether this really is the time to make such a request to the present Secretary of State in Council and to the present Parliament. I can put it more explicitly, but I do not think there is any need to do it. We do not want to do anything which, instead of strengthening our case, would have a tendency to weaken it. Suppose a recommendation is made and the Government of India make rules for acceptance of the Secretary of State and Parliament, suppose it so happens that either the assent of the Secretary of State in Council is withheld or that Parliament is not prepared to give its consent to those rules, will it not, I ask the Honourable Mr. Sethna, instead of advancing our case, prejudice it for a certain period in the eye of the British Government? If this request goes up there and is refused, that will have a tendency unfortunately to prejudice our case. So, while entirely agreeing with the principle involved in the Bill, namely, that if you undertake legislation, you should give us an opportunity to discuss that, while perfectly agreeing with that principle and realising the force of the arguments of the Honourable Mover, if we are to act as practical men, especially in view of the conciliatory speeches made on behalf of Government by the Honourable Sir Muhammad Shafi and Mr. Thompson, who distinctly said that they had no desire to shut the door in our face, the Honourable Mr. Sethna should consider whether the real interests of this House and the country, as also of the subjects of the Ruling Princes, would not be better served by his withdrawing his Resolution.

The HONOURABLE MR. PHIROZE SETHNA: Sir, Honourable Members on the Government Benches have replied at length to this Resolution. In the course of their remarks I have not heard them deny the point which I made, namely, that the position as it exists to-day is an anomalous one. They have digressed and have tried to impress upon this House that they are alive to the fact that there is this anomaly, although they have not openly admitted it. Because of the assurance which has come from the Government Benches that they do not close the door to an amendment of the Rules in the manner I have indicated, I would perhaps be acting wisely if in due course I ask for the withdrawal of this Resolution, on the understanding, Sir, that Government, as they have said to-day, will take up the matter when the necessity arises.

* Translation of a speech delivered in the vernacular.

[Mr. Phiroze Sethna.]

Before sitting down, I would like to answer one or two points. Sir, my friend the Honourable Mr. Thompson appeared to think that perhaps my language was strong and that speeches count and words wound. I would like to point out to him that I have not referred to anyone in particular. All that I have said is that the Legislature might be allowed to refer to flagrant abuses or grievous wrongs. There was no intention on my part to refer to anyone Prince in particular. . .

The HONOURABLE MR. J. P. THOMPSON : If I may interrupt for one moment, Sir, I was not referring to the Honourable Member's speech. I was only referring to the possibilities that a Resolution might result in.

The HONOURABLE MR. PHIROZE SETHNA : I am obliged to my Honourable friend for his assurance that he did not refer to me. My Honourable friend took us through a long course of cross examination to prove, perhaps to his own satisfaction, that the witness in question had given away his case by admitting to the counsel for the other side that there was no exact necessity for the amendment at the present moment. May I ask what has been the practice of the Government themselves. Have they not times out of number if they have seen danger ahead, brought forward legislation? May I refer to only one instance, namely, the Rowlatt Act? May I ask the Honourable Members on the front Benches if under that Act one single prosecution did take place? Do not Government, therefore, try to look ahead? And what have I done? I have only asked Government to rectify a possible mistake which has evidently escaped them. That is all. But, Sir, as it is the wish of my friends in this Council who are in entire support of my Resolution, I am prepared to give Government a chance to put matters right in due course, I will therefore accept the advice of my friends and the advice of Government in the full hope that they will rectify the mistake in proper time.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI : Sir, I am glad that my Honourable friend Mr. Sethna has decided to follow the course which we on this side of the House advised that he should follow. All I can say is this, that there is nothing unreasonable in the recommendation embodied in the Resolution from a general point of view, that is to say, that where the Government itself has introduced legislation, in so far as the extent of that legislation is concerned, the right of interpellation and the right of moving Resolutions should be extended. But as yet no occasion whatever has arisen for a modification of the rule on the lines suggested by my Honourable friend with regard to the Princes Protection Bill, and I am prepared to say this, that at the proper moment Government will be prepared to give their most careful consideration to the desirability of modifying the rules on the lines suggested.

The HONOURABLE THE PRESIDENT : Before I ask whether the Council will grant leave to the Honourable Mr. Sethna to withdraw his Resolution, I desire to make one remark. In the course of the debate it was said that there might be elasticity in interpretation of the rules. I may assure the House that in so far as the interpretation of the rules rests with me, there will be no elasticity—neither on the one side nor on the other; I shall endeavour in the future as in the past to form my own impression as to the meaning of the rules to the best of my judgment and on that impression, I shall act. [Hear, hear.]

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

RESOLUTION RE RECOMMENDATIONS OF THE COMMITTEE ON INDIAN ARMS RULES.

The HONOURABLE THE PRESIDENT : Perhaps the Honourable Lala Sukhbir Sinha may find it convenient just to move his Resolution formally so that we may postpone the discussion till Monday as there is very little on the paper for that day. If that is convenient to all concerned, perhaps the Honourable Member will move it formally.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I beg to move that :

"This Council recommends to the Governor General in Council to give immediate effect to the recommendations of the majority report of the Committee on Indian Arms Rules with the following alterations :

1. That in paragraph 3, entry 1 (a), the Members of the Provincial Legislatures should also be exempted.
2. That in entry 6 (g) :
 - (a) all Zamindars who pay Rs. 3,000 or over as land revenue in the Agra province, should be exempted;
 - (b) that Heads of Joint Hindu families, who pay Rs. 3,000 or upwards as land revenue, should also be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it.
3. That entries 11, 11 (a) and 11 (b) be retained and all future title-holders, etc., should also be exempted.
4. That in paragraph 4 all Magistrates, stipendiary or honorary, Honorary Munsiffs and Honorary Assistant Collectors and other gazetted officers should be exempted.
5. That in paragraph 5, no restrictions be placed on the possession of firearms by exemptees who should be required to have them registered.
6. That the following be included in the entitled class :
 - (a) All Members of the Imperial as well as Provincial Councils;
 - (b) Barristers, Pleaders, Vakils of High Court of 5 years' standing;
 - (c) Professors, Readers and Lecturers at Colleges affiliated to an Indian University;
 - (d) M. As.;
 - (e) B. As. of seven years' standing."

The HONOURABLE THE PRESIDENT : The discussion on the Resolution which has just been moved by the Honourable Lala Sukhbir Sinha will be taken on Monday.

The Council then adjourned till Eleven of the Clock on Thursday, the 22nd February, 1923.

COUNCIL OF STATE.

Thursday, the 22nd February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

THE CRIMINAL LAW AMENDMENT BILL LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table the Bill further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings, which was passed by the Legislative Assembly at its meeting held on the 21st February.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received from the Secretary of the Legislative Assembly, which runs as follows:

"In accordance with Rule 36 (1) of the Indian Legislative Rules I am directed to inform you that the amendment made by the Council of State in the Bill further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments, was taken into consideration by the Legislative Assembly at their meeting to-day, the 21st February, 1923, and that the Assembly have agreed to the amendment."

THE WORKMEN'S COMPENSATION BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, as passed by the Legislative Assembly and amended by the Council of State, be passed."

When introducing this Bill to this House I explained that it was an experimental measure, that a great deal of care had been lavished upon its provisions and that in this Bill we were breaking a new field in labour legislation in this country. I think the debates in this House have shown how difficult it has been in spite of that care to word the Bill absolutely to the liking of everybody and how difficult it has been to work out the details of such a measure. On these points I can only say, Sir, that, in applying legislation of this nature to labour which in such a condition as it exists in India recognising liability to move away to its villages, and at the same time being fair to the employers of labour who are taking on the first responsibility to pay this compensation,—I can only say that in applying this legislation we have endeavoured to the best of our ability to thresh out

[Mr. D. T. Chadwick.]

these details so as to be fair to all and it now remains for us to find out by experience how they work. Everybody realises that as a result of that experience amendments in this Bill in some form or other will undoubtedly be necessary. The object of the Bill is not to set labour against capital, not to urge or give openings for one section of those employed in industry to overreach another, but to endeavour to settle labour and to make the conditions of labour more stable so that ultimately, as I said before, we may be able to build up a stable labour force in this country. Any improvements or alterations that are needed in this Act in order to further that object, which is the main central object of all legislation of this nature, will, I have not the slightest doubt, be most carefully considered. We know that some sections are apprehensive of certain conditions, but we trust and expect that their apprehensions will prove in experience not to be so deeply founded as they fear. At any rate, if amendments after experience are needed, they will be examined. With these remarks, I move that the Bill be passed.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, when on Tuesday last the Honourable Mr. Chadwick moved that this Bill, as passed by the Legislative Assembly, be taken into consideration, I, in common with most Honourable Members of this Council, accorded it a sincere welcome; it is with an equally sincere regret that I cannot extend to it a cordial valediction as it leaves this House.

The Bill as presented to us last Tuesday appeared to me to be a well-conceived measure. It had been carefully studied by a powerful Joint Committee and had subsequently been considered and adopted in the Legislative Assembly. Honourable Members may, therefore, well judge of my surprise when I saw an amendment put in by Government abrogating the judgment of the Joint Committee in respect of clause 11. Honourable Members will at once recognise to what I refer in this clause 11, and that is the medical examination of an injured workman. I should like those Honourable Members who have not carefully studied the clause as it now stands amended to realise what will be the effect of the various sections now. Sub-section (1) provides for the medical examination of an injured workman. Sub-section (3) modifies this by permitting an injured workman to leave the vicinity where he was injured, to go to his native country, subsequently return, present himself for medical examination and then he can claim compensation from the date of his medical examination. I did not like this section, Sir, but I did not strenuously oppose it, as it is also governed by sub-section (5) [which will be sub-section (6)] which provides that the medical examiner has power to determine what additional injury has occurred to the workman by reason of neglect. Now we come to the recently introduced sub-section (4), and that provides for compensation being paid to dependants of the workman who has died up-country without undergoing any medical examination whatever. I contend, Sir, that this Council has never had a Bill before it containing such contradictory clauses. Sub-section (1) provides for the medical examination of an injured workman; then we come to sub-section (3) which provides that he can go away without being medically examined, but it does certainly provide that he should be medically examined afterwards before he can claim compensation. Sub-section (4), the new sub-section, provides nothing in the way of a medical examination. So I contend, Sir, that this clause

as it now stands, invites the workman not to present himself for medical examination at all. He can get compensation both ways. He can go away to his country; if he recovers, he comes back and claims compensation for the injury. He can go away to his country, and if he dies, his dependants can claim compensation also. No doubt Government will point out that the Commissioner has discretionary powers in this matter. But I ask Honourable Members what Commissioner is likely to refuse to pay compensation, a claim for which is put forward by the dependants of a man who has died up-country, a man who may or may not have been known to have been injured? The cause of his death is entirely unknown. It may or may not have arisen from his injury; it may have been from some totally different cause altogether. Labourers in this country are extraordinary people to deal with. I have found that on many occasions. Labourers in this country—I do not say it does not obtain in other countries, probably it does,—labourers in this country are well-known as being able exponents of malingering. Now I can well conceive such a thing as this happening in connection with this sub-section (4). A man working in a factory finds that he is suffering from an incurable ailment, it may be cancer or may be anything else that is incurable. He knows he is going to die. Either he or his relations conceive the idea of securing some money. He procures a small accident, he gives notice of this accident, goes away up-country, and in due course he dies. Claims are received by the Commissioner on his death, supported by a medical certificate that his death arose out of the accident which occurred before he left for his country. Well, Sir, I do not place very much faith in medical certificates in this country, and I think that Honourable Members will agree with me that too much dependence cannot be placed on such documents. That, I merely quote, Sir, as one of the ways in which the sub-section (4) will provide a very wide opening for fraud. In objecting to this sub-section, I submit I am not arguing against the interests of the workmen. This Bill is a progressive Bill, it might be described as an educative Bill, and I do not see why it should not be used as a method of educating the workmen so that they may take advantage of the medical assistance offered to them immediately they are injured. This, Sir, was undoubtedly the intention of the Joint Committee when they considered this Bill, and as a Member of that Joint Committee I repeat that that was our intention.

I will not labour this point any further, Sir. I spoke on this subject on Tuesday last, but I should like to say one word more before I resume my seat. The Honourable Mr. Chadwick when presenting this Bill for consideration on Tuesday last informed the House that the Bill, as originally drafted, was circulated to the various Provincial Governments and to various bodies throughout this country for their opinion. If I remember rightly, the Honourable Mr. Innes confirmed this when he spoke. This action on the part of Government was a very right and proper one. Now, Sir, I contend, is it right and proper for Government to have now amended one of the most important clauses of this Bill by introducing a sub-section, which to my mind is a most objectionable sub-section, and which has not been circulated throughout the country nor has been placed before the various Provincial Governments and various bodies interested for their opinion? Nor was this sub-section even discussed in the powerful Joint Committee which sat on this Bill. Sir, I should be the last to wish to describe any action on the part of the Department of Commerce as unfair. To my mind, such a description is unthinkable in connection with the Department presided over by the Honourable Mr. Innes and his able lieutenant

[Sir Arthur Froom.]

the Honourable Mr. Chadwick. But I do think that on this occasion the Department of Commerce has been wrong, and entirely wrong.

Sir, I do not propose to oppose the passing of the Bill, but I sincerely hope that Government will take the opportunity in another place of putting this matter right.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, as one who has taken some part in the revision of this Bill in the Joint Select Committee, I am glad that I am here to-day to give my blessing to this Bill when it enters on its final career. This Bill, Sir, makes a great innovation in the labour history of this country. It places India on a footing of equality with other European and advanced countries of the world in the matter of labour legislation, and also in the matter of imposing salutary restrictions on the employers of labour to give help, solatium, comfort and security to their workmen. As such, the Bill will be received in this country, if not with enthusiasm, with a friendly spirit. Speaking on behalf of capital, I may say that the capitalists in this country have hitherto been always zealous and watchful of the interests of labour and, even before this legislation was thought of, every capitalist or the head of a business concern or industry deemed it his duty to compensate his workmen for injuries sustained. This legislation only puts on a statutory basis the rights of workmen to receive compensation and, as such, it places the working classes in a position, not to dominate as some people think over capital, but to exact what is their just due as working men. Viewed from that point of view, this legislation is of an exceptional character and is, therefore, welcomed not only by the labour classes but by the capitalists, who will do everything in their power, I feel certain, to see that the Bill is properly administered. My friend Sir Arthur Froom has referred to section 11 and made certain observations with reference to it. I feel I can also quarrel with some of the provisions of this Bill, but this is neither the time nor the opportunity. The Bill comes to-day for final reading, at a stage when this sort of discursive argument in my humble opinion becomes entirely irrelevant. After all, this is partly an experimental measure. No legislation is ever free from ambiguity and defects. No country can frame any piece of legislation or any Bill that would not cause dissatisfaction to a certain extent, which would not be found difficult to work in certain parts. No legislation can be conceived which would satisfy all parties, but, taking it as a whole, I think the Workmen's Compensation Bill, which is now about to be passed, is a great improvement in many respects on similar Bills of other countries. It is a much milder measure than the European countries have passed, and than even the legislation in Japan. It is a partly experimental measure and, as such, certain provisions have been incorporated which will allay friction, which will remove discontent and be generally acceptable to the employers and the employees. Sir, I cannot allow this opportunity to pass without making one particular observation. The credit of framing this Bill, such a mild, just and fair Bill, is entirely due to the Honourable Mr. Innes. I cannot help expressing that the Members of the Joint Committee watched with admiration his mastery over the subject when he guided their deliberations, and the help which he gave them in considering this Bill. But the great thing is that, throughout those interesting discussions, Mr. Innes held the fair and just balance between labour and capital and zealously watched the respective interests of both these classes.

On behalf of the Joint Committee, I thank here publicly Mr. Innes for the great and valuable assistance he has given them and I trust this Bill, when passed into law, will be utilised with great circumspection and the Commissioners who will be appointed to administer this law will administer the same with that fairness and with that restraint which the importance of the measure demands. With these few words, Sir, I support this Bill at its final stage.

The HONOURABLE SIR ARTHUR FROOM: May I rise to a point of order, Sir. The Honourable Member who has just spoken has described my recent discussion as irrelevant.

The HONOURABLE THE PRESIDENT: I am afraid that is not a point of order.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I just want to put an incident before the House which occurred during the debate on the Bill. When this new clause was brought in, I wanted to get up that day to strongly support my friend Sir Arthur Froom on the point that, if a man has just got shaken about and went to his home, he might get plague or pneumonia or anything and die and then the employer would have to pay compensation. I wanted to get up but I did not catch the eye of the President. Later on, the Honourable Mr. Innes rose and when he put his arguments before the House, I was very glad that I had not got up. The argument that the workmen, when they get injured, want to go back to their homes, at once struck me. In our part of the country, we have got an old habit or tradition that a man who dies has got to be taken to his ancestral graveyard. I have seen myself that people have been brought in from Quetta, from Kabul, from Poona and so on. Now, if a man who has got this tradition, on meeting with an accident thinks that he is going to die of it, and that all the compensation given him will not cover the cost of his body being taken to his ancestral graveyard, he will be very nervous. He would like to get back there as soon as he can to save his people that expense. I quite sympathise with those who think that, if they are going to die, they should clear away to their homes as soon as they can. Under the circumstances, I am now absolutely of opinion that that clause has been brought in rightly and it is only on that point that I wanted to speak because the other day I did say that I neither support the Bill nor oppose it.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, as my Honourable friend Sir Arthur Froom is unable to speak for himself, I am glad to put in a word in his defence. It seems to me that his speech cannot properly be described as discursive or as irrelevant. He was making a suggestion, as I understood him, for future action on the part of Government. That it appears to me he is perfectly justified in doing. Sir, I share the distrust which my Honourable friend has for medical certificates, and not only in this country, but I would venture to suggest to him that it is quite probable that the Commissioner who is the final arbiter in this particular matter would also share his distrust and it may be left to him to see at any rate to this much as to who gives the medical certificates and if he distrusts it, as he most assuredly will in many cases, he will be able to look into other evidence such as the cause and nature and extent of the accident and see whether in the ordinary course of nature it is likely to result in death. I imagine that will provide a sufficient safeguard against the danger which my Honourable friend

[Sir Leslie Miller.]

Sir Arthur Froom fears. But there is no objection whatever, if that can be arranged, for the Government to reconsider the matter further elsewhere.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, may I offer a word of personal explanation? I may assure my Honourable friend Sir Arthur Froom that I meant no disrespect to him in any way when I said that the discussion was irrelevant. I am afraid my remark has been misunderstood. All that I said was that to-day is the third reading of the Bill and he could not serve any useful purpose in discussing these questions now. The proper time was when those clauses were under discussion. That is all what I meant.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): Sir, my Honourable friend Sir Arthur Froom has given expression to the feeling of regret at Government's moving an amendment to the original Bill, that is, introducing new sub-clause (4) to clause 11. When this amendment was moved I had my own doubts whether the Commissioner had the discretionary power of the kind that my friend the Honourable Sir Leslie Miller just now referred to. The wording of Government amendment was not quite clear, and therefore it was that I begged your permission to move an amendment to make the whole position quite clear. The Government were prepared to accept it, but you, Sir, ruled it out on the ground that notice was not given in time.

The HONOURABLE THE PRESIDENT: I ruled it out because the Government refused to agree to the moving of a previous amendment to the same clause on the ground of want of notice.

The HONOURABLE MR. LALUBHAI SAMALDAS: If the notice was short, it was partly my fault, but it was partly also the fault of Government that they amended their amendment at the last moment. I still think, Sir, that if that amendment can be allowed to be moved by you, it will remove all the difficulties that my friend Sir Arthur Froom feels. May I read the amendment, Sir?

The HONOURABLE THE PRESIDENT: On the third reading of a Bill, two classes of amendments and two classes of amendments only can be moved, namely, (1) formal amendments, that is, amendments which do not change the substance of the clause but are in the nature of drafting amendments, and (2) consequential amendments, that is, amendments which have to be made in some other part of the Bill as a result of an amendment made at the consideration stage. If the Honourable Member's amendment is in his opinion within either of those classes, he may read it to the House.

The HONOURABLE MR. LALUBHAI SAMALDAS: May I explain my position, Sir? The amendment that I propose to move is, of course, not a consequential one.

The HONOURABLE THE PRESIDENT: It must be either formal or consequential.

The HONOURABLE MR. LALUBHAI SAMALDAS: I think it is formal to some extent. I think it is formal, but it will be for you, Sir, to rule whether it is formal or not. When I moved that amendment, my Honourable friend Saiyid Raza Ali who followed me, said, that the amendment moved by the Honourable Mr. Chadwick had the same meaning that I

wanted to put into it by my amendment and I thought that as a lawyer he knew much better about the interpretation of the clause than I did, and so I accepted it. I still think, Sir, that it would be better to remove any misapprehension by making a verbal alteration which will make the meaning quite clear. May I just read out my amendment, Sir?

The HONOURABLE THE PRESIDENT: Certainly, but the Honourable Member should have handed in a copy of the amendment at the table. He can read the amendment after he has laid a copy on the table. In the meantime, while the Honourable Member is doing it, the debate may proceed.

The HONOURABLE MR. LALUBHAI SAMALDAS: My amendment is here. May I lay it on the table, Sir?

(A copy of the amendment was then handed in at the table and was passed on to the President.)

The HONOURABLE THE PRESIDENT: Will the Honourable Member now read his amendment?

The HONOURABLE MR. LALUBHAI SAMALDAS: The clause as amended will read thus:

"Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may *(then I drop out the words 'if he thinks fit')* direct the payment of so much compensation as he thinks fit to the dependants of the deceased workman."

The HONOURABLE THE PRESIDENT: In the first place, before I consider the question whether this is an admissible amendment, I should like to know from the Government Benches whether they object on the ground of want of notice.

The HONOURABLE MR. D. T. CHADWICK: No, Sir.

The HONOURABLE THE PRESIDENT: Then I should like to hear the Honourable Mr. Lalubhai Samaldas on the point as to whether this is a formal amendment.

The HONOURABLE MR. LALUBHAI SAMALDAS: I thought, Sir, that the wording of the amendment of the Honourable Mr. Chadwick did not make it quite clear whether the Commissioner had the power to reduce the compensation or whether he was bound to pay the whole of it.

The HONOURABLE SAIYAD RAZA ALI (United Provinces East: Muhammadan): May I know to what clause the amendment relates?

The HONOURABLE MR. LALUBHAI SAMALDAS: To clause 11, sub-clause (4), as passed at the time of the second reading of the Bill. My Honourable friend Mr. Raza Ali then said that the Commissioner had that discretion. If we refer to the definition of the word "compensation" it means compensation as provided for by this Act. That means full compensation and nothing else. I therefore wanted to make it quite clear that the Commissioner has the discretionary power to reduce it if he thinks that the workman has been either negligent or that the cause of his death is not directly attributable to the accident. That was the reason why I wanted to move this amendment in order to make the whole meaning quite clear. I think that as this amendment is to make this quite clear, it is a verbal amendment.

The HONOURABLE THE PRESIDENT: I wished to ascertain whether this amendment is a formal amendment or not. I think I must ask the Honourable Member in charge to tell me what the intention of his new clause was. Was the intention as stated by the Honourable Mr. Lalubhai Samaldas or not? It is not too clear from the actual clause.

The HONOURABLE MR. D. T. CHADWICK: The idea in drafting this amendment was to give the Commissioner discretion to decide whether to grant compensation or not, and if he decided to grant compensation, the compensation was that defined by the Act.

The HONOURABLE THE PRESIDENT: Then, in these circumstances, I think the proposed amendment is a clear alteration of substance, because the amendment, as I read it, is that the Commissioner may not give more than the maximum prescribed by the Act but he may give less. If that is so, it is not a formal amendment. If the intention of the Mover of the original amendment was as stated, then the present proposition is not a formal amendment. It is an amendment of substance and therefore it cannot be moved at this stage.

The HONOURABLE MR. LALUBHAI SAMALDAS: Can I not move it, Sir?

The HONOURABLE THE PRESIDENT: It cannot be moved. It is obviously a change in the law if the intention was as stated.

The HONOURABLE MR. LALUBHAI SAMALDAS: I bow to your ruling, Sir.

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): Sir, as Sir Maneckji Dadabhoy has said—may I take this opportunity of thanking the Honourable Member for his very kind reference to myself?—as Sir Maneckji Dadabhoy has said, this is hardly the stage for controversy and argument. But with the permission of the Council I must make a brief reference to certain remarks which fell from my Honourable friend Sir Arthur Froom. In the first place, Sir Arthur Froom suggested that the Government had no right to move an amendment of this kind without previous reference to Chambers of Commerce and Local Governments throughout India. He said that we had claimed that this Bill had been drafted throughout in close consultation with Local Governments and Chambers of Commerce and that it was wrong for us at this stage to have introduced an alteration of substance without giving the Chambers of Commerce and employers a chance of objecting. Now, Sir, I must challenge that supposition at once. Let me remind the Council that at the suggestion of the Joint Committee when we omitted certain clauses of the Bill which are as important, it may be, from the point of view of the workman, it was never suggested to us that it was not within our power and within our right to make those suggestions and propose those alterations without previous circulation to workmen. Now, Sir, what did I do? I gave ample notice of this amendment. I put in a notice on Friday last to the best of my recollection; I gave longer notice than is required by the rules. I placed that amendment before this Council. It was fairly and squarely debated by this Council and the Council decided against Sir Arthur Froom and his friends. The complaint of Sir Arthur Froom, I suggest, is not against me but is against this Council which rejected his view.

Again, Sir, Sir Arthur Froom suggested that this amendment which is the cause of his complaint abrogated the decision of the Joint Committee. Here again I join issue with the Honourable gentleman. When the Bill left the Joint Committee it provided that a workman was required within three days to submit himself to medical examination, if the employer required him to do so. Clause 2 of the Bill then stated that if a workman refuses to submit himself to such examination his right to receive compensation should be suspended during the continuance of such refusal, unless in case of refusal he was prevented by any sufficient cause from so submitting himself. If such sufficient cause existed, the Commissioner had the power to give compensation. Where is the difference? Where is the difference between the Bill as it left the Joint Committee and the Bill as we have it now? The only difference we have made is that we have clarified the position and we have made it easier for employers and workmen to understand where they are.

I do not propose, Sir, to go further into the merits of this clause; as the Honourable Sir Maneckji Dadabhoy said, the time is past for that and I have no doubt that in another place I shall be called to account and the matter will be debated there. I think I need only say, as Mr. Chadwick has already said, that from the first we have regarded this as an experimental Bill. It is too much to hope that we can so draft this Bill that its provisions will please everybody and all classes alike. All the way through we have tried our very best to hold the balance even between the employer and the workman. In some cases the workmen think that we have weighted the scale down on the side of the employer, and in some cases the employers think that we have weighted the scale down on the side of the workmen. I am afraid, Sir, that in a Bill of this kind such complaints must be inevitable. My only regret is that this controversy has arisen at this late stage; for all the way through we have tried to proceed by means of consent and we have succeeded, I think, except possibly on this one point, to a very remarkable degree. I would remind my Honourable friend that the Bill is a Bill which must be tested by experiment. It is perfectly certain that experience in working will bring defects to light. This particular point will be watched most carefully and in addressing local Governments we will draw particular attention to the criticisms that have been directed to this clause; we will ask the Commissioners to watch it very very carefully indeed and to make a reference to it in their annual reports, and the Council may rest assured that if we do find that the dangers which the employers feel do exist in this clause—mind you, Sir, I do not admit that those dangers are so serious as have been represented—but if we do find by experience that there is danger of fraud in this particular clause, the Council may rest assured that we shall not hesitate to place before the Legislature such amendments as may be necessary.

The motion was adopted.

THE INDIAN FACTORIES (AMENDMENT) BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be taken into consideration."

This is a very small Bill to clarify one or two points left obscure by the Amending Act. The chief point with which we deal arises through a certain arithmetical difficulty from the combination of sections 2, 22 and

[Mr. D. T. Chadwick.]

27 of the Indian Factories Act, as last amended. Section 2 defines a week as the period between midnight on Saturday night and midnight on the succeeding Saturday night. Section 22 ensures that every person employed in a factory should have Sunday as a holiday unless he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding that Sunday. Section 27 provides that no person shall be employed in a factory for more than sixty hours in any one week. Now, if there is a Hindu holiday on Friday and the employer gives his employed a holiday on that day instead of the subsequent Sunday, according to our present definition of a week, the employed will have to work 50 hours in one week and 70 hours the next week. This last would be contrary to section 27 of the Act, although, taken as a whole, he has only done 120 hours in two weeks. That is the chief amendment proposed in this Bill and in fact is the only important amendment, *viz.*, where in accordance with the provisions of sub-section (1) any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week. I do not think there is anything controversial about this amendment or any of the others which are purely of a drafting nature.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I should like to have some information on the principal point which has been raised in this small Bill before the House. I should like to know how many more holidays it will be necessary for the employer to give to the workmen if this amendment in the Factories Act is not made. As a member of the Joint Committee which considered the amendment of the Factories Act, I asked this question and was told that the additional holidays would be only four or five days in the year. I do not see why for such a small addition of 4 or 5 days throughout the whole year, it should be thought necessary to amend the Factories Act. As was pointed out just now, if an employer gives Friday as a holiday then in order to comply with the new provisions of the Factory Act, namely, that for not more than 60 hours a "week" will a workman be compelled to work in the factory, this amendment has been found to be necessary, unless an additional holiday is to be allowed. I contend that if that amendment is not made the only result will be that three or four additional holidays will have to be given in the course of the whole year. I should like to know if that is the only result that is going to take place, and if this amendment is proposed in order not to compel employers to add to the workman's holidays.

The HONOURABLE MR. C. A. INNES (Commerce Member): May I explain, Sir, that the object of this small Bill is merely to carry out the intentions of the Legislature when the Indian Factories Act was amended last year. The intention of the amendment made in the Factories Act last year was to provide this weekly rest day once a week. It was also intended that an employer should be allowed to substitute for a Sunday a holiday either on one of the three days preceding that Sunday or on one of the three days succeeding that Sunday. The intention of that was to allow the employer in the interests of his workmen to substitute for a Sunday an important religious festival, if such an important religious festival occurred in the three days before the Sunday or after the Sunday. The intention of the Act was to provide for at least 52 holidays in the year. I understand that some employers usually give 56 or 57 holidays in a year

and that if we left the Act as it now stands, it would not make a difference of more than 4 or 5 days' holidays in the year. But, Sir, that is not the point. The reason why Government have brought this Bill forward is that, in fairness to the employers, we want to carry out clearly what the express intention of the Legislature was last year. If, Sir, we do not carry this Bill, if we leave the Act as it is at present, what will be the result? The result will be this. An important religious festival may occur on a Friday or a Saturday. The workman may want to have their weekly holiday on that Friday or Saturday instead of the Sunday; they may want their holiday on the day of their religious festival. If we leave the Act as it is, then there is nothing to compel the employer to give them that holiday on that particular day. He may say, "No, I am required by law to give you a holiday in the week and you will have your Sunday and not the day of your own important religious festival". Now, Sir, what will be the result? The result will be strikes and struggle. Is that right? As I have said more than once, in dealing with the Workmen's Compensation Bill, it is the duty of the Government to try and hold the balance even between the employers and the workmen, and the only object of this Bill is to carry out the express intention of the Legislature. I am bound to state, Sir, that when we passed this clause last year, we overlooked the cumulative effect of the definition of section 22, and the definition of week. We made a mistake, and it is only right, it is only honest, for Government to come before the Legislature to say, "we made this mistake, and therefore we have brought forward this small Bill". I say, Sir, it is not relevant for the Honourable Member to say, "If you do not carry this Bill, the only result will be that you will compel the employer to give more holidays and that will be a good thing." It will not be a good thing, it will be a very bad thing, because the employers will say that they have not been treated fairly by the Indian Legislature.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I entirely endorse what the Honourable Mr. Innes has said with reference to the amendment of this Bill. This amendment of the Factory Act will remove the employers of labour from a great dilemma in which they are at present. It often happens that an important Hindu or Muhammadan festival comes on a Sunday, and the employers of labour, in order to meet the wishes of their employees, transfer the holiday to another day. This amendment, therefore, is really in the interests of the employees whose cause my Honourable friend Mr. Kale is always advocating in this Council. My friend has made one pertinent remark. He asked, "what difference would it make if the employees got two or three extra holidays in the year?" If calculations are properly made, he will find that it is more than two or three holidays they will get in the course of the year if the Act is not amended. Probably, my friend Mr. Kale is not aware of the fact that the employers cannot be expected to pay house-rents, wages, etc., to the workmen for work which they have not done, and that will entail considerable hardship on various industries. I say, Sir, this amendment is absolutely necessary and it has been taken in hand in time both in the interests of the employers and the employees. This amendment will remove a source of constant friction between the employers and the employees.

The motion that the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be taken into consideration, was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill.

Clauses 1 to 5 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. D. T. CHADWICK: I beg to move, Sir:

"That the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE HINDU CEREMONIAL EMOLUMENTS BILL.

The HONOURABLE THE PRESIDENT: The Council will now resume the consideration of the Bill to amend the law relating to the right of hereditary Hindu Priests to claim emoluments in respect of religious ceremonies. This debate was adjourned on the 15th September last year.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-official): Sir, before the consideration of this Bill is resumed, I should like to know whether the Government will kindly declare their attitude with regard to this Bill and the amendments to it. The Honourable Mian Sir Muhammad Shafi speaking for Government on the last occasion said that the attitude of Government was entirely neutral from which, to my mind, it seems that all Members of Government sitting in the House will vote according to their conscience, and that they will have no directions to vote one way or the other.

The HONOURABLE THE PRESIDENT: Is the Honourable the Leader of the House prepared to give an explanation?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, the House will remember that on the last occasion when this Bill was under discussion, I declared on behalf of the Government that their attitude was entirely neutral. That means that while Members of the Executive Council will not take part in the voting, other official Members can vote as they like.

The HONOURABLE MR. G. S. KHAPARDE: Do you mean both with regard to the amendments and the Bill?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: The amendments stand on an entirely different footing.

The HONOURABLE MR. G. S. KHAPARDE: Will the Honourable Member kindly tell us what Government's attitude is with regard to the amendments?

The HONOURABLE THE PRESIDENT: The motion for consideration of the Bill has not yet been agreed to.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-official): Sir, I wish very much that I was able to speak in support of the Bill as submitted to the House. For reasons which are based on my convictions, as a Hindu I would very much like to see some of the fetters that exist at present on Hindus either relaxed or removed. But the Bill as it is submitted to this House appears to me to be a very incomplete measure, and further I strongly disapprove of any short-cuts by or through legislation for the purpose of the removal of fetters, either social or religious, or fetters that come on owing to

custom immemorial. I feel, Sir, that at a time when the passing of laws and regulations is in the hands of Legislatures with a strong non-official majority and particularly those who take up an attitude of neutrality, as has been declared now by the Honourable the Leader of the House, it is very important for Legislatures to take stock of all the various aspects, before disturbing any of the rights or privileges that may be enjoyed by any person, either owing to religious or social customs. Therefore, I felt it necessary to preface what I am going to say hereafter with this clear reason why I think it only right to oppose this Bill. I may claim to be a Hindu who is not orthodox by any means. Whilst I am a religious Hindu, I feel that there are many religious trammels and handicaps on Hindu society at present and I have been doing my humble bit to get rid of these. But, at the same time, I strongly feel that it is wrong both on principle and as a matter of tactics to bring in the Legislature to disturb the rights of anybody, be it the Brahman or the non-Brahman. I feel, Sir, that the measure as it is submitted before the House is absolutely incomplete. Amongst the definitions, I miss the definition of the term "hereditary Hindu priest". I see that an Honourable Member has tabled an amendment on this subject and perhaps, if the Honourable Member will move that amendment, I may be able to say how even that amendment made by the Honourable Member would not meet with all the various requirements of the term "hereditary Hindu priest." But I will say only this, Sir, at this stage, that, in the correspondence that I have been handed over by one Honourable Member to-day I see that the whole idea of a hereditary Hindu priest has been taken to be what is called "Gramya priest" that is, a village priest. But I know of other hereditary Hindu priests from whom I and many like me suffer, if you like to put it that way. There is the family priest and the caste priest, the mahajan priest and the village priest. Now, I really wonder whether the Honourable Member who is responsible for this Bill had in his mind all these various priests or whether there is only one species of priests that he had in mind. Perhaps the Honourable Member who is to move the amendment that will come up later will be able to tell us more about it and I may be able to have my difficulties solved. But in the meantime, the Bill as it is submitted before the House is grossly incomplete in that respect.

My next difficulty, Sir, is this that the Bill has as Preamble, "Whereas it is expedient that the law in force in certain parts of British India, etc." Now, that law in force, I understand, Sir, is not a statutory law but is a law of the nature of what is called judgment law. Not being a layman like me is not able to find out how that law stands, statutory law a layman like me is not able to find out how that law stands, but I am told by my Honourable friend Mr. Khaparde that that judgment law is based on a Bombay Regulation of 1827 which made watans immoveable property. Whether that Regulation of 1827 was right or wrong, does not lie before us to-day. The facts are that there was a Regulation of 1827 which made certain interests vested interests, which made watans as they were then perhaps known and held in high respect immoveable property. I feel, therefore, Sir, that to take away anything out of the rights of those who had acquired certain immoveable property very nearly a hundred years back requires a very strong case to be made out. I am sure that both Government and this House are very jealous and would be very very careful before disturbing the vested interests of anybody, be it either labour or commerce, be it any community or any caste, and I certainly do not think that, as an earnest of what is going

[Mr. Purshotamdas Thakurdas.]

to come hereafter from Legislatures like this, they should go forward to any community in India, with the proposal to trample over the vested interests of somebody created a hundred years back. I think, Sir, it ought to be left to the Hindu to fight it out in his own society, among his own people, in his own village. I think this Legislature should consider several times, and even after that hesitate long before taking away any of those vested rights, for I see there is not the slightest provision in the Bill for any compensation for the deprivation of such vested rights. I would only refer, Sir, to the opinion of a District Judge of high repute whom I know—and that District Judge of Poona, Mr. G. G. French, says that if the measure obtains sufficient support in the Legislative Assembly to be proceeded with, it requires the addition of provisions to compensate the persons who suffer by its enactment. Now, that is an opinion expressed not by a Brahman but by a person who is absolutely impartial and unprejudiced, and I do not think that this House can possibly overlook the absolute necessity, in fairness and justice, of seeing that a clause regarding compensation is added to the Bill before giving this Bill its approval.

The Honourable Leader said that Government propose to take a neutral attitude. That is as it should be, and that is what everybody would have expected. The correspondence with the various Governments that I have in my hand shows similar recommendations from the other provincial Governments to whom the Central Government referred this question. But that, Sir, to my mind increases further the responsibility of this House. In several places in the correspondence that I have before me I see remarks saying that the majority of the Hindu community ought to count, and their views ought to be respected in this connection. I do not know, being perhaps the most junior Member in this House, Sir, I don't know whether, when the Bill was introduced, Government placed before the House a synopsis of the opinions that they may have received from well-known Hindus all over India. In fact, I am not aware whether there have been any complaints or objections from the people whose rights may be injured by this legislation. I hope that in the course of the debate, some sort of reply from the Government may be forthcoming in this connection. For I think that, when any non-official Member moves any Bill and if there has been any correspondence submitted to Government on the score of the underlying principle of the Bill, it is absolutely necessary that the Legislature should, before they are asked to consider the measure, have all such papers laid before it. It is quite possible that they were laid before the Legislature before now. Anyway, I should like very much to know whether Government are withholding anything or whether they have received none at all. Until we know exactly what information has been put before Government by people outside this House, I feel, Sir, very strongly that a measure like this, besides being faulty as I have shown it to be, according to my lights, would not meet with the approval of the House mainly for the reason that it is an effort to a short-cut in matters which are either based on religion or custom, both matters which I think the people themselves ought to settle without the help of the Legislature.

(The Honourable Mr. Sethna then rose to speak.)

The HONOURABLE THE PRESIDENT: I think the Honourable Member has already spoken in September.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): No, Sir.

The HONOURABLE THE PRESIDENT: Has the Honourable Member not spoken on the debate?

The HONOURABLE MR. PHIROZE SETHNA: I moved a postponement.

The HONOURABLE THE PRESIDENT: Did you speak on the merits?

The HONOURABLE MR. PHIROZE SETHNA: No, Sir.

Sir, as you have just informed this House, this Bill came up for discussion before this Council during the September Session at Simla. This Bill affects, as far as I make out, only the Mahratta communities who live mostly in the Bombay Presidency and in the Central Provinces. We claim the honour of having two members of that community as Members of this House. One Honourable Member of that community, Mr. Kale, introduced the Bill. Another very esteemed Member of the same community, my Honourable friend Mr. Khaparde, opposed the Bill and opposed it very vigorously. We had therefore two conflicting opinions before the House. The Members who followed ranged themselves under the two banners. We might have proceeded to a vote were it not for a point which was brought forward by our learned friend the Honourable Sir Leslie Miller. He urged that what the Bill proposed was tantamount to confiscation, and if it were confiscation, there was no provision for any compensation for such confiscation, which is the point which is also taken up this morning by my Honourable friend Mr. Purshotamdas. Whether it is confiscation and if it deserves any compensation I will deal with a little later. I will just refer to one or two points in the speech of my Honourable friend Mr. Purshotamdas. He said that this Bill deals with only hereditary village priests. But members of the Hindu community have to deal with, I think he mentioned, four different classes of priests.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: At least four.

The HONOURABLE MR. PHIROZE SETHNA: With at least four. Perhaps more. But whether there are four different classes, village, Mahajan, or caste or any other kind of priest, the Bill clearly lays down that it is in regard to those priests who claim ceremonial emoluments, be they village priests, be they mahajan priests, or be they any others. Therefore, that point is to my mind very clear. The Honourable Mr. Purshotamdas said that in the different reports which have been published, the authorities have said that the views of the majority have not been obtained. But, Sir, the Bill has been before the country for quite a long time and I do not think there has been any public meeting held or that there has been any demand in the press or the platform or anything done in the two provinces particularly concerned with this Bill, to show that there is general opposition to it.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: I only wanted to know whether the Government had received anything. I did not complain that nothing has been received.

The HONOURABLE MR. PHIROZE SETHNA: I am not speaking, Sir, on behalf of Government. I say that I have not read in the papers of any organisations or any meetings held to oppose this measure. On the

[Mr. Phiroze Sethna.]

contrary, I find that a Resolution was passed the other day by the National Liberal Conference in which they strongly supported the passage of this Bill through the Legislature. When introducing this Bill the Honourable Mr. Kale informed us that the main provision of the Bill was to the effect that no hereditary Hindu priest can sue for ceremonial emoluments unless he had performed or had assisted in the performance of religious ceremonies. In other words, the actual performance or the assisting in the performance of religious ceremonies is a *sine qua non* to enable him to claim such ceremonial emoluments. So far as I know, the law does not lay down that in order that any religious ceremony might be considered as validly and lawfully performed, it must be performed by hereditary priests. On the other hand, I think Hindu society recognises that any religious ceremony performed, either by hereditary priests or by any other priest, can be considered as perfectly valid. Therefore, neither the law nor society insist upon religious ceremony being performed by no other than hereditary priests. In fact, the validity of a religious ceremony does not depend upon the heredity of the priest performing it. I know that the law lays down that they must pay to these hereditary priests the ceremonial emoluments whether the ceremony is performed by them or by any other priests. There is a growing section of people in the Deccan in the Bombay Presidency who seem to have lost all faith in these hereditary priests. They appear to have so lost faith for various reasons. In the first place, they seem to think that this class of priests as a rule are a very ignorant lot and I believe it is the opinion of several Mahratta gentlemen that these priests are so ignorant that the manner in which they perform these religious ceremonies in their homes is no more than mere mockery. Another reason is that they do not think that the high and sacred calling of priesthood should be the monopoly of any one caste, but that it should be open to any person irrespective of caste. And lastly, they also object to a hereditary system of priesthood because, like all other hereditary institutions, it tends to degenerate and there results consequent failure in the proper discharge and carrying out of religious duties. Then again, several Mahrattas in the Deccan claim that they are descended from the Khatriyas. It is a well-known fact that it is the Vedôkta ritual which is followed in regard to performance of religious ceremonies in Brahmin and Khatriya families and the Puranôkta ritual is observed in regard to the spiritual needs and requirements of the Vaishya and Sudra communities. These hereditary priests contend that the Mahrattas are descended from the Sudras and insist upon the Puranôkta ritual, whereas the advanced communities who now object to these hereditary priests insist upon the Vedôkta ritual. That is the bone of contention and that is the reason why there is great difference of opinion between this growing section of Mahrattas and the hereditary Hindu priests. In this connection, I may mention in passing that there exists in Bombay a Society known as the Hindu Missionary Society, started by the late Mr. G. B. Vaidya, an honoured name in the ranks of social and religious reformers in the Western Presidency. One of the objects of the Society was to simplify the very complex and elaborate Hindu religious ritual. They have succeeded in doing so, as a result of which I understand that many Hindu families adopt this new ritual not only because it is simple but also because it does not land them into very considerable expense. The point before the Legislature is to consider whether we should offer protection to these communities and minorities or not, or will continue to compel them to pay what are called the ceremonial emoluments, even though those priests have rendered no services, even though

the ceremonies may have been performed by other priests and even though those communities and minorities have lost all faith in hereditary Brahmin priesthood. That is the great question involved in the Bill, and I for one hold it is absolutely necessary that the Legislature should afford to the minorities the protection they desire, for otherwise it would amount to what may be called social and religious tyranny, which it ought to be the endeavour of any Legislature not to tolerate.

Now, Sir, as to the point raised by the Honourable Sir Leslie Miller and in consequence of which I asked for a postponement, I may mention that I asked for a postponement in September in the full hope that we were meeting in November so that the matter would come up again within six weeks and would be fresh in our minds, but, as we know, there has been a delay of five months. On the other hand, these five months have enabled Members to inquire into the matter and to obtain first-hand information, as I have endeavoured to do, to be able to decide which way we should vote. In regard to confiscation I certainly will admit that Hindu hereditary priests of the kind referred to in the Bill have vested rights; I do not deny that for a moment. But the abolition of every kind of vested right does not amount to confiscation. There may be rights which are opposed to public policy, there may be rights which may interfere with one's individual liberty, which we should have no hesitation in abolishing. My Honourable friend behind referred to the reports received from different parts of India from people whose opinions were invited on the Bill. If he will go over them very carefully, he will find that the great majority of judicial opinion is to the effect that the existing system is certainly opposed not only to public policy but is also against individual liberty. (The Honourable Mr. G. S. Khaparde: "I do not think so.") I may be wrong. It is for Mr. Khaparde to prove it. The present position resolves itself into this. Either these minorities have got to accept the services of priests they do not care for or they have to indemnify them. What is the result? They have either to put up with very indifferent and undesirable priests or to incur great expenditure. Consequently, Sir, in the interests both as I say of public policy and in the interests of legitimate individual liberty—I would say in the higher and more compelling interests of legitimate individual liberty—this measure ought certainly to be accepted.

(The Honourable Sardar Jogendra Singh rose to speak.)

THE HONOURABLE THE PRESIDENT: Does the Honourable Sardar wish to speak?

THE HONOURABLE SARDAR JOGENDRA SINGH (Punjab: Sikh): I do not think I have spoken before, Sir.

THE HONOURABLE THE PRESIDENT: Though he did not speak he moved the closure on the last occasion.

THE HONOURABLE SARDAR JOGENDRA SINGH: On the Bill itself I have very little to say. I am not acquainted with the conditions which have moved my friend Mr. Kale to put this Bill before the Council. But there are two questions of public policy that have arisen. One is the neutrality of the Government on a Bill like this presented before the Council and the other is the Honourable Mr. Thakurdas' contention that all matters of this kind should be settled without the assistance of the Legislature. These two questions to me seem very important, as we in the Punjab, particularly the Sikhs, at the present moment are greatly concerned with

[Sardar Jogendra Singh.]

a question of a similar nature. The Sikhs in the Punjab are trying to settle the Gurudwara question without the assistance of the Legislature, and I should like to know whether Government would take an attitude of entire neutrality or an attitude of sympathetic looking on, or assisting the Sikhs by legislation to obtain control over the Gurudwaras. To my mind, Sir, as a matter of public policy, we cannot leave these matters to be settled outside the Council. If we leave these matters outside the Council, they sometimes lead to very dangerous situations. Then again, the Honourable Mr. Thakurdas talked of casting off the fetters. I entirely agree with him that certain kind of fetters ought to be cast off. But when you come to the question of vested interests, as the Honourable Mr. Sethna pointed out, these priests in the Deccan have vested interests and can sue in the courts for their fees, a thing which is unknown in our part of India and possibly was never contemplated when the relations between the priests and the people were established. If the courts have gone and given judgments in that way, I think we are quite justified in coming to this Council and seeking Legislative assistance in modifying what is considered to be the law of judgments. You cannot settle it out since the custom has legal sanction by the Courts, which can only be rectified by legislative action. Under these conditions, Sir, I must support the Honourable Mr. Kale. At the same time I await with great interest a pronouncement by the Leader of the House whether these questions can be settled without the assistance of the Legislative Councils, and whether the Government is always prepared to maintain an attitude of neutrality. I shall be very greatly gratified if that is the attitude of the Government of India, because it will assist other communities to decide these questions themselves.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, in replying to the criticisms which have been passed by Honourable Members on the Bill which I moved in this Council last September, I will not detain the House for any great length of time. My Honourable friend Mr. Sethna has already replied to some of the objections raised to the Bill. I will, therefore, confine myself only to some of the more important arguments which have been advanced on the other side. I trust that my esteemed friend Mr. Khaparde though he has led the opposition to the Bill, does not oppose the principle that individual liberty should be granted to people who ask for that liberty. From the nature of the amendments of which he has given notice I gather that what he wants is that proper consideration should be given to the disturbance that would be caused to certain vested interests which have existed for generations together. I do not think that the spirit of his amendments is unreasonable, and I would not oppose his desire that the local Legislatures and the local people should be left to decide as to how effect should be given to the principle underlying the Bill. The principle underlying the Bill is that no member of the Hindu community should be compelled to engage the services of a particular priest and to indemnify him if the services of other priests are engaged. This is a sound principle of individual liberty, especially in matters spiritual and religious, as no force ought to be employed, either by law or by the community, in that behalf. With these preliminary remarks, Sir, I may reply to the criticisms of my Honourable friend with respect to what he described as public opinion on the Bill as elicited by Government. I do not mean to say, and I never meant to say, that public opinion in Bombay or in the Central Provinces was overwhelmingly in favour of the Bill. I never made that claim. I did, however, contend, and I do contend to-day,

that the balance of opinion was, on the whole, in favour of the Bill. My Honourable friend gave certain statistics with respect to the opinion from Bombay. He said that there were altogether 22 people who were consulted, and of these he said 12 were opposed to the Bill. I do not know how he made these calculations. I can quote to the House if necessary the very names of the gentlemen who have given their opinions, and according to my calculations, their number exceeds 30, and out of those 30, as many as 17 have clearly and emphatically said that they are in favour of the Bill. I give my Honourable friend the benefit of the doubt in cases in which some gentlemen have said that the Government should be neutral and they have not expressly given their own view. There are 6 or 7 gentlemen who want Government to remain neutral. There are about 8 who are entirely opposed to the Bill; but there are as many as 17 or 18 who are positively in favour of the Bill. But I will not press this point very much. What I wish to emphasise is that there is in the Deccan a very strong feeling in this matter. There was a tendency on the part of certain Honourable Members to belittle the seriousness of this feeling. My Honourable friend Mr. Lalubhai Samaldas suggested that this Bill was brought forward in this House because the Mover doubted if it would meet with the acceptance of the local Council. Nothing of the kind, Sir. It is under the Devolution Rules of the Government of India Act that this had to be brought here. All matters involving more than one province and involving civil rights have to come up before the Central Legislature. Then, my Honourable friend said that instead of helping the disorganization of village communities, we should try to conserve, protect and promote them. May I, Sir, point out that my Honourable friend is the greatest offender in this respect?

The HONOURABLE MR. LALUBHAI SAMALDAS: We do not disorganize them.

The HONOURABLE MR. V. G. KALE: My Honourable friend and the class he represents, go to our villages, draw out workmen from rural parts, disorganize the village industries and upset the whole of the social and economic life of the villages. They start some factory, sugar or some other factory, employ one or two thousand labourers there who are cut off from their social organization, and in this way they throw the whole machinery of rural organization out of gear. In this matter then, I think the charge must lie more at the door of my Honourable friend than mine. I do not, however, want to blame him. On the contrary, I will give him credit for helping the work of economic re-construction and the work of social re-adjustment. Those people who cannot find work in the villages get work in new factories. My Honourable friend is, therefore, a benefactor. However, he is not, by any means, conserving the old village organization but is rather helping in the disorganization and the re-construction of those village communities.

Then he doubted whether really any strong communal and caste feeling existed in any part of the Deccan, and whether it was not a move on the part of certain exalted gentlemen and certain small sections of the Hindu community. If he wants evidence as to the existence of this feeling, I will make him a present of a memorial which has been addressed to the Government of India, a copy of which I have in my possession at this moment, a memorial which has been signed by hundreds of people, of whom mostly are Brahmins. This is a complaint, therefore, proceeding not only from non-Brahmins but from Brahmins. Their complaint is this. They do not

[Mr. V. G. Kale.]

want to engage the services of a particular hereditary priest; he is not qualified for doing their work; his morals are not perhaps satisfactory, he is ignorant, in some cases he is illiterate, and such a man has got to be employed for spiritual ministrations. Imagine the position of an educated man. He is compelled to engage the services of an ignorant priest. I might relate to the House a story related by one of our most orthodox and learned professors in the Deccan, the late Professor Jinsiwale. In one of his lectures, he pointed out that being a very orthodox Brahmin, he invited a number of priests on a certain religious occasion, and they were expected to give him blessings by reciting Vedic *mantras*, but owing to their ignorance they repeated certain "riks" from the Vedas which invoked curses. But because he was a Brahmin, well versed in the Vedas, he could easily detect what the Brahmins were saying

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Are there curses in the Vedas?

The HONOURABLE MR. V. G. KALE: I should like to quote for the edification of my friend certain verses from the Vedas which invoked curses. I am sure my Honourable friend Dr. Ganganath Jha will bear me out when I say that the Vedas do contain such verses. However, the important point for consideration is, whether this Bill is essential or not. In my opening speech, I gave my reasons as to why I regard this Bill as essential. In any case, the acceptance of the principle involved in this Bill is eminently essential, and those who have been reading the newspapers from my part of the country, will see to what a pitch of intensity the ill-feeling between Brahmins and non-Brahmins has been raised in certain parts of the Presidency. My Honourable friend opposite asked Government to say whether they will find it possible to maintain an attitude of neutrality with regard to the position of the Sikhs in the Punjab. I am reminded by what he said of a similar position that has to be faced to-day in certain parts of the Deccan. Only the other day I read, and my Honourable friend Mr. Khaparde knows it, because that news has been given and been commented upon by a newspaper which is an organ of the party to which he has the honour to belong,—only the other day I read that a certain religious festival was not allowed to be held owing to communal conflict, and it was an institution which has been in existence for over a hundred years. Now, that is the position. Is this Council going to help in remedying that position or not? In my opening speech I pointed out that if this Bill were to become law, it would not involve the loss of real property of houses and landed estates granted to the priests, but it would involve no doubt the loss of that property which consists of emoluments to priests for the performance of certain religious ceremonies. Now my Honourable friend Mr. Khaparde has tabled an amendment in connection with the question of compensation. He is certainly welcome to make that proposal, and the Government of Bombay or the Government of the Central Provinces would certainly be expected to give their serious consideration to that question. But I do not think that there will be any one in this House who will take any exception to the principle underlying this Bill. The Bill is wanted, as I pointed out, not only by non-Brahmins but by a large number of Brahmins themselves. They also want individual liberty to engage the services of any priest they like. And, as the priests are not going to lose any of their landed property or other real estate, attached to their Watans, and as, I again point out, nearly 99 per cent. of the people living in the villages will continue for years

to come to engage the services of the hereditary priests, really speaking, there will not be any appreciable loss sustained by the hereditary priests; but on the other hand, we will be contributing to the cause of social harmony inasmuch as one serious grievance will be removed and the path will be paved for bringing about friendly relations which have now been disturbed between caste and caste in different parts of the country. With these words, Sir, I move that the Bill be taken into consideration.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir,

The HONOURABLE THE PRESIDENT: I am not quite sure that Mr. Crerar has the right to speak at this stage.

The HONOURABLE MR. J. CRERAR: I only wish, Sir, to answer the question that was put by an Honourable Member.

The HONOURABLE THE PRESIDENT: The Honourable Member ought to have done so before I called upon the Mover to reply. However, if the Honourable Member wishes to speak, I am sure the House will hear him.

The HONOURABLE MR. J. CRERAR: I merely wish to answer a question for the information of my Honourable friend opposite. He inquired whether Government had received any representations on this subject. We have received one such representation which contains substantially the same contentions as were contained in the Honourable Member's speech and forwards certain copies of opinions from Joshis for information. I shall be very glad to place the representation in his hand if the Honourable Member wishes to see it.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: It is not a question of my being interested in the matter. It is a question of the House being interested. I am not interested at all.

The HONOURABLE THE PRESIDENT: The question is:

"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 motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will proceed to the detailed consideration of the Bill.

The HONOURABLE MR. G. S. KHAPARDE: Sir, before we proceed to the detailed consideration of the provisions of the Bill, I have a complaint to make, that the amendments which I moved at Simla are not on the Agenda paper. I am sorry to say so, but, that being so, I think it would not be proper that the discussion on this Bill should be proceeded further with. I distributed copies of my amendments at Simla and I still hold copies of these amendments but they have not been included in the Agenda and I do not think it is fair that I should be compelled to go on with this Bill in the absence of those amendments.

The HONOURABLE THE PRESIDENT: Am I to understand from the Honourable Member that he gave notice of certain amendments in Simla and those amendments have not been included?

The HONOURABLE Mr. G. S. KHAPARDE: Yes, Sir, I gave notice of those amendments: they had to be put into their proper form and this was very kindly done for me by the Legislative Department.

The HONOURABLE THE PRESIDENT: I have one other question to ask the Honourable Member. Are those amendments in form or in substance the same as the amendments on the paper or are they different?

The HONOURABLE Mr. G. S. KHAPARDE: They are different. The amendments of which I gave notice at Simla were more general.

The HONOURABLE THE PRESIDENT: I would ask the Secretary to state what the position is. Was notice received of those amendments?

The HONOURABLE Mr. G. S. KHAPARDE: As far as I remember, Sir, this Bill came up at short notice; then when I gave notice of these amendments, they were kind enough to waive certain technical objections and to permit me to put in my amendments. That is how the position stood that day and that is how my amendments came to be put in and I hold so many copies of them that I have hastily distributed them.

The HONOURABLE THE PRESIDENT: I must ask the Secretary to state the position.

The SECRETARY OF THE COUNCIL: Sir, with your permission I make my statement. I have before me the Agenda paper of the 15th September and those amendments are not on that paper. But that does not mean that notice was not necessarily received. I have, Sir, a sort of recollection that Mr. Khaparde asked me to put certain amendments into shape after the list of business had gone out. In that case they would have been circulated. That, I think, Sir, is the position.

The HONOURABLE THE PRESIDENT: As the Honourable Member has not his amendments on the paper, I do not think I can ask the Council to go on with the Bill. We all have doubtless good memories, but I don't think we can conduct the debate on our recollection of amendments we saw last September. I think it is necessary to adjourn this debate.

The HONOURABLE Mr. V. G. KALE: Sir, it would be unfair on my part to take advantage of the position in which my Honourable friend Mr. Khaparde has been landed. Certainly my sympathy goes out to him and I should not like to take advantage of the difficulty in which he finds himself.

The HONOURABLE THE PRESIDENT: Will the Honourable the Leader of the House be able to give a date or time?

The HONOURABLE Dr. MIAN SIR MUHAMMAD SHAFI: It is very difficult for me at this time to give a definite reply to that question. I shall be able, after consulting the Department, to say whether a date can be given.

The HONOURABLE THE PRESIDENT: The Honourable Member will do his best to give a date?

The HONOURABLE Dr. MIAN SIR MUHAMMAD SHAFI: Yes, Sir.

The HONOURABLE THE PRESIDENT: The detailed consideration of this Bill stands adjourned on the understanding that, if possible, a near date will be given. After all, the Honourable Mover is not in a very strong position. He could have moved his Bill some weeks ago but did not.

STATEMENT OF BUSINESS.

The HONOURABLE Dr. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, the next meeting of this Council for official business will be held on Tuesday, the 27th February. I am not at present in a position to make any definite announcement as to the official business to be brought forward on that day, but it is probable that the Prisoners (Amendment) Bill and two Bills which were recently passed by the Legislative Assembly and laid on the table in this Chamber on Tuesday will be taken into consideration on that date. The Bills I refer to are:

A Bill to amend certain enactments and to repeal certain other enactments, and

A Bill to consolidate the law relating to the Government Paper Currency.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, may I inquire as to when the measures known as the Racial Distinctions Bill is likely to come up before this House?

The HONOURABLE THE PRESIDENT: Can the Honourable Member give the House any information?

The HONOURABLE Dr. MIAN SIR MUHAMMAD SHAFI (Law Member): That measure passed through the Legislative Assembly only yesterday. We shall, as early as possible, arrange definitely for a discussion.

The HONOURABLE SAIYID RAZA ALI: In fact, copies were laid on the table this morning. What I wanted to know was whether it is likely to be taken on the 27th or after that date.

The HONOURABLE THE PRESIDENT: The Honourable Member has said that he will let the House know as soon as he is able to. Perhaps the Honourable Member will be able to say on Monday. It is a matter of some interest to the House.

The Council then adjourned till Eleven of the Clock on Monday, the 26th February, 1923.

COUNCIL OF STATE.

Monday, the 26th February, 1923.

The Council assembled at Metcalf House at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

TRAFFIC INSPECTORS ON NORTH-WESTERN RAILWAY.

150. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that on the North-Western Railway there are, in the Transportation Section, 42 Traffic Inspectors out of whom one post is permanently held by Indian and two posts temporarily? Is it also a fact that the two Indians holding the posts of Traffic Inspectors temporarily are likely to revert to their substantive appointments in the near future?

The HONOURABLE MR. D. T. CHADWICK : The present position is as stated by the Honourable Member. The men serving temporarily as Inspectors are unlikely to revert unless, on grounds of economy, it becomes necessary to reduce the sanctioned cadre of Traffic Inspectors.

TRAFFIC INSPECTORS ON OUDH AND ROHILKHAND AND EASTERN BENGAL RAILWAYS.

151. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state how many of the posts of Traffic Inspectors, Transportation Section, held by Indians are held by them permanently and temporarily in the Oudh and Rohilkhand Railway and Eastern Bengal Railway, respectively?

The HONOURABLE MR. D. T. CHADWICK : The number of posts of Traffic Inspectors, Transportation Section, held permanently by Indians on the Oudh and Rohilkhand Railway and Eastern Bengal Railway is 11 and 2, respectively. There are no Indians holding such posts temporarily on these railways.

TRAFFIC INSPECTORSHIPS HELD BY EUROPEANS, ANGLO-INDIANS AND INDIANS.

152. The HONOURABLE RAI BAHADUR LALA RAM SARAN DASS :
(a) Will the Government kindly state what number of posts of Traffic Inspectors in the Commercial Section on each of the North-Western, Oudh and Rohilkhand and Eastern Bengal Railways are held by Europeans, Anglo-Indians and Indians, respectively?

(b) How many of these posts are held by Indians permanently or temporarily in each of these three Railways?

(c) How many of the Indians holding the posts of Traffic Inspectors on each of these three Railways are engaged in clerical or ministerial work?

The HONOURABLE MR. D. T. CHADWICK: (a) (b) and (c). A statement is laid on the table.

Statement showing the number of posts of Traffic Inspectors, Commercial Section, on State Railways by communities.

Railways.	Europeans.	Anglo-Indians.	INDIANS.		Number of Indians engaged on clerical or ministerial work.
			Permanent.	Temporary.	
North-Western Railway	...	1	16	...	...
Eastern Bengal	6	4	8	...	...
Oudh and Rohilkhand Railway	1	...	15	...	1

NORTH-WESTERN RAILWAY BUNGALOW ACCOMMODATION.

153. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government kindly state how many Indians of the superior staff on the North-Western Railway were refused bungalow accommodation on the Mayo Gardens Railway Colony, Lahore, and how many have been given this accommodation? Will Government kindly state the grounds on which this bungalow accommodation was refused to Indian members of the superior Railway staff?

The HONOURABLE MR. D. T. CHADWICK: Government understand that four Indian officers of the North-Western Railway applied for house accommodation at the Mayo Garden Colony at a time when only a few houses had been built and the Agent in considering the allotment of these houses gave the preference to European officers on the ground that it is very much more difficult for European officers to obtain accommodation of that type in Lahore than for Indians.

Recently a house was offered in this Colony to an Indian officer but he refused it.

The HONOURABLE SAIYID RAZA ALI: May I put a supplementary question, Sir? Are Government prepared to state what led this Indian officer to refuse to take the house offered?

The HONOURABLE MR. D. T. CHADWICK: I am not aware of the reasons.

The HONOURABLE SAIYID RAZA ALI: Was it by way of protest that he refused to take it?

The HONOURABLE MR. D. T. CHADWICK: The house was offered to him genuinely and if he declined it he declined it. That is all I know. What prompted him to do so I have no information.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I understand that four Indian officers had applied

The HONOURABLE THE PRESIDENT: If the Honourable Member likes, he may put a supplementary question, but I cannot allow him to make a statement.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Was the house that was refused by that Indian officer offered to any of the other three Indian officers?

The HONOURABLE MR. D. T. CHADWICK: I should have to make inquiries about it. I do not know whether there were any other Indian applicants for the house.

STATE RAILWAYS, INDIANS IN SUPERIOR POSTS.

154. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that as far back as 1913 the Public Services Commission recommended the employment of Indians to the extent of 50 per cent. in Superior Engineering as well as Revenue establishments of the State Railways?

The HONOURABLE MR. D. T. CHADWICK: The recommendations of the Public Services Commission were:

Engineering.—That recruitment should be based upon a distribution of posts between the Europe-recruited and the India-recruited branches of the Department, so that the proportion of appointments in the Superior Service open to Statutory natives of India would ultimately be raised to 50 per cent.

Traffic.—The larger employment of Royal Engineer officers in order to maintain a nucleus of officers imported from Europe. The rest of the staff should gradually be recruited in India from among Statutory natives of India.

Stores.—Recruitment in India should continue.

Traffic and Stores.—Indians should be appointed in at least 50 per cent. of the vacancies in the State Railways for which recruitment is made in India.

Locomotive Carriage and Wagon Department.—No recommendation as to the proportion of Indians to be employed was made. But the Commission advocated the training of India-recruited staff—both subordinates and apprentices—to fit them for promotion to, and appointment to, the Superior Establishment.

The HONOURABLE SAIYID RAZA ALI: Are Government in a position to state as to what is the proportion of posts held by Indians in the Engineering, Traffic, and Stores Departments referred to in the reply by the Honourable Member?

The HONOURABLE MR. D. T. CHADWICK : That covers all the State Railways. I have not that information, but I will certainly collect it as far as I can for the Honourable Member. It covers, as I have said, several Railways.

ADMISSION TO BOMBAY GOVERNOR'S LEVEES.

155. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Has the attention of Government been drawn to the Notification No. 2377, dated 11th December, 1922, issued from the office of the Military Secretary to His Excellency the Governor of Bombay and published in the Bombay Government Gazette (Extraordinary) of the same date, giving a list of officials and non-officials entitled to private entree at Government House and at the Governor's Levees ?

(b) Have Government noticed the omission in the list of persons who are members of the Central Legislature either the Council of State or the Legislative Assembly ?

(c) What action does the Government of India intend to take in this matter ?

The HONOURABLE MR. J. CRERAR : (a) and (b). Yes.

(c) The Government of India do not propose to take any action.

The private entree list of His Excellency the Governor of Bombay is a matter entirely for his personal decision.

RELIGIOUS AND MORAL EDUCATION IN GOVERNMENT SCHOOLS AND COLLEGES.

156. The HONOURABLE LALA SUKHBIR SINHA : With reference to the reply of the Honourable the Education Member to my Resolution, moved on 15th September, 1921, on the introduction of religious and moral education in Government schools and colleges, will Government be pleased to state—

(a) what action Local Governments have taken in the matter when the Government of India had removed the embargo imposed on the introduction of such instruction ;

(b) whether any Local Government has made any rules on the subject and, if so, to put a copy of them on the table ;

(c) in what schools and colleges such instruction has been introduced and with what result ?

The HONOURABLE MR. M. S. D. BUTLER : (a) to (c). It was explained by the Honourable the Education Member, in the course of the discussion referred to in the question, that the matter was now one in which the Local Governments could adopt such line of action as they thought fit. In the circumstances the Honourable Member should seek for the information he desires from the Provincial Governments.

RELIGIOUS AND MORAL EDUCATION IN JAILS.

157. The HONOURABLE LALA SUKHBIR SINHA : Has the committee on jail administration recommended the introduction of any religious and moral education in district jails and, if so, in what terms and what action has been taken in that direction and with what result ?

The HONOURABLE MR. J. CRERAR : The attention of the Honourable Member is invited to the recommendations of the Jails Committee contained in section V of Chapter XI of their report and to paragraph 13 of the Home Department letter No. 104, dated the 4th April 1921, which was laid on the Table of the Assembly on the 15th of September, 1921 (pages 272-277 of the Assembly Debates, Volume II, No. 4). The Government of India, while attaching great importance to the Committee's recommendations, were of opinion that the methods by which effect could be given to them must be defined for each province by the Local Governments concerned. The matter was therefore left to them to deal with under their rule-making powers. The Government of India understand that in some provinces action has already been taken. Financial stringency, however, in many provinces prevents the employment of paid teachers and consequently reliance has to be placed to a large extent on voluntary workers.

HORSE BREEDING STANDS.

158. The HONOURABLE LALA SUKHBIR SINHA : Will Government be pleased to state—

(a) the districts in the United Provinces where horse breeding for military purpose is carried on and the number of studs provided there by the Military Department ;

(b) for what reasons the number of studs has been reduced from 18 to 3 in the Muzaffarnagar district ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The districts in the United Provinces in which horse-breeding is carried on by the military authorities and the number of stallion stands (not "studs") allotted to each district are as follows :—

	Number of stands.
Meerut	6
Bulandshahr	5
Muzaffarnagar	3
Aligarh	4
Total	18

(b) The number of stands in the Muzaffarnagar district has not been reduced from 18 to 3. It will be observed from the reply I have just given that there are only 18 stands in all the four districts.

AGRICULTURAL BULLOCKS AND MILCH COWS.

159. The HONOURABLE LALA SUKHBIR SINHA : With reference to the statement made by the Honourable the Revenue Member in reply to my Resolution, moved in the Council of State on the 19th September, 1922, regarding the appointment of a Commission to make inquiries into the condition of agricultural bullocks and milch cows, will the Honourable Member be pleased to state—

(a) what action he has taken not to allow the Local Governments to rest idle in this respect, as far as it lies in the power of Government of India, and what movement Government of India has made in the desired direction ;

- (b) what action, if any, the Local Governments have taken in the matter of providing grazing lands in their respective provinces;
- (c) what action has been taken to improve the condition of fodder;
- (d) what efforts are being made to improve the number and condition of agricultural bullocks and the condition of milch cows;
- (e) what action Government has taken or proposes to take in stopping the Burma meat trade, as has been passed by the United Provinces Legislative Council and the Central Provinces Legislative Council;
- (f) has the Government of India received a copy of the proceedings of a meeting held in Calcutta on the 23rd September 1922, for the preservation of cows in India, as well as a circular letter, dated 24th June 1922, from the Honourable Sir John Woodroff, on the question of preservation and providing of grazing land by legislation for the cattle; if so, what action Government has taken or proposes to take in the matter?

The HONOURABLE MR. B. N. SARMA: (a) A copy of the speech delivered by me in the Council of State on the 19th September 1922, in reply to the Honourable Member's Resolution referred to was forwarded to all Local Governments for information and such action as they might deem necessary to take, with the remark that the Government of India fully realised that the cattle problem was beset with many difficulties—financial and otherwise—but that, as the improvement of the breed and number of cattle was of paramount importance in an agricultural country like India, they hoped that Local Governments would devote as much attention as possible to the development of this branch of activity.

(b), (c) and (d). The Government of India have no information on the subject.

(e) The Government of India have not taken any action in the matter nor do they see their way to take any action in the manner suggested.

(f) The reply to the first part of the question is in the affirmative. As regards the second part, the Government of India have not taken any action, beyond that referred to in (a) above, nor do they propose to take any further action, in the matter.

BILLS LAID ON THE TABLE.

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 24th February, 1923. They are:—

(1) A Bill to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India.

(2) A Bill to consolidate and amend the law in British India relating to official secrets.

RESOLUTION RE RECOMMENDATIONS OF COMMITTEE ON INDIAN ARMS RULES.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, after making a few brief observations on the whole Resolution* I will request your permission to move it clause by clause.

The HONOURABLE THE PRESIDENT: With reference to that I would point to the Honourable Member that his Resolution is of an omnibus character and it might very well form the subject matter of several Resolutions. I will allow him to move it clause by clause but he must not imagine that he can take half an hour on each clause (Laughter). The time permitted for his speech on a whole Resolution is 30 minutes and he must bear this in mind. I shall put each clause of the Resolution separately and then put the Resolution as amended.

The HONOURABLE LALA SUKHBIR SINHA: Thank you, Sir, I assure you that I would not take more time of the Council than is necessary. In 1878 when the Arms Act was passed there was a great deal of discontent in the country. From that time till now people have been asking Government from time to time to repeal the Act or to modify it in such a way that more arms could be kept by the people. In 1918 in the old Imperial Legislative Council this question was brought up for discussion and a committee was appointed to modify the rules of 1909. That committee made some rules which were accepted by the Government and notified in 1920. In those rules many of the old exemptions, that is exemptions enjoyed by the people, were taken away. For instance, the Members of the Imperial Council as well as Provincial Councils were allowed no exemptions and all Magistrates were deprived of that right which they had before 1920 and so on. From that time the matter has been brought before the Government in this Council as well as in the Assembly on different occasions. I moved two Resolutions in this Council to exempt the Members of the Imperial as well as the Provincial

* "This Council recommends to the Governor General in Council to give immediate effect to the recommendations of the majority report of the Committee on Indian Arms Rules with the following alterations:

1. That in paragraph 3, entry 1 (a), the Members of the Provincial Legislatures should also be exempted;

2. That in entry 6 (g):

(a) All zemindars, who pay Rs. 3,000 or over as land revenue in the Agra Province, should be exempted;

(b) that heads of joint Hindu families, who pay Rs. 3,000 or upwards as land revenue, should also be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it.

3. That entries 11, 11 (a) and 11 (b) be retained and all future title-holders, etc., should also be exempted.

4. That in paragraph 4 all Magistrates, stipendiary or honorary, Honorary Munsiffs and Honorary Assistant Collectors and other gazetted officers should be exempted.

5. That in paragraph 5, no restrictions be placed on the possession of firearms by exemptees who should be required to have them registered.

6. That the following be included in the entitled class:

(a) All Members of the Imperial as well as Provincial Councils;

(b) Barristers, Pleaders, Vakils of High Court of 5 years' standing;

(c) Professors, Readers and Lecturers at Colleges affiliated to an Indian University;

(d) M. As.;

(e) B. As. of seven years' standing."

[Lala Sukhbir Sinha.]

Councils and Honorary Magistrates and some others. That Resolution was carried in March 1921. Again in the Assembly a Resolution was moved by Baba Ujagar Singh Bedi in February 1922 and that was adopted. A Committee was appointed to amend the Rules of 1920. That Committee has made a report which now is under discussion. The report of the Committee will now be laid before the Government for final orders. Before any Government order is passed I took the opportunity to bring the whole question before this Council for discussion. In that report certain changes have been made for the better. For instance, they have extended the right of exemption to Members of the Imperial Council and they have increased the entitled class. They have reduced the fees and they have allowed more arms to be given to tenants for the protection of crops and they have removed the limit of ammunition also to some extent. But still there are many objections that can be made and I have put them forward in this Resolution. In this country the limitations about keeping arms are much limited and we, as loyal subjects of the Government, especially at this time when we are getting reforms and progress all round, are entitled to ask the Government either to repeal the Arms Act of 1878 altogether or to modify the rules in such a way that men of status, men of position, men of education may have a chance of keeping arms for their own use. I think nobody here will disagree with me when I say that by keeping arms you can cultivate martial habits and therefore the people of this country by keeping arms will be a better fighting nation. In the late great war it was shown that the Indian people could not serve the Government as much as they ought to have done. They were sent as labourers, more than fighting people as they ought to have been. Therefore on these general lines I have brought this Resolution before this Council for consideration and now, Sir, with your permission I shall move the Resolution clause by clause so that Honourable Members may have a chance of expressing their opinion on any clause that they like. My first clause runs as follows :—

"That in paragraph 3, entry 1(a), the Members of the Provincial Legislatures should also be exempted."

The majority report of the Committee has recommended that Members of the Council of State and the Assembly should be exempted, but not those of the Provincial Councils. I see no reason whatever why Members of the Provincial Councils should not have the same right as Members of the Council of State and Assembly. Before 1920 all those Members had the privilege of exemption and I think that privilege should be allowed to continue. Therefore I move clause No. 1 of my Resolution :—

"This Council recommends to the Governor General in Council to give immediate effect to the recommendations of the majority report of the Committee on Indian Arms Rules with the following alterations :

1. That in paragraph 3, entry 1(a), the Members of the Provincial Legislatures should also be exempted."

The HONOURABLE THE PRESIDENT : It will be convenient if I explain the course which I propose to adopt in dealing with the Honourable Member's separate clauses in which he proposes amendment of the report. We will dispose of each clause in turn, so the Council can discuss each as a separate point. When the clauses have been discussed and decided on separately, then, if any Honourable Member wants to go back to the general discussion, he can do so.

and this will give Honourable Members an opportunity of expressing their views on the majority report. The question now open to discussion by the Council is that clause 1 stand part of the Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, I stand to oppose this particular clause. My first objection is that these Councils will always exist for three years, and then these Members will be replaced by fresh ones. If a man has got the privilege of keeping arms for three years and after that the arms are taken away from him, he will be angry and it may create trouble. Then there is another thing, Sir, namely, that we are always threatened by non-co-operators. Now they may try to send in sweepers and all sorts of menials, and we do not know what men they will try to send in the next time ; they may send up perhaps *badmashes* entered in Register No. 10 or such people, I do not know. I think therefore that giving a license without any discretion would be a very great mistake. Of course, Sir, there is one exception ; if the President chooses the proper man, and not all the Members, then it will be all right, because it is not every one who comes into the Councils that should be in possession of firearms. Then, Sir, if each and every man is allowed to get arms, perhaps they will terrorize people just as such people are doing in some other countries ; and they may be coming with a pistol into the Council and simply fire at anyone they dislike. There is another thing. There are certain people who are already trying to enter certain Councils who have been in the habit of taking *rasa*, which means that he takes stolen property in the shape of cattle. If such men can come in and they also have the privilege of getting firearms, I think it is wrong for the Administration to allow the concession. In my opinion whenever a Member applies for a license I think the Deputy Commissioner or the police officer or the tahsildar or some other responsible official who actually knows what sort of person he is who wants a license ought to be consulted, and I think the wholesale giving of arms to a class is absolutely wrong in principle. So I oppose this particular motion.

The HONOURABLE SIR MANECKJI DADABHOY : Sir, I think that this is a Resolution of such a complicated character and involving such invidious distinctions that the less said the better. One point, however, I wish to bring to the notice of this Council and of the Honourable mover of this Resolution. As I understand, the real motive underlying the framing of the revised rules under the Arms Act was to place as far as possible both European and Indian subjects of His Majesty in British India on a footing of equality and to avoid as far as possible invidious distinctions in the administration of the Act. It is a matter of a very delicate nature and I am aware that a lot of heart-burning and discontent has been caused in the past, and I hope this Council will try to obviate any further heart-burning on this subject by not discussing at considerable length the various qualifications which entitle a person to exemption under the Arms Act. It is our duty to bring its operation into accord with the original intention of the Legislature in revising the rules to avoid heart-burning and to make exemptions as few as possible. As regards this particular exemption which is now for the consideration of this House, I give my unqualified support. I think if the Honourable Members of the Imperial Legislature are to be exempted, it is only due to Members of our Provincial Councils that a similar exemption should be extended to them. It would cause no hardship. We are all now endeavouring to obtain Provincial autonomy as far as possible, and I think that the status of our

[Sir Maneckji Dadabhoy.]

Legislatures in the Provinces should also be enhanced; and so far as that part of the Resolution is concerned I do not see any objection, and I think this Council will readily accord its sanction. When the other parts of the Resolution come up for discussion before this Council, probably the Honourable Member will find me at variance with him in many respects, but I do hope that so far as this portion of the amendment is concerned, it will commend itself to the Council.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, before the Council proceeds further to the examination in detail of the various clauses of my Honourable friend's Resolution, it may perhaps be convenient if, with your permission, I give some indication to the House of the general attitude of Government towards the report of the Committee. I confess that when I received notice of my Honourable friend's Resolution I felt some sense of embarrassment owing to the fact that it raised so many issues of detail. If my Honourable friend's Resolution had confined itself to more general questions of principle, if it, in fact, had raised substantially one definite issue, I think that possibly the attitude of Government towards it might have been different. The House is aware that the proposals which my Honourable friend seeks to modify are proposals laid before Government by a Joint Committee of both Chambers who very carefully considered the history and the present situation of the Arms Act and the rules thereunder and have made recommendations, some of a very comprehensive character, which will I think go very far to secure what my Honourable friend Sir Maneckji Dadabhoy indicated as being a very undesirable result, namely, the appeasement and abatement of the heart-burning and discontent which several of these provisions have unquestionably created. The Government of India have taken the Committee's report into very careful consideration, and subject to inquiries from Local Governments and other authorities concerned, they hope to be able to carry out the main recommendations of the Committee: it must be realized, however, that all these questions closely affect Local Governments, who are in charge of the detailed administration of the Rules, and the Government of India, therefore, cannot commit themselves in detail until they have consulted them. But their provisional study of the question leads them to believe that effect can be given to the great bulk of the recommendations. With these preliminary remarks, Sir, I will deal with the clause of the Resolution which is now immediately before the Council. On the question on which a decision has now to be arrived at by this House, the Government of India have the recommendations of the Committee before them and they recognize that it involves a delicate question on which they will be glad to have the views of the unofficial Members of this House. While there are many points in the Honourable Member's Resolution and even in its preamble to which I shall have to take exception at a later stage, on this particular point I desire to say that the Government do not intend to intervene in the debate but will be very glad to have an expression of the sense of the House.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAM-MIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, in view of ever increasing anxiety of my Honourable friend the mover for rearming our country, I very much regret that I had not an opportunity of proposing an amendment to the effect that the whole Arms Act may be withdrawn, in order to save the time of the Council and avoid the trouble

of my Honourable friend in proposing such a very wide amendment. It would be more simple if the whole Act was repealed and every man was free to get arms. But as it has been ruled from the Chair that we must proceed clause by clause of this Resolution, I regret very much the omission by the Honourable mover of the many classes of the people who are much more anxious to get free of the operation of this Act than those mentioned in this clause. Why not all the Doctors of Law, the Doctors . . .

The HONOURABLE THE PRESIDENT: The Honourable Member must confine himself to the amendment under discussion and not stray from the point.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAM-MIL-ULLAH KHAN: Very well, Sir. About this clause the first thing is that the tenure of office of Members of the Provincial Councils is only a few years, and it means the same thing as feeding a man for one day and next day refuse to give him food; it means that you will exempt him for the term of his office and then if he is not re-elected he will feel disgraced because he was exempted for a few years and then the exemption is removed. If, on the other hand, such a Member is exempted for life, it means that with each succeeding term of the Councils more and more men will be exempted. Every law is based on some principle. If there is any principle underlying this law, there must not be so many exceptions as there are already so many in existence. Besides, the Local Governments have power to exempt any man or class of men they think fit; and if the Local Governments want to exempt the Members of their Provincial Councils, they can do so at any time. But for the Government of India to pass a general order of this kind does not seem fair or advisable. With these words, Sir, I oppose the whole Resolution and this clause of it particularly.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, the retention of privileges by any class does not commend itself to me, because such retention necessarily implies that there are considerable sections of the population which have no share in those privileges. The whole policy underlying the administration of the Arms Rules has been subjected to hostile criticism for many generations. The Government of India modified these Rules in 1919, and I am glad to say that the tendency shown then was to curtail the sphere of exemptions to a considerable extent; but unfortunately very large exemptions were still retained which, not unnaturally, led to an agitation on the part of those whose privileges had been taken away, and, as has been pointed out by the Honourable mover, the result of that agitation was the appointment of a Committee in 1922 whose report is before this House.

Sir, the Committee itself admits that the ideal arrangement would be to do away with all exemptions and to allow people to possess arms or firearms as the case may be only by taking out licenses. But the Committee proceeded to say that that counsel is a counsel of perfection and it is not possible to give effect to it. As has been pointed out by one of the dissentient members who has written a careful minute of dissent, if the Government of India took its courage in both hands it would be possible indeed to act upon what is called the counsel of perfection. All the same, Sir, I must say that whether it is possible or not to do away with all concessions and exemptions, to me it seems that it is highly undesirable to further extend the scope of those privileges.

[Saiyid Raza Ali.]

As I have pointed out, the very retention of privileges implies that there are large numbers to whom those privileges are denied. It follows therefore that unless you extend your exception to such an extent that the exception becomes the rule and the rule the exception, namely, unless you practically place arms within the reach of every respectable man, the policy of adding to exemptions is not one that would recommend itself to any man who had the good of his country at heart.

After these remarks, Sir, I will at once proceed to the clause which is immediately before the House. I entirely dissociate myself, Sir, from the light-hearted manner in which a previous speaker has dealt with this subject. It is not for us to speak with levity of Members of Provincial Councils. They are persons in fact on whom greater responsibility under the Government of India Act is laid than, at any rate, on Members of this august assembly. So far as the clause which recommends the extension of exemptions to Members of the local Legislatures goes, I find, Sir, that the position taken up by the Committee was the weakest. On referring to the Committee's report, Honourable Members will find that there is no marshalling of facts, no weighing of arguments, no attempt to come to reasonable conclusions or to formulate deductions, but a tendency to arrive at dogmatic decisions which is wholly unjustifiable. The entire question has been dealt with by the Committee in four lines, and those four lines read as follows :

"We would include Ministers and Members of the Imperial Legislature during their terms of office and Privy Councillors. The Committee by a majority do not recommend a similar concession to Members of the Provincial Legislatures."

That is the whole reasoning that the collective wisdom of this Committee has brought to bear upon this subject. I need hardly say that dogmatic as it is, there is no attempt whatsoever at reasoning in this passage. For obvious reasons the case of the Members of the two Chambers of the Central Legislature stands so far as I am able to judge on the same footing as the case of the Members of the local Legislatures. One of the previous speakers tried to distinguish and pointed out that the difficulty was that the term of office of those mortals, the Members of the local Legislatures, extends only to three years and no more. May I point out that similar is the term of office of the Members of the Legislative Assembly, whereas in the case of those immortals, the Members of this august Chamber, the term extends to five years. So that the same difficulty that the Government will have to face in the case of local Legislatures will appear in exactly the same manner in the case of the Assembly and after two more years, namely, on the expiry of five years, in the case of this Chamber. I submit that, whether it is a good thing or not to retain these privileges,—and so far as I am concerned, I am quite free from doubt on that point,—if it pleases Government to make exemptions, those exemptions should be based on some solid principle. In the two cases I have pointed out, the Committee have tried to make a distinction where no difference, in fact, exists, and therefore, I hope sincerely that this part of the Committee's report will not commend itself to Honourable Members. If this House sets its face against this clause embodied in the Resolution of my Honourable friend, I doubt not it will be a case of every man for himself and God for all. Here is a Committee consisting of certain Members of the two Chambers of the Legislature and the first recommendation of that Committee is that the two Chambers should be exempted from the operation of the Arms

Act. The spirit underlying that recommendation is contagious, and I doubt not that in course of time every local Legislature will proceed to appoint a Committee and end by voting that that Legislature should be exempted.

The HONOURABLE THE PRESIDENT: The question is that clause 1 stand part of the Resolution.

The motion was adopted.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : I beg to move :

"That in entry 6 (g) :

(a) All zemindars, who pay Rs. 3,000 or over as land revenue in the Agra Province, should be exempted;

(b) That heads of joint Hindu families, who pay Rs. 3,000 or upwards as land revenue, should also be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it."

Sir, this matter has been in dispute for many years, especially in the United Provinces where all the taluqdars as a class have been exempted without any regard to the amount of land revenue paid by them, while in the case of zemindars it has been ruled that those who pay Rs. 20,000 or more will be exempted but not those who pay less than Rs. 20,000. In the case of the Punjab also this difference has been under discussion and the Arms Act Committee also considered this question. The Committee have said that the Local Governments have different views and that enquiries should be made into this question as a whole, especially in the Punjab, the United Provinces and the Central Provinces. Many meetings of the zemindars have been held in the United Provinces and they have all along recommended to Government that those zemindars who pay Rs. 3,000 or upwards as land revenue should be exempted from the operation of the Arms Act on the ground that Rs. 3,000 as land revenue is a sufficient amount to show that the man is a man of position and status.

In the case of joint Hindu families, at present the rule is that neither the head of the family nor any major member thereof will be exempted unless the land revenue is not less than Rs. 20,000 in the case of every member of the family. I think this rule is a very hard one. If a joint Hindu family consists of three members and all of them pay Rs. 30,000, none of them will come under this rule, and neither the head of the family nor any member thereof will be exempted. I beg to propose that if a joint Hindu family pays Rs. 3,000 or more as land revenue, at least the head of the family should be exempted. Therefore, I move this clause 2 of the Resolution.

The HONOURABLE MR. J. CRERAR (Home Secretary) : I must oppose this clause. In doing so I propose to make one or two general observations on the principle of exemptions. The Committee which examined this question came to the conclusion that the principle of exemption as a whole was an undesirable principle and in that view the Government of India entirely concurred. It will however be evident to the House that this is not a matter which can be summarily disposed of by a stroke of the pen. Exemptions have been in operation in India now for many years. Certain persons and certain classes of persons have enjoyed those exemptions, and their immediate removal would undoubtedly cause a degree of discontent and heart-burning disproportionate to any advantage gained by an increased element of uniformity. The policy of the Government of India in this matter coincides entirely with that of the

[Mr. J. Crerar.]

Committee. While exemptions are in themselves things undesirable, they will have to be removed gradually. Now, I object to my Honourable friend's proposition under this clause on that general ground. I also object to it on another of an equally practical character. The Committee recognised, as the Government of India recognise, that the term "zemindar" is a term neither very precise nor very definite. In the varying circumstances of the various provinces of India one particular formula would not be equally applicable to all those areas. The Committee therefore came to the conclusion that this was a matter in which the Local Governments particularly concerned should be consulted before the Government of India arrived at any definite conclusion. The Local Governments are being consulted in this matter and I think the House will agree that it is eminently a matter in which the Local Governments should be consulted before any final decision is arrived at. Therefore, without prejudice to the further consideration of this question and the formulation of some more definite method of including gentlemen of this class in the list of exemptions, I must oppose this portion as being at present premature.

With regard to the second portion of the clause, I must also oppose it. I think the House will agree that exemption is essentially a personal matter, it is a personal and individual matter. It would be anomalous that because the personal law of a particular community involves the custom of joint family property, that fact should be taken into consideration as relevant in coming to a decision on a matter which is purely personal and individual. The House will differ as to whether it is desirable that any one should enjoy a privilege of this kind at all, but I think I have given some reasons why, as a practical proposition, it is desirable that the restriction of the privilege of exemptions should be proceeded with gradually. On these grounds I must oppose this portion of the Resolution.

The HONOURABLE LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : I beg to propose the amendment which stands in my name and which reads as follows

The HONOURABLE THE PRESIDENT : The Honourable Member had better move the second part of his amendment first.

The HONOURABLE LALA RAM SARAN DAS : I move :

"That all zemindars or the heads of the joint Hindu families who pay land revenue of Rs. 1,000 or over in the Punjab and Rs. 3,000 or over in all other provinces of India should be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it."

Sir, I cannot see any reason why the Honourable mover of the Resolution has altogether excluded from this privilege the great commercial and industrial classes. They have got an equal stake in the country and so they ought also to be given the privilege of exemption which the Honourable mover seeks for landlords and big zemindars. With these few words I commend my amendment to the Honourable House.

The HONOURABLE THE PRESIDENT : I asked the Honourable Member to move the second part of his amendment, relating to income-tax.

The HONOURABLE LALA RAM SARAN DAS : Very well. Part 2(b) of my amendment reads as follows :

"That those persons or heads of joint Hindu families who pay income-tax on an income of Rs. 20,000 or over should be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it."

I move this amendment and commend it to the acceptance of this Honourable House.

The HONOURABLE MR. J. CRERAR : I think it will be apparent to the House that, for the reasons I have already urged, it is equally impossible for me to accept this amendment. I do not propose to deal with this matter at any very great length and I will simply say this. The Committee themselves recognised the undesirability of the privilege of exemptions. That view has been fully accepted by the Government of India and my Honourable friend's proposition would undoubtedly result in an enormous extension of this privilege of exemptions. It has this further disadvantage that while, as I have said on a previous portion of my Honourable friend's Resolution, the exemption enjoyed is in all essentials an individual and personal privilege, the terms of my Honourable friend's proposition would make it general and indeterminate in its scope in the case of a particular community. On both these grounds I oppose this motion.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I also oppose this amendment on grounds entirely different from what the Honourable the Home Secretary has urged. I quite endorse what the Honourable the Home Secretary has stated, that the Resolution involves an invidious distinction and the matter of exemption is always a question of personal qualifications more than anything else and it is on these grounds that a Resolution of this character ought not to be encouraged. Apart from that there is the impracticable character of the Resolution itself, both the amendment as well as the original Resolution are wholly impracticable. My Honourable friend wants to confer on the head of a joint Hindu family a somewhat larger status. Conceding for a moment that Government agrees to give the exemption to the elder male member of the family as my friend contemplates, what is going to happen immediately a partition takes place in the family? Under the law as it stands any adult coparcener in a Hindu joint family can demand partition of the family estates at any time and if that be the existing law, what will the Government do—immediately disqualify the elder member whose name stands on the register of exemptions and remove his name? Would it not be an indignity for the family? Would it not be unworkable in practice? Would it not to a certain extent discourage partition or encourage the elder member of the family to put obstacles in the matter of partition? Most of the lawyers know and public opinion has declared that the joint Hindu family system is a curse and has many drawbacks and disadvantages. Are you going to append one more disadvantage to the Hindu joint family system by conferring a precarious and unsubstantial exemption of this character which can be set at naught at any time. Surely my friend as a Hindu knows that often disputes arise between coparceners and would not the head of the family bring to bear undesirable pressure on the junior members of the family who desire partition and try and retain them into the closure of the joint family? From the Government point of view there is another substantial difficulty. Is the Government going to make these clerical changes constantly in the registers merely because partition and reunion take place from time to time in the family, remove the elder member from the register and then bring him again under the category of the exempted? I think the whole idea is impracticable and ought not to be supported. It is for these reasons I oppose this part of the Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, I oppose this amendment on a different score. A limitation has been fixed on the amount of money which the male members of the joint family must have so as to be able to obtain license. There may be four, five or forty members. So there will be inequality when money is divided into individual members. When the money is distributed into bigger and smaller sums, how is equality going to be kept? As there will be always inequality, I oppose this amendment.

The HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : The whole scheme of my friend, the Honourable mover, is based on a distrust of the executive which will be charged with the administration of the Act. I for one take the view that it is not the letter of the law which counts but the spirit in which that law is administered. The whole solicitude for getting as many exemptions as possible goes to show that we are not yet free from doubt that the rules will not be administered in a manner which would be a reminder of the times gone by. Now not much depends on the list of exemptions that can be incorporated in the rules. We should try to have the rules administered in such a manner that every man who deserves to have a fire-arm or an arm should get it.

Now I think it will be bare justice to acknowledge here that the majority report, though by no means very liberal in its scope, yet has made recommendations which if carried out in a liberal spirit, will remove most of the grievances that are the subject matter of the clause embodied in the Resolution of my friend. On this point, Sir, the Committee have made four recommendations, and if all these are accepted by Government and carried out liberally, I think that will make it unnecessary for my Honourable friend or gentlemen of his way of thinking to insist on an enlargement of exemptions. Now the four points laid down by the Committee are that every man who pays Rs. 500 as land revenue or pays any income-tax or is in receipt as a Government servant of a salary of Rs. 100 or pays Rs. 100 in road or public work cesses, is entitled to have a license, and in the case of such a man it should not be open to the District Magistrate to say, 'No, I will not give you a license till I institute an enquiry and as a result of that enquiry I am satisfied that you are a desirable man.' I must say, Sir, that the recommendations of the Committee, though they do not go as far as some of us should have liked, are liberal enough, and if they are liberally given effect to by those who are charged with the administration of the Act, namely, District Magistrates, then I doubt not that it will not be necessary for us to insist on these exemptions. For these reasons, Sir, I do not think it is necessary to agree to the amendment that is before the House and which has been moved by my Honourable friend Lala Ram Saran Das.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay : Nominated Non-Official) : Sir, I want to address a few words on the point made by the Honourable Saiyid Raza Ali when he sat down just now. It struck me that the Resolution put before the House by my Honourable friend Lala Sukhbir Sinha as well as the amendments were more in the nature of seeing privileges for the land-owning class or for classes which pay certain amounts to Government. I think that from that point of view, pure and simple, a Resolution of this nature would hardly meet with the approval of the House. For, after all, supposing certain classes of people who enjoyed certain privileges till now are to be denied those privileges, what is it that

such people who are denied such privileges could have recourse to? They would have to apply for licenses in the ordinary course, as others who do not pay the minimum amount of land revenue or of income-tax to Government. To a course like this there should hardly be much objection, but for the fact of the suspicion in the mind of the public referred to by my Honourable friend Mr. Raza Ali; and while my friend Mr. Raza Ali has told the House how the Arms Rules Committee have tried to meet these objections, I think that my friend the Honourable Lala Sukhbir Sinha has really reflected here the apprehensions of the public in some directions in the Resolutions that have come up here. I am not one of those who are very intimate regarding the difficulties of people in getting arms in this part of the country, but I think that if one further step could have been taken or could have been suggested by the Arms Rules Committee in some shape like this, that whenever applications have to be considered . . .

The HONOURABLE THE PRESIDENT : I must point out that if Honourable Members insist on making speeches on the general question and not on the amendment, we shall not get on. The amendment before the House is this, that additional exemptions should be inserted in regard to income-tax payers.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS : I think we are on the Resolution.

The HONOURABLE THE PRESIDENT : No, on the amendment.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS : I am sorry, Sir, I did not understand that I was not speaking on the amendment. If we are on the amendment, I would have nothing more to say, and I would certainly be inclined to support the amendment also; I will explain this later on.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I admit my mistake in not including income-tax payers, and I am glad that my friend the Honourable Lala Ram Saran Das has put forward that motion. As to the remark of my Honourable friend the Honourable Sir Maneckji Dadabhoi, who said that the system of Hindu joint family is a curse, I may point out that it is not a curse but a blessing. But the times are changing and the laws are changing, and therefore we are obliged to have partition. I wish, Sir, that there may be no partition and that old families and houses will remain intact and impartible estates. The Honourable Mr. Raza Ali has said that there is a distrust of authorities who grant licenses. It is not the case. I do not propose to create any new privileges, but what I want is that if there are any exemptions, they should be made in the case of all those who are entitled to those exemptions.

The HONOURABLE THE PRESIDENT : The question is, that after clause 2, the clause under discussion, an additional clause be inserted as clause 3, running as follows :

"That those persons or heads of joint Hindu families who pay income-tax on an income of Rs. 20,000 or over should be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it."

The motion was negatived.

The HONOURABLE THE PRESIDENT (to the Honourable Lala Ram Saran Das) : Will you move your first amendment now?

The HONOURABLE LALA RAM SARAN DAS: Sir, I beg to move my first amendment which runs as follows:

"That the following entry should be substituted for the entry in 6(g), (a):

'That all zemindars or the heads of the joint Hindu families who pay land revenue of Rs. 1,000 or over in the Punjab and Rs. 3,000 or over in all other provinces of India should be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it'."

Sir, my friend the Honourable mover confines this privilege to his own province, rather to a part of his own province. I beg to move, therefore, that all other provinces should have the same privilege. As far as the Punjab is concerned, land holdings are very small, and there are few people who pay a land revenue of Rs. 3,000 or over. For that reason, Sir, I propose that as far as the Punjab is concerned, those people who pay land revenue of Rs. 1,000 and over should be exempted. In other provinces of course we have got big zemindars and big taluqdars who pay lakhs and lakhs of rupees in land revenue, but in the Punjab that is not the case.

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

"That for sub-clause (a) the following be substituted:

'(a) That all zemindars or the heads of the joint Hindu families who pay land revenue of Rs. 1,000 or over in the Punjab and Rs. 3,000 or over in all other provinces of India should be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it'."

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, in opposing this motion I do not intend to detain the House or to go in detail into its merits. I think the mere fact that my Honourable friend, the mover of the main Resolution, and my Honourable friend Rai Bahadur Lala Ram Saran Das have displayed on this matter so marked a discrepancy of opinion is conclusive proof that it is a question on which further consultation with Local Governments with reference to local conditions is absolutely essential before any decision is arrived at. On that ground alone, apart from any question of the merits, I oppose the amendment.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I do not understand why such preference has been shown by my Honourable friend for Agra. Perhaps because my friend lives there he thinks Agra and the United Provinces the choicest of all places and one which has taken the lead of all other provinces. If matters had remained there it would have been all right, but as the Punjab has also been brought in by this new amendment, I just want to make certain observations before the House. In the last few years, Sir, it will be known that dacoities and murders in the Punjab have greatly increased. The reason is that many people without licenses are in possession of firearms. Some of them get arms from the frontier which is next door, and others steal them from those who are weak; for there are certain classes of people from whom a man with an ordinary *lathi* could snatch a gun away. I heard, Sir, the other day that a man of this class asked for a license for a pistol and when he was asked why he wanted a pistol he said it was a nice thing which could be put into a pocket. He was then asked, 'are you going to fire it?' 'No', he said, 'but I will have a good servant taught how to fire it'. It may be, Sir, that these servants employed to fire pistols may be very good men, but they may also be bad men who may in the night go off and join a gang of dacoits. Then again, Sir,

there was a case in Gujranwala in which it was found that arms had been collected for the purpose of fighting the State. And there is the danger if exemptions are granted wholesale that some day when there are again disturbances the owners of firearms may take the same course as they took in Malabar.

Then, Sir, if arms are to be allowed to a man simply because he happens to be born in a family with a certain amount of income, he may himself get mixed up with dacoits or become a gambler or a *badmash*, and it might be very difficult for Government or the police to keep a check on so many of such sort of men. Then it is well-known that though a man may be paying a large revenue, and it is the same in all provinces, he may yet be in debt up to his nose. Is that fact to be taken into consideration or not? If he is in debt, naturally he will want to get out of it, either by going to money lenders to threaten them or by some other means which may not be quite so legal. In the same way, Sir, about Hindu families; perhaps the House would like to hear a story which I have heard. A man was going on a journey and told his servant to take his gun along in order to protect him. As evening fell and there was fear of dacoits, he told his servant to load the gun, and the servant loaded it. And he said to the servant, "show me the gun," and he put his finger into the barrel and said, "Oh no, it is not loaded." He thought that when you load a gun it ought to be filled up to the muzzle, and he told the servant that he was bluffing him; but the servant said no, it was loaded. He told the servant to fire the gun and the servant fired it and it went off. Then the man said, "these are dangerous things; you can fire them even when they are empty".

There is, therefore, Sir, always this danger of firearms being stolen from people of that class and so get into the hands of dacoits. I oppose this clause.

The HONOURABLE THE PRESIDENT: The question is:

"That for sub-clause (a) of clause 2 of the Resolution the following be substituted: 'That all zemindars or the heads of the joint Hindu families who pay land revenue of Rs. 1,000 or over in the Punjab and Rs. 3,000 or over in all other provinces of India should be exempted and the adult male members on the analogy of the entitled class be considered as belonging to it'."

The motion was negatived.

The HONOURABLE THE PRESIDENT: The question is:

"That clause 2 stand part of the Resolution."

The motion was negatived.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): I move, Sir:

"That entries 11, 11(a) and 11(b) be retained and all future title-holders, etc., should also be exempted."

Perhaps Mr. Crerar will be able to let me know whether the entries (a) and (b) above ought not to be capitals.

The HONOURABLE MR. J. CRERAR: Yes, that is so.

The HONOURABLE LALA SUKHBIR SINHA: Sir, the Committee has recommended that those persons who received titles before 1920 should continue to be exempted but not those who have received them after 1920 or

[Lala Sukhbir Sinha.]

in future. I do not understand the logic of this distinction. A title-holder is a title-holder whether he got his title before 1920 or after. Further all these men receive their titles from Government in virtue of their position, their good work or public service, and I do not think there should be any difference between those who get their titles before 1920 and those who got them afterwards. I move this clause, No. 3, therefore of my Resolution.

The HONOURABLE RAJA PRAMADA NATH RAY OF DIGHAPATIA (East Bengal: Non-Muhammadan: Sir, I do not quite understand why this distinction has been made between pre-1920 and post-1920 title-holders. In this connection at least, the majority report does not give any reasons for doing so. Nor do I understand why an existing exemptee should be required to take a life license for the arms he possesses. No reasons have been assigned for that too. What I say in support of this clause of the Resolution is that as these titles of honour have been conferred by Government on those only who are loyal citizens for either public services rendered or for benefactions made, or again on great landholders having stakes in the country, would it be fair to deprive them of this privilege of exemption for no fault of theirs at a time when their safety is threatened? Such a procedure would only depreciate the value of such titles of honour and lower the prestige of those who are thought loyal and public-spirited enough to deserve them. It will follow as a necessary consequence that a less number of people will come forward to help the different charitable institutions which, as is well known, some of them do in the hope of getting some sort of recognition. If, on the other hand, the Government is anxious to discourage such people, nothing would serve that purpose better than the withdrawal of this privilege of exemption from the future recipients of such titles. Sir, this Council to my mind is peculiarly fitted to consider the claims of such title-holders, as I find that out of the whole strength of 60 there are 40 title-holders in this Council, beginning with His Excellency the Commander-in-Chief and the Right Honourable gentleman over here down to the Khan Bahadurs, Rai Bahadurs, C.I.E.'s and many prospective Knights too. If, however, the exemptions have to be withdrawn, it should be from the whole class and not as the Majority Report suggests from the post-1920 title-holders. It is hardly fair that the older generation should enjoy a privilege which it is intended to be taken away from the younger generation who may have to face more troublous times in the future. With these remarks I beg to support the clause.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): I also support this part of the Resolution. I think it will be iniquitous to make this distinction between the existing title-holders and the prospective title-holders. I believe it will be in conformity with the principles which have guided the Committee as well as the Government in this matter that both the present and the future title-holders should be placed on a footing of equality.

The HONOURABLE MR. J. CRERAR: I must oppose this part of the Resolution also. I do not intend, and I think it would be superfluous on my part, to argue the matter in detail before the House. The question was very carefully considered by the Committee, and we revert once more to the general question whether it is desirable to extend or provide for a continuous process of extension of the privilege of exemption, or whether we

should take such steps as are reasonable and proper for its restriction within due limits. That is the policy urged by the Committee, and that is the policy which commends itself to the Government of India and I am therefore unable to accept my Honourable friend's suggestion.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: After the Maharaja's nice speech, there is not much for me to say about this part of the Resolution. I am sorry that the Government do not see their way to accede to the request of my Honourable friend. I strongly support this clause. At the same time I say that after all a man must do some service to the country before he can be entitled to a title. His case has to pass through many channels, even up to His Majesty the King Emperor or the Viceroy. If it is thought that a man should be given an honour, if that is supplemented by giving him the right to a firearm, there will be no harm. During the disturbances in the Punjab the title holders were simply hooted down and every agitator went for them. If you make them title-holders and put them in such an awkward position thereby, give them something to defend themselves with.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: I would have very much liked not to speak on this part of the Resolution, but as I did not complete the latter part of my speech I will now say a few words because it affects the whole question that we are now considering. I then said that I felt that the whole Resolution was based on a suspicion that people who are not included in the list of exceptions recommended by the Arms Rules Committee have to go without them. The Honourable Saiyid Raza Ali pointed out 2 or 3—or I think 4, he said—very salutary principles laid down by the Committee. If all these were carried out, then perhaps there would not be much left to say on exemptions from the Arms Act, but it appears as if the public have their own apprehensions about it and I am not convinced that there is any reason or any logic in the various exemptions that have been recommended by the Arms Rules Committee. Take for instance, the first one which the House has approved of. In the report they say the Members of the Central Legislatures out here ought to be exempted from the Arms Act, but Members of the Provincial Councils should not be so exempt. That appeared to me—I agree with one Honourable Member who pointed out that there is no reason why Members of the Provincial Councils should be any the less trustworthy than Members of this House here. Similarly, in this case a man who got a title before a certain date can have the exemption, but a man who has got his title after that cannot. In the same way, take the case of a joint Hindu family. I do not know what is the minimum figure recommended by the Arms Rules Committee, but I think it is somewhere in the neighbourhood of Rs. 12,000

The HONOURABLE THE PRESIDENT: We have disposed of that amendment.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: I am just putting that in order to show how the whole basis on which these exemptions have been sought to be constructed, does not appeal to me as being either logical or one which could be explained. A Hindu joint family

The HONOURABLE THE PRESIDENT: I really think it would be better if the Honourable Member will reserve those remarks for the debate on the

[The Honourable the President.]

general question. When we have disposed of these amendments, we shall come back to the general question, and if he wishes to show, as apparently he wishes to do, that the report of the majority is not well-conceived, he can do that then. But we are now on the question of title-holders.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: I therefore feel that the Government must either do away with all these exemptions and exceptions under this Act or there should be special reasons put forward on behalf of the Government why the Government opposes this clause. I think the Honourable Mr. Crerar gave his reasons in such few words that it is very difficult really to follow why he opposes this clause or even opposed the previous one. I therefore think that although this is a matter in which this House is specially interested, as pointed out by the Honourable Raja, simply because there is no logic in the whole thing, this House should carry this clause and indeed most of the other clauses too of this Resolution.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): There is one observation I would like to make in connection with what has fallen from the lips of my Honourable friend opposite. The distinction between the case of title-holders before a certain date and the case of title-holders or gentlemen on whom titles may be conferred in the future is this. Title-holders before that date are already exempt under the existing law, and therefore, in their case it would be really a forfeiture of existing privilege, while in the case of those who may obtain titles hereafter, no such forfeiture is involved. And in view of the principle which my Honourable friend Mr. Raza Ali has emphasised so forcibly as to the undesirability of these exemptions, it is obvious that there is a clear distinction between the case of past title-holders and future title-holders.

The HONOURABLE THE PRESIDENT: The question is, that clause 3 do stand part of the Resolution.

(After a pause.)

The HONOURABLE THE PRESIDENT: Before I put the motion a second time I should like to draw the attention of the Council to the fact that once the doors are locked before the question has been put for the second time, till their reopening, after the division has been taken no Member must leave this Chamber till the result of the division is announced.

The HONOURABLE THE PRESIDENT: The question is, that clause 3 of the Resolution do stand part of the Resolution.

The Council divided as follows:

AYES—14.

Akbar Khan, Major Nawab.
Ayyangar, Mr. K. V. R.
Bahram Khan, Nawab Sir.
Dadabhoy, Sir Maneckji.
Kale, Mr. V. G.
Khaparde, Mr. G. S.
Moti Chand, Raja.

Purshotamdas Thakurdas, Mr.
Ram Saran Das, Mr.
Ray, Raja P. N.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.
Umar Hayat Khan, Col. Sir.
Vasudeva Raja, Raja.

NOES—17.

Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. E. M.
Crerar, Mr. J.
Forrest, Mr. H. T. S.
Jha, Dr. G. N.
MacWatt, Major-General R.C.
Miller, Sir Leslie.

Muzammil-ullah Khan, Nawab.
Raza Ali, Mr.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Thompson, Mr. J. P.
Wacha, Sir Dinshaw.
Zahir-ud-din, Mr.

The motion was negatived.

The HONOURABLE LALA SUKHBIR SINHA: Sir, I move:

"That in paragraph 4 all Magistrates, stipendiary or honorary, Honorary Munsiffs and Honorary Assistant Collectors and other gazetted officers should be exempted."

My reasons for moving this clause are that in this Council in March 1921 we passed a Resolution by a majority of votes that honorary magistrates should be exempted. When speaking on the last two clauses the Honourable Mr. Crerar has said that under the new rules no new exemptions have been recommended and that those who enjoyed this privilege will be allowed to have that privilege. The same thing has been said by my friend Sir Muhammad Shafi, that the Committee report does not recommend any privilege to be taken away from those who enjoyed it, that is the title-holders. On the same analogy I say that honorary magistrates were exempted and not only they but almost all the magistrates were exempted. Why is this privilege taken away from them? These magistrates, paid or honorary, and gazetted officers have to go out on official duties as well as non-official duties and in some cases I have seen that they have gone to stop disturbances. Many of the members who gave evidence before the Committee recommended that these persons should be exempted from the operations of the Arms Act and they spoke very strongly about the necessity for these people to have arms. I think out of 16 non-official witnesses 13 have made this recommendation and therefore it is quite fit and appropriate that all those persons who are doing public service for no payment should be given this privilege of exemption from the operations of the Arms Act.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I rise to support this section of the Resolution. A magistrate has to administer justice to all sorts of people, thieves, robbers and the like. They are a very dangerous class. When these magistrates are doing work for the good of the State, I think there should be some weapon in their possession by which they can save their own lives if they are attacked. Even if the magistrate does not use it, if people know that he has got a firearm, they will think twice before they face him. There may be occasions when a magistrate goes into a big riotous crowd in which both the contending sides are about to fight. If with the aid of one firearm the magistrate goes there and can put a stop to the fighting, how much good will it be for the administration and for the State as he will save the lives of many of those who would have been killed or wounded in the riot. The magistrates are chosen from good classes and some are men of standing, *i.e.*, they are picked men. It will be a pity if even these picked men are given no firearms when they use them for the good of the State. For these reasons, I strongly support this amendment.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I regret having to appear so frequently in opposition to my Honourable friend, the mover, but in this case also I must oppose the motion. The arguments of my Honourable friend who immediately preceded me seemed to proceed on the assumption that unless a person is granted an exemption, there will be obstacles in the way of his possessing and carrying arms. That is, Sir, a remote possibility. One of the principal features of the amendment of the rules in 1919 and of the proposals of the Committee now before this House is a very large extension of the entitled class; or rather I should say, that in the first instance it was the institution of an entitled class, and in the second case, proposals for a very large extension of that class. There is nothing whatever in the rules, and nothing whatever in the proposals of the Committee, which will put any sort of obstacle in the way of magistrates and other Government servants possessing and carrying arms. In cases where the Local Government is of opinion that the possession and carrying of arms is necessary to an officer for the purposes of his public duties, it is within the competence of that Government not to grant that officer a general exemption but to grant him an exemption from the payment of the license fees, which to all intents and purposes amounts to an exemption. I therefore suggest that my Honourable friend's proposal is really superfluous, and that the proposals made by the Committee go quite far enough and will not impose any unreasonable disability on the class of officers contemplated in this clause of the Honourable Member's Resolution.

The HONOURABLE THE PRESIDENT: The question is that clause 4 stand part of the Resolution.

The motion was negatived.

The HONOURABLE LALA SUKHBIR SINHA: Sir, I beg to move:

"That in paragraph 5, no restrictions be placed on the possession of firearms by exemptees who should be required to have them registered."

Sir, at present in every province there are some restrictions put on the possession of firearms; in some province they could keep two guns and one rifle, and in others, three, and so on. What I suggest in this clause is that those who are exempted, those who have been exempted from the operation of the Arms Act by the Government, they should not be required to keep firearms up to a certain limit. Of course they should be required to register them, so that Government may know how many arms there are in the country or in the province; but there is no reason why they should be required to keep a certain number of arms only, and therefore I beg to move this amendment.

The HONOURABLE MR. J. CRERAR: I think, Sir, that Honourable Members who have carefully studied the rules made, within their rule-making powers, by the Local Governments will agree with me that those rules are of a quite sufficiently comprehensive character and impose no improper restriction or inconvenience upon persons who possess exemption. They vary slightly in the various provinces but the normal amount allowed under an exemption is two rifles or two shot guns or a rifle and a shot gun; and if anyone wishes to exceed that amount, it is open to him to do so on payment of the small contribution to the Exchequer which is provided for as fees for licenses. I do not think that any one is likely to be affected in any serious

degree by the proposed regulation under this head, unless he desires to possess a very large armoury. I submit that in granting exemptions it is proper to impose certain reasonable conditions on the exercise of that exemption and the existing conditions are proper and reasonable. On the point of registration which my Honourable friend has raised, that question requires further examination. I think there is much to commend the suggestion, and the matter is under consideration and is being referred for the opinions of Local Governments; but at present it is premature for me to accept that portion of my Honourable friend's motion, and I must therefore at this present stage oppose the whole.

The HONOURABLE THE PRESIDENT: The question is that clause 5 stand part of the Resolution.

The motion was negatived.

The HONOURABLE LALA SUKHBIR SINHA: Sir, I move:

"That the following be included in the entitled class:

- (a) All ex-Members of the Imperial as well as Provincial Councils;
- (b) Barristers, Pleaders, Vakils of High Court of 5 years' standing;
- (c) Professors, Readers and Lecturers at Colleges affiliated to an Indian University;
- (d) M. As.;
- (e) B. As. of seven years' standing."

(Honourable Members: "Is it 'ex-Members'?")

The HONOURABLE THE PRESIDENT: As I heard the Honourable Member, he said 'ex-Members'.

The HONOURABLE LALA SUKHBIR SINHA: The omission of the word 'ex' seems to be a misprint.* Sir, at present there is a class called the 'entitled class'; it means that persons of this class will be given licenses as a matter of right without an inquiry. The Committee has recommended that in this class those should be included that pay a land revenue of Rs. 500 or pay a road cess or a public cess of Rs. 100 or pay income-tax in any amount or, in the case of Government servants, are in receipt of a pay of Rs. 100 a month or over. But they have not taken into consideration the case of ex-Council Members or others that are included in this clause 6. My proposal is simply to include them in this entitled class, so that if they want to get a license they may get it without an inquiry. All those persons whom I have mentioned in the sub-clauses (a), (b), (c), (d) and (e) are men of high education and there is no reason why men of such status and position should not have licenses. Of course if a magistrate knows that a certain man is of bad character or belongs to a criminal tribe, he will not grant a license to him, or he may take it back if necessary, but if any of those included in my list applies for a license, I see no reason why that should not be granted to him. Therefore, I move this clause to the effect that all those who are mentioned here should be included in the entitled class so that if they want to keep firearms, they may apply, and get a license on payment of the prescribed fee. This is all that I want and nothing more.

The HONOURABLE MR. J. CRERAR: Sir, I oppose this motion. I am aware that my Honourable friend holds views which I think are somewhat

* Vide Resolution as it originally appears on page 939 ante.

[Mr. J. Crerar.]

singular on the question as to the due extension of the issue of licenses. I believe my Honourable friend has on one occasion expressed the opinion that licenses for firearms ought to be given without question even to a dacoit or a murderer, and if that is my Honourable friend's view on the subject, he may in the present instance feel astonished at his own moderation. Nevertheless

The HONOURABLE LAIA SUKHBIR SINHA : May I say by way of a personal explanation that I stated in my evidence that this country is denied a privilege enjoyed in other countries where a fiscal basis is adopted.

The HONOURABLE THE PRESIDENT : The Honourable Member is going too far. He will have a right of reply.

The HONOURABLE MR. J. CRERAR : Now, Sir, in referring to the Honourable Member's opinion I am not drawing any analogy between the criminal classes and the classes whom he now proposes to introduce; and I specially guarded myself against any inference of that kind being drawn when I stated that I should not be surprised if the Honourable Member is astonished at his own moderation. I have no doubt that the members of the various classes whom my Honourable friend proposes to include in this clause of the Resolution are generally persons who might very properly be allowed to possess and carry arms. My objection is not based on that ground. It is that it is entirely superfluous, and I do not think that we ought in proceeding to amend these Rules to encumber them with superfluities. If the House will carefully examine the recommendations made under this head by the Committee, I think they will agree, as my Honourable friend Saiyid Raza Ali has already stated, that they are comprehensive and generous and do substantially meet the requirements of the situation. My Honourable friend the mover proposes to introduce educational and professional qualifications. I think that there is a close analogy in this matter between the constitution of the entitled classes and the basis of the various franchises. In the matter of franchise, we are proceeding almost entirely on a fiscal basis. And I think in this matter of the entitled classes we ought to proceed on a similar basis. That is one ground of principle on which I object to the Honourable Member's proposal. The other ground of my objection is that it is a superfluity and would prove an unnecessary encumbrance to the officer who will very shortly have to deal with the task of revising the Rules.

The HONOURABLE DR. GANGA NATH JHA (United Provinces : Nominated Official) : Sir, for the first time in his life my Honourable friend has been very unfair to his own Province. I do not see why he has excluded from the entitled class all Science graduates who in the United Provinces are no longer B.A.'s or M.A.'s but B.Sc.'s and M.Sc.'s. Another very deserving class of people whom he excludes are the Professors, Readers and Lecturers in our numerous Universities. In the United Provinces, Sir, we have now very few Colleges that are affiliated to Universities. We are a province of several Universities and all the most distinguished Professors, Readers and Lecturers belong to Universities, not to Colleges. So that on educational qualifications alone, I am afraid my friend by the wording of his Resolution has excluded a large number of very deserving men.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, this Resolution is rather of an omnibus character. So far as

(a) is concerned, I extend my sympathy to the mover. We have already passed the first part of the Resolution in which we have extended the right of exemption to Members of the Provincial Councils and on analogy I think it will be equally fair to extend the right to the ex-Members. As such I would support part (a) of this Resolution. As regards the other portions, I oppose them and very strongly. The amendment introduces a new element and it perpetuates a distinction between class and class, between creed and creed and between profession and profession. It destroys the very object and motive with which the Rules under the Arms Act were sought to be modified. We cannot frame any exhaustive list or bring in invidiously professions under one particular category. I do not see why, if this Resolution is carried, members of the medical services, engineers and members of other services and professions, who are equally and eminently fit to enjoy the same privileges, should be excluded, and be not put on a footing of equality. A Resolution which perpetuates a distinction between class and class, between profession and profession, ought to be studiously avoided. It is for these reasons that I object to all the clauses from (b) to (e).

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : Sir, I oppose clause 6. As regards this, Sir, I have much the same remarks to offer as I did in the case of the other clauses. But during the course of the debate one of the speakers said that I had spoken lightly of the Members of Provincial Councils. I may remind him that only in to-day's paper there is a case reported of a man called Sher Muhammad, a Member of one of the Councils, who has been sent to prison for three years. As far as barristers and pleaders are concerned, I do not want to say anything except that in every class there are all sorts of men; some are very very good, but there are indifferent and bad also. Some of them do not earn sufficient money from their practice; they are known as travelling pleaders, because it is found that they go from one station to another in the hope of securing a more lucrative practice. And when a man does not earn sufficient, he is dissatisfied and always turns against someone; generally it is against the Government. When we had trouble last, a big batch of such men was considered to be at the bottom of the whole thing and they were convicted. And though His Majesty's Government may let off such men, as they have been doing lately, still the stigma remains, and to give licenses to such people wholesale is I think very objectionable and dangerous for the country. In the same way, Sir, when there were disturbances the students took a great part in them. Now, the students are always under the thumb of their masters and professors; and it looks as if those gentlemen, instead of keeping their students in order, perhaps incited them; I do not say that all did, but some did. So here too, to give licenses to a class which can inflame young people is I think very dangerous. Again, it was not the hooligans which gave trouble but the students, the M. A.'s and B. A.'s. When there was trouble in Bengal, who threw the bombs? the M. A.'s and B. A.'s. When the bomb was thrown at the Viceroy here in Delhi, who was caught red-handed? A school master. So, Sir, it means that if these people who are apt to go against the Government are considered to be the choicest of all people and they are to be allowed to have arms, they will use them against only one body and that is the State. If therefore we want tranquillity in the country, I do not think that we should arm these people. With these few words, Sir, I strongly oppose this portion of the Resolution.

The HONOURABLE THE PRESIDENT: The question is, that clause 6 stand part of the Resolution.

The motion was negatived.

The HONOURABLE THE PRESIDENT: The Resolution, as amended, is now under discussion.

The HONOURABLE SAIYID RAZA ALI: Sir, the report of the Arms Rules Committee, the recommendations of which were subjected to criticism in the Resolution of my Honourable friend, is what might be called a compromise between two competing principles. The principle held rather tenaciously by the people of this country has been to build the entire policy of the Arms Rules administration on what is known as the fiscal basis. Some advanced thinkers have been trying to induce Government to introduce the same policy in India as obtains in some of the western countries including England herself. Their claim is that unless a man has been proved to be an undesirable person, the State has no right to refuse the grant of a license to him. On the other hand, the principle on which Government's policy was based, in any case up to the year 1919, was the grant of licenses on a basis of exercise of patronage or exhibition of favour. Government acted on the principle that if a man had deserved well of Government, if he had rendered any services to Government he was entitled to get the license for an arm or a firearm as the case might be. The report seeks to reconcile these conflicting views, and while not accepting in its entirety the plea taken up by the minority members who wanted to base our policy on a fiscal basis, has gone a long way to meet the views that are entertained on the subject by a large number of those who are in a position to give a lead to the people. The scope of the grant of arms has been considerably widened. But, Sir, after all, it is not so much the rules that matter but it is the whole outlook, the angle of vision from which a certain problem is viewed that is responsible for the ultimate success or failure of certain administrative policy. I think it is necessary for me to sound a note of warning in this Chamber and say that although we welcome, as far as we may, the recommendations made by the Arms Rules Committee, Government should make it quite clear to those who are charged with the administration of the rules and with the grant of licenses, that such grant should not be based on the same old policy which found favour with Government till the year 1919. The grant of licenses should not be by way of favour or exercise of patronage or reward for services. As the Committee have taken pains to point out, Government should impress upon their District Magistrates that every man who belongs to the entitled class has a right to get a license unless there is something positive against the man which can be proved. If that is the principle on which Government's policy is going to be based, I for one have some hope that these changed rules will go a long way to removing the legitimate grievances of the people. On the other hand, if the magistrates in granting licenses are influenced not so much by the fact that they are performing a duty, but by the consideration that they are exercising a right, I have no doubt that those old complaints will continue, good and beneficent as the intention of the authors of the report has been; sooner or later the time will come when there will be greater agitation against the policy of Government, if halting, than that which was directed against Government's policy in the past.

The HONOURABLE MR. J. CRERAR: The Resolution, as it now stands before the House, is of a comparatively restricted character and I have very little further to say. Some of the most important questions of principle and detail have already been very fully debated. I have in my opening statement indicated to the House what the attitude of Government is towards the recommendations contained in the Report. I shall merely add this that as soon as the opinions of the Local Government and the other authorities consulted have been received, and as soon as the present pressure of legislative business is relaxed, it is the intention to proceed without delay to the modification of the rules in order to give effect to the policy accepted by Government. I had occasion in replying to my Honourable friend's first speech to make some remarks about the form of his Resolution. I said that if it had been possible for Government to take up a different attitude with regard to it. Now, Sir, in opposing the Resolution as it now stands, I wish to make it clear that this is entirely without prejudice to the attitude which I took up with regard to the particular matter of detail which now stand in the Resolution. Government did not intervene in the debate on that point because they desired to ascertain the sense of the un-official Members of this Council. What now remains is to consider the actual terms of my Honourable friend's Resolution. He desires that Government should give an undertaking that they will immediately proceed to give effect to the recommendations of the report. Sir, we cannot accept that Resolution in those terms. It is obvious that some consultation has still to take place. We have to consider the opinions received and the work of revising the rules will be a laborious one which cannot be carried out immediately. It will be carried out as soon as it practically can be. I am therefore unable to accept the Resolution as it now stands. I hope in view of the assurances which I gave as to the general attitude of Government towards the proposals in the report, it will not be considered as in any way prejudicial to the main purport of my Honourable friend's Resolution, though we cannot accept it in its present terms.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Speaking on the Resolution as a whole, I am sorry to say that good, bad and indifferent clauses are all heaped up in the Resolution, and as some are deserving of support and some are not they all stand or fall together. In this case, the best thing will be that in view of the assurances given by the Government my Honourable friend should withdraw his Resolution.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, I wish to oppose the whole Resolution on a point of principle. The principle is that the Arms Act has stood in the country and so long as it stands it must be respected and to make more exemptions will mean that it will create jealousy among the people. I will not say a single word against any class of gentlemen which has been recommended for exemption by my Honourable friend; I do not say for a single moment that they do not merit consideration. I only submit that on principle it is unsound to pass this Resolution.

The HONOURABLE LALA SUKHBIR SINHA: I felt that this Resolution would be taken by the Honourable Members of this Council with sympathy

[Lala Sukhbir Sinha.]

but I am sorry the case has been otherwise. My object in bringing forward this Resolution was to have a discussion on the Arms Rules Committee's report. That report has gone to Government and they will finally decide what to do. My object is to some extent gained. Government will frame their orders on this debate and after making other inquiries from Local Governments; I find that the Honourable the Home Secretary says that the attitude of Government has been not to extend the extensions, but rather to restrict the extensions. If this be the policy, then I have nothing to say, but on the other side the attitude of the public is either to have the Arms Act repealed or to have it so modified as to enable people to keep arms as freely as possible with administrative limitations. In many countries the fiscal system has been adopted. In the Native States there are no arms, rules. Why should we have such restrictions in British India? My Resolution includes all such class of persons who were formerly exempted. From the statement on the Government side it appears that those people who had this privilege will continue to have them but I find that in the case of honorary magistrates and munsiffs this privilege has been taken away. So I do not understand on what lines or policy Government frame their rules. Therefore I do not want to say anything more except that the debate will go to the Government of India and I hope and trust that they will take into consideration all the points raised here as well as elsewhere and frame the rules on these lines.

The HONOURABLE THE PRESIDENT: The question is, that the Resolution, as amended, be adopted.

The motion was negatived.

RESOLUTION *RE* AMENDMENT OF STANDING ORDERS.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): I beg with your permission to move for leave to amend the Standing Orders of the Council of State by adding to them a Standing Order in the form * annexed to this agenda list, on petitions relating to Bills pending before the Council of State.

The HONOURABLE THE PRESIDENT: The Honourable Member has asked leave to move an amendment to Standing Orders. Will those Members in favour of leave being granted rise in their places?

(Almost all the Members stood up.)

The HONOURABLE THE PRESIDENT: The Honourable Member has the necessary support. He has the leave of the Council.

The HONOURABLE MR. G. S. KHAPARDE: In moving this Resolution, I really cannot claim any originality at all. This matter was brought before

* Vide Appendix at the end of this number.

this Council by my Honourable friend Sir Maneckji Dadabhoy and apparently what he said recommended itself and then the Government appointed a Select Committee consisting of the Honourable the President, Sir Frederick Whyte, Mr. Samarth and the Honourable Mr. O'Donnell. That Committee met and they made out their report which has been published. They made certain recommendations and all that I seek to do is to adopt their report and make a proposal that those recommendations should be carried out. What happened was this. I put a question in this session asking the Government to declare their intentions with regard to that report and the Government replied that Government intended to take no action but they left it to the Members of this Council to take such action as they pleased. So I have brought in this Resolution. The subject is a very important one and I have therefore taken it upon myself to move it. It should really have been moved by my Honourable friend Sir Maneckji Dadabhoy. He did not happen to be here. Anyhow we belong to the same province and we may take credit for that, all the same. This subject has a long history behind it into which we need not go. From the earliest days of Parliament in England this right has been exercised and at one time it used to sit like a High Court and Judge of cases and so on. Later all these functions were separated from each other and developed differently. The Committee has very wisely confined their recommendations to the present day practice of the House of Commons and it is that practice of the House of Commons that we now seek to introduce here. The chief reason why I wish it to be brought in is that it will give the outside public an interest in the work which we are doing. It is only confined to legislative measures that will come before us and we can permit the general public to send in their petitions in the particular form we provide and the public can send their petitions directly or through Honourable Members in which case there is a certain procedure laid down and then we do not go beyond that in any way. So this will give an interest to the general public in the work which we do here; also the general public, I believe, will read our proceedings with greater care than they do now and devote a portion of their time which they now do in writing to newspapers, or generally in trying to make out that we are not their representatives at all, to these proceedings, and their minds will be drawn away from wild theories, and they will fall into line with the constitutional methods; and this is a method which is no new thing that we are seeking, — we are only carrying out very cautiously what the House of Commons actually does. I do not think it is necessary therefore that I should support this Resolution with a long speech or a very closely reasoned argument. Sir, I move this Resolution.

The HONOURABLE SIR MANECKJI DADABHOY: I support this Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: So do I.

The HONOURABLE THE PRESIDENT: The question is that the proposed amendment for which leave has been granted be referred to a Select Committee.

The motion was adopted.

The HONOURABLE THE PRESIDENT : Under the rules, if a motion of this character is carried the Council has to elect seven Members by a particular method. If, however, and this has happened on one or two occasions before, the House agree on seven Members, we could then complete the Committee this morning. I propose to withdraw from the Chair to allow Honourable Members to consider the question and to put in nominations at the table. If the nominations exceed seven in number, then an election must be held. That must be held of course on some future date, it is impossible to hold it this morning. If, on the other hand, should it so happen that seven names only are proposed, the election might be dispensed with.

The HONOURABLE MR. G. S. KHAPARDE : Sir, the nominations I have handed in are there. The seven Members which I have nominated I will read out.

The HONOURABLE THE PRESIDENT : The names should be handed in at the table. Do I understand that there is no other Member of the House who desires to serve on this Committee? ("No.") Then no election will be necessary. I will now read the names.

The Right Honourable Srinivasa Sastri,

The Honourable Sir Leslie Miller,

The Honourable Mr. Lalubhai Samaldas,

The Honourable Rai Bahadur Lala Ram Saran Das,

The Honourable Mr. Crerar,

The Honourable Mr. Khaparde, and

The Honourable Saiyid Raza Ali.

I understand that those names are acceptable to the Council? ("Yes, yes.") It now remains for me to nominate one of the Chairmen of the Council to be a member. If the Honourable Sir Maneckji Dadabhoy will serve, I shall have much pleasure in nominating him.

The HONOURABLE SIR MANECKJI DADABHOY : I should be willing to serve.

The HONOURABLE THE PRESIDENT : I therefore nominate the Honourable Sir Maneckji Dadabhoy and that completes the Select Committee which is now constituted in accordance with the Standing Orders.

DISCUSSION ON THE CRIMINAL LAW AMENDMENT BILL.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member) : Sir, with reference to the inquiry which was made by a Member of this House at the conclusion of the meeting held last Thursday, I understand that the Criminal Law Amendment Bill, otherwise known as the Racial Distinctions Bill, will be taken into consideration on the 1st March after the presentation of the Budget.

The HONOURABLE THE PRESIDENT : That concludes the business for to-day.

The Council then adjourned till Eleven of the Clock on Tuesday, the 27th February, 1923.

APPENDIX.

(See page 962, ante.)

DRAFT STANDING ORDER ON PETITIONS.

1. Petitions relating to a Bill pending in the Chamber may be presented or submitted in accordance with the Standing Orders.

2. Any such petition may either be presented by a Member, or may be forwarded to the Secretary, in which latter case the fact shall be reported by him to the Chamber.

3. A Member presenting a petition shall confine himself to a statement in the following form :—"I present a petition signed by _____, petitioners regarding _____ Bill now pending in this Chamber", and no debate shall arise on this statement.

4. At the commencement of each session the President shall nominate a Chairman and _____ Members to constitute the Committee on Petitions and if he thinks fit shall fill up any vacancies occurring on the Committee during the session.

5. Every petition shall, after presentation or report as the case may be, be referred to the Committee, and the Chamber shall not be considered to be seized of the petition till the Committee has reported thereon.

6. The Committee shall examine every petition referred to it, and shall report periodically to the Chamber stating the subject matter of the petition, the number of persons by whom it is signed, and whether it is in conformity with the Standing Orders. If the petition complies with the Standing Orders the Committee may, in its discretion direct the petition *in extenso* or a summary thereof to be circulated as a paper to the Bill to which it relates. The Committee shall in its report state whether circulation has or has not been directed.

7. Every petition shall—

(i) either be in English or if in the vernacular shall be accompanied by an accurate English translation;

(ii) be in print, and if presented by a Member, shall be countersigned by him; and

(iii) be couched in respectful and temperate language.

8. The full name and address of every signatory to a petition shall be set out in the handwriting of the signatory if literate, or be authenticated by his thumb impression if illiterate.

9. Every petition shall be addressed to the Indian Legislature and shall conclude with a prayer specifying the definite object of the petitioners in regard to the Bill to which it relates.

10. The general form of petition set out in the schedule, with such variations as the circumstances of each case require, may be used and if used shall be sufficient.

[26TH FEB. 1923.]

SCHEDULE.

Form of petition.

TO THE INDIAN LEGISLATURE.

WHEREAS a Bill entitled a Bill

(Here insert title of Bill.)

is now under the consideration of the Indian Legislature the humble petition of

(Here insert name and designation of petitioner or petitioners in concise form, e.g., "Ram Lal and others" or "the inhabitants of—" or "the municipality of—" etc.)

sheweth

(Here insert concise statement of case.)

and accordingly your petitioner (or petitioners) pray that

(Here insert "that the Bill be or be not proceeded with," or "that special provision be made in the Bill to meet the case of your petitioner, or any other appropriate prayer regarding the Bill.")

and your petitioner(s) as in duty bound will ever pray.

Signature(s) of petitioner(s).

Countersignature of Member presenting.

COUNCIL OF STATE.

Tuesday, the 27th February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: A Message has been received.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL: "Sir, I am directed to inform you that the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, which was passed by the Council of State at their meeting on the 14th September, 1922, was passed by the Legislative Assembly at their meeting on the 26th February, 1923, with the amendments indicated in the attached statement. The Legislative Assembly request the concurrence of the Council of State in the amendments."

BILLS LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rules 25 and 33 of the Indian Legislative Rules, I lay on the table the following Bills which were passed by the Legislative Assembly at their meeting held on the 26th February, 1923:

- (1) A Bill further to amend the Government Savings Banks Act, 1873;
- (2) A Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.

THE INDIAN PAPER CURRENCY BILL.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I beg to move:

"That the Bill to consolidate the law relating to Government Paper Currency, as passed by the Legislative Assembly, be taken into consideration."

This Bill, Sir, is purely a consolidation measure and does not effect any amendment whatever in the existing law. I feel sure that it will have the hearty support of those Honourable Members who have been rash enough to endeavour to discover what the Currency law is at the present moment from the large number of Acts, amending Acts and correction slips—if they are so fortunate as to have the slips in their copies of the law. The Bill brings together the various legal provisions at present in existence and places them in one self-contained measure without, as I have said, effecting any change in the substantive law. I beg to move.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, as one who has to deal with this question of exchange and currency, if not on the money market, at least in the college classes, I welcome this measure which will consolidate the law in relation to exchange and currency into one enactment. I should, however, have liked the Government of India to have taken this opportunity in consolidating the existing law, to amend that law. So many suggestions have been already made to Government, and I felt that the time had arrived when such a thing was absolutely necessary. The public might have suffered the inconvenience of the absence of a consolidated Act for a little time longer, but they would certainly have preferred that the Government should have made up their minds on some of the most important questions concerning exchange and currency. For example, in clause 13

The HONOURABLE THE PRESIDENT: I do not think I can let the Honourable Member raise the question of amendment on a consolidation Bill.

The HONOURABLE MR. V. G. KALE: I was only referring to one of the clauses to point out how some amendments which are very necessary have not been taken up. However, I do not wish to go into the details of the Bill but will only support the motion with this remark that Government have already delayed that important measure and it would have conduced to the convenience of the public if the two questions had been taken up together.

The motion was adopted.

The HONOURABLE THE PRESIDENT: As this is purely a consolidation Bill I do not propose to put it clause by clause to the Council, but if any Honourable Member desires that I should adopt that course, I will do so. (After a pause.) I take it that no Honourable Member does desire it. I will then call on the Honourable Mr. Cook to make the next motion.

The HONOURABLE MR. E. M. COOK: I beg to move:

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

The motion was adopted.

THE PRISONERS (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill to amend section 29 of the Prisoners Act, 1900, be taken into consideration."

Two days ago in moving the introduction of this Bill I explained briefly its purpose and I do not think it is necessary for me to recapitulate that brief statement. I make the motion standing in my name.

The motion was adopted.

Clauses 1 and 2 and the Preamble were added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move that the Bill be passed.

The motion was adopted.

THE REPEALING AND AMENDING BILL.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, I beg to move:

"That the Bill to amend certain enactments and to repeal certain other enactments, as passed by the Legislative Assembly, be taken into consideration."

In the case of a large body of statutory law such as we have in this country, periodical revisions of this kind become necessary owing to changed circumstances. Enactments become obsolete, modifications in the provisions of individual enactments become necessary, and in consequence it is necessary to introduce an omnibus measure of this description. In the Bill as originally printed and presented to the other House there was a column of explanations which in the Bill now presented to this House has been omitted as the Bill must be placed before the House in its final shape to be passed to-day. But a copy, I believe, of the original Bill has been attached to the copy which has been finally presented and which is now before every Honourable Member. Subsequent to the introduction of the Bill in the lower House it was discovered that a provincial Act had been passed in Burma which introduced certain modifications in the law in that Province. It therefore became necessary subsequent to introduction for Government to propose certain amendments in the present Bill as originally introduced. All these modifications, repeals and amendments are more or less formal; they do not involve any questions of principle; and it is therefore unnecessary for me to take up the time of the House by going through the various clauses of the Bill.

The motion was adopted.

Clauses 1 to 4 were added to the Bill.

Schedules I and II were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, I move that the Bill, as passed by the Legislative Assembly, be now passed.

The motion was adopted.

THE HINDU CEREMONIAL EMOLUMENTS BILL.

The HONOURABLE THE PRESIDENT: The Council will now resume the detailed consideration of 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.

Clause 1.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Will it not be more convenient, Sir, if this clause 1, which relates to the short title, is taken afterwards?

The HONOURABLE THE PRESIDENT: I did not quite catch the Honourable Member's remarks. If he was speaking about taking up clause 1, it is now open to discussion. Sub-clause (2) of clause 1 is apparently contentious. I see amendments on the paper, but if it is not desired to move them, I will put the question that the clause do stand part of the Bill.

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COUNCIL OF STATE.

[27TH FEB. 1923.]

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Is it sub-clause (2), Sir?

The HONOURABLE THE PRESIDENT: I called "Clause 1", and any Honourable Member is entitled to speak on any part of clause 1 [sub-clauses (1) and (2).]

The HONOURABLE MR. G. S. KHAPARDE: There are two amendments on this clause that stand in my name. The one is No. 8 on the agenda and the other is No. 9. No. 8 is more general and No. 9 is more specific, and I understand that according to the rules of debate, the more specific amendment is taken up first and the general one taken up afterwards.

The HONOURABLE THE PRESIDENT: Is the first amendment the one which necessitated the adjournment the other day?

The HONOURABLE MR. G. S. KHAPARDE: No, Sir. The first amendment merely refers to omission and the other is a more specific amendment, No. 9 on the agenda.

The HONOURABLE THE PRESIDENT: What I asked the Honourable Member was whether the amendment which stands first in his name in regard to this clause is the amendment on account of which this Council was adjourned on the last occasion or was it some other amendment. The Honourable Member will remember that when we last took up this matter, he made it a matter of complaint that certain amendments of his had not appeared on the paper. I am now asking whether this first amendment is the amendment in question.

The HONOURABLE MR. G. S. KHAPARDE: Yes, Sir.

The HONOURABLE THE PRESIDENT: Then I ask the Honourable Member to explain the difference between his two amendments.

The HONOURABLE MR. G. S. KHAPARDE: I will explain the position. The first amendment says merely omit so many words, whereas the other amendment. (Amendment No. 9) introduces the specific terms in which I would like the clause to appear. In that way the first is merely for omission and the second is more specific and makes the clause what it ought to be.

The HONOURABLE THE PRESIDENT: I think the Honourable Member has made it clear that the second amendment is the amendment which he wishes to move. It was unnecessary to have adjourned this Council in order that the first amendment might be put on the paper if he does not wish to move it.

The HONOURABLE MR. G. S. KHAPARDE: I will explain, Sir, that it was not merely for the sake of obstruction that I put in the first amendment. It is possible in the course of the debate that if there are many amendments on paper, one or the other of those might be passed. So I have retained the first amendment as a last resort.

The HONOURABLE THE PRESIDENT: I put it to the Honourable Member that there was a somewhat unnecessary adjournment. Let him move his second amendment.

The HONOURABLE MR. G. S. KHAPARDE: I move my second amendment, Sir, which reads thus:

"That for sub-clause (2) of clause 1 of the Bill the following be substituted, namely:

'(2) It extends to the whole of British India, but shall not come into force in any area unless the Local Government by notification in that behalf in the local Official Gazette so direct.

Every proposed notification under this sub-section shall be laid in draft before the Local Legislature of the Province affected, and no notification shall be issued unless that Local Legislature has by Resolution approved (either with or without modification or revision) the terms of the draft."

It will be seen, Sir, that this amendment naturally divides itself into two parts; the first part makes reference to the local Legislative Councils necessary and the second part mentions how that reference is to be carried out—the procedure that would have to be followed. The first part from my point of view is very important. It will be seen from the opinions that have been circulated on this Bill that out of the nine provinces consulted, seven provinces say that they have no institution of the kind in their provinces and therefore they have no special recommendations to make. It is only two provinces—one Bombay and the other the Central Provinces—that have got these institutions. I may tell the Honourable House that neither the whole of the Bombay Presidency nor the whole of the Central Provinces is concerned, because this is an institution peculiar to Maharashtra by reason of historical causes which we need not go into. This has got divided between the Bombay Presidency and the Central Provinces. So, it happens that a part of the Bombay Presidency and a part of the Central Provinces are concerned directly with the subject matter of this particular Bill. It happens then that as the original Bill stood this House made it applicable in the first instance to the Bombay Presidency and to the Central Provinces and then to all the other provinces the option was given that if they liked to have it, they might have it with the consent of their Legislatures. My objection to this was that option was given to people who really had no institution of the kind among them and who were not directly concerned and had institutions of that kind, to them no option was given whatever. For them we undertook to legislate here. I humbly submit that it was a wrong principle to take it that way. The proper principle is that people who are concerned should be consulted first and if at all a choice is to be given, they should have it and not those people who have nothing to do with the question. Self-determination has been much talked of now-a-days, but self-determination, I believe, means that legislation is undertaken or orders promulgated in consultation with those to whom they concern most. If that is so and if anybody was entitled to option, it was the Central Provinces and the Bombay Presidency. How comes it here? It is a most peculiar thing. Because of the Devolution Rules and because certain civil rights are affected and because it trenches very close upon religious matters, this was brought into the Central Legislature. But the measure, it appears to me, was rather ill-considered, or, if I may say so, was not properly mature. The framers of this Bill apparently thought that the whole matter concerned the village priest and nobody else. As we know ourselves and as I have come to know, it concerns not merely the priest, but also the barber. It also concerns the dhobi. It concerns the mahar. It concerns the village musician. It concerns a large number of other people

[Mr. G. S. Khaparde.]

in the same way. Apparently, the framers of the Bill forgot this or they did not know this. Then, as usual, the Bill went to a Select Committee. There also unhappily this matter does not appear to have attracted notice at all. It went on as if they were dealing only with the priest. Somehow or other by a great misfortune, it appears to me that they lost sight of the fact that there were others concerned in the Hindu ceremonial emoluments matter than the priest. In that state the Bill came to us here. On the last occasion when we considered this matter, I said it concerned a much larger number of people than was comprised or than appeared to be comprised by the Bill. I also pointed out that this was part of the village system that has been going on for centuries in Maharashtra as now distributed in the Bombay Presidency and the Central Provinces and that it is neither easy nor reasonable to take one part of it and leave the whole system alone. Then, I again pointed out why we should legislate for the priest when there are others who are entitled to the ceremonial emoluments and they actually get it. This took many people by surprise. It is not the village priest that has obtained the judgment, but it is a barber. A barber sued and said he was entitled to customary emoluments and so on, and the High Court of Bombay, as reported in 44 Bombay Law Reports, awarded the claim. A dhobi has not yet brought a suit, but I believe if the occasion arose for it, a dhobi would also bring a suit. The mahar is not denied his rights, but a mahar could also bring a suit. In that way there is a much larger class of people who have a share in the customary emoluments, and to legislate only in the interests of Brahmins or priests was not wise. I tried to bring out these facts the last time I spoke on this matter and I do not propose to repeat my arguments. But the point I wish to lay stress on in this first part of my amendment is that the matter affects strictly the village administration or the village autonomy, as we have called it, and which has obtained for centuries. Now to interfere with that village autonomy by dealing only with the priest and leaving the rest of these people to themselves is hardly expedient or even wise. If there is to be a rule it has to be a general rule that applies to all the people concerned. Why leave the non-Brahmins to enjoy their customary rights, and what sin has the Brahmin committed that he should be turned out, while the barber should have this right, that the mahar should have it, that the dhobi should have it, that the musician should have it, and only these unfortunate priests should be turned out? Priests may be much in disfavour in the 20th century, and it may be that religion has lost its hold on many people, but even then the civil doctrine remains that a man's rights once declared and acknowledged cannot be taken away, cannot be interfered with. So in this respect also I say if this matter is to be gone into at all, who can do it better than the Local Governments concerned? It is they that are primarily concerned. The rest of India has absolutely nothing to do with it, and reference to the Local Governments appears to me to be absolutely necessary if this law is to be workable and is not to be productive of greater evil than that which it seeks to remove. Personally I believe in liberty of conscience, and I do not say that my religion, or my customs, or anything should be forced upon anybody at all. They are quite at liberty to believe what they like, quite at liberty to do what they please, but subject to one limitation, and that limitation is that, where there are vested interests and rights, sanctioned by custom, as in this case, sanctioned both by Royal grants, by custom, by the judiciary and by all the other

surrounding circumstances, such grants and such rights ought not to be removed without first consulting the persons concerned, and secondly rendering them compensation, which I shall talk of more in my other amendment, under certain safeguards. So in the first part of my amendment, all that I wish to say is that it is necessary to consult the Local Governments and local Legislatures. If we do not consult them, this measure will be a very very mischievous one. This measure is, if I may be permitted to say so, like the leg of mutton described by Dr. Johnson, it is ill-cut, ill-cooked and ill-served. This measure was conceived wrongly. The framers of it conceived they were dealing with the Brahmin only when they were dealing with a large number of other people as well. It was ill-cooked because the different opinions on these matters were never gone into. And it has been served up to us here in this piecemeal fashion for us to swallow, but after all we are a revising Chamber and we do not swallow things as they are thrown at our heads and we shall consider it and make it reasonable before it is accepted. So my first proposition is that this Bill has got to go back, or has to be sent to the Local Legislatures. . . .

THE HONOURABLE THE PRESIDENT: The Honourable Member is moving an amendment. I have given him considerable liberty, but he must move his amendment and not make a general speech on the Bill.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, this is the amendment that it should be referred to Local Governments and not come into operation until the Local Government seeks to introduce it. Therefore I am justifying this clause of my amendment by saying that the measure must be considered by the Local Legislatures, by the Local Governments, where there are trained administrators, and between them they will bring out a notification and so forth. So that is the first part of my amendment, that the matter must go before the Local Governments, and this Bill ought not to come into force until they have done something with it, namely, that they direct that the Bill should be introduced. That direction is not to be given unless the second part of my amendment is taken into consideration, and that is that they lay their proposal for introducing the Bill in draft form before the local Legislatures will revise it, amend it, will consider that draft, and the local Legislatures will come up, and do everything they like to that draft. If that draft is so passed, then and then alone will that notification introducing the Bill make reference to not otherwise. So the first part of my amendment makes reference to the Local Governments necessary and the second part gives the Local Governments and the local Legislatures power to consider that draft notification, and until that draft notification has been considered and passed by them, this Bill cannot be introduced. That is my point and that is what I seek to do. In other words I seek to put the Bombay Presidency and the Central Provinces Government on the same level as the other provinces are. The other provinces are not concerned, but we are concerned, and we have got a great deal to say about it, and the one great thing we have to say about it is that this matter appears to have been ill-conceived and none of these other people who are really concerned have been brought in under the present Bill. You have got not only the Brahmins, but some non-Brahmins, like the barber and the dhobi, and if the framers of the Bill realised that they were legislating for this large number, they would consider the subject better and perhaps frame it on more practicable lines. Therefore I submit my amendment and recommend it to the acceptance of this Honourable Council.

The HONOURABLE THE PRESIDENT: The amendment moved is:

"That for sub-clause (2) of clause 1 of the Bill the following be substituted, namely:—

'(2) It extends to the whole of British India, but shall not come into force in any area unless the Local Government by notification in that behalf in the local Official Gazette so direct.

Every proposed notification under this sub-section shall be laid in draft before the Local Legislature of the Province affected, and no notification shall be issued unless that Local Legislature has by Resolution approved (either with or without modification or revision) the terms of the draft."

That amendment is now open to the consideration of the Council.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, in accordance with the statement made by the Honourable the Leader of this House with regard to the attitude of Government on this measure, I do not propose to follow the Honourable Mr. Khaparde in such part of his remarks as were devoted to the questions of principle arising in this Bill. The object of the amendment to my Honourable friend Mr. Khaparde's amendment which I now move is merely to define and regulate procedure without touching in any way on the principle of the Bill. My amendment is that for the second paragraph of the Honourable Mr. Khaparde's amendment the following be substituted, namely:

"Provided that before any such direction is made, a draft of the notification shall be laid before the local Legislative Council and if thereupon, at any time not later than the conclusion of the next session of that Council after the draft has been laid before it, a Resolution is passed against the draft or any part thereof, no further proceedings shall be taken on the draft or on such part thereof as the case may be, without prejudice however to the laying before the Council of any new draft."

The Bill as passed by the Legislative Assembly provided that any Local Government desiring to proceed under the Bill should obtain the previous consent of the local Legislature, but it did not provide how that consent was to be obtained. The purpose of the second part of my Honourable friend's amendment is to make some such provision, and to that extent I certainly think it is an improvement upon the Bill as it came before this House. The object of my amendment is merely to effect what I venture to think is a slight further improvement upon my Honourable friend's proposal, and it follows the procedure commonly adopted by Parliament in similar cases. There are several English Statutes which provide that an act of the Crown or the Executive Government in the form, for example, of a Proclamation or of an Order in Council or of a draft of Statutory Rules shall be laid upon the table of the House of Commons before further action is taken, and it is in accordance with that Parliamentary precedent that I venture to ask the House to agree to this amendment rather than to my Honourable friend's amendment. The effect of it I think is quite clear. If the Local Government desire to apply the Act, they will first have to lay a notification extending it to such part of their jurisdiction as they consider proper before the local Legislative Council. During the course of the Session in which the notification has been so laid, during the recess after that Session and up till the end of the next Session, the Legislative Council will have an opportunity of considering the merits and the terms of the Local Government's notification. It will then be open to any Member of the local Legislative Council to move a Resolution on the subject, and, I take it, that, in the course of considering that Resolution, it will be open to the local Legislative Council to consider the notification in all its bearings, that is to say, to consider, as a matter of principle, whether

the Act ought or ought not to be applied in the areas to which the Local Government proposes to apply it. I think that makes the situation perfectly clear. I repeat once more that my object is merely to define and regulate the matter in a more precise manner and in stricter accordance with Parliamentary procedure than is provided for in my Honourable friend's amendment.

The HONOURABLE THE PRESIDENT: To the amendment under consideration a further amendment moved:

"That for the second paragraph of the amendment that I have just read to the House, the following be substituted, namely:

'Provided that before any such direction is made, a draft of the notification shall be laid before the local Legislative Council and if thereupon, at any time not later than the conclusion of the next session of that Council after the draft has been laid before it, a Resolution is passed against the draft or any part thereof, no further proceedings shall be taken on the draft or on such part thereof as the case may be, without prejudice however to the laying before the Council of any new draft'."

This is an amendment which does not go further than procedure. The first amendment prescribes the affirmative approval of the Legislature and the second amendment prescribes that approval in what I may call a negative form. The amendments, therefore, are susceptible of discussion as alternatives and both the amendment and the amendment to the amendment are now open to discussion.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I do not wish to overthrow my Honourable friend Mr. Khaparde in his zealous and enthusiastic fight in the interests of the people of the Central Provinces, but I must say that the amendment moved by the Honourable the Home Secretary commends itself to me rather than the one proposed by the Honourable Mr. Khaparde. This Council, I understand, is very much divided on the general merits of this Bill, and the amendment which is now placed before it by the Honourable the Home Secretary to my mind offers a good compromise of the question in this Council. Moreover, it has the merit of following the precedent of the English Statutes and, as such, it will be generally more acceptable to lawyers. Both amendments are more or less of an identical character. They affect the procedure to be adopted, but the Honourable Mr. Crerar's amendment is a distinct improvement on the amendment of the Honourable Mr. Khaparde, and it will satisfactorily serve the purpose if it is adopted. It will give an ample opportunity to the local Provincial Councils for discussing the merits of the Bill and it also affords a simpler procedure and one that will be readily and clearly understood. It is for these reasons that I support the Honourable Mr. Crerar's amendment in preference to the Honourable Mr. Khaparde's.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the amendment.

The HONOURABLE THE PRESIDENT: Which amendment?

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: The Honourable Mr. Khaparde's amendment. I rise to support it because Bills of this character ought not to be passed by our Legislature, as they do affect our religion. There was a time when the Brahmins were considered very supreme and when, notwithstanding various efforts to induce them to receive anything in charity, they persistently refused. The time unfortunately has come when the Brahmins want to force their such rights by

[Rai Bahadur Lala Ram Saran Das.]

going to courts of law. It is a very sad thing which shows the degradation in our society; but, as Brahmans were spiritual leaders, we ought not to allow them to become so degraded and fallen. My Honourable friend Mr. Khaparde has rightly said that the Bill is incomplete. The Bhats and various other classes enjoy the same hereditary rights as the barbers and the Acharayyas. The *Vrittis*, as they are usually termed, are sometimes marketted, and these *Vrittis* are sometimes used as negotiable instrument for misconduct and for their luxurious living. When I was asked to express my own opinion on the Bill by the Deputy Commissioner of Lahore, I opposed its introduction on the ground that it affects our religion. As the Bill is incomplete, it ought to come before every Provincial Legislature before it becomes law, because there it will be very fully discussed and the Members of the Provincial Councils will have a chance to say what they wish on this important and rather ticklish subject which they know and can better deal with.

The HONOURABLE MR. V. G. KALE: Sir, as you have put it, the real difference between the two amendments is that one provides for a positive procedure while the other is negative. I should like to make it clear to the House that it is just possible that the opportunity which it is sought to give to the Local Councils may not prove sufficient under the amendment of the Honourable Mr. Crerar. Take a concrete case. A notification is placed upon the table of the Local Legislature by the Local Government, say at the end of a Session. There is nothing to prevent the Local Government from placing the notification before the Council at the end of the Session. Then, the only time that the Members of the Council have at their disposal will be the interval between the close of that Session and the next Session. The interval may be anything between one and two months, and then the next Session may be only a very short Session of a fortnight. There is nothing to prevent that also from happening; and then in that Session it may be just possible that Members may not have an opportunity of moving a Resolution. The Resolution may not come in the ballot. A hundred and one things might happen, and private Members may not have an opportunity of moving a Resolution at all, while the first amendment throws the responsibility upon the Local Government so that there is no apprehension, there is no chance of the object of the amendment being defeated. That being the difference between the two amendments, we have to remember that though the procedure proposed by the Honourable Mr. Crerar appears to be certainly a better procedure and is based upon the practice of the House of Commons, we are dealing with Indian Councils many of whose Members are new to their work, and our procedure is not exactly in other respects like the procedure of the House of Commons. On account of these differences I would prefer the original amendment.

The HONOURABLE THE PRESIDENT: The question is in the first place, that in the amendment moved by the Honourable Mr. Khaparde, for the second paragraph thereof the following be substituted, namely:

"Provided that before any such direction is made, a draft of the notification shall be laid before the local Legislative Council and if thereupon, at any time not later than the conclusion of the next session of that Council after the draft has been laid before it, a Resolution is passed against the draft or any part thereof, no further proceedings shall be taken on the draft or on such part thereof as the case may be, without prejudice however to the laying before the Council of any new draft."

The question I have to put is that that amendment be made.

The Council divided as follows:

AYES—12.

Barron, Mr. C. A.
Crerar, Mr. J.
Dadabhoy, Sir Maneckji.
Forrest, Mr. H. T. S.
Jha, Dr. G. N.
MacWatt, Major-General R. C.

Muzammil-ullah Khan, Nawab.
Ray, Raja P. N.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Zahir-ud-din, Mr.

NOES—15.

Akbar Khan, Major Nawab.
Ayyangar, Mr. K. V. R.
Kale, Mr. V. G.
Khaparde, Mr. G. S.
Lal Chand, Lieut.
Lalubhai Samaldas, Mr.
Miller, Sir Leslie.
Moti Chand, Raja.

Ram Saran Das, Mr.
Sethna, Mr. P. C.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.
Vasudeva Raja, Raja.
Wacha, Sir Dinshaw.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

The HONOURABLE THE PRESIDENT: The question is that the original amendment moved by the Honourable Mr. Khaparde be adopted. It runs as follows:

"That for sub-clause (2) of clause 1 of the Bill the following be substituted, namely:

"(2) It extends to the whole of British India, but shall not come into force in any area unless the Local Government by notification in that behalf in the local Official Gazette so direct.

Every proposed notification under this sub-section shall be laid in draft before the Local Legislature of the Province affected, and no notification shall be issued unless that Local Legislature has by Resolution approved (either with or without modification or revision) the terms of the draft."

The question is that that amendment be made.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 2.

The HONOURABLE MR. V. G. KALE: Sir, I beg to move the following:

12 NOON. amendment to clause 2.

"That in clause 2 of the Bill after the word 'receivable' the words 'from a Hindu' be inserted, and for the words 'his being an hereditary Hindu priest' the words 'a claim based on custom or law to receive such emoluments' be substituted."

Sir, I have further to ask your permission to make a small drafting amendment. In line 5 of the definition, I want to prefix the words "religious ceremony" by the word "Hindu".

The HONOURABLE THE PRESIDENT: The Honourable Member has the permission. He can proceed.

The HONOURABLE MR. V. G. KALE: In this Act "ceremonial emoluments" means any fees or other dues, whether in money or in kind, receivable by any person in respect of a religious ceremony by reason of his being an hereditary Hindu priest. If it is amended as I propose, it will read thus:

"In this Act 'ceremonial emoluments' means any fees or other dues, whether in money or in kind receivable from a Hindu by any person in respect of a Hindu religious ceremony by reason of a claim based on custom or law to receive such emoluments."

[Mr. V. G. Kale.]

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, if I gather the meaning of the Honourable Mr. Kale correctly, he intends to widen the scope of this Bill considerably. The preamble was intended to confine the Bill to hereditary Hindu priests. The ceremonial emoluments which were to be the subject matter of the suit and which had to be prevented hereafter from being recovered in a Court of Law are the ceremonial emoluments which can be collected only by Hindu priests, and the right of action which is proposed to be taken away under clause 3

The HONOURABLE THE PRESIDENT: If the Honourable Member wishes to reply to the argument, he certainly may not, but if he wishes to make an explanation it is open to him to do so.

The HONOURABLE MR. V. G. KALE: It seems to be assumed that when I suggested an extension of the Bill, I was concerned with dhobis, barbers and others. That was not my object. Only those who are concerned with religious ceremonies, not others dealing with secular things, they only would be brought into the Bill.

The HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, as one who has given some thought to this question, I was very interested in the amendment moved by the Honourable Mr. Kale. Sir, I have looked at the Bill, as many Honourable Members I hope have, from the point of view of the man who, in spite of having utilized the services of a non-Brahmin priest, is dragged into a court of law and is made to indemnify not for any legal injury but for what I venture to call damage to the sentiment of the Brahmin priest who was not called upon to officiate at a certain ceremony. I am prepared, Sir, to express my opinion on this Bill from that point of view only, which, as has been pointed out by two previous speakers, forms the basic principle of the entire Bill, and on which opinions were invited from Local Governments and other bodies. In the course of the speech by the Honourable Mr. Khaparde I came to know for the first time that, not only are the customary rights enjoyed by the priestly class, but there are certain other classes who also are in enjoyment of those rights. My Honourable friend has referred, in fact, to a certain case decided by the Bombay High Court in which the exercise of such a right has been recognised by the Bombay High Court in the case of a barber. Now, I do not know, Sir, on what basis the High Court proceeded, but I do realise that if we accepted the amendment of the Honourable Mr. Kale, we would be very considerably widening the scope of this Bill. Whether it is advisable to do so or not is another point. But let there be no doubt on the question that, by accepting the amendment, we would be altering the Bill very considerably. I am afraid that the amendment has been sprung rather late by the Honourable Mover and the sponsor of the Bill in this Chamber

The HONOURABLE MR. V. G. KALE: How late? How has it been sprung upon the House?

The HONOURABLE SAIYID RAZA ALI: Namely, that the notice of this particular amendment by the Honourable Mr. Kale came to me not more than two days ago.

The HONOURABLE THE PRESIDENT: That is the ordinary period of notice.

The HONOURABLE SAIYID RAZA ALI: It is, Sir. The question is whether you are justified in moving an amendment and taking advantage of the two days' time limit when it alters almost the whole structure of the Bill.

The HONOURABLE MR. V. G. KALE: It is a question of opinion.

The HONOURABLE SAIYID RAZA ALI: To me it seems the alterations involved are very far-reaching. Any way, I am prepared to express my view on the question, whatever may be the attitude taken up by Government. I believe, in spite of the shortness of notice, non-official Members in this Council will have to make up their minds. To me it seems there is a considerable amount of soreness in Brahmin quarters and Joshi circles owing to the restrictions placed on their rights in this Bill, and I

have heard and read many complaints, as I am sure many Honourable Members of this Council must have, that the Brahmins have been chosen as the particular object of the assault by their unkindly friends. I do not know, Sir, whether this complaint is justified or not, and I do not propose to go into it, but surely, it seems to me that if the priestly Brahmin or Joshi is in enjoyment of any right or in enjoyment of any usage which he calls a right, and if he is going to be deprived of the emoluments which are attached to that right, there is no reason why a non-Brahmin, be he a barber or be he dhobi, should not be treated in a similar manner. I entirely fail to see on what basis we can distinguish the case of a non-Brahmin from that of a Brahmin. What is sauce for the goose is sauce for the gander too. I am not prepared, Sir, to distinguish between the two cases. I do not know, as I pointed out, on what basis the judgment of the High Court proceeded, but to me it seems that if we are going to do away with these rights, surely we should not make any distinction between a Brahmin and a non-Brahmin, and on that ground, though I must again say that the implications of the amendment introduced now seem to me to be very radical, I am prepared to support the amendment of Mr. Kale.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I think the Honourable Mr. Sarma laid the point very clearly before the House that, if we accept the amendment of the Honourable Mr. Kale, the continuity of the Bill is broken. The original Bill, as brought before the Legislative Assembly, was for priests only. When the opinions of the Local Governments were invited, it was for hereditary priests only. Now, at this very late stage, when the Bill has been passed by the Legislative Assembly for hereditary priests, to apply it to all others, would be widening the scope of the Bill so much as to affect its whole shape. I therefore think this is an amendment that should be thrown out; or, if my Honourable friend Mr. Kale wants it, the whole question should be referred back to the Local Governments. Then only can we carry it in that form.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): With your permission I would like to raise one point. Considering the phraseology of the Preamble "Whereas it is expedient that the law in force in certain parts of British India should be amended in so far as it relates to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies," I should like a ruling from you, Sir, whether this amendment is within the scope of the Bill.

The HONOURABLE THE PRESIDENT: The point raised by the Honourable Member is not too easy for me to deal with on the spur of the moment. I have not got a copy of the Bill as it was introduced originally in the Legislative Assembly though I have sent for one. Personally, I thought that the Bill was intended to deal with Hindu hereditary priests. I had not gathered up till now that it was intended to extend this scope. If that is the effect, then I think I must rule that the amendment is too wide. I notice however that the Mover allows these words to be retained in clause 2: "in respect of religious ceremonies." I am not familiar with the part of the country to which this Bill relates and I am not aware whether anybody but a priest can perform a religious ceremony. If the Honourable the Leader of the House can answer that point, I may be able to give a ruling.

The HONOURABLE MR. LALUBHAI SAMALDAS: A barber has to attend and take part in some religious ceremonies.

The HONOURABLE THE PRESIDENT: What I wish to know is whether the words "religious ceremony" used in this clause absolutely connote the fact that it must be performed by a priest.

The HONOURABLE MR. LALUBHAI SAMALDAS: No, Sir.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Of course, not being a Hindu and not being familiar with these religious ceremonies, I am not in a position to answer the question. But I should have thought that, if the performance of religious ceremonies is confined to priests, there is no object in moving this amendment. My point is that in that case it is unnecessary for my Honourable friend to move the amendment and he should really let the clause stand as it originally stood in the Bill; but I am not in a position, I confess, to answer the question.

The HONOURABLE THE PRESIDENT: Then, I think my duty is clear. I cannot rule the amendment out on the ground that it is outside the scope of the Bill unless and until I am perfectly sure that this amendment does extend the persons to whom the Bill applies. As I am not at present sure on that point, I shall therefore let the amendment go to the House.

The HONOURABLE MR. V. G. KALE: May I be allowed to say one word.

The HONOURABLE THE PRESIDENT: The Honourable Member cannot speak again on the amendment.

The HONOURABLE MR. V. G. KALE: I am just pointing out that the Bill as it was originally drafted and circulated and sent to the other House was styled like this: "A Bill to amend the law relating to the emoluments claimable by Watandar Hindu priests". That word "Watandar" has now been changed to "hereditary".

The HONOURABLE THE PRESIDENT: As I have already pointed out to the House, it not being perfectly clear to me that the amendment is outside the scope of the Bill, I shall leave it to the decision of the House.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, I rise to move that the further consideration of this Bill be adjourned till Government have had time to consider their attitude with regard to the widened scope, which the sponsor of the Bill, who is responsible for its conduct in this Council, seems to wish to give to it. That he is entitled to do so, I think is the significance of your ruling a moment ago. I also think, Sir, that, if we examine the real aim of the Bill, it is quite open to argue that the amendment suggested now and later on in the course of the agenda are perfectly legitimate. My friend behind said a little while ago that the object of the Bill has been universally understood hitherto to be the quashing of such claims of a legal character as the Hindu priest has had decided to his advantage in courts of law. However, it seems to me that there is another interpretation possible. The whole idea of this Bill may be looked at as a desire to restore the pristine purity and spirituality of religious ceremonies in this country. That certain people, entitled because they are the sons of their fathers to officiate at religious ceremonies, should make that circumstance

a ground of legal claim to emoluments is certainly inconsistent with modern notions on the subject. A religious ceremony, as thought of here, is not a single act. It is a whole series of ceremonies lasting, not an hour or two, but sometimes for three days and four days together. During these religious ceremonies it is the claim of certain people belonging to certain families to officiate. The Hindu priest claims such a right; the barber claims such a right. The duty of the barber is not altogether secular on this occasion. It is a religious ceremony at which he claims the right to officiate, of course, in the way in which he can officiate, namely, in the tonsorial way. Still, it is a religious ceremony at which he officiates. If it is considered inconsistent with modern notions that a priest should enforce his right or authority in a court of law, and that a certain money commutation should be arranged for in consequence, it is quite conceivable that it is equally against good policy and modern conditions to allow a barber to make his right of officiation the ground of a legal claim for money compensation. It is not therefore necessary to interpret the Bill as having been intended to do away with the right of a priest. It is quite conceivable, Sir, that the Bill was intended to release religious ceremonies altogether from being made a ground of legal claims to emoluments. And from that point of view I believe it was perfectly open to the Honourable Mr. Kale, as sponsor for the Bill, to seek to widen its scope. At the same time I am quite willing to understand the hesitation of Government at this particular juncture to find themselves faced with a vastly bigger Bill than they had originally pronounced their opinion upon. It is certainly placing Government in a position of difficulty and I therefore, for the benefit of Government as well as for the benefit of other persons who have only considered the much narrower view, I should like to move that the further consideration of this Bill be postponed until such time as it is considered necessary.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, it is undeniable that the amendment moved by my Honourable friend Mr. Kale does go beyond the scope of the Bill and in view of the fact that the Bill was circulated for opinion as it was originally introduced, the position created by the amendment is one of some difficulty. I am therefore prepared to accept the motion made by my Honourable friend Mr. Sastri for adjournment of the discussion of this amendment, so that Government may have time to consider their attitude with regard to it; if you, Sir, agree to this adjournment and the House accepts the suggestion.

The HONOURABLE THE PRESIDENT: It may shorten the matter if I say that I have now had an opportunity of perusing the original Bill. That Bill also refers to the "right of hereditary Hindu priests." In those circumstances I am prepared to rule out the Honourable Mr. Kale's amendment as beyond the scope of the Bill.

Clause 2 was added to the Bill.

The HONOURABLE THE PRESIDENT: Mr. Khaparde, before you move your amendment* to clause 3, I have a point to put to you. I see that it provides for compensation. Before you move your amendment, will you tell me by what authority this compensation is to be paid?

* "Provided that this section shall not operate in any area unless the Local Government has made rules applicable to that area providing for compensation for the disturbance of any vested rights now existing and until such period as may be prescribed by those rules for the claim of compensation has expired."

The HONOURABLE MR. G. S. KHAPARDE: The compensation will be met from general revenues, as when Government acquires land for public purposes or the rights of persons for public purposes. In the same way this compensation may be met.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, in that case I have a preliminary objection to this amendment which my Honourable friend Mr. Khaparde seeks to move. And in connection with that preliminary objection I beg permission to invite your attention and the attention of the House to section 67 of the Government of India Act. Sub-section (2) of this Act says:

"It shall not be lawful without the previous sanction of the Governor General to introduce at any meeting of either Chamber of the Indian Legislature any measure effecting (a) the public debt or public revenues of India, or imposing any charge on the revenues of India."

If Honourable Members will turn to section 20 of that Act, they will find that it enacts as follows:

"The revenues of India shall be received for and in the name of His Majesty and shall, subject to the provisions of this Act, be applied for the purposes of the Government of India alone."

And by sub-section (3) of this section it is enacted that the expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India. Let me in this connection invite your attention also to the provision embodied in section 45A. This is how that section runs:

"Provision may be made by rules under this Act for the devolution of authority in respect of provincial subjects to Local Governments and for the allocation of revenues or other monies to those Governments."

In accordance with this, rule 14 of the Devolution Rules has been framed under which some part of the revenues of India have been allocated to Local Government for purposes of meeting the usual expenditure in Provincial Governments. It will be clear from these provisions of the Act that the expression "revenues of India" includes all revenues derived by the Crown from any source whatsoever, whether they are derived in the Provinces or derived from Central subjects. As the House is aware, whenever any Local Government refuses any claim put forward by an individual and a suit is instituted against the Local Government, the suit has to be framed as against the Secretary of State for India in Council. Supposing that compensation was not awarded to a priest in an individual case, the priest, in order to obtain that compensation, would have to sue not the Provincial Government but the Secretary of State for India in Council. That also is based upon the principle that the revenues from which the Provincial Governments have to pay compensation are revenues of India. The expression "Provincial Revenues" is used merely as a result of the allocation. That is all.

May I in this connection, Sir, remind you that in connection with a question which arose sometime ago of an analogous character you expressed an opinion with regard to the term "revenues of India" in language, if I may venture to say so, clear and succinct, upon which it is difficult for me to improve, and therefore with your permission, Sir, I should like just to read that opinion. The question was as to the nature and extent

The HONOURABLE THE PRESIDENT: I should like to ask the Honourable Member before he proceeds if I expressed the opinion from the Chair.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: No, Sir.

The HONOURABLE THE PRESIDENT: Then it is not in point.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Well, Sir, I am only adopting your language, I am putting it to you as coming from myself but only in your language.

The HONOURABLE THE PRESIDENT: I suggest that the Honourable Member adopt his own more felicitous language.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Well, Sir, to be very brief, what I would submit to you is that the general legal position is this. If the Local Government refuses to pay any compensation, the person to be sued is the Secretary of State and the proper charge are the revenues of India. What is the effect? It is an executive delegation of the power to create charges, but the ultimate legal responsibility is unchanged; so that, the revenues, although they may for the time being have been allocated to the Local Government, are the revenues of India. What is therefore charged is the revenue of India and the compensation payable, according to the object which my Honourable friend has in view, will be compensation payable out of the revenues of India; and therefore, I submit, under section 67 the previous sanction of the Governor General in Council is necessary for the amendment, for it seeks to introduce a provision falling under the purview of that section.

The HONOURABLE THE PRESIDENT: The objection taken raises two points. The first point is whether the Honourable Mr. Khaparde has the previous sanction of the Governor General. I ask him that question.

The HONOURABLE MR. G. S. KHAPARDE: I submit, Sir

The HONOURABLE THE PRESIDENT: I would ask the Honourable gentleman to reply. Has he the sanction of the Governor General?

The HONOURABLE MR. G. S. KHAPARDE: No, Sir. I never applied for it and naturally, therefore, have not heard from Government.

The HONOURABLE THE PRESIDENT: I should now like to hear the Honourable Member now on the merits.

The HONOURABLE MR. G. S. KHAPARDE: I submit, Sir, that the objection raised by my Honourable friend Mian Sir Muhammad Shafi appears to be premature. First of all, the Bill was before us and my argument in regard to compensation was urged at the last hearing at Simla. There my friend was present and he spoke and gave his personal view, but not the view of the Government. We know that he was impressed rather in favour of the Bill. That we know because he gave it out there. I spoke of compensation then and if he thought that compensation was an objection, he could have raised it then; he never raised it there, and he raised it to-day after the amendment to the definition in clause 2 has been moved. I humbly submit that if we decide to give compensation and if the Local Governments decide to give compensation, the Local Governments will apply to the Government of India for necessary permission to do it. It is too early now. We have not yet decided whether compensation should

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be given. It may be decided and I urge that it should be decided. If it is decided then the Local Governments can take steps to pay compensation by applying to the Imperial Government. The objection is too early, I think, and premature.

The HONOURABLE THE PRESIDENT: This is a point of considerable constitutional importance. Section 67 (2) of the Government of India Act, as the Honourable the Law Member has pointed out, lays down that:

"It shall not be lawful, without the previous sanction of the Governor General, to introduce at any meeting of either Chamber of the Indian Legislature any measure affecting the public debt or public revenues of India or imposing any charge on the revenues of India."

If, as the Honourable Member suggests, compensation is to be paid by the general tax-payer, that must be a charge on the public revenues. The rule is the logical consequence of the constitutional principle that Demand for Supply must be vested in the Crown. For if you impose new charges you may practically render taxations necessary. In any case whatever the theory behind the rule, it is clear that the amendment is within the mischief of the section. I think I must hold that an amendment to a Bill is "the introduction of a measure" for the purposes of section 67 (2) for if I did not do so the provisions would clearly be useless. The Honourable Member has not got the necessary sanction and therefore I think the objection taken is sound. Then an equitable point arises. It is perfectly true that the Honourable Member when speaking on this Bill on the last occasion stated that he meant to move an amendment in regard to compensation, and I heard no word from the Government side throughout suggesting that this was in any way beyond the powers of a private member. I think the Honourable Member was taken by surprise by the objection. It may be that if he had applied to the Governor General, he might have got the permission. It does not seem unreasonable that he should be given an opportunity. What does the Honourable the Leader of the House say to that?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, I venture to submit that if during a discussion at the introduction stage of a Bill a Member when dealing with the principles of a Bill speaks of the forfeiture of vested rights and then goes on to talk of compensation, it does not necessarily convey to his hearers that he subsequently intends to move an amendment. That is an argument which can be put forward against the Bill itself, and in consequence, unless I had private notice from my Honourable friend that he intended actually to move an amendment of this description that he has actually moved, it cannot be said that I had any notice of his intention to move an amendment. He had ample time to apply to the Governor General, if I may say so, for his sanction to bring forward an amendment like this, for the House will remember that the Bill was introduced in the Simla Session several months ago and my Honourable and learned friend did not think fit to apply. Of course ignorance of law is no excuse. That is a well-known principle and I submit that I was entitled to take this objection to the amendment as soon as my learned friend stood up to move that amendment. That was the proper stage for me to put forward the objection. In these circumstances, I respectfully submit . . .

The HONOURABLE MR. G. S. KHAPARDE: The amendment was moved one month ago; so you could have . . .

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: It has been moved for the first time to-day.

The HONOURABLE THE PRESIDENT: I merely made a suggestion on the ground of surprise. I did not suggest that my Honourable friend the Leader of the House was required in any shape or form to give information to the Honourable Mr. Khaparde. He is perfectly right in putting forward his objection, which I have upheld. I have put it as a possible indulgence as the Honourable Member seemed really very surprised by the legal point. I have already ruled that without the necessary sanction the amendment cannot be moved.

The question is that clause 3 do stand part of the Bill.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, as it has been definitely ruled that it is now impossible to introduce into this Bill the question of compensation for disturbance of vested rights, it behoves me, I think, to ask the House to throw the whole thing out altogether. It has been my position throughout that this question of compensation is the real defect found in this Bill. I am not acquainted with, nor am I in any way concerned with, the question of religion, and it seems to me that religious questions have been dragged into this Bill unnecessarily. I am concerned only to see that the Indian Legislature does not in the early stages of its career introduce into the law a dangerous principle of expropriation without compensation. If I can prevent that, I shall do well. If I cannot prevent that, I must look forward to the time when this Bill will be cited as a precedent for the introduction probably of a much larger measure of spoliation. It is a small matter now, but it may be a larger matter then. It is a little seed which may grow into a spreading tree to which, Sir, I venture to think all the obscene fowls of the air, the vultures and carrion birds, and birds of prey of all kinds will flock to roost on its branches . . .

The HONOURABLE MR. V. G. KALE: Sir, I rise to a point of order. I want to know what is the question before the House.

The HONOURABLE THE PRESIDENT: I understand the Honourable Member is moving the rejection of clause 3. If he succeeds it will kill the Bill.

The HONOURABLE SIR LESLIE MILLER: Now, Sir, it may seem that this is strong language, but the danger is undoubtedly there. On the motion for the introduction of this Bill at Simla, when the Leader of the House, the Honourable Mian Sir Muhammad Shafi, said that the Government had no objection to the Bill, I put away from my mind at once the thought that came into it, that perhaps they would rather like, in course of time, to have some precedent by way of justification for taking away a man's property without compensating him; but I preferred to think that they have overlooked that aspect of the Bill. Now, Sir, I hold here, by the courtesy of my Honourable friend Mr. Khaparde, a paper which purports to be explanatory of the necessity for and of the benefits to be gained by this Bill, and which purports also to meet the objections which have been levelled against it. It is a paper which, from its date, I judge to have been prepared for the benefit of the discussion in this House, and for that purpose I will with your permission use it. Now in the first place this paper says the Bill has nothing to do with the rights of property held by the priest. Sir, I venture to think that that remark is merely untrue;

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indeed, the author of the paper says so himself. One of the reasons why this Bill has been introduced here and not before the Local Government is stated to be because it is a question affecting civil rights. Now it has nothing to do with property rights, but it has to do with civil rights. There seems to me to be inconsistency, and I believe it was admitted by the Honourable Mover of the Bill in this Chamber before that this measure has to do with rights of property declared by the High Court of Bombay to exist in law, in the case of the property of these particular village *joshis* in Bombay. If the Bill then has to do, and I contend that it clearly and certainly has, with the doing away with civil rights to property declared by the law, then I suggest that it will be wrong and dangerous to pass a Bill which will have that effect without providing any compensation to those whose rights are affected. Now the nature of the Bill is peculiar, designedly or otherwise I do not know. It disguises the fact that it is dealing with civil rights by the form in which it is framed. The form in which it is framed is simply a negation of the right to proceed to the civil court. That in itself, Sir, presents itself as rather astonishing. No suit shall lie for the recovery of ceremonial emoluments. As a way of putting it it is ingenious and also fertile of danger. Courts are established for the adjudication of all civil rights. This clause 3 proposes to take away one of the civil rights from the cognizance of the court. That in itself seems to me to be wrong. I am aware that in the Statutes in India there are many matters that are excluded from the jurisdiction of the courts, but I am not aware, though I am open to correction, that there is any matter so excluded for which some other tribunal is not somewhere provided. Now here there is no such tribunal. What is this *joshi* to do? The Bill does not declare that he has not any right. The effect of it may be that he is unable to protect his rights, but the Bill itself makes no declaration that he has no rights. It simply says the courts shall not listen to him. Where is he to go? He must go across the seas to present his petition to the King, in person? Is that all that is left to him? It is a remarkable Bill in that respect, and a bad Bill for that reason, a Bill which I venture to think this House will not allow to pass into law if it can avoid it. In this paper, Sir, to which I have already referred it is suggested that that is not so, at least that is how I understand the suggestion. The author says referring to the proposal to provide for compensation that it relates to "a claim for compensation which the Bill declares is invalid in law," and he characterises that as an absurdity. Sir, there may be absurdity in the statement, but it is not to be found I venture to think in the proposal of my Honourable friend Mr. Khaparde. The Bill is not in any sense a declaratory Bill, it proposes to change the law. It is framed as a Bill to amend the law, and the suggestion that it is a declaratory Bill is therefore not true. Now, Sir, the objections taken in this paper are those which have been put before us from time to time. "The Bill is put forward in the interests of liberty of conscience." "A man ought not to have to pay for services he does not want." That is all very well; I agree entirely. But if a man is declared by the law to have a right to be paid, then you have got to pay him one way or another. That right ought not to be taken away without provision for compensation. That is the only point on which I have to oppose the Bill: it makes no provision for that compensation. But the proposal, says the author of this paper, to tack on a provision to the Bill for awarding compensation is against the very principle of the Bill and ought not to be accepted by those who hold the right view. The right to sue for unperformed services, he says, is contrary to the Hindu *Shastras*. That is his

first objection; it is against the Hindu *Shastras*. Of course, I am not qualified to say whether it is or whether it is not, but the only statement in this paper which suggests anything contrary to the *Shastras* is that relying on an opinion in which some learned Judge, in Madras I think, has said that the recognition of hereditary rights in spiritual offices is contrary to the *Shastras*. It may be so, Sir, but I venture to think that this hereditary question which has been necessarily brought into the title of the Bill in order to restrict its application, this hereditary question, so far as it is dragged in on the merits of the Bill is merely in the nature of a red-herring drawn across the trail to distract the attention of Honourable Members.

1 P.M. It matters not one whit whether hereditary priests are or are not contrary to the Hindu *Shastras*; for my purpose, we have no question of heredity. If they are contrary to the Hindu *Shastras* then I suggest to my Honourable friend Mr. Kale that he should move a Bill for the abolition of hereditary priests. There are some people who are fond of stirring up wasps' nests, and I think it might be left to them to do that. But in this case what we are dealing with is not the right of persons unborn but the right of persons in existence, performing the duties and doing the services for which they have been appointed. They may have come into their offices by reason of the fact that they are the sons of their fathers; that is one way in which you can acquire property, it may be a good way or a bad way; but they have got that office and they have got the rights attached to that office. If you wish to sweep away the rights of grand-sons or sons yet unborn, I have no objection: that can be done, if necessary, by other legislation.

Then he goes on to say that the present law necessitates tampering with traditional forms. How, Sir, does it necessitate tampering with traditional forms; because, if you do not want to pay fees to duly appointed priests, you must get your ceremony performed, according to the Bombay High Court, in some, what I may call, unorthodox manner. Now, Sir, if you want to evade the payment of your dues, you must do something to perform the ceremonies in a way which you know is not right. If your conscience is such that you prefer to do the priest out of his due rather than put your hand in your pocket and pay your half-rupee or whatever it is, if you prefer to do something irreligious, something unorthodox, that is your own look out; but it does not really affect the question as to whether the priest is entitled to his dues or whether he is not.

Then it is said that it entails no loss to the priest if his right is denied. Now, Sir, the argument upon which this is based is for cynical, unblushing immorality—one which the House will find it difficult to beat. It is this. "The loss will amount to very little or to nothing practically." "If the priest prefers a claim to the civil court, which, under the proposed change of law, is the only thing he may not be able to do, what does he get? A sum of a rupee or two. And what is the cost of fighting such a case and adducing evidence? The answer is obvious." That is to say, this man, who is poor, who is wronged, cannot get his rights, and you can safely deny them to him because it will cost him more than he can afford to get them. Well, Sir, that is the kind of argument upon which this Bill is supported; I venture to think that no Member of this House would support that argument. Then there is a talk of the system creating bad blood among Brahmins and non-Brahmins. It may be so; I should deeply regret it, if it is so; but this is an argument which cuts both ways. If you deny to the Brahmin his right you are as likely to create bad blood as if in sweeping it away you compensate him his loss.

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Sir, it is suggested that all that the supporters of the Bill are trying to do is to get back to the simplicity and purity of ancient rites. In the opinion of Mr. Rangachariar, I think, real Brahmins do not want to get unearned money; if nobody wants to pay them, they do not want it. My experience is that Brahmins are very much like other people; if they have rights, they will stand on those rights. I can quite conceive that they may have objections to pushing themselves forward into positions where they are not wanted; so have other people; but if they have a right, that seems to me to be no argument for taking it away from them. If they are too timid, too high-principled, to try to enforce their rights, is that a reason why we should take away those rights from them? I trow not. Is there any reason why we should take them away except this, that by doing so we save the pockets of a person who prefers not to employ a man whom, under the law as it stands, he is bound to employ or to pay. It does not seem to me to be a very good reason, so stated. Liberty, Sir, is a very fine thing, for which I have the highest regard, but I cannot help thinking that this Bill will have the effect of adding one more to those numerous crimes which we have high authority for saying have been committed in the name of liberty.

I have nothing more to say, Sir, except this, that in this paper a number of valuable opinions of very learned men have been thrown at us, the opinions of learned Judges and others, none of whom, I think, have examined the question from this point of view, that we are depriving a man of his rights without compensation. Anyhow, Sir, greatly as I respect many of those opinions, if I differ from them, I differ from them with the greater readiness, because the question is not a question of law, it is a question of simple honesty, of morality. It is not a question upon which Judges and lawyers have anything more to say than any Member of this House. I ask the Members of this House not to be misled by great judicial names dealing with things of which they have no more knowledge than anybody else. Dealing with questions of morality and with questions of public policy, every Member of this House is entitled to form his own opinion. If, then, Sir, I differ from any of the learned gentlemen in the opinion I have formed of this Bill, I am very sorry for them, I can only comfort myself with the hope that, if before enunciating their opinions they had had the inestimable advantage of hearing mine, they might have modified theirs. I venture also to hope that the House will pay a little more attention to my opinion, which is addressed to this particular point, than to those of learned gentlemen who did not consider it at all.

The HONOURABLE DR. GANGA NATH JHA (United Provinces: Nominated Official): Sir, I also rise to oppose the passing of clause 3. It has already been observed that, if the Council refuses to pass this clause, it kills the Bill. Well, Sir, the Bill deserves no better fate. Each time it has come before us new difficulties have cropped up. Even to-day, Sir, within an hour or so, what the sponsor of the Bill himself considered to be merely an implication of the Bill as it stands, or the intention of the Bill, was found by distinguished legal authorities to be an unwarranted widening of its scope. The difficult position in which the Council finds itself, Sir, is another proof, if proof were needed, of the danger we are incurring in interfering with purely local matters. The very fact, Sir, that the connotation of the term 'hereditary priest' varies

perhaps in the minds of the various Members of this House is in itself an argument against the acceptance of the Bill as it stands. It is true that the Bill has to go before the local Legislatures, but in the way in which it is worded it does not deserve to pass this House. It was remarked by one of the Honourable Members that the Bill owed its origin to the differences between Brahmins and non-Brahmins in the other House. I have a better opinion of the originators of this Bill. I cannot believe, Sir, that the originators of this Bill were moved by any such sectarian motives. They took their stand upon progressive reformed ideas and I am quite sure that what they were aiming against were not the rights of Brahmins alone, but all similar rights of all classes, non-Brahmins included. That was what they intended perhaps when they introduced the term "Watandar" as they did originally. That term, I understand, includes not only Brahmins but all persons who have similar rights in connection with religious ceremonies. The assertion that the authors of the Bill aimed it at a limited class of Brahmin priests alone passes my comprehension. I do not believe it was so. I say all this only to show that there is this danger in the Bill, as it stands, that it may be regarded as purely sectarian, aimed against a particular caste; it is quite possible that there may be other dangers which we do not see now and which have not been brought out in the discussion to-day. Under the circumstances I do not think it will be safe for this Council to lend its support to the measure.

The HONOURABLE MR. G. S. KHAPARDE: I also wish to oppose the passing of this clause 3 that is before the Council now. First of all, this clause puts the questions concerned, not to speak of the persons concerned, in a very awkward position, as has been pointed out. You deny the priest's right, or rather you profess not to deny his right, you profess not to injure him in his property, and yet you say "No Court will hear him." That is something like the game I used to play in my younger days. Children come and sit in your lap. You put your hand on them to hold them down, and then you say "Why don't you get up?" while all the time you are pressing them down. In this case you say you do not want to take their property, and yet you won't listen to him when he comes to you for justice.

Then there is the legal argument that you have no power to give him compensation. But the compensation question has not been discussed, so it does not matter. I say therefore that section 3 of the Bill should not be passed.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to support the Honourable Sir Leslie Miller and Pandit Dr. Ganganath Jha. My reason for supporting them is the same as I gave a short while ago, that we should not legislate on matters which appertain to any religion.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I would have felt considerable diffidence in taking part in the discussion of a domestic measure of this character but for the fact that the principle underlying the clause which is the subject-matter of discussion, namely, clause 3, is by no means one which is peculiar to Hindu society. Sir, it appears that the question has been approached from different viewpoints by the various speakers who have taken part in the discussion either here or in a different place. The opinion that has been expressed assumes that the passing of clause 3 involves a forfeiture of the proprietary rights of the priestly class of Joshis. Let us see whether that really involves that consequence.

[Saiyid Raza Ali.]

So far as I have been able to study this question, it appears that the priestly class have two classes of rights in certain portions of the Bombay Presidency and the Central Provinces. In the first place, they hold certain lands, revenue free, in respect of which they are known by the designation of Watandars. As such they have certain rights in land and it is not within the purview of this measure to deprive the priests of those lands. In the second place, being priests they have certain rights to receive fees if they are asked to officiate on certain occasions in the performance of certain religious ceremonies. It is with this and this alone that the Bill before the House deals. I as a non-Hindu and as a non-Brahmin would look at it, Sir, somewhat from this point of view. Have the priests really got such a right which, though no doubt recognized by the Bombay High Court for a number of years, should not be taken up for consideration on equitable grounds, and what is more, on moral grounds, as one of the previous speakers put it, by this Legislature? Sir, we all know that if a man does some work he is entitled to some remuneration; but I have yet to know of a case in which a man is entitled to get something because he does not do anything. And that exactly is the position of a Joshi in the Bombay Presidency. If he is called upon to officiate and perform certain ceremonies he is no doubt entitled to his customary dues. What is more, Sir, if he is not called upon—or rather if a man at whose instance a religious ceremony is going to be performed, has made up his mind not to have that priest—he still has to pay the priest's fees, who enjoys such a position of advantage and immunity that he is able to claim compensation for something which he never did and which he was never required to do. That, Sir, I submit, is the whole point at the root of clause 3. It has been pointed out, Sir, that the passing of this clause involves a measure of confiscation. Now, that, as I have pointed out, assumes that the priest or Joshi has certain proprietary rights. They are no doubt rights which are capable of being enforced in law-courts. I do not propose to trace the history of the case law on this point in the Bombay Presidency. Suffice it to say that that was a legacy that came to the Bombay High Court from the Sadar Dewani Adalat which had held that Joshis were entitled to be indemnified if others officiated at the performance of religious ceremonies. But assuming, Sir, that these are rights which are capable of being enforced, and are to-day enforced, we know that these rights are morally indefensible, I put it to this Chamber whether this Chamber would not be justified in reconsidering the whole position. Sir, the custom which has been enforced by the Bombay High Court, I would say, without any disrespect to that High Court, is a bad custom. Every good custom should be not only immemorial but it should also be reasonable. That is one of the essential elements of a valid custom. Is this custom, Sir, a reasonable custom? Can anybody say that a custom, which involves others in damages without any service whatsoever having been rendered to them, is a reasonable custom? If the custom is a reasonable custom, it should surely find support at the hands of this Council. One of the speakers, Sir, pointed out that the clause under discussion did not raise a question of law, but it raised a question of morality. I entirely agree with this view. If in the view of this Council it is moral for one man to demand a sum of money from another without doing anything for that other, then surely this custom can be founded on morality; otherwise it is a thoroughly immoral custom and one which should not be countenanced by this Council. Even if it subjects this class of priests to certain pecuniary disadvantages, and if the measure is one that promotes public weal, the measure is one

that should find acceptance at our hands. There are cases and there are times when legislation is undertaken even though it results in reducing the value of the property of others. The various Land Alienation Acts passed, notably in the Punjab and Bundelkhand, are cases in point. As is known to Honourable Members, the tendency of every Land Alienation Act which puts restrictions on transfers of land is to lower, to reduce, the value of land, and to that extent it subjects the owners of land to pecuniary loss; yet nobody has raised the cry that you are not entitled to pass Land Alienation Acts, unless you make compensation to the present holders of property. In the same way I am not aware whether the British Government paid any compensation to the owners of slaves when it abolished the slave trade. (The Hon. Mr. G. S. Khaparde: "They did in America.") My learned friend is talking of America. I do not think that this measure has been introduced in the American Senate: it is before this Council. If the British Government did not make any compensation to the owners of slaves, I, for one, entirely fail to see, Sir, why we should not take away the fetters of this unfortunate class which consists not only of Non-Brahmins but both of Brahmins and Non-Brahmins in these two provinces, inasmuch as I know that in one district at least, namely, Ratnagiri, a number of cases have been brought by Joshis against the Brahmins themselves. So the liability is not one which the Non-Brahmins alone are subject to. This Council should view it from a higher view-point and not consider it from a narrow point of view. I support the motion that clause 3 be passed.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): Sir, as a non-Hindu, I may not be expected to express any opinion on this subject, but most of the speeches which have been delivered to-day are from some of those who are non-Hindus. The Honourable Sir Leslie Miller in his long and eloquent speech advised the Government to throw out this measure, and some others also supported the Honourable Member in his view. I take a different standpoint, Sir. I think it is a question of emancipation of human conscience, and I do not think that we are here specially to enslave human conscience. It is a problem between compensating certain people who are supposed to possess untenable rights and the exercise of full liberty of action and conscience. I cannot imagine that Government would be blamed if this measure is passed, because there is such a proportion of non-official Members here that if it is passed, the outside public will naturally consider that it has been passed with the majority of the non-official Members. So, why should there be such misapprehension about the difficulties of Government? The Honourable Mr. Khaparde said that certain other Members of the village community, such as barbers, washers and others, are allowed to have their emoluments, and the priests are the only unfortunate people who are thrown out. I cannot understand that an Honourable Member of the Honourable Mr. Khaparde's position should say this. I cannot suppose that he imagines that human conscience has the same value as for example dirty linen which is washed by washermen or the razor of a barber. If those people, barbers and washers, are allowed their rights, they do service to society and to the man who pays him for it almost every day. The priest who officiates at certain ceremonies does some service occasionally and perhaps after so many years.

The HONOURABLE MR. G. S. KHAPARDE: What is the analogy? How are they related to each other?

The HONOURABLE THE PRESIDENT: Order, order. Let the Honourable Member proceed with his speech.

The HONOURABLE SIR ZULFIQAR ALI KHAN: If a man refuses to have a priest on a certain occasion, are we to force that man to employ his services? I think no enlightened Member of this Council will endorse this view. Sir, with these few words, I support the Bill which has been introduced by my Honourable friend Mr. Kale.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, with your permission I would like to say a few words. When this Bill was introduced at the Simla Session I gave it my unqualified support on the ground that those persons who did not render any service were not entitled to get any emoluments through the courts, but since that time I find that the position is quite changed, and from to-day's proceedings I feel that the Bill is incomplete and defective. The notice of so many amendments and changes proposed to be made in the Bill show that it is incomplete and defective. The Honourable Sir Leslie Miller has clearly pointed out two defects, the first is that no provision is made for any compensation. If any civil rights are going to be taken away, there should be some provision made for compensation. The second point he raised very strongly is that, if a man has a civil right and is debarred from going to any civil court, what place will he have to go for redress? In the Bill nothing of that kind is provided, and therefore I think that the Bill as it stands is incomplete and defective and I would ask the Honourable Mover to withdraw it for the present and after making it more complete and effective, bring it again before this Council.

The HONOURABLE THE PRESIDENT: The question is that clause 3 stand part of the Bill.

The HONOURABLE SAIYID RAZA ALI: Sir, as it is a very important point, I think I would be justified in asking for a division.

The House divided as follows:

AYES—6.

Akbar Khan, Major Nawab.
Kale, Mr. V. G.
Lal Chand, Lieut.

Raza Ali, Mr.
Tek Chand, Mr.
Zulfiqar Ali Khan, Sir.

NOES—11.

Ayyangar, Mr. K. V. R.
Jha, Dr. G. N.
Khaparde, Mr. G. S.
Miller, Sir Leslie.
Moti Chand, Raja.
Ram Saran Das, Mr.

Ray, Raja P. N.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.
Vasudeva Raja, Raja.
Zahir-ud-din, Mr.

The motion was negatived.

The HONOURABLE THE PRESIDENT: Clause 4. The proposed amendment* to be moved by the Honourable Dr. Ganganath Jah falls within my previous ruling and therefore cannot be moved. The question is that the Preamble stand part of the Bill.

The motion was adopted.

* "4. For the purpose of this Act, the expression 'hereditary Hindu Priest' includes every person who, by custom or religious practice, is entitled to claim or receive any gift or emolument on the ground of an hereditary right vested in him to officiate at or take part in or assist in the performance of a religious ceremony."

The HONOURABLE THE PRESIDENT: Does the Honourable Member desire to move that the Bill be passed?

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Yes, Sir, I formally move that the Bill, as passed by the Legislative Assembly and amended by the Council, be passed.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): I do not think this House should stultify itself by agreeing to a motion of the kind that is proposed by the Honourable Mr. Kale, with the Bill as it stands amended.

The HONOURABLE MR. V. G. KALE: Sir, the Council was pleased to reject the third clause—the vital clause of the Bill, and I am only doing my duty in submitting to the Council the Bill as it has been amended so that it may do what it likes with it.

The HONOURABLE THE PRESIDENT: The question is 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, and as amended by this Council, be passed.

The motion was negatived.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received from the Secretary of the Legislative Assembly.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL: "In accordance with Rule 36 (1) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the Workmen's Compensation Bill were taken into consideration by the Legislative Assembly at their meeting to-day, the 27th February 1923, and that the Assembly have agreed to the amendments."

The HONOURABLE THE PRESIDENT: That concludes the business for this morning.

The Council then adjourned till Eleven of the Clock on Wednesday, the 28th February, 1923.

COUNCIL OF STATE.

Wednesday, the 28th February, 1923.

The Council assembled at Metcalf House at Eleven of the Clock. The Honourable the President was in the Chair.

BILL LAID ON THE TABLE.

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 amend the Indian Income-tax Act, 1922, which was passed by the Legislative Assembly at its meeting held on the 27th February 1923.

CONFERENCE RE REGULATIONS UNDER THE ELECTORAL RULES.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, with your permission I should like to make an announcement to the House. I desire to state for the information of Honourable Members that a Conference of provincial representatives has been summoned by the Government of India to consider the regulations made under the Electoral Rules. The Conference will begin its meetings on the 7th proximo. As Honourable Members are aware, the power to make regulations under the rules is vested in Local Governments. Some Honourable Members may, however, be interested in the subject and they may wish to make suggestions for the amendment of the regulations. Any such suggestion may be made preferably in writing addressed to Mr. Hammond, c/o Home Department.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): May I know, Sir, whether the provincial representatives that are coming to Delhi will work in conjunction with the Committee that was appointed by the Government of India in September last to propose the necessary amendments and modifications in the Electoral Rules?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: This Conference, I believe, has been arranged in connection with that Resolution.

RESOLUTION RE APPOINTMENT OF INDIANS TO THE TRAFFIC INSPECTOR CADRE.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to move the following Resolution:

"This Council recommends to the Governor General in Council that a reasonable proportion be fixed for Indians in the cadre of Traffic Inspectors in the Transportation Branch of each State Railway in India."

Sir, one of the oldest aspirations of Indians under British Rule has been to obtain a large share in the public administration of India. From

[Rai Bahadur Lala Ram Saran Das.]

the time of Raja Ram Mohon Roy we have been insisting that in the recruitment of services there should be no distinction of caste, creed or colour. From the very beginning of our agitation in this matter the Government have, in theory at least, recognized the justice of our claims. From 1833 onwards right up to the present moment the declared policy of Government is not to import racial distinction into the question of recruitment of services.

I will to-day, Sir, not take the wider question of the employment of Indians in all the public services, but will only confine myself to one Department, viz., the Traffic Department of the State Railways in India. In the superior Traffic establishment there are 11 District Superintendents in Oudh and Rohilkhand Railway (of whom only 3 are Indians), 18 District Traffic Superintendents on Eastern Bengal Railway (with only 3 Indians) and 27 on the North-Western Railway (of whom there are only 2 Indians). When we come to the cadre of Assistant Traffic Superintendents we find we have 16 on the Oudh and Rohilkhand Railway (9 Indians, i.e., 56.25 per cent.), 23 on Eastern Bengal State Railway (9 Indians, i.e., 39 per cent.) and 44 on North-Western Railway (17 Indians, i.e., 38.6 per cent.).

As far as the superior service in the Traffic Department is concerned, we have 43 Indians out of the total cadre of 139 or say about 31 per cent. So there is now no reason for complaint. In the Permanent-Way Inspector on North-Western Railway the figures are distinctly better, as Indians hold 29 out of 65 posts, but when we come to the subordinate Traffic service, the Indians fare very badly. In the North-Western Railway including the Kalka-Simla Railway there are, I understand excluding the Office Clerks, 261 posts carrying a salary of Rs. 250 and over. Out of these 261 posts only 25 are held by Indians (i.e., only about 9.6 per cent.). Sir, such a very low proportion in this branch of service requires an explanation at the hands of Government. If we take the case of Traffic Inspectors alone in the North-Western Railway we find that there are 44 posts of Traffic Inspectors in the Transportation Branch of which there is one permanent and two officiating Indians, and 7 in the Commercial Branch out of which not a single one is an Indian. This means 5.8 per cent. On the Eastern Bengal Railway there are 21 Traffic Inspectors (Transportation) of which 2 are Indians, i.e., 10.5 per cent., whereas of the 18 Commercial Traffic Inspectors there are 8 Indians or a percentage of 44.5.

On the Oudh and Rohilkhand Railway there are 23 posts of Traffic Inspectors in the Transportation Branch, out of which 11 are Indians. The same Railway has 16 Commercial Traffic Inspectors of whom 15 are Indians and in both cases all of them are holding permanent appointments. The number of Traffic Inspectors (Transportation) drawing a salary of Rs. 250 and over is 17 of whom 7 are Indians.

On the North-Western Railway the first Indian Traffic Inspector, Transportation, was appointed in 1903 and on agitation the second one in 1921 and the third in 1922. Thus the House will see that during this period of long 18 years (1903 to 1921) no Indian was promoted or recruited. If the usual answer is given that no suitable and competent man was available, I ask the Government how did the Oudh and Rohilkhand Railway find the right sort of men. Where there is a will there is a way. But may I ask, Sir, what is the test a man is called upon to show or is it the discretion of the local officers? Is efficiency to depend on the sympathetic

nature or otherwise of a local officer, or is to depend on some practicable tests of the abilities of the man concerned?

Sir, people can no longer remain satisfied with the use of discretionary power, they want something definite and substantial. We would have no complaint if such appointments were filled or promotions made on results of examination, competitive or otherwise. Sir, we want fair field and no favour. We only want justice—we feel, Sir, that the just claims of Indians in the Subordinate Traffic Department of State Railways are under the present system not at all safeguarded. Let there be efficiency bar fixed which should be crossed as a result of examinations. Even if it is held that efficient men are not found on the North-Western Railway fit for promotion, the authorities concerned are to blame. On this line European, Anglo-Indian and Parsi Assistant Station Masters start on Rs. 250, while the Indian Station Masters after a life-long service seldom reach up to that grade, or even rise to Rs. 200. How can one expect Indians of good education and strong common sense to join the Traffic Department? There are 130 posts of Assistant Station Masters carrying a salary of Rs. 250 to Rs. 300, 25 posts—Rs. 320 to Rs. 350, 16—Rs. 360 to Rs. 400 and 10—Rs. 425 to Rs. 500. On these posts there are 6 Parsis in the grade of Rs. 250 to Rs. 300, one Parsi in the grade of Rs. 360 to Rs. 400 and one Muslim drawing Rs. 350 and there is none in the highest grade. In the Traffic Department particularly in the posts of Traffic Inspectors there is a block, which should be removed. I therefore urge the Government to fix a reasonable minimum proportion of Indians among the Traffic Inspectors. I purposely refrain from suggesting at this moment what this initial percentage should be. Let this proportion be like that in the Indian Civil Service increased every year at a fixed rate. The Public Services Commission recommended that except the Royal Engineer Officers the rest of the Traffic Officers should gradually be recruited from Statutory natives of India and I should have at least 50 per cent. of the vacancies in State Railways. However I leave the matter of fixing the exact minimum percentage to the Government after consulting the Railway Council. With these observations I commend this Resolution to this Honourable House.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, this Resolution refers to one grade in the Railway service, and I freely admit that the Honourable Rai Bahadur has clothed it in an air of sweet reasonableness. He advanced the principle, in support of his Resolution, of the gradual Indianization of the different services, and he has asked not for 50 or 20 or 30 per cent., but has left it entirely to the discretion of the Government and the Railway Administrations. Yet, at apparently of the Government and the Railway Administrations. Yet, at the same time, Sir, I think I can put some considerations before the House which show that it is not possible to accept the Resolution even when it is clothed in that manner. What are these Traffic Inspectors in Transportation grade? That is the highest grade of the subordinate service. Above them are the Assistant Traffic Superintendents, which is the lowest grade of the Superior service, dealing chiefly with direction and control. The Resolution of my Honourable friend asks us to accept some arbitrary percentage based entirely on the fact that a certain number in the highest grade of the subordinate service should be recruited in a particular manner. My Honourable friend has cited the authority of the Public Services Commission. That undoubtedly recommended the further Indianization of the different services in the Railway Administration. It dealt however with the superior branches, and the figures which my Honourable friend cited

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COUNCIL OF STATE.

[28TH FEB. 1923.]

[Mr. D. T. Chadwick.]

show that in the superior branches Indianization is being carried out. We have evidences every day of the good will of the Government to carry out the Indianization of the services in the various branches. But the Public Services Commission took the superior services and others with which it dealt by branches. If they had done anything else, I do not think their recommendations would have commended themselves to the common sense of this House or to the country. They did not say that a certain percentage in every grade should be so and so and so and so. They recommended that we should work up ultimately to a particular percentage for a branch as a whole. Now, Sir, in any organized business or undertaking, promotion from one grade to another must be based very largely upon selection so as to give openings to men who seem to be capable and also upon seniority so as to give a reward for their long and faithful services. To select the highest grade of any branch and to say definitely that so many must be recruited on another plan and for another reason will, it seems to me, most likely lead to discontent in any service, and, Sir, discontent leads to waste and inefficiency; especially is this the case in concerns like the Railways which are to be judged mainly by their commercial results. Therefore, Sir, on the general principle, it is objectionable to allocate a certain number of posts in any grade to a particular caste, race, community or creed, and it is still more objectionable when you restrict that to the highest grade of all.

Now, Sir, I look for a moment to the duties of these Traffic Inspectors in the Transportation Branch, and what are they? I have got here the instructions that are generally given to them. They are supposed to devote, at any rate they are expected to devote, a large part of their time to outdoor work, the inspection of all the stations, station yards, cabins, gates and theoretically once a quarter make a very thorough inspection of the stations and their working in every detail. They have to examine all the train reports, muster rolls, log books, they are responsible for seeing that signal men know their duties and they have to test them. They have to look to the condition of the traffic, weighing machines, test them, they have to examine the loading of trains, look into fares, rates and trade conditions. They have to bring to the notice of the superior staff any irregularities on the part of guards and station masters. All matters involving the safety of the public and their comforts, and the safety of their property, must receive their immediate attention. They have to watch and test all traffic working in their section and report any inefficiency or irregularity to the higher officials. When any new rules or methods are introduced, they are responsible to see that the station staff thoroughly understand them. They have to be ready to proceed without delay to the scene of any accident or obstruction and, in the absence of any superior officer, or until he arrives, they have to take charge and be responsible for safe working at the scene of action, the clearing of the line and the prompt resumption of traffic. There are many other duties but those give a bird's-eye view of them. It is obvious that they are very wide and very responsible. If I may say so, these men are the eyes and the ears of the superior staff. They are the N. C. O.'s, if you like, of the railway administration. Now, Sir, it is necessary to select for your N. C. O.'s and for men with duties of that nature those who have had considerable experience as station masters and guards on the railway and whose personal qualifications lead their superiors to think them fitted for it. We are proceeding with the Indianization of the superior service. It is no kindness, Sir, I submit to our new Assistant Traffic Superin-

tendents to give them as their N. C. O.'s men who have been selected upon any other grounds than those which I have stated. My Honourable friend has shown that a considerable number of Indians are being taken into the superior service of the Traffic Branch. It is only fair to them to give them as their chief lieutenants men of experience because it is from them that they must learn much of their work. It is only fair to them to give them as good men as the railway administration can provide. It is only fair to the general public and to the State, which has such a large commercial stake in the railways. Therefore, Sir, the appointments to these particular grades should be, I submit, solely in the hands, or mainly in the hands, of the administrations of the railways. Our administrations carry a heavy burden. They have responsibilities to the State, responsibilities to the general public, and we have to trust the administrations to select for this very important subordinate grade—I am only speaking about one grade—men whom they consider the best fitted for it. The avenue of approach to that grade cannot be by direct recruitment, as obviously, from the duties which I have detailed, it requires experience of the railways and the working of the railways, particularly of the local railways. The avenue of approach must be by promotion from the lower grades. It will inevitably happen that increase in the Traffic Inspectors grades. It will inevitably happen that increase in the Traffic Inspectors of a number of any community or caste will depend upon increase in the numbers of that community in the lower grades. That has happened in every service of which we have had experience. Not so many years ago, in the top grade of our Deputy Inspectors in Madras there were many who were not Indians. To-day every one of them is an Indian. Really and mainly owing to the fact that more Indians came in in the lower grades, so that now they have monopolised the whole of the first division. So, Sir, I submit it is generally administratively wrong to reserve a certain number of posts in this top grade for any particular caste. It is generally wrong, it is actually unkind to the young Indians whom we have taken in as Assistant Traffic Superintendents to give them anybody except the best that the line can provide. Thus, while the Government is unable to accept any such fixed proportion, at the same time we are perfectly prepared and ready to intimate to the railway authorities that they must give a chance to the Indian for promotion to this grade wherever they consider him fit. While we cannot reserve posts in this grade for particular people yet at the same time we cannot tolerate that any should be debarred therefrom by extraneous personal accidents. The experience and the personal qualities of the men must be the only point that must be considered in the promotion of these lower subordinates into the upper grades. My Honourable friend has shown from his own figures that in the staff of the railways there has already been a large increase of Indians employed in this grade. That is probably very largely due to the fact that there is a much larger proportion of Indians amongst station masters and guards. I hope I have placed some reasons before the House to think that even a restricted Resolution of this nature is inadvisable to put into operation, that the Government is not opposed to the general Indianization of the services, that we are anxious to see more and more of them employed. But at the same time we do not think it is fair to the Agents and to the Administrations of our important railways to cripple them or hamper them by laying down a fixed and arbitrary proportion of the N. C. O.'s that must be selected from any particular community or class.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan):
Sir, I intervene in this debate because I expected Government to make a

[Mr. V. G. Kale.]

clear pronouncement as to what practical policy they have been pursuing in connection with the Indianisation of the superior services, both in the State and the Company-managed Railways.

The HONOURABLE MR. D. T. CHADWICK: Might I rise to a point of order, Sir? The Resolution does not refer to the superior services, which begin at the Assistant Traffic Superintendent's Branch, but it refers I think to the Traffic Inspectors and the Transportation Branch which is one particular grade of the inferior services. I avoided that question: I thought it was out of order, Sir.

The HONOURABLE MR. V. G. KALE: If my Honourable friend had waited and allowed me to proceed, I think he would have seen what I was driving at. At this time last year, I moved a Resolution in this House and the Honourable Mr. Innes, on behalf of Government, gave an assurance that he would look into this question and that he would see to it that the Railway Companies did come into line with Government in the matter of the Indianisation of the Services. At the same time, he gave an assurance that he would make personal inquiries into the facilities which are available to Indians for training themselves for the various offices under the Railways. I must say, Sir, that I was disappointed with the remarks of my Honourable friend opposite. He was speaking of the Non-Commissioned Officers in the railway services. Probably, he was not conscious of the meaning that has recently been attached to N. C. O.'s and I am afraid that these officers on the railways have really become N. C. O.'s in the matter of Indians who do not get their proper opportunities and proper chances in the railway services. He gave us a long list of the duties that are to be performed by these officers. No one denies that these duties are very important and responsible. But what has that to do with the question under discussion? What the Resolution asks is simply this, that a reasonable proportion should be fixed for Indians in the cadre of Traffic Inspectors in the Transportation Branch. I do not see what difficulty there is in the path of Government to fixing a certain proportion and working up gradually. I think that is the only way in which Government can proceed. Government has always stated that their policy is the policy of Indianisation. Now, how is that policy being carried out and how is it going to be carried out? That is the whole question. There is no difference of opinion between Government and the public now with respect to the general policy of gradual Indianisation, as we have been repeatedly told. But the question arises how that Indianisation is going to be effected. Here is a practical suggestion which has been thrown out by the Honourable Mover of the Resolution. When a practical suggestion is, however, made, Government turns round and says, "No, this is impracticable." I want Government to tell me what is practicable. I want Government to tell me what they are themselves actually doing in this matter. I can understand that unless there is a large number of Indians from whom the promotions can be made, the policy is not practicable. But I want to know what Government is actually doing in that connection and what facilities for training and what opportunities are being given. If we are satisfied that Government is doing its level best in this connection, providing facilities and making promotions from among the Indians available, I do not think that there will be any ground for complaint. But there is no evidence produced to prove that. Then, it has been said that it is not possible for Government to fetter the discretion of the Railway authorities. But I think it was only last year that the Government gave an assurance

that they would draw the attention of the Railway authorities of even the Company-managed Railways to this problem of Indianisation and that they would try to see that these Company-managed Railways came in a line with the State-managed Railways. Some information on this point was expected, but I am sorry to find that such information has not been forthcoming. I quite agree that unless a man has qualifications, unless a man is fit for the performance of these very responsible duties, he cannot be appointed or he cannot be promoted. But it is due to this House that it should be told by Government whether they are actually giving effect to their own declared policy and whether proper and adequate facilities are being given to Indians in order that they might qualify themselves. My Honourable friend said that the Honourable the Mover's Resolution was asking something for a particular caste or castes. The question of caste was not, however, raised at all. It was a question of Indianisation, pure and simple. Whatever community or whatever caste among the Indians a man might belong to, what is required is that Indians ought to be given opportunities. It is contended that posts cannot be reserved. I might ask, how is it that at the present moment certain posts seem to be actually reserved for certain people? If there is no reservation, how is it that Indians have not been appointed in larger numbers? Practically the higher posts, which are the posts referred to in this Resolution, are a monopoly of a particular small class or section of the general population of the country. There seems to be then some kind of reservation. There appears to be some kind of monopoly. It is the breaking of this monopoly that is asked for and it is the opportunities for rising to the higher posts that is asked for in this Resolution. I think Government might see their way to accept the Resolution because there is a concrete proposal contained in the Resolution. What Government always wants is concrete proposals and deprecates general propositions. Here is a concrete proposal which has been made and there is no difference of opinion between Government and the public with regard to the general policy of Indianisation. I do not see any other way of moving the Government to give effect to its own policy. With these words, Sir, I strongly support the Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I am going to say something which happened behind the scenes. Before this Resolution was being moved one of my friends came to the Mover of the Resolution and said "Why don't you fix a proportion?" to which he replied that if he fixed a proportion, it would be difficult for the Government to accede to the Resolution. When I saw that, I thought nobody would disagree to a Resolution like that and I was practically certain that such a Resolution, so worded, would be accepted, but I was amazed when I heard that even such a Resolution was not admitted. Then, Sir, in the Punjab at any rate, what I have seen is that people belonging to the domiciled community, and the Eurasians, have monopolised the whole of the Railway services. I think they are just as much Indian as anybody else, and I am quite willing that they should get these posts. But the thing that one objects to is that they should monopolise these posts. Their numbers and the numbers of others should be taken into consideration and they should get the posts according to proportion. Even that, it may be said, is too much, but I think the Mover of the Resolution was ready to come down to the very minimum, the very lowest number. Even that was not taken as sufficient by the Government. Details have been put before us about the respective numbers and very few out of them are Indians. It is sufficiently bad, I think.

[Colonel Sir Umar Hayat Khan.]

They (the Indians) all see the thing through and naturally there is discontent. We were told just before this that if we fix a proportion there will be discontent, but I think there will be far more discontent when they hear what their numbers are and how they are being treated and when such a Resolution is brought to remedy it, it is thrown out. Of course some arguments have been put forward on the other side, but the general public outside will say that they are not given what was asked for and that all this is a sort of lame excuse. Then, Sir, it has been said that on the Company Railways there are many Indians. I think that these Indians are taken there because they take less emoluments, they do just as good work and these Companies are clever who employ them. They want to get good staff on small pay. That is perhaps why they are taken there. Then, Sir, when Assistant Traffic Superintendents and District Traffic Superintendents are Indians and do good work, why can't they do so at a lower rung? It is known to the House and to everybody in the country that the production of B.A.'s and M.A.'s is far in excess of what the Government can supply with employment. It is known that there is discontent. If B.A.'s and M.A.'s, well-educated, cannot get these posts, and men who are far inferior to them get them, I think they have some cause for it, and it is for this that we want more posts in the Railways so as to employ these men. With these remarks, Sir, I strongly support the Resolution and if it is thrown out by the Government, I hope that every Indian who wants to be true to his people will carry it by his vote.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): Sir, this Resolution is one of those which we used to call a hardy annual at the Councils before the year 1920. The demand of the Provincial Councils and I daresay of the Imperial Council also before that year for Indianisation was more or less insistent and continuous, but I should not be surprised if after the Reformed Councils were started, Resolutions of this nature were brought before the Legislatures at the headquarters more often than even once a year. In fact, Sir, the necessity of employing Indian agency in all branches of administration in India has been recognised by the British Parliament ever since the year 1833. We are now in the year of Grace 1923, which practically makes it 90 years since the claims of Indians to Government service in India were recognised and were publicly announced. I must confess that in spite of all that has been said both by Government and by public opinion outside on this score, the reply of my Honourable friend, the Secretary for Commerce, to this Resolution, which I look upon as a very very modest one indeed, rather disappointed me. I do not think the Honourable Mr. Chadwick said much that would convince this House as to why Indians were not appointed in larger numbers till now on the railways of India, railways which are run with the tax-payer's money and railways which are financed by the tax-payer. Particularly has the Indian got a claim on the State railways for which between the Government and the railway administration there is nothing of what is called a buffer. I could have understood and I fully realise my Honourable friend the Rai Bahadur's anxiety not to include company railways, for, I suppose he suspected that in that case the Resolution might very easily have been met by Government in opposition by saying that they had no adequate control over the administration of company railways. But I at any rate have not been able to perceive anything in what the Honourable Mr. Chadwick said regarding the incapacity

of Indians to qualify themselves for these particular posts. Sir, successive Secretaries of State and prominent British statesmen in the past have reiterated the necessity and the desirability of having Indians in the administration of the Government of India. The most prominent and perhaps the one who has put the case in a nutshell was Lord Lytton. He said if the large fund of capacity of Indians to qualify themselves for the various posts was not properly utilised for employment in the higher grades of the service, "the fault was ours for moving in a vicious circle. We do not employ natives more largely because they are not well qualified and they are not well qualified because we do not employ enough of them." This is the vicious circle in which I am afraid many Government officials who have to reply to Resolutions like the one we are discussing at present have to move. I was hoping that the Honourable Mr. Chadwick would perhaps strike out another line of argument or rather conciliation and hold out hopes to the satisfaction of the Honourable Mover of this Resolution as to what Government proposed to do hereafter. I am still hoping that some other Member from the Benches opposite may be able to supplement what the Honourable Mr. Chadwick had to say. For I cannot help thinking that the Resolution moved by my Honourable friend is, to say the least of it, a most modest one. The Honourable speaker who preceded me told the Council that he was going to tell them something that happened behind the scenes. I do not have the privilege of having had such opportunities, but I look at it from the point of view of the Indian public as it has been treated by the Government till now. The demand of the Indian public all through has been that rather unsweet word 'Indianisation of the services.' What they say is: Indians have the first claim on the various services under Government for several reasons; some of them being that they are sons of the soil, that they can give the cheapest agency required for the purpose and that they are not of that class which will leave the country at a certain age or after a certain period of time and therefore, an Indian's experience is not lost to the country. These are three main grounds on which this claim has been based. The Honourable Rai Bahadur says that Government should be pleased to fix a certain percentage. I am sure he would have very much liked to have put before the House exactly what the demand of the Indian public is; but he wants some action immediately, he wants some action definitely and he wants to know exactly what Government propose as a reasonable proportion. I think, Sir, these are definite demands. I also feel that these are demands in which Government must take some action, and I was looking forward to the Honourable Mr. Chadwick saying exactly what the Government idea was. I feel, Sir, that the time when the Indian public could be satisfied or even this Council and the Legislature could be satisfied with vague promises of Government being able to do their best and so on is gone and past. What we now want is something definite, something that we can take count on and audit, as it were, next year or the following years and say to Government, "You promised this percentage. Where is it?" If after the existence of railways in India for 60 or 70 years the figures that have been put before the House by the Honourable Mover are correct, I think Government will admit that there has been a good deal of lee way that has to be made up by the railways of India and it is the duty of Government to see that that lee way is made up. I will only refer, Sir, to the way in which in the past opportunities for training of Indians were denied. I need only mention the instance of the College which was started in England in 1870 or 1873 for the purpose of training engineers for India in direct opposition to the wishes of the then Government of India because the Secretary of State thought fit to carry the scheme

[Mr. Purshotamdas Thakurdas.]

through. I am quite aware that thirty years later a similar college for training Indians was started in India; but if these are the opportunities lost to India I do not think Indians are wrong if they plead now that the leeway should be made up and that prompt and speedy action should be taken.

I see that the Honourable Mr. Chadwick has appealed to the Council not to handicap officials in the railways by compelling them to recruit on grounds not of pure merit but on grounds which he called racial. I fully agree with the Honourable Mr. Chadwick in his protest in the ordinary course of things and as a general rule. But I think the Government of India are bound to recognize the other side of the shield. Here are the railways that have been in existence for 70 years and here is the fact that at the end of 70 years in the superior ranks there is only a sprinkling of them—1 per cent. Is it the fault of the non-official? Is it the fault of the public of India? In fact, I would say, is it the fault of the Indian if he now loses patience and says "We will never be efficient in the eyes of the officials, perhaps for another quarter of a century. We now insist that a certain percentage should be laid down and carried through." It may not be what I would do in my business; it may not be what others would do in their businesses; but, Sir, in my business I would train men belonging to my family first; I would train my son or my nephew and so on first; I would train my friends' sons there after that and so on. Therefore, the parallel is not the same. I do hope that the Government will not treat this question as a racial question. It is a question of India having waited much too long to get justice from the powers that have been from time to time. It is no use now going back to this point. I think it is the duty of the Government now to begin with a clean slate and to take the Legislature into their confidence and say "We mean business and this is the pace at which we propose to go." This is the demand of the Resolution, modest as it is, for it leaves the fixing of the percentage absolutely to the discretion of the Government and I should have thought that Government would have been the first to accept the Resolution.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I have only one or two remarks to make of course in support of the Resolution. As the previous speakers have said, the demand made by the Honourable Lala Ram Saran Das is indeed a very modest one. Let us examine wherein lies the difference between the demand made by him in the Resolution and the reply given by the Honourable Mr. Chadwick. The Honourable Mr. Chadwick does not for one moment deny that there is justification for bringing forward this Resolution. The Honourable Mr. Chadwick says that in the higher branches of the Railways Indians are employed in larger numbers; in the particular branch to which the Honourable Mover of the Resolution referred, he said he would ask the railway authorities to give full consideration to the request contained in the Resolution. He opposes the idea of a percentage on the ground that if a percentage is named the hands of the railway authorities will be fettered inasmuch as they may have to take up men who are not properly qualified. May I ask the Honourable Mr. Chadwick whether this argument did not prevail with the Government when they proclaimed that the different services will be gradually Indianized, and whether they did not fix percentages themselves for the purpose? Perhaps the Honourable Member

might reply that these percentages were fixed because the men were drawn from a class who had submitted themselves to certain examinations, etc. The case here is exactly a parallel one. Here too we do not ask that all and sundry should be appointed. Men will be trained and from them selections should be made of Indians to the appointment of Traffic Inspectors. The Honourable Mover has not fixed a percentage. He has left it to Government. He has not said that even a minimum percentage might come into operation immediately; he expects that it might come into operation gradually, and yet Government chooses to reply that they cannot accept such a proposal. All I can say is that the Government reply is most disheartening from the point of view of the Indian public.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I rise to support the Resolution. When the Honourable Mr. Chadwick began in the usual way by saying that the Resolution was modest. I thought he was going to accept it. He has been for so short a time in the Government Benches that I thought that he had not learnt the art of coating a bitter pill with sugar, but I am sorry to say, Sir, that he has learnt the art. His attitude came as a surprise to all of us on this side of the House. He gave reasons which have been met by my Honourable friend Mr. Purshotamdas Thakurdas, but there is one reason, which was not met, and which I think must also be met. He said that young Indians appointed as Assistant Traffic Superintendents may not want these Indians who might turn out to be inefficient. May I ask him a question, Sir? Are these Assistant Traffic Superintendents ever consulted when making the appointments of Traffic Inspectors, and have they ever said that they don't want Indians and they would prefer to have Traffic Inspectors from other communities? Unless he can satisfy us on that score I think that argument cannot hold good. Then the other argument also that the Railway administration cannot find a sufficient number of suitable men cannot hold good. I am quite sure, Sir, that in all these years a sufficient number of Indians will have proved their capacity to come up to the highest grade. The only reason must be that, as my Honourable friend Mr. Purshotamdas said, the men at the top, wanted men of their own community, and naturally the rights of Indians were passed over. There is a very strong feeling in the country, Sir, that the rights of Indians are not properly considered in making appointments in the Railway Services, and I think the time has come when Government must declare a policy that they will at least accept a fixed percentage to be reserved for Indians. I hope, Sir, that the House will pass this Resolution.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I think all Indian Members with the exception of those that are in the employ of the Government are with the Honourable the Mover of this Resolution. They are not with the Mover, simply because they have no other option but to side with the Honourable Mr. Chadwick. I must confess that I was quite ignorant of the responsibilities, duties and qualifications of these Traffic Inspectors until I saw one Inspector this morning. He was an Inspector in the Accounts Department. I asked him what were the duties of these Traffic Inspectors. He said that they had to look after the menial staff on Stations class A and B. They had to look to the cleanliness of these stations as well and were in fact highly paid jamadars. I asked him what their qualifications were. He said that

[Lieut. Rao Bahadur Chaudhri Lal Chand.]

they had to pass no examinations, but they had to please certain officials and they got the job. I asked him, how many Indians there are in this service? He said that Indians are not eligible for these posts, because they are reserved for Europeans who are not qualified for any other service and who have to be provided for. The picture is, I believe, overdrawn, but that is the feeling that exists among the Indian employees on our Railways and Government ought to see their way to remove that feeling.

My friend the Honourable Colonel Sir Umar Hayat Khan referred to something that happened behind the *purdah*. Sir, nothing happened behind the *purdah*. It was I who approached the Honourable Mover this morning and accused him of being very timid and for bringing forward an over-modest request before this House. I have had a very bitter experience of vested interests owing to the absence of these percentages. In the Punjab we have been trying since 1914 to get the zemindars a due representation in the different branches of the Public services. We approached the Government with deputations and Resolutions, and Government in their anxiety to help us issued circular letters from time to time. The position was examined in 1918, and after five years, it was found that the position was just the same as it was in 1914. My experience is that these recommendatory circulars, these pious wishes, do not help. Indeed it is very difficult to divest people of their vested interests, and that is why I was pressing the Honourable Mover to fix a percentage. The Punjab Government had to do it. In 1919 they appointed a Committee and as a result of its recommendations they issued a Resolution that in all branches of the services under the Punjab Government zemindars should have so much share which was in some cases 66 per cent. and in others 50 per cent. I do not mean to say even that had had its full effect. Even the fixing of a percentage has failed to have the desired effect, and that is why I was asking the Honourable Mover to fix a percentage. The Resolution in its present form is over-modest, and my only surprise is that Government does not accept even this modest Resolution in its present form.

The Honourable Mr. Chadwick referred to the discontent that would follow if Government were to accept this Resolution in its present form. I think the discontent on the other side will be much greater than what he anticipates on the side of those who have got vested interests in the service. The majority of the Indians in these Councils and Assemblies under the Reforms will be no good if they are denied their due share in the different services of the State. I think, Sir, even now Government ought to see their way to accept this Resolution. With these few words, I support the Resolution brought forward by my Honourable friend Lala Ram Saran Das.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, I am sure the House will recognise that the Government of India have every sympathy, real sympathy, for the legitimate aspirations of Indians to take their proper place, to play their proper part in the public services of this country. As a result of the recommendations made by the Public Services Commission, Honourable Members are aware that Government have already arrived at various decisions with regard to almost all the departments of the Public Services in this country. To suppose that the Government are not actuated by the same liberal spirit of Indianising our public services in regard to the railway services is, I submit, really unreasonable. Indeed, the speech delivered by the Honourable Mover of the Resolution

has itself indicated that in the higher branches of the railway services something has already been done. Personally, I am aware of the dissatisfaction which exists among the subordinate ranks of our railway employees in regard to the absence of opportunities afforded to them to rise to the higher grades of the subordinate service, and I am sure that my Honourable friend and colleague, Mr. Innes, will take every reasonable step to remove that dissatisfaction. The real objection, as I understand it, to the Resolution put forward by my Honourable friend in the form in which it has been framed, is this, to fix a proportion in one grade of a service may really in its results be detrimental to the very object which my Honourable friend has in view. If my Honourable friend had sought to fix a reasonable proportion in all the grades of the subordinate service, the matter

12 noon. would have stood on an entirely different footing. But, even in regard to this grade, in order to meet my Honourable friend half-way, I suggest to him a modification in his Resolution, and, if my Honourable friend will accept this modification, I am sure the Honourable Mr. Chadwick would be prepared to accept the Resolution in that form.

The HONOURABLE THE PRESIDENT: I must remind the Honourable Member that, if he wishes to move an amendment, it is the House and not the Honourable Member who can accept it.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Well, Sir, I wanted to suggest to the Honourable Mover a modification in his Resolution and not to move an amendment myself.

The HONOURABLE THE PRESIDENT: The only method by which a modification in the Resolution can be brought before the House is by an amendment.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: In that case, I ask your permission to move this amendment.

The HONOURABLE THE PRESIDENT: Will the Honourable Member read me his amendment?

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI:

"That this Council recommends to the Governor General in Council that a larger number of Indians be employed in the cadre of Traffic Inspectors in the Transportation Branch of each State Railway in India than is the case at present."

The HONOURABLE THE PRESIDENT: Will the Honourable Member hand it in at the table?

To the Resolution under discussion, amendment moved:

"That for the words 'a reasonable proportion be fixed for Indians' the words 'a larger number of Indians be employed' be substituted, and that the following words be added at the end of the Resolution: 'than is the case at present'."

The Resolution, if amended, will read as follows:

"That this Council recommends to the Governor General in Council that a larger number of Indians be employed in the cadre of Traffic Inspectors in the Transportation Branch of each State Railway in India than is the case at present."

That amendment and the Resolution are now open to the debate of the House.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I ask the House to accept the amendment proposed by the Honourable Mian Sir Muhammad Shafi because I think it is more in consonance with the object which the Honourable Mover has in his mind as well as with the principle of action by which we should be guided in the determination of questions like this than the Resolution. I shall not deal now with the general question of Indianisation but content myself with asking as to whether in determining a proportion, although you may not fix a proportion with regard to the lower services, you may not be contravening the principles by which we should be guided in our present and future practice. There is a school of thought which deprecates the fixation of any proportion and I know that there is a tendency to struggle against that basis for two reasons: firstly, because it is opposed to the contention in some quarters that the principle ought to be that you ought to employ Indians, including therein the term "statutory Indians," wherever you can and wherever it may be possible to do so and that by fixing a proportion you will be contravening that principle. Secondly, there is the danger generally in this as well as in other matters that the minimum would tend to become a maximum. The wording of the Resolution, therefore, I think we may take exception to, on the ground that, if it be clearly dissected, the Indian community itself may find its interests jeopardised by putting forward a proposition of that description. (*Mr. Lalubhai Samaldas*: 'Why?') Why? Is it the desire of the House to say that it should be open to the Government to employ other than Indians in any certain proportion in the subordinate service? I take it—I am speaking not of the higher services but of the lower services with which we are dealing at present—I thought that the object which is being put forward is that, as far as possible in the lower services with which we are now dealing, the agency that should be employed should be Indian and it is only where Indian agency is not procurable that we should have to go to outside agency. Therefore, in saying that there should be a proportion which should be Indian, you are really jeopardising the interests which you are supposed to be safeguarding. I therefore think that the Resolution as it was originally worded would be detrimental to the interests of the community whose interests it is supposed to safeguard. But, apart from that, Sir, there is also the practical difficulty which those who have to face this problem in this as well as in other Departments are experiencing, and I think Honourable Members were rather hasty, if I may be permitted to say so, in thinking that the Honourable Mr. Chadwick was unduly conservative in raising objection to the proposition as tabled before the House. Now, these promotions whether in this Department or in other Departments have to be made from the senior men who are duly qualified for preferment, and assuming that we find that the senior men, well qualified for the purpose, happen owing to past policy to be men other than an Indian in the sense in which the term is perhaps employed here, would it be right for any administration to sacrifice the interests of those people, to overlook their claims, to penalise them, because they happen to belong to that particular community? That was the difficulty which confronted the Honourable Mr. Chadwick and not that the Commerce Department or the Government of India are in any way unsympathetic towards the aspirations of Indians. But in translating into practical action these suggestions they are confronted with this problem that they cannot sacrifice the interests, the vested interests of the people now in service, qualified for promotion, and they cannot be superseded by others simply because the latter happen to belong to a particular community whose interests perhaps have not been safeguarded

in the past as they might have been safeguarded. That is the real difficulty with which any administration is bound to be confronted, and that is the reason why the Honourable Mr. Chadwick has said, "It is true that we are for Indianisation, but it must be generally a slow process, it must come from below, and therefore I cannot promise any definite proportion, although we shall try our level best to increase the number of Indians duly qualified as far as possible in this particular branch." I take it also, Sir, that Honourable Members when they use the word "Indian" include the term "Anglo-Indian" also because I do not think it would be wise, safe, or expedient to draw any distinction between our Anglo-Indian brethren and other Indian communities in the matter of service. It may be that in some Departments one particular community may occupy a larger proportion than other communities—I am not justifying that it should be correctly so—but it may be that owing to various conditions of service, owing to various peculiarities, or owing to past history, you may find some particular community occupying a larger proportion than perhaps may be desirable. But the change can only be gradual and I think, therefore, Honourable Members will rest satisfied with the assurance which has been given on behalf of Government that every legitimate attempt would be made to increase the number of Indians as far as may be consistent with justice to do so in the traffic branch and as traffic inspectors, on the assumption that we use the word "Indian" to include "Anglo-Indians" also. I am not asking you to draw no distinction. It is an unsatisfactory feature that the pure blooded Indians as it were occupy a very small proportion. It is a legitimate cause for complaint that so few of them are there, and I think every endeavour will be made and ought to be made to increase their number. But I think in fixing this proportion, it should be our principle not to draw any distinction whatsoever between Statutory Indians and Indians in the ordinary acceptance of the term. However, that is a side issue. On the main point, Sir, I think the amendment which has been suggested by the Honourable Member for the Legislative Department, Sir Muhammad Shafi, is an eminently reasonable one. The Government agrees to do its best to employ a larger number of Indians than at present the case. It will be of course an increasingly large number and the principle has been accepted. I think, therefore, the House ought to accept the amendment.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General): Sir, at this stage I do not propose to detain this Council by speaking on the original proposition; in respect thereto several speeches have been made and many solid and sound arguments have been advanced. I am one of those I therefore only propose to speak on this amendment. I am one of those Members who have consistently supported the officials as well as the non-officials when a proper, appropriate and well-worded amendment by way of compromise has been sought and pressed in this Council. But I feel that on this occasion I cannot support this amendment. In my opinion,—and I say it with great respect to the Honourable the Mover of this amendment, this amendment is simply an eye-wash. The amendment, if it was of a specific nature, would appeal to every one of us, and I for one would immediately accept it. What is the position? What is the real fundamental difference between the proposition and the amendment which has been put forward? The proposition requires a fixed proportion. The proposition requires Government to accept a principle, namely, that a reasonable proportion of appointments may be fixed for Indians and the amount of that proportion has been wisely left to the will of the Government,—to

[Sir Maneckji Dadabhoy.]

their better judgment. If you now substitute the words "a larger number" for the words "fixed proportion" which is the main object of the amendment, what is the net result of that suggestion? The whole proposition is rendered nugatory. It is not an amendment. It absolutely changes the entire character of the Resolution which we have been discussing all this time. It introduces altogether a new Resolution, and it is not really an amendment of it. If the amendment is carefully criticised, that is the only natural inference. Then, what is the case of Government? It asks us to substitute the words "larger number" in the Resolution. I am afraid this Council will not be satisfied with a mere assurance of this nature. Government always, for years together, have been saying this one thing, that they are anxious and sympathetic, and that they are always prepared to take a larger element of Indians in the various branches of the services. We all know about the general sympathy of Government. We all know their sympathy in this particular connection. But the object of this proposition is to bring it home to Government in a fixed manner the nature of the request made in this Council and ask them to pronounce their definite decision on the nature of this request. I shall not refer to the special case of pleading made out by the Honourable Mr. Sarma. If his argument is correct, he has no business to be a Member of the Executive Council, and to hold a post, a post which is generally a listed appointment and which belongs to the Indian Civil Service. That would be the natural inference of the argument which the Honourable Mr. Sarma has advanced before the Council to-day. We are not now dealing with cases that are special. In making these remarks I do not for a moment wish to minimise the difficulties of Government in this matter. I can clearly see the position of Government. I know the Government will have considerable difficulty in the matter of adjusting this proportion. It might to a certain extent create dissatisfaction and discontent in the department. I extend my fullest sympathy to the Honourable Mr. Chadwick in the arduous task which he has before him in accepting this Resolution; but the proposition which the Honourable Mover has placed has a definite object, and the Government must find out some sort of *modus vivendi* in this respect to meet the wishes of the public. I therefore regret exceedingly that I cannot see my way to support this amendment and even in a matter like this, which is of a very important character, if Government is defeated, it should meet its defeat cheerfully and endeavour to find a solution.

THE HONOURABLE MR. PHIROZE SETHNA: Sir, I too oppose the amendment. On giving fuller consideration to the proposal which fell from the Honourable Leader of the House we cannot but come to the conclusion that if the amendment is accepted the working of it will not be practicable in the manner indicated in the Resolution of the Honourable Lala Ram Saran Das. I can best prove what I mean by giving concrete instances. I understand, Sir, that in the North Western Railway they have 44 men holding the position of Traffic Inspectors of whom at present only one is an Indian. Now if the amendment is carried, namely, that a larger number be employed than at present, Government in their estimation might think they are doing the right thing if they raise the number of Indians to 5. On the other hand, on the Oudh and Rohilkhand Railway, I understand, there are 10 men filling this position and because a former Agent of that Railway was sympathetic to Indian aspirations, there are about 4 Indians there. Gov-

ernment will then say that they will increase the number of Indians on this line by one or not at all and they would be right according to the amendment. The aim of the Honourable Lala Ram Saran Das cannot therefore be fulfilled by the acceptance of the amendment of the Honourable Sir Muhammad Shafi.

THE RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadian): Sir, I quite agree that the amendment is scarcely less unsatisfactory than the Resolution. I will not go so far as my Honourable friend Sir Maneckji in describing the amendment as an eye-wash. I would give it a more euphemistic term; I think it is a legitimately tactical move. The attitude of the official spokesman on this Resolution has been of a nature that would inevitably have brought Government a sorry defeat. The amendment is intended to pull the Government out of an awkward situation. The situation is awkward, Sir, because Government in this matter under malignant influences have assumed an attitude entirely out of accord with their continual professions, and, I am happy to think, considering the way they have behaved in other departments of the public service, also out of court with their well-established practice. I am inclined to be somewhat reminiscent over this railway matter. Railways, Sir, have been a sore subject with us; and if I may venture a personal note I am one of those who believe that the thorough defeat which Government sustained recently over a railway matter would not have been theirs if from the beginning in regard to the Indianisation of the railway services Government and the companies together had adopted a more reasonable and more satisfactory attitude. However, I am disposed to recall an incident of about twelve years ago when the Imperial Legislative Council still sat in Calcutta in a very small room but in a room where great things were done. I remember a Resolution moved by my own lamented master, Mr. Gokhale, to the effect that a more rapid pace should be adopted by the companies in respect of Indianisation. What, Sir, do you think was the attitude of a person called the Railway Member—but I think he was only the President of the Railway Board in those days? He said that Indians were as a rule fatalistic by conviction, and that the European community who had large interests would object to the employment, on a very much larger scale, upon the transport machinery of that kind, of people who would, when accidents happened or were likely to happen, simply say "Oh, that is fate; what can we do?" Now, the Honourable Mr. Chadwick has been trained in the more sane-minded atmosphere of my Madras Province, so that he adopted a gentle variant of that theme to-day. Instead of condemning Indians as a class as fatalists and therefore unfitted for service in a small patch of the railway service, which still apparently is reserved as a monopoly for inefficient, instead of calling them fatalists and therefore disqualified, he enumerated a formidable array of their duties. Now, I heard this array of duties with the closest possible attention, and I am not satisfied myself that amongst these duties there is anything which is beyond the capacity of a very ordinary Indian mortal. There are patches of the service which are considered monopolies of particular communities. We have broken into patches before and we will break into this patch as well; we shall annex it as we have annexed other branches of the public service in our own country. I am dissatisfied with the Resolution for the reason that it adopts in the railway service that unsatisfactory and most vicious principle of fixing a proportion for Indians. Indians, Sir, must have the run of the whole service in this country. It is theirs root and branch; other people may come in with a modest request for a proportion. Why should we ask for a proportion? As rapidly as circumstances

[Right Honourable V. S. Srinivasa Sastri.]

permit, more rapidly than Government wish, more rapidly than the railways and the Honourable Mr. Chadwick apprehend, much more rapidly the services will become the property of their owners in this country. Well, left to myself, I should oppose both the Resolution and the amendment and leave this matter to be settled in a place where better notions will prevail of what is due to Indians and what is due to other members of the Indian nationality. However, since the motion has been brought here, I should accept the amendment and ask my Honourable friends Sir Maneckji Dadabhoy and Mr. Sethna to relent in their attitude, justifiable as it is, for this reason, Sir. The amendment asks for a larger proportion and leaves it there with perfect indefiniteness. We shall be free when we feel stronger to come up here and ask for a definite proportion which shall be scarcely less than 85 per cent. If we ask for a proportion now and leave it to the sweet will of the Government as personified in the Honourable Mr. Chadwick, we shall get a proportion which the country will reject and the Honourable Rai Bahadur Lala Ram Saran Das will be abused all over the country for having brought it about. For that reason I object to this Resolution, and I implore my friends to be wise and to accept the amendment.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: May I be permitted to make a personal explanation, Sir?

My Right Honourable friend Srinivasa Sastri characterised my amendment as a "legitimate tactical move". I assure the House that I did not conceive of that amendment in the way that my Right Honourable friend has characterised it. So far as I am concerned, it was an honest effort on my part to bring about a compromise between the Mover on the one hand and the department administering the Railways on the other.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): Sir, when I was hearing the Right Honourable Srinivasa Sastri, I felt that he was going to ask the House either to accept some other amendment he may have thought of so as to bring in all the points which may have been aimed at by the Honourable Mover, or to accept the main Resolution. Although he looks upon the amendment of the Honourable Mr. Chadwick as an eye-wash or as a tactical move, I fail to see how the Right Honourable Srinivasa Sastri could ask this House not to stand by the original Resolution, for I feel, and I would repeat it again, that the sole aim of the Honourable Mover is to commit Government to a certain fixed proportion of Indians to be admitted into the service from year to year, a method which can be audited by this House and by the Legislature every year. I feel that, in spite of what the Honourable the Leader of the House has said, the amendment is nothing short of getting round that rather strict method of committing Government to a policy, and I am sure the Honourable the Leader of the House will not mind it if I say that I am sorry I differ from the point of view he takes. If the Honourable Mr. Chadwick will put before the House the Resolution in any other amended form, if he likes it, and if it will definitely give the House something on which to examine the figures of the employment of Indians in these posts next year, I at any rate will gladly support it. Failing that, I think the House should stand by the Resolution, especially in view of what has fallen from the various Honourable Members including my Right Honourable friend over there.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): Sir, it is not my desire to detain the Council long, especially when I see that the galleries are crowded with Members from the other House...

The HONOURABLE THE PRESIDENT: The Honourable Member must not refer to anything outside this House.

The HONOURABLE SIR ZULFIQAR ALI KHAN: What I wanted to say was that the Resolution of the Right Honourable Srinivasa Sastri is to come off and that I therefore do not wish to detain the Council by making a long speech. I rise to say, Sir, that I give my whole-hearted support to what the Right Honourable Srinivasa Sastri has said. I agree with him that there is no use at this stage to insist upon a percentage to be fixed by the Government for the larger employment of Indians in the Railway Department. But I must say that it must be borne in mind by the officials that the public outside will not be satisfied with *beau geste* but they will require the Government to give substantial proof of their sincere desire that they will meet the wishes of the Members in a material manner. With these few words, Sir, I heartily support what has fallen from the Right Honourable Srinivasa Sastri and would ask the House to support the amendment.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I should say, after the discussion in this House by so many able speakers, that I am in accord with the original motion. The honours of the arguments are all on the non-official side. And after all, what is this official compromise? It is nothing else but an attempt to please us here for the time being. That is all. What are these assurances to us? I consider the assurances given in this House, as those that were given in the old Imperial Legislative Council, as empty assurances. They are really, as my friend Sir Maneckji Dadabhoy pointed out, "eye-washes." They remind me of the old declaration in the House of Commons by John Bright as to the traditional policy followed by the East India Company in these matters, namely, say one thing and do another secretly. In 1853 the Charter Act was passed, and it was said that men of "proved merit and ability" should always be employed in the services of the State. Another declaration was that there should be "no governing caste in India." I ask all the Members of this House, both official and non-official, is there not still in the Government of India what you call "a governing caste," a caste which monopolises all the high offices of the State and leaves the crumbs to Indians? Is there anybody who can say that there is "no governing caste in India?" If there is one, of course, it is very natural for them to pre-serve all their monopolies, all their vested interests so called and all their privileges as long as the sun and the moon endure, whatever the popular voice may say to the contrary. That is the meaning of it. Assurances and assurances reassured are hollow. I often have said, not here, but elsewhere, and I do repeat it in this Chamber now that there is that Machiavellian maxim, "put not your trust in princes" and so please do not put your trust in Government assurances. Government assurances are written in water. That being the case, what is the situation? Speaking of percentages, I will give you one instance, Sir. There was the Statutory Civil Service, for which the late Mr. Dadabhoy Nowrojee fought and fought hard for a long time to admit competent Indians into the Civil Service. The Government of India Act of 1858 was amended prescribing a percentage. That

[Sir Dinshaw Wacha.]

percentage was fixed by Parliament at One-sixth of the number of members of the Civil Service. But even in spite of Parliament fixing that one-sixth percentage, it was never maintained. There was a great hue and cry in this country. Now, where was that assurance of Parliament? As a matter of fact, there was such an agitation that a Public Service Commission was appointed in 1886 of which I think Sir Charles Atkinson was the Chairman, which abolished that service as most unsatisfactory. Men of "proved merit and ability" were not selected. The selections were made by patronage, and the whole of the Statutory Service went to the dogs. The whole country was glad it went to the dogs, because it was a most unsatisfactory service in every way, and I think the Government got nothing but discredit for the method and manner in which it was maintained. Under those circumstances, I ask whether this House can any more depend upon assurances, doubly assured and trebly assured! They are all in vain; they are writ on water. The Government promises and assurances are like piccrusts. That is the long and short of it. Therefore, Sir, I do hope that every Member of this Assembly will support the Honourable Rai Bahadur Lala Ram Saran Das in his original proposition. That is the proposition which ought to be vigorously supported.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I was rather surprised when my Right Honourable friend, who began so well, gave his case away in the end. He said he would like the fight to be fought out in another place where the question as between Indians and non-Indians could be fought out much better. I do not know what was at the back of his mind. Possibly, he was referring to the other place where with a big elected majority they can fight much better than here, and, if my supposition is correct, it means that my Right Honourable friend has lost faith in the House where he sits. I have not lost faith in the House and I think we can fight it out here as well as in any other place.

Leaving that aside, my Honourable friend Mr. Sarma said that the danger in accepting the original Resolution was that the minimum might be turned into a maximum and he said we might be jeopardising the rights of Indians. He also has lost faith both in the non-official majority here and in another place. If Government fixed the minimum very low and stuck to it, and we found that the minimum could be exceeded, we could put pressure in both Houses to have the minimum raised. We will not allow the minimum to become the maximum. So he need not be afraid that by passing this Resolution we will be jeopardising the rights of our own countrymen. We will see that the minimum does not become the maximum.

The HONOURABLE MR. D. T. CHADWICK: Sir, may I say a few words on this amendment? I had no anticipation that I was going to raise such a wide and general discussion covering so many points. I am speaking definitely to the amendment and I would plead with the House that it really does put it in a better form than the original Resolution. My chief point is this. This, in many of the railways, is a small grade. It is possible to work out percentages for a large block, but when you have to deal with a small grade, it is very difficult. I understand from my friend, the Honourable Rai Bahadur, that his chief difficulty is with one railway; that on other railways, in this very section there is a very considerable number of Indians. Now, go and fix a percentage. You will at once find, probably,

in that railway where there are already a good many Indians, it will make trouble among the other subordinates who will say that the Indians have got more than their percentage. (*The Honourable Mr. Purshotamdas Thakurdas*: "Surely that is the minimum that Government would fix?") But, then, Sir,—I appeal to them again—all that the House is interested in for the moment is that minimum. If you leave it at this, at "larger numbers," we will inquire further from Railways and you can easily find out by questions if these numbers are increasing reasonably from year to year. It is very difficult—I think Honourable Members must see the difficulty of my own personal position—to accept a fixed proportion for an administration for which I am not directly responsible and the inside workings of which are very much with the agents and the local officers. I assure the House that Government will press and does press for a greater and increasing proportion of Indians. My friend Sir Dinshaw Wacha recalls the case of old battles in which he and men of the old time took great part. Really, as he looks round here he must see that there have been results from them. (*The Honourable Sir Dinshaw Wacha*: "Sir, a century has passed and the same thing happens to-day.") Not at all, Sir. What I am saying is that he will see from the current Administration Report, that, even in this terrible Railway Department, 20 per cent. of your Engineering Department is now Indian. Their numbers have increased steadily. I would ask them to leave this grade alone. I dislike to accept the responsibility for saddling any administration with a fixed proportion in any one grade in which there may be only 10 or 20 posts. I am perfectly willing and I give every assurance that, whatever the numbers are at present of Indians in this grade, we will press on the Railways (and you can ask us here a year hence if we have done so) that they must do everything they can to increase that number and see that it is done. But I think the House will realise my position. It is very difficult to pick just one grade. I am prepared to agree and agree readily for a block of grades. In the first instance, I would ask the House to give us at least another year, when you can examine us again, and definitely let us try to increase the numbers. Where you have a small number of posts, an increase of a few makes a great difference in the percentage. We are not offering eye-wash. We are not trying to dodge issues. What I am trying to do is not to accept lightly a fixed rule on a service with which I am not myself at present familiar and cannot be familiar. That is my difficulty. It is a practical difficulty and I would ask the House at this stage and at this time to accept the amendment of a "larger number." In some of these railways there may be only 10 or 15 of these posts.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): I want to speak on the amendment, Sir.

The HONOURABLE THE PRESIDENT: I think the Honourable Member had better reply on the whole matter.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I feel very gratified at the hearty welcome which has been extended to my most modest Resolution by the Honourable Members of this House. It is most refreshing to find even my gallant friend the Honourable Colonel Sir Malik Umar Hyat Khan supporting it and supporting it most heartily. I hold the Honourable Mian Sir Muhammad Shafi in great esteem but I am sorry to say that the amendment which he has moved does not satisfy me at all. Assurances, as our veterans of the House, the Honourable Sir Dinshaw Wacha and the Honourable Sir Maneckji Dadabhoy said, count

[Rai Bahadur Lala Ram Saran Das.]

for nothing. If I may be excused, I can say that they are only lip sympathies but nothing practical. The Honourable Mr. Chadwick is wrong in saying that on the Oudh and Rohilkhand Railway because there was a large scope for selection more Indians have been promoted than on any other railway. On the Oudh and Rohilkhand Railway, which is a much smaller line, I find, Sir, that there are certain grades which in fact carry a lower salary. Even in case we leave aside these lower grades, even then there are 17 Traffic Inspectors there who are in receipt of a salary of Rs. 250 and over and out of them only 7 are Indians. So, my Honourable friend's argument about numbers does not hold good. On the North-Western Railway out of 44 Traffic Inspectors in the Transportation Branch only one Indian is holding the appointment permanently and two are simply officiating in that post. Out of the 7 commercial Traffic Inspectors there is not a single Indian. So, out of 51 posts, we have only 3 Indians occupying that post which is described as a great administrative post by the Honourable Mr. Chadwick. Is that just and fair? On the Oudh and Rohilkhand Railway why there has been promotion among the Indians is that the traffic authorities there were more sympathetic. I have been trying with the Railway authorities to move into this matter, and I have been drawing their constant attention to this grievance. But all my efforts have been in vain. The Honourable Mr. Chadwick has corroborated what I thought will be the reply which the Government Member will give, and that is the stereo-typed reply that on the North-Western Railway efficient people are not found for filling up the posts of Traffic Inspectors. I do not hold that the promotion to the Traffic Inspectors should not be made from the lower ranks, but I say that although, as far as I can gather, there have been competent men in the lower grades to occupy higher posts, they have not been promoted because, unfortunately, they were Indians. I do not want to touch on racial questions. An Honourable friend asked me not to bring the racial question into the Council. But, I told him, Sir, even the Reforms Scheme is a racial question then. Indianisation of the services is a recognised policy of this Government and I want simply that policy to be observed and faithfully carried out. The Right Honourable Srinivasa Sastri has remarked that my Resolution does not ask for a specific proportion. I refrained from asking for a specific proportion because I thought that perhaps in that form Government may not find it possible to accept the Resolution. What I am asking the Government is to fix a reasonable proportion—a reasonable minimum—and so long as the minimum is reasonable, I do not expect that my constituency or the public at large will have any grievance against me. The Honourable Sir Umar Hayat Khan has rightly said that Indian graduates can be had in any number, and I am sorry to inform this House that notwithstanding the recruitment of a number of Graduates on the North-Western Railway, I find that they are not being treated and encouraged as well as they ought to be; and some of them are thinking of resigning because they do not find good prospects. I do not want to take much time of this Council as the question which I have put before the House has the general approval of the House and so I commend this Resolution for the favourable consideration of this Honourable Council.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I very much regret that my Honourable friend will not accept the amendment. I have very little to add to what I have said before. The debate has ranged over a very wide ground. The superior staff of the Railways

was dragged in. There the number of Indians are being increased, and increased steadily as my Honourable friend will see from the last Administration Report. My difficulty, as I have tried to explain, with this particular Resolution is that it affects a small body. The complaint is chiefly against one Railway, not against them all.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: No.

The HONOURABLE MR. D. T. CHADWICK: I understand that there are a considerable number of Indians already in this grade in the Oudh and Rohilkhand Railway. The numbers which the Honourable Member quoted as far as the North-Western Railway is concerned have, I think, excluded many who are Statutory Natives of India. Further, I really do not know what promotions can be made to this grade from the senior station masters, and I do not know that and I cannot know what the percentage in those lower ranks is. It is therefore very difficult for me to accept any specific proportion without knowing what exactly I should be doing to the men in the grade below. I assure the House that the sentiments of this House and the sentiments of this debate will be pressed upon the Railways, especially upon the one Railway which has been mentioned very strongly. I do not know how this will be worked, but my task will be made much easier if the House could accept the amendment and if we could have the words "larger numbers" substituted. Therefore, I am afraid, Sir, however much I would like to meet my Honourable friend in many ways, I cannot accept the principle of a fixed proportion for this one particular grade—certainly not without much more detailed examination with the Agents of the Railway Companies, which we will be perfectly prepared to do. After this undertaking it is rather unreasonable to ask me to accept the Resolution straightaway.

The HONOURABLE THE PRESIDENT: The first question is that in the Resolution under discussion the following amendment be made:

"That for the words 'reasonable proportion be fixed for Indians' the words 'larger number of Indians be employed' be substituted and at the end of the Resolution the following words be added, namely, 'than is the case at present'."

1 P.M. The Council then divided as follows:—

AYES—19.

Bahram Khan, Nawab Sir.
Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. E. M.
Crerar, Mr. J.
Forrest, Mr. H. T. S.
Froom, Sir Arthur.
Jha, Dr. G. N.
MacWatt, Major-General R. C.

Murray, Sir Alexander.
Muzammil-ullah Khan, Nawab.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Srinivasa Sastri, Rt. Hon. V. S.
Tek Chand, Mr.
Thompson, Mr. J. P.
Zahir-ud-din, Mr.
Zulfiqar Ali Khan, Sir.

NOES—18.

Akbar Khan, Major Nawab.
Ayyangar, Mr. K. V. R.
Dadabhoy, Sir Maneckji.
Kale, Mr. V. G.
Khaparde, Mr. G. S.
Lal Chand, Lieut.
Lalubhai Samaldas, Mr.
Miller, Sir Leslie.
Moti Chand, Raja.

Purshotamdas Thakurdas, Mr.
Ram Saran Das, Mr.
Ray, Raja P. N.
Raza Ali, Mr.
Sethna, Mr. P. C.
Sinha, Mr. Sukhbir.
Umar Hayat Khan, Col. Sir.
Vasudeva Raja, Raja.
Wacha, Sir Dinshaw.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The further question is that the Resolution, as amended, be adopted.

The motion was adopted.

RESOLUTION RE APPOINTMENT OF INDIANS AS DEPARTMENTAL SECRETARIES, JOINT SECRETARIES, ETC.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, I beg to move that:

"This Council recommends to the Governor General in Council that in order to give Indian members of the Indian Civil Service an insight into the larger problems of Imperial administration and policy, he would be pleased to appoint, so far as possible, at least one such officer as Secretary, Joint Secretary or Deputy Secretary to every Department of the Secretariat of the Government of India."

It might be an advantage if, at the outset, I narrated to the Council how I came to conceive of this Resolution and to restrict its scope. I had been one of those who hugged the fond delusion that when once an Indian got into the ranks of the covenanted Civil Service of India, thereafter he became admitted into the full bliss of Paradise. That there are limitations to the Indian as there were to the Peri, who had only a glimpse of Paradise, I discovered when I was in England in 1921. Then, a very influential deputation of these Indian members of the Indian Civil Service, who happened to be on leave or other business, waited on the Secretary of State, and I heard full particulars of what happened. The deputation, Sir, was headed by one who is now the President of the Calcutta Corporation and by another who is now the Dewan of Mysore. Representations made by them, therefore, must carry with them a certain amount of authority, as guaranteed in fact and in felt grievance. This Government must have received information of the proceedings of that deputation, but, so far as the public is concerned, nothing whatever has transpired. The chief grievance was, to put it strikingly, that during the last 20 years, that is to say, after this century began, there have only been 3 Indians belonging to this service who have come into the Secretariat at all, and two of them were here for very short periods only. The Preamble to the Government of India Act lays emphasis on the increasing association of Indians in every branch of the public service. If ever this is to be regarded as a preparation of Indians for self-Government in the future, one would like to find practical proofs thereof in the extent of the scope afforded to the Indian members of the foremost service in this country for learning not merely the secrets but the most responsible features of administration. The Secretariat of the Government of India is then the sphere to which one would go for satisfaction upon the question whether the Government of India is serious in the pursuit of the policy of continuous and sleepless preparation of the Indian element for the work of carrying on and sustaining a fully developed system of representative government in this country. It is a fact, Sir, that I have ascertained that, excepting during the short space of about three or four months when the post of a junior officer in the Secretariat was occupied by an Indian member of the Indian Civil Service, since that preamble took shape, no Indian has been appointed,—there was an Indian before that—to any position in the Secretariat of the Government of India.

Since the elevation of the Member who happened then to be already holding a secretarial post to be Executive Councillor to the Government,

there is to-day in the scheduled and unscheduled departments of the Government of India not one Indian Member of the Indian Civil Service holding a post. Now that is a fact that I present to the Council. I will repeat it. There is not to-day one Indian Member of the Indian Civil Service occupying a secretarial post in either the scheduled or the non-scheduled departments of the Government of India. I think if there is a satisfactory answer to that charge I shall be very happy to know it. There are some Indians in the non-scheduled departments of the Government of India. They are not Members of the Indian Civil Service. I welcome them there, and personally I should be disposed to think that they are in too small a number there. But I happened to know that their claims had received the attention of the vigilant and powerful advocacy of my friend the Honourable Saiyid Raza Ali and when I discovered that the Indian members of the Indian Civil Service, who have, if anything, a claim to the scheduled departments second to none in the country, and a claim not negligible to the non-scheduled departments of the Government of India,—when I discovered that they had no look in, I felt that the time had come to put a question to the Government of India. My question is not in the form of a question; it is in the shape of a Resolution, because that will admit a full discussion and a complete answer from the Government Benches.

Now a few figures only remain for me to give to the Council. It would appear from a statement furnished by the Honourable the Home Member last year that there are 17 Secretaries and Joint Secretaries in the Government of India, that there are 18 Deputy Secretaries; that there are 10 Under-Secretaries, and 20 Assistant Secretaries. These figures, however, I am unable to verify. My figures are somewhat smaller under each head, but perhaps I am wrong in my calculation, for the reason that while the classified list shows certain people as occupying certain posts there may be others occupying posts similar in rank or emoluments but not under their respective classes in the list, which, however, Government are aware of and have brought into their calculation. I will take it that the Government's calculations, although somewhat outside the classified list, are certainly to be taken as more accurate. But then there are 3 Indians among the holders of posts either as Secretaries or posts assimilable to those of Secretaries. Those 3 Indians are, I take it, none of them Members of the Indian Civil Service. There are three people, Indians, occupying the post of Deputy Secretary. I believe none of them is an Indian—I mean an Indian member of the Indian Civil Service. Of Under-Secretaries there are two, neither of whom is an Indian member of the Indian Civil Service. Assistant Secretaries do not come within the scope of my Resolution and I will not therefore deal with them.

If it is asked, 'But how many Indian members of the Indian Civil Service are there who are qualified to come into the Secretariat of the Government of India?', I will give the answer presently, but before that I think I am bound to tell the Council that the Government of India have observed a certain principle, and I think upon the whole adhered to it, and although it would be impertinent of me to say so, I believe it is a salutary principle, that posts in the Secretariat of the Government of India should generally be bestowed on those whom the Local Governments have already taken into their Secretariats and in that way prepared for the responsible duties of secretarial office. Now it seems to me that it would be a perfectly legitimate question to ask, have the Local Governments prepared sufficient material for us to be able to choose from

[Right Honourable V. S. Srinivasa Sastri.]

for the still more responsible duties of the Secretariat departments of the Government of India? If the answer to this were either a complete negative or of very meagre scope, the blame would only be transferred to the Local Governments from the Government of India, which is a technical distinction and I think the blame might be apportioned as between them as they please. The public of India, however, would blame Government as a whole. But I think if we examine the matter, it is not as though we were left without sufficient material to choose from. I have got here some figures which I think might be useful. There are 7 officers upon the whole of between 5 years and 10 years' standing in the various Local Governments qualified for secretarial posts—that is, by having held secretarial posts under Local Governments. There are 2 officers of that stamp of between 10 and 15 years' standing. There are 3 of between 15 and 20 years' standing, and there are 4 of over 20 years' standing, who have received a secretariat training under the Local Governments. I think my Resolution is comparatively modest in that it requires only a beginning, that "so far as possible"—Government Benches please note the saving clause—"so far as possible" under which they have on historic occasions taken refuge—a post of each grade should be conferred on an Indian member of the Indian Civil Service.

I will only repeat, Sir, in conclusion that I am certainly not adverse, on the other hand, exceedingly favourable, to the claims of members of services other than the Indian Civil Service; but we have got to remember that they are by Statute, unless the Secretary of State gives a special exemption in particular cases, they are by Statute debarred from holding secretarial posts in certain scheduled departments. In the non-scheduled departments they have not a monopoly but have to take their share along with members of the Indian Civil Service. To that extent therefore their claims are limited. The claims of the people who are embraced within my Resolution, it seems to me, are unanswerable. They have not been met before and my question is that they should be met hereafter, and in meeting their claims that the Government of India should bear tender consideration to the requirement which they have solemnly undertaken in the face of the world, that they will prepare Indians as rapidly as may be to sustain their own self-Government.

The HONOURABLE THE PRESIDENT: I think this will be a convenient stage for the Council to adjourn.

The Council adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock. The Honourable the President was in the Chair.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, in the last century the custom for a historian who wanted to write a history of the world, more or less comprehensive, was to begin from the flood. If I were to follow a similar course, I believe I should be perfectly justified in beginning from the Charter Act of 1833. I might even go further back, but at any rate that will be a very convenient period to start from. I would, then, come to the Proclamation of 1858 which laid down as to how Indians were to be treated under the British Government. The Proclamation, as this House knows, said:—"And it is Our further will

that, so far as may be, Our subjects of whatever race or creed, be freely and impartially admitted to offices in Our service the duties of which they may be qualified by their education, ability and integrity duly to discharge." It would, of course, be incumbent upon me to refer to the announcement of the 20th August 1917 which laid down the policy of the British Government as regards India in more clear and stronger language and then, Sir, I would be guilty of a serious omission if I refrained from referring to the Message of His Majesty the King Emperor sent through His Royal Highness the Duke of Connaught to both the Chambers of the Indian Legislature, which was read out on the 9th February 1921 and which contained the following striking passage: "To-day you have the beginnings of Swaraj within my Empire, and widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy." Sir, I would refrain from following the example of the historian of the last century. I would at once come to the terms of the Resolution that is before this House and while coming to the Resolution I want just in passing to offer my hearty congratulations to the Indian members of the Indian Civil Service whose cause has espoused the eloquent support of the Right Honourable gentleman from Madras. The same weighty support has not been extended to the less fortunate members of other services. I must say, Sir, that I was not quite sure whether the position taken up by the Right Honourable gentleman on the last Resolution that formed the subject of debate this morning was quite consistent with the position that he has assumed now. As Honourable Members will remember, he was opposed to any proportions being laid down for Indians so far as the railway and other services were concerned on the ground that India is our country and that we are entitled to all the public offices and that we have a right to give such a number of posts to the people not belonging to the country as we deem proper. He was totally opposed to any proportion being laid down on the ground that all the posts should go to Indians. It is not a little surprising, remembering that speech as I do, to find that my Right Honourable friend is contented now with only one post out of three at least going to an Indian member of the Indian Civil Service. I thought the Right Honourable gentleman claimed that all posts, namely, whether of Secretary, Joint Secretary, or Deputy Secretary should go as a matter of right in the first instance to Indians, without shutting the door in the face of those Englishmen who have been serving this country or who want to serve this country in the future. This, however, is by the way, and I do not want to dwell on the consistency or inconsistency of his position any further. While heartily supporting the Resolution of my Right Honourable friend, I move, Sir, as an amendment that—

"for the words 'Indian members of the Indian Civil Service' the word 'Indians' be substituted, and that for the words 'such officer' the word 'Indian' be substituted."

The Resolution, as I seek to modify it, if my amendment is carried, will read as follows:—

"This Council recommends to the Governor General in Council that, in order to give Indians an insight into the larger problems of Imperial administration and policy, he would be pleased to appoint, so far as possible, at least one Indian as Secretary, Joint Secretary or Deputy Secretary to every department of the Secretariat of the Government of India."

Sir, I should make it quite plain that nothing is further from my thoughts than in any way to disregard or ignore the claims of those Indians who are members of the Indian Civil Service rather I want, if possible, to broaden

[Saiyid Raza Ali.]

the scope of the Right Honourable Srinivasa Sastri's Resolution and to include within its terms many Departments which, as his Resolution stands, would fall outside its scope. Sir, the way in which the Indian element has been excluded from that seat of real power, that seat of learning the art of Government, namely, the Secretariat of the Government of India, is known to everybody. The history is almost sad, and it will not serve any useful purpose to show to the Council the way in which the persistent, legitimate demands raised from time to time in the old Imperial Council have been neglected by Government. I believe it will be known to many Honourable Members that, speaking on behalf of Government, in a debate that was raised on this very question in the old Imperial Legislative Council on the 17th of March 1911, the Honourable Mr. Earle announced the policy of Government in the following words:—"There is nothing to prevent the Government of India from appointing a Secretary to the Government of India from amongst the ranks of Indian officials, if they think fit"; but that 'if,' Sir, as this House will have seen for itself, was a very big 'if' indeed. The weight that should be attached to the appointments mentioned in the Right Honourable Srinivasa Sastri's Resolution, or in the amendment that I seek to incorporate in that Resolu-

tion, is not only the weight that attaches to a few posts going to Indians, but in fact it raises the entire question of the Indian people standing on their own feet in the long run by learning the art of Government. Sir, a system of Government which excludes the claims of the children of the soil to going through the Secretariat training and performing responsible functions there was disastrous. The position was put in very clear, terse and strong language by that friend of India, Sir Guy Fleetwood Wilson, who served in this country as Finance Member. Dealing with the Secretariat of the Government of India, Sir Guy Fleetwood Wilson on the 8th March 1911 in the course of a debate said that, really, the Secretariat of the Government of India was "the holiest of the holies." He was dealing with the introduction of the Indian element into the Secretariat. Subsequent to that, Honourable Members will remember that at the Simla Session of September 1921 I moved a Resolution drawing the attention of Government to this important question. My Resolution was in fact worded in language which drew the attention of Government more forcibly to this question. Unfortunately, Government at that time did not think that the time had arrived when a Resolution which sought to revolutionize the whole system of administration should be accepted in its original terms. An amendment was proposed to that Resolution by the Honourable Sir Maneckji Dadabhoy, and ultimately the Member on behalf of Government, the Honourable Mr. Craik, who was Home Secretary at the time, himself brought forward an amendment to my Resolution which was carried, and ultimately the Resolution, which commended itself to the Government of India and was passed unanimously by this Council, ran as follows:

"That this Council recommends to the Governor General in Council that Indians should be given opportunities for becoming qualified for appointment to the offices of Secretaries, Joint Secretaries and Deputy Secretaries in the Army, Marine, Education, Foreign and Political, and Public Works Departments of the Government of India."

Seventeen months have elapsed since this Resolution was passed.

The HONOURABLE THE PRESIDENT: I draw the Honourable Member's attention to the fact that his fifteen minutes have elapsed.

The HONOURABLE SAIYID RAZA ALI: With your indulgence, Sir, I will finish as soon as I can. The position now compares rather less favourably with the position held by Indians in the Secretariat in September 1921. Whereas in the latter month, there was one Indian Secretary to the Government of India, now there is none. At that time there was one Joint Secretary, whereas if we were to turn to the Government of India List to-day we would not find one Joint Secretary. Strictly speaking, there is not one Indian who is employed as a Joint Secretary. No doubt there are three Deputy Secretaries, but one of them can be called a Deputy Secretary only by courtesy, as his services have been requisitioned here for the purposes of the Budget and he holds a temporary post. In that view, Sir, there are only two Indians, who are employed as Deputy Secretaries to the Government of India. Sir, the position that I take is this, that while it is the duty of Government to make up its mind and to take a step in the right direction by introducing into the Secretariat Indian members of the Indian Civil Service for the Scheduled Departments, care should be taken to draft Indian officials from the provinces and employ them in the Army and Marine Department if possible, and in any case in the Education, Public Works and Foreign and Political Departments. My amendment is in no way antagonistic to the Resolution of my friend the Right Honourable Srinivasa Sastri. As I have pointed out, if those posts are reserved for the Indian Civil Service, they could go in large numbers to Indians as well. Let not their claim be ignored by Government. Whereas in the case of non-scheduled appointments it will not at all be difficult for Government to draft Indian officials serving in the Secretariats of the various provinces in large numbers. I know there are many Indian officers in the provincial Secretariats who are not members of the Indian Civil Service, and it will not therefore at all be difficult for Government, if Government have the will, to get the services of such officers. I hope, Sir, that after all the Government will bid good-bye to this halting, discouraging and disappointing policy

The HONOURABLE THE PRESIDENT: When I drew the Honourable Member's attention to the fact that his time was exceeded, I expected him to terminate his speech as soon as might be; I trust he will now try to do so.

The HONOURABLE SAIYID RAZA ALI: and embark upon a new policy which will find acceptance at the hands of this Council and which was in fact accepted by Government in September 1921. With these words, Sir, I move my amendment, which runs thus:

"That for the words 'Indian members of the Indian Civil Service' the word 'Indians' be substituted, and that for the words 'such officer' the word 'Indian' be substituted."

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

"That for the words 'Indian members of the Indian Civil Service' the word 'Indians' be substituted, and that for the words 'such officer' the word 'Indian' be substituted."

That amendment and the main Resolution are now open for discussion by the Council.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, the Resolution moved by the Right Honourable Srinivasa Sastri deals with Indian members of the Indian Civil Service. The amendment which stands in the name of my Honourable friend Saiyid Raza Ali

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and which he has just moved deals with Indians generally; and because of the Resolution that he had moved on a previous occasion and as I was not sure—although the greater included the less—whether he included the Indian members of the Indian Civil Service, I suggested an amendment to add the words “and other qualified Indians” which, with your leave and the leave of the House, I will now withdraw, because the Honourable Saiyid Raza Ali has explained in the course of his speech that by Indians he means Indian members of the Indian Civil Service and other qualified Indians. Sir, when the Honourable Saiyid Raza Ali moved his Resolution about a year and a half ago, I could not see eye to eye with him, and at that time I observed that his Resolution was premature. I said so, because the Government of India Act of 1919 had then been in force only for a short time and I thought opportunity might be given to Government to see whether they would carry out the intentions of the Act to the letter. To-day I hold a different opinion and I am in entire agreement with both the Right Honourable Srinivasa Sastri and also the Honourable Saiyid Raza Ali; and if I hold the contrary opinion to-day, it is because, as the Right Honourable Srinivasa Sastri has shown, that nothing or hardly anything has been done by Government in the matter of appointing either Indian members of the Indian Civil Service or other qualified Indians to the higher appointments in the Central Secretariat. The Right Honourable Srinivasa Sastri summarised by informing us that at the present moment in the Secretariat there is not one single Indian member of the Indian Civil Service, but there are some Indians who are not I. C. S. men.

I would like to go further into this matter and I ask the Government to say whether the details that I will just give are correct or otherwise. I hold that Government have had enough opportunities for appointing Indians since the Act of 1919 came into force but they have again no such opportunities as promised in the amendment of Mr. Craik to the Resolution of Mr. Saiyid Raza Ali in September 1921. I will first take those departments which form the exception in the third schedule to the Government of India Act and to which Indians who are not members of the Civil Service can be appointed. Those departments are Foreign and Political, Public Works, Education, Army and Marine.

Now, Sir, in the Foreign and Political Department, there has been no Indian. There was a change in the Secretary in the Political Department. There was a change in the Deputy Secretary both in the Foreign and Political Departments, and the Under-Secretary has gone on leave, and no Indian has been appointed.

In the Public Works Department, there was a change in the Deputy Secretaryship and no Indian was appointed.

In the Education Department, there was a vacancy in the Secretaryship and no Indian was appointed. There are two Indians in the Education Department, one is the Deputy Secretary, temporary, and the other is an Assistant Secretary and both are non-I. C. S. men.

In the Army and Marine Departments there is no Indian, although there were vacancies when the Deputy Secretary went on leave, and there was also the appointment of the Secretary to fill some months ago.

These, Sir, are the Departments to which non-I. C. S. men can be appointed and not a single more I. C. S. or non-I. C. S. has been appointed although there were opportunities as I have shown.

We now turn to those departments which according to the Schedule are the exclusive preserve of the Civil Service. First of all, there is the Home Department. In that Department there was a vacancy of the Secretary's position which has been filled not by an Indian and a Deputy Secretary and an Under-Secretary also were not filled by Indians.

We next take the Revenue and Agriculture Department. There was a vacancy of a Deputy Secretary. The place is still vacant, not filled.

We now turn to the Legislative Department, where there was an Indian Legal Assistant. He has been promoted and confirmed as Deputy Secretary; but there has been a new Joint Secretary appointed, who is not an Indian.

There is the Commerce Department. Although there were vacancies in the Secretaryship and Deputy Secretaryship, no Indian has been appointed.

In the Industries Department likewise no Indian has been appointed, although, as the Right Honourable Srinivasa Sastri pointed out, the Secretary was an Indian, who is now a Member of the Executive Council, and his place is given to an English member of the Indian Civil Service.

In the Finance Department, they have an Indian as Under-Secretary and an Indian as Deputy Secretary and the latter holds his appointment only temporarily.

Now, Sir, I have given these particulars after careful inquiry to show that there have been a number of occasions when Indians—I. C. S. and others—might have been appointed to some at least of the many vacancies that have been created in the Secretariat of the Government of India since the Act referred to came into force.

To summarise, therefore, there are at the present moment only four or five Indians in the Central Secretariat and all of them not members of the Civil Service. The Right Honourable Srinivasa Sastri was perfectly right in saying that there is not a single Indian member of the Indian Civil Service in the Government of India Secretariat at the present moment.

In addition, the Government of India have adopted, I believe, the recommendations of what is called the Llewelyn Smith Committee, which laid down that Under-Secretaryships should be abolished. Now, if those posts had been continued there would have been chances for Indians to be appointed in that position. The Llewelyn Smith Committee recommended that Private Secretaries should be appointed to Members, but so far they have not been appointed; if they are, these posts or most of them might be given to Indians.

Now, Sir, I would like the House to understand that I do not for one moment say anything in regard to either the efficiency or the ability of these respective gentlemen who have been called upon to fill the positions which fell vacant since the Government of India Act came into force and which I have enumerated. I have the greatest esteem for them and hold them in high regard. I have not named anybody but I cannot refrain from naming only two because of my personal acquaintance with them and because of the fact that they hail from the same Presidency where I come from and because I know their work and worth. They are the Honourable Mr. Crerar and Mr. Graham in this House, one as Home Secretary, the other as Joint Secretary, Legislative Department, and I doubt not that every other member who has been called upon to fill vacancies is as able

[Mr. Phiroze Sethna.]

and as efficient. But, that does not prove the point or answer the question as to why Indians have not been appointed. That is the main issue, and the onus lies on Government to show whether they could or could not find Indians suitable to fill these posts or not. In this connection, Sir, I think I cannot do better than read a sentence from the speech made by the Honourable Mr. Craik on the occasion when the Honourable Saiyid Raza Ali moved his motion in September 1921. He said:

"Indians are eligible for all the posts which he (Honourable Saiyid Raza Ali) has mentioned and the sole test of selection for those posts is to select the fittest man, be he English or be he Indian. There is no other test whatever."

And he goes on by saying:

"The sole test for these posts is and must be that of efficiency, and no racial consideration should enter into the question of selection at all."

Therefore what is the conclusion we can come to? We can only draw one or two inferences, that Government tried to select Indians and they could not get them or if they found them they were not fit. The only other inference is that the Government conveniently did not put Indians into these positions. There cannot be a third alternative and I leave it to the House to decide what, in their opinion, is the real reason.

I contend that it is to the interest of Indians themselves as well as to the interest of Government that they should have Indians in the positions enumerated by the Right Honourable gentleman in his Resolution. If you have Indians working in the Secretariat, they are, as it were, behind the scenes. They know how the administration should be carried on, and consequently when they are put in more responsible positions, they will carry on those duties successfully and thus the intentions of Government, namely, to Indianise the services as rapidly as possible, will be adequately carried out. Again either a department is controlled by the Member in charge who is a European or an Indian. If he is a European and under him there are all Europeans and no Indians, then the European Member never gets to know the right Indian view of things; he has got to depend on the views placed before him by his European officials. If, on the contrary, the Member is an Indian, and if all the officers—the Secretary, the Joint Secretary, the Deputy Secretary, the Under-Secretary and the Assistant Secretary—happen to be Europeans, then I suppose because it is the practice that all these officials have got to prepare their own notes and their own reports on everything that is brought before the Member, and being all Europeans they would naturally agree in holding to one view on a subject, we can quite understand that, however much the Indian Member might be opposed to the united opposition of the European Members, he could not overrule them every time if he wanted peace and harmony in his department. Therefore I say, both in the interests of Indians and in the interests of the Government, it is advisable that in all the departments they must have at least some Indians, whether I. C. S. or non-I. C. S. men. The Right Honourable gentleman gave us this morning the number of them available

The HONOURABLE THE PRESIDENT: It is a very curious thing, but there must be some malignant influence at work to-day. I do not think at the last six meetings I have had to call Honourable Members' attention to the time limit, but to-day I have had to do so twice already.

The HONOURABLE MR. PHIROZE SETHNA: According to me, Sir, I have spoken for only 10 minutes.

The HONOURABLE THE PRESIDENT: According to my entry the Honourable Member has spoken for 14½ minutes.

The HONOURABLE MR. PHIROZE SETHNA: I have much to say, but I will certainly accept your ruling, Sir. I will only say this. There is a certain section of the press in this country and in England who take to task Members of both Houses of the Legislature for constantly bringing up Resolutions asking for the greater and more speedy Indianisation of the services. This is done by individuals also. The House will remember I was taken to task by one Honourable Member of this very House, who, if he were present here to-day, would again have taken us to task, and perhaps severely, because there was not one Resolution but because the only two items on the Agenda to-day are Resolutions relating to Indianisation of the services. I refer to the Honourable Sir Edgar Holberton. But if we bring these Resolutions forward, who is to blame, is it ourselves or the Government? It is frequently said the Moderates do not co-operate with the Government in the manner they ought to; that their co-operation is not boldly avowed, it is not constant, that it is timid and that it is punctuated with gestures of dissent for the benefit of the nationalist gallery. Let me assure the House that, so far as we Moderates are concerned, if the Government will only live up to their professions and their pledges we shall certainly be more constant and less timid.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I shall first say a few words on the amendment only, reserving my right to speak on the Resolution

The HONOURABLE THE PRESIDENT: The amendment and the Resolution are both under discussion in the Council.

The HONOURABLE MR. J. CRERAR: If I speak at this stage, will I be in order in speaking on the Resolution later?

The HONOURABLE THE PRESIDENT: If the Honourable Member is in charge of the Resolution on behalf of the Government, he will have an opportunity of speaking on the issue before the House, and he will again have a further opportunity of replying after I have called upon the Mover to reply if the debate goes to that length. At present the matter before the House is the Amendment and the Resolution which are both being taken together. He will therefore have only one speech at this stage.

The HONOURABLE MR. J. CRERAR: Sir, I welcome the amendment moved by my Honourable friend Saiyid Raza Ali because it gives a wider extension to the Resolution moved by my Right Honourable friend opposite and on this important question I am not only content but desirous that it should be debated on the widest issues. Sir, I have not for long followed with close attention the speeches and writings of my Right Honourable friend without failing to recognise that any case to which he lends his powerful and persuasive advocacy will be found an issue of moment; that it will be presented not only with eminent ability, but with scrupulous fairness and moderation; that it will be in close relation with fact, and that it will be an attempt and a powerful attempt to translate into practical politics some important and salutary principle. Sir, a case so presented cannot fail to be a formidable case, and I should feel much more uncertain

[Mr. J. Crerar.]

of my position in having to reply to my Right Honourable friend and the Honourable gentleman who succeeded him if I did not feel, in the first instance, that there is a great deal of misapprehension of fact, and I hope in the remarks which I have to make I shall be able to do a great deal to correct that misapprehension. The second consideration which to a large extent confirms me is this, that I feel that, in essence, there is really no divergence in principle between the views expressed by the Right Honourable gentleman and the views which are entertained and acted upon by the Government of India. My Right Honourable friend made one remark on which I shall venture to introduce a cautionary word. He spoke of entry into the Indian Civil Service as being entry into a paradise. If my Right Honourable friend is animated by any impression of that nature, I would certainly appeal to his humanity, an appeal which I am sure is seldom if ever made in vain, to hold his hand while there is yet time. But I take it that my Right Honourable friend's intentions related, not so much to the felicity of the denizens of that dubious paradise, but to the extent to which they are allowed on equal terms to partake of the fruit of the tree of knowledge of good and evil, and it is on that assumption that I proceed. I have two preliminary observations to make. They may be obvious, but they are of importance to the statement of my case and as such I hope Honourable Members will listen to me with patience and forbearance. It may be that the disposition of Governments and still more the disposition of their servants is to magnify their offices. But I do not think I am doing more than stating an obvious and palpable fact when I say that to the departments of the Government of India are entrusted in a very exceptional degree and in a very exceptional sense, many of the highest interests of the Indian public and the State. If that is so, I do not think it is a questionable inference to draw that in making appointments to these departments the Government of India must adhere scrupulously and strictly to the principle of selection on the basis of proved merit and ability. I use old, perhaps well-worn, terms, but they are terms which have a practical significance at this time perhaps more than any time that has preceded; and when I speak of efficiency I do not speak of a reasonable and tolerable degree of efficiency; the degree of efficiency which the Government of India has to get from the resources and the material at its disposal, necessarily imperfect, is a degree of maximum efficiency. If the answer to that proposition is accepted, I think it will follow that, apart from the immediate question of selection, there is a precedent proposition which requires careful and precedent attention, and that is the sources of supply. You cannot make good selections unless you take timely and judicious measures to extend and to improve your sources of supply; and I shall show that in that direction a very great deal has been done. It has been pointed out, I think by my Honourable friend Mr. Sethna, that the provincial Secretariats have been the main, and on the whole a satisfactory, recruiting ground. I am reminded that it was my Right Honourable friend who pointed it out. I shall refer to this in some detail at a later stage and I now wish to emphasize that our sources for selection are likely to be further extended in the future by an increase in the Indian element in the public services generally. The question of the definite reservation of a certain number of posts for a particular community stands very differently in its application to the administrative services generally, and to selective posts within or without those administrative services. It may be possible and practicable to lay down some definite principle in the case of administrative services generally,

but we should be adopting an exceedingly dangerous and exceedingly inconvenient principle if we proposed to apply it to selective posts.

I will now turn to the actual condition of affairs. It was pointed out by my Honourable friend Saiyid Raza Ali that when this question was debated in 1911 on the motion, I think, of the Honourable Mr. Subba Row there was at that time only one Indian in the Secretariat of the Government of India; and there were very few in the provincial secretariats. A great advance had been made by 1917. Taking the total number of superior posts in the provincial secretariats,—by superior posts I mean all posts of the grade of Assistant Secretary or of similar status and upwards—the situation was that there were 13 Indians and 111 others.

The HONOURABLE MR. LALUBHAI SAMALDAS: What about Under-Secretaries? Can you give separate figures?

The HONOURABLE MR. J. CRERAR: The Assistant Secretaries were 4 Indians and 42 others. In the year 1922 the situation had undergone what I think the House will admit a very significant change. There were in October 1922 as nearly as I can ascertain 51 Indians holding superior appointments in provincial secretariats and 131 others; that is to say, the number of Indians in that period of five years had almost quadrupled.

I will approach the matter from another point of view. My Right Honourable friend estimated that of the members of the Indian Civil Service whom he regarded as *prima facie* qualified by the length of their service for Secretaryships—he took a period of twenty years' service—there were 15. I have not verified my Right Honourable friend's figures, but I am prepared to accept them. I observe at the same time that the number of European Members of the services in question with the same period of service was 473. There were also at the same time in the provincial secretariats five Indian Secretaries and 66 European Secretaries. Now, Sir, the proportion of Indian Secretaries to the number of officers of that length of service—in the case of Indians—is 33 per cent.; and the proportion in the case of Europeans is 14 per cent. I ask the House to consider whether those figures give any indication of any reluctance on the part of provincial Governments to increase the number of Indian secretariat officers in their service. As time is passing I shall not inflict too many statistics on the House, but I will now deal briefly with the state of affairs in the Government of India Secretariat. I again take all superior appointments including those of Assistant Secretaries up to the posts of Secretary and officers of similar status. There are at the present moment 14 Indians, and but for the fact—for which I think the House will not impute any desire on the part of Government or higher authorities than the Government of India to withhold positions of great responsibility and trust from Indians—were it not for the appointment of an Honourable gentleman to the Executive Council of the Viceroy, there would have been 15 Indians

The HONOURABLE SAIYID RAZA ALI: May I ask, Sir, whether the Honourable Member will keep to the terms of the Resolution and confine himself to the posts of Secretary, Joint Secretary, and Under-Secretary and not go lower down?

The HONOURABLE THE PRESIDENT: It is a matter for comment possibly but he must allow the Honourable Member to develop his argument in his own way.

The HONOURABLE MR. J. CRERAR: I have already made it clear to the House and I hoped I had made it clear to my Honourable friend Saiyid Raza Ali that one of the most important considerations arising is not so much of the actual question of selection as of the sources of selection, and if I referred to appointments which were not strictly within the ambit of the Right Honourable gentleman's Resolution it was with reference to the extension of the sources of selection. Now, Sir, I have given a summary of the figures regarding the present position in the Government of India Secretariat, and I have reason to believe that the numbers of the Indian Officers in the Government of India Secretariat will before long be increased. I think I have said enough to show that there is not only no reluctance on the part of the Government to give effect to their expressions of sympathy when this question has been previously agitated, that these are not merely empty expressions, but that very substantial effect has been given to them in such a way as to hold out the best hopes for a still more rapid and a still more effective increase in the future.

Now, Sir, I shall turn to the actual terms of my Right Honourable friend's Resolution. In effect, it consists of two propositions—a major proposition and, if I may venture to call it so, a minor proposition. The major proposition is, that Indians—if I may take the Resolution as it would be amended in the wider terms by my Honourable friend Saiyid Raza Ali's amendment,—that Indians should be given an insight into the larger problems of Imperial administration and policy. That is the major proposition, and with regard to that, I have no hesitation in saying that it has the complete and unqualified assent of the Government of India. Then his minor proposition is that as an expedient at least one officer should be appointed as Secretary, Joint Secretary or Deputy Secretary in every Department of the Government of India. Now, Sir, as regards the major proposition, I have already said that it has the complete and unqualified assent of the Government of India. My Right Honourable friend adverted to the Parliamentary Declaration of 1917, and I freely admit that it has a very important bearing on his major proposition. If we are to provide for the increasing association of Indians in all branches of the public service, it follows that we must give them opportunities for qualifying themselves to higher offices in the services, and on that issue there is no discrepancy whatever between my Right Honourable friend's position and the position of the Government of India. The discrepancy is only with regard to the expedient. That expedient, Sir, cannot be given effect to without a very definite abrogation from that criterion of selection by proved merit and ability to which I have already referred. If we were to fix that definite rule, it will be the first time that a distinction on the grounds of race will be imported into this important question. The Government of India is as alive as any one else to the desirability of Indians participating as fully as possible in the higher branches of the administration. They have everything to gain by it. If something can be done to correct the volume of ill-informed, and sometimes destructive criticism, which is so frequently brought to bear upon the Government of India, if something is done to show the difficulties of Government,—not simply the difficulties of concealing their proceedings, of explaining or explaining away their errors and omissions, but the real difficulties of Government of a totally different character which can hardly be appreciated by any one who has not been brought into close and personal contact with them,—the more those difficulties are appreciated by Indians the better will it be for the Govern-

ment of India. But, Sir, I think the Government of India took the right course in making no misguided and premature endeavour to secure those results by the sacrifice of principles of even greater importance. I do not think, Sir, that the result of the adoption of such a rule would really be to the benefit of the Indian officers themselves. It is now impossible for any one to say if an Indian officer who has been appointed to one of those posts that he was appointed otherwise than on the criterion of proved merit and ability. If this rule is adopted, I do not say that it will be possible to impute inefficiency or unworthiness to an officer so selected, but it would for a stringent critic be possible to say that a breach has been made in that old criterion of selection by proved merit and ability to which at present every Indian officer in that position can now confidently appeal. Now that has also an effect upon the European Members of the services, though I do not want to labour the point. But if a rule of this kind is adopted, it will undoubtedly trench upon the reasonable and proper interests of the European Members. Sir, not long ago than yesterday, we heard in this House a discussion on the question of compensation. We heard vehement, even passionate speeches on that subject, and on the indefeasible principle of justice and morality on which it rests. Sir, I have not heard any reference to that principle in the House to-day.

I think, Sir, I have said enough to establish my first proposition and also with regard to the position taken by my Right Honourable friend and by his supporters and the position of the Government of India. There is, if I may interpret my Right Honourable friend correctly, no substantial difference, and I would venture to suggest an amendment in the following terms to his Resolution which the Government of India would be perfectly prepared to accept:—

"This Council recommends to the Governor General in Council that in order to give Indians an insight into the larger problems of Imperial administration and policy, they should be afforded wider opportunities to become qualified for appointment for the posts of Secretary, Joint Secretary or Deputy Secretary in all departments of the Secretariat of the Government of India."

That, Sir, in my opinion, preserves in its integrity the principle advocated by my Right Honourable friend.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: May I have the terms of the amendment, Sir?

The HONOURABLE THE PRESIDENT: Will the Honourable Mr. Crerar hand it in to the table?

(The Honourable Mr. Crerar handed the amendment to the Chair.)

The HONOURABLE MR. J. CRERAR: I put forward that amendment, Sir, because I venture to think that it does preserve in its integrity the principle for which my Right Honourable friend has been contending. There are two essential points to which the Government of India must adhere, and I fear that if the Government of India accepted the Resolution in terms originally drafted by my Right Honourable friend, those principles might be in jeopardy. These two are, firstly, that in making these appointments, the Government of India must reserve to itself an absolute discretion to regard the paramount interests of the public services and

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secondly, that it must observe justice and equity in the treatment of all its public servants. I should be the last to suppose, Sir, that the Right Honourable gentleman or any other Honourable gentleman would for a moment desire or ask the Government of India to commit themselves to a position in which they might be obliged to infringe those two principles. An assurance of that kind would be an assurance which the Government of India could not honourably give because they could not honestly give effect to it.

The HONOURABLE THE PRESIDENT: To the Resolution under consideration further amendment moved (this amendment also includes the Honourable Saiyid Raza Ali's amendment—in so far as it extends the Resolution to "Indians," as I understand):

"That for the words 'he would be pleased to appoint, so far as possible, at least one such officer as Secretary, Joint Secretary, or Deputy Secretary to every department' the words 'they should be afforded wider opportunities to become qualified for appointment to the posts of Secretary, Joint Secretary or Deputy Secretary in all Departments' be substituted."

The Resolution would then run as follows:

"This Council recommends to the Governor General in Council that in order to give Indians an insight into the larger problems of Imperial administration and policy, they should be afforded wider opportunities to become qualified for appointment to the posts of Secretary, Joint Secretary or Deputy Secretary in all Departments of the Secretariat of the Government of India."

In so far as the Honourable Saiyid Raza Ali's amendment is concerned, it is included in this amendment. The amendment I have just read to the House and the original Resolution are now open to discussion.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS: Do I understand that the Honourable Mr. Crerar has moved that amendment or what is the position?

The HONOURABLE THE PRESIDENT: The position is perfectly clear. The Honourable Member has moved an amendment. I have now read it to the House and it and the Resolution are open for discussion to the House. If the House vote in the affirmative on the amendment, the amendment will be passed; if they vote in the negative the amendment will not be passed.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I have very carefully listened to the Resolution of my Right Honourable friend. Of course, it is his lot to put his case clearly and as he has done so, I think it is superfluous on my part to emphasise anything further. But, if that Resolution remained as it was, I am sorry that I could not have given it my full support, because I, for one, do not like to sacrifice efficiency on the altar of Indianisation. Because, Sir, in the Civil Service, all those who pass it in England are in one category. If they come out here and an Indian supersedes an Englishman because he is an Indian, I do not think that is a right principle. If there is an abler Englishman and senior, it will be hard lines to put a man above him. The whole question is, do we want this service? I think the Empire they have built, the work they have done, does show, as the Prime Minister said, they are the steel frame of the service. As long as he was misled and did not know about India, things went from bad

to worse, as all of us know. I do not think the English members of the Indian Civil Service were responsible for this. But directly it was known by the Prime Minister, he tried to please them, but unfortunately he had to go. Sir, we have got different races and religions and we generally pitch into each other as we did the other day at Multan. Now, all saw what both sides wanted,—an English Civilian. So we cannot dispense with them and, if we go and get others to supersede them, naturally they will get disheartened and go. Then, again, Sir, of course my Right Honourable friend may have gone to the Colonies and perhaps seen how Indians were treated there. But the same Indian Civilians whom he is backing up go to England and pass their Civil Service there. We cannot accuse the English for it, that is, the bad treatment of Indians. Englishmen and Indians are all equal subjects of His Majesty the King and I think the Right Honourable gentleman said in his speeches that he wants the whole Empire united. Well, if we want that ideal, how are we going to bring any invidious distinctions between various races? If we really have to become, as he wants us to be. Now, Sir, if the Resolution only said that much, I have said something against that principle. But in that Resolution a new life has been brought by my Honourable friend Saiyid Raza Ali. If that is embodied in it, I am absolutely for it, because that allows for all Indians to come in. Now, I must put before the House living examples. You have seen here are our two Indian Members at the helm in the Executive Council. Well, are they not doing their work? They are doing it beautifully. They are the Members. There are the Secretaries, about whom we are discussing. These Secretaries are under them. If Indians at the top can run the show, naturally if there are Indians on a lower rung, they can run it equally well. In my province, Sir, the provincial Civil Service has got one man in the High Court, and the place has not been filled better. Secretaries of the Financial Commissioners were used to be Members of the Civil Service, but then later it was given to one or two of the provincial Civil Service men and they did the work equally well. And see Lord Sinha and our Right Honourable gentleman there, the Mover himself. We have produced such Indians and I think, if Indians generally are given chances in the Secretariat or anywhere I think they will acquit themselves well. Then, Sir, of course, we speak of Indianisation, but being of different religions and I being a Member who has been returned by Muhammadans naturally would like to see that, if there is any Indianisation, I hope the Muhammadans will be taken according to their numerical strength.

The HONOURABLE THE PRESIDENT: Does the Honourable Member wish to move an amendment to that effect?

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, considering the number of amendments made and the amendments to amendments, I do not like to go any further. I think, we have a sufficient number of amendments before the House already. With these few remarks, Sir, I support the Resolution, if the amendment of my friend Saiyid Raza Ali is also carried, but not otherwise.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I stand to oppose the amendment which has been moved by the Honourable Mr. Crerar. The debate which has taken place this afternoon amounts to my mind to a repetition of what happened early this morning. We are all agreed, it appears, on the acceptance of certain cardinal and general principles. But, when it comes to the application of those general principles, immediately there emerges a divergence of view. My Honourable friend

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opposite has laid down certain fundamental principles as principles guiding the policy of the Government of India in the appointments it makes to the various higher posts in the Secretariat, namely, efficiency and justice and equity. No one takes any exception to those principles. My Right Honourable friend Mr. Sastri and others who have spoken have never said a word which would in any way be interpreted to violate these fundamental principles. The amendment, however, goes entirely against the spirit of the Resolution. What was the main Resolution? That in order to afford Indians facilities, certain appointments shall be immediately made, as far as possible. What is the answer to this? The answer is, "We accept the principle." But the main demand, namely, that Indians should be appointed to certain posts, is not being acceded to. Only the principle is emphasised. Sir, we have had too much of the emphasising of principles. We feel that the time has come when some action should be taken upon principles which have been agreed to. Even an ounce of action is much better than a ton of agreement upon principles. So long as we are not going to have immediate action, I do not think that mere repetition of announcements that are made about principles by Government will carry any weight with the public. If the amendment of my Honourable friend had really promised something that Government contemplated doing in the immediate future, certainly that amendment would have commended itself to us. But, as that amendment denies very clearly the demand made in the Resolution, I do not think that it will carry any weight, at any rate, with this part of the House. The speech of my Honourable friend Sir Umar Hayat Khan has, I am sure, not strengthened the case of Government and I do not think that Government will congratulate him upon the assistance he has sought to give to it in this matter. He has imported the question of Muhammadan representation into the debate. No one has said that the Muhammadans should not get their due representation. I do not know why this question should be raised when there is no dispute about all communities being given their proper representation in the appointments that will be made. Here the question is whether the appointments are going to be made at all. Even before any appointment is made or contemplated, my Honourable friend raises the question as to where the Muhammadans will be in the distribution. Of course, there will be no Muhammadans if there are no Indians. Muhammadans are Indians. If the Government is going to appoint Indians, certainly Muhammadans will be appointed. So that I do not suppose that my Honourable friend has in any way assisted the cause of Indians or even of the Government of India by the sort of speech he has made. As the amendment is unsatisfactory to my mind, and as the speech of the Honourable Mr. Crerar in support of the amendment does not in any way give any satisfaction to the popular demand, so very reasonable and so very modest, which is embodied in this Resolution, I think the House will be only doing the right thing in connection with this amendment if it will throw it out. With these words I oppose the amendment.

The HONOURABLE MR. PURSHOTAMDAS THAKURDAS (Bombay: Nominated Non-Official): Sir, it is usually said "Give a dog a bad name and hang it." It has lately been the fashion to run down Indian aspirations in the field of economic, commercial and industrial development by nicknaming it and qualifying it as political. It has today been the fashion, I see, in this House to call this Resolution a Resolution based on something racial. At the discussion to which the Honourable Saiyid Raza Ali referred 17 months back, the Honourable Mr.

Craik used stronger language than my Honourable friend opposite. He said:

"From the wording of the Resolution it seems to me that the Honourable Member is trying to introduce the serpent of racial discrimination where it does not at present exist."

My Honourable friend opposite used much milder terms, but both of them point to the same direction. I do not know what justification either those who nickname commercial aspirations as political or national aspirations as racial have. But I will remind my Honourable friend opposite of one thing, that if there is anything racial about this aspiration reflected by the Right Honourable Member in his Resolution, the fault does not lie with him. You have got to search the history of the past 90 years to find out who is responsible for it. I hold, Sir, in my hand quotations from three very eminent statesmen at intervals of twenty years each. They each of them said in absolutely unmistakable terms that the more employment of Indians in higher posts and generally in all posts of Government service in a larger measure was not only necessary but was what was due to Indians. The figures quoted by my Honourable friend opposite unveil rather a sad tale. My Honourable friend opposite may congratulate himself and congratulate Government that there is a certain increase of Indians since 1911 or 1912. But that is not the point. The fact still remains that the proportion of Indians in these higher services and higher posts is almost negligible.

My Honourable friend referred to appeals made in this House yesterday in connection with compensation. I am not sure, as I could not hear him distinctly, as to what he means, for I missed the latter part of his speech and I really would like to hear him when he gets up to reply at the end as to what compensation he referred to and what discussion in this House he had in his mind. I was not present in the House yesterday, but I know that for the last day or two there have been appeals going out in connection with Watans and Brahman priests and if there is anything common between the Watans and Brahman priests of Bombay and the I. C. S. or any other Government service, I would certainly be very much interested in hearing the developments of that argument of my Honourable friend opposite.

My Honourable friend said, Sir, that the major part of this Resolution consists in insight into the larger problems of Imperial administration and policy. With that very major part my Honourable friend said that the Government of India were in full sympathy. I felt when I heard that, that it was one important step taken—and that is one important point—in favour of my Right Honourable friend over there. But it always appears, Sir, from the history of these things that the most important and major parts of such Resolutions have the sympathy of Government. What appears to stick is generally the small tail at the end. It is this small tail in this case also which appears to have stuck and cannot find admission within the portals of the Government Secretariat, and in this particular instance, Sir, I submit that it is a very very mild, and very lean small tail. My Right Honourable friend only wants that as far as possible—mark, Sir, the very general term—one post may be given to Indians. If even the acceptance of that is looked upon by Government as grave interference with their rights of ensuring efficiency, all I say is, Sir, that it is not much good discussing any such Resolutions in this House unless one restricts oneself to block voting and to short speeches.

The HONOURABLE MR. J. P. THOMPSON (Political Secretary): During the luncheon interval, Sir, I occupied myself in working out certain statistics which I think will be of interest to the House, as they seem to show that it would be quite impracticable for the Government of India to give effect to the motion of my Right Honourable friend Srinivasa Sastri at once or even in the course of the next few years. The whole question so far as the Indian Civil Service is concerned turns on the number of Indian I. C. S. men who are available in certain years. I think that will be admitted. I believe I am right in saying that up to the time when the Royal Commission on the Public Services completed its labours, there had been no very perceptible rise in the number of Indians in the service; so that although the particular years for which I shall give the House statistics end with 1907 for a reason which I will explain, I take it that the position would be very much the same for a certain number of years after that date. We may take it, I think, that the Members of the Indian Civil Service who are normally considered for appointment as secretaries to the Government of India are men who have from 20 to 25 years of service in the country and that men who are considered for appointments as Deputy Secretaries are normally men with from 15 to 20 years' service. Now, the total number of I. C. S. men with from 15 to 25 years' service at the present moment is 450. Of these 29 are Indians, or $6\frac{1}{2}$ per cent. The total number of appointments with which we are dealing under the Resolution of the Right Honourable Srinivasa Sastri is, I believe, about 23, in 9 departments. What the Right Honourable Member asks for in effect is that one appointment in each department should be given to the Indian Members of the Indian Civil Service, that is to say, that 9 appointments are to be given to 29 members of the Indian Civil Service, leaving the 421 non-Indians to compete for the remaining 14 appointments. In other words the Right Honourable gentleman proposes to give Indian Members of the Indian Civil Service a three to one chance of getting an appointment as Secretary or Deputy Secretary in the Government of India, while the non-Indians are to be content with a thirty to one chance.

Out of those 29 members who are Indians, a considerable number are naturally serving in the judicial line and I calculate that at the present moment there would only be 17 available in the ordinary course for secretariat appointments. The result would be that these 9 appointments would be practically reserved for 17 members of the Indian Civil Service, and if I may speak of my Indian colleagues from my knowledge of the way in which non-Indian members look at these appointments, I doubt very much whether, if Government were to advertise the fact that it intended to act on this policy at once and offered these 9 appointments and called for applications for them,—I doubt very much whether a sufficient number of members of the Indian Civil Service would apply to fill all the appointments that were offered.

The HONOURABLE SIR MANECKJI DADABHOY (Bombay: Nominated Non-Official): Sir, I rise to speak with some hesitation, because I did not originally intend to speak on this Resolution. But certain observations which have fallen from the Honourable the Home Secretary need fuller discussion to my mind and a certain amount of elucidation, and it is for that reason that I venture to speak. My Honourable friend has stated that this Resolution seeks to import a racial question in the services of the country, and as such if for no other reason it ought to be

thrown out. May I remind the Honourable the Home Secretary what the genesis of the reforms is and what the new reforms are based on? May I ask the Home Secretary what is that one note, that one outstanding note pervading all through the Montagu-Chelmsford Report? It is the one note of developing the latent talent of the Indians and qualifying them for higher duties and higher obligations in their own country. Could anybody say that the reforms have been passed or conceived in a spirit of racial antagonism? And if that was the foundations of the reforms what does this Resolution after all seek to obtain? I quite agree that there is no occasion to introduce any heat or acrimony into this debate. The discussion of this subject must be approached totally from a practical point of view, irrespective of other considerations. My friend, the Home Secretary, if I have understood his speech correctly, lays considerable emphasis and lays in front of his whole argument that it is only proved merit and ability on the strength of which these selections should be made. He has also pointed out that it is not only a reasonable degree of efficiency that is required but the maximum efficiency that is required and that should alone guide in the making of these appointments. Now, Sir, he has also very properly alluded to the sources of supply as he very felicitously puts it, and says that it is impossible under present conditions to get that maximum standard of merit and ability in Indians. Now, Sir, as I understand this Resolution of my Right Honourable friend Mr. Srinivasa Sastri, I fear that the very object of this Resolution has been misconstrued. Mr. Sastri does not ask for attaching these Indians to various departments in the Secretariat for the primary purpose of executing the Secretariat duties, but for the purpose of training, for the purpose of learning, for the purpose of acquiring that insight and knowledge of administrative affairs which would qualify them hereafter for discharging those duties more efficiently. The very idea which predominates in this Resolution is an insight into the larger problems of Imperial administration which my friend, the Honourable Home Secretary, has been pleased to call as the major part of the Resolution and with which he has expressed the sympathy of the Government in an unqualified manner. If that be the attitude my submission is that Government will not lose anything by accepting this Resolution.

Another matter in connection with this the Honourable Mr. Thompson has pointed out. It is true that there will be some difficulty as indicated by the figures quoted by him. I do not propose to question the accuracy of those figures, I accept them as correct; but after all the Resolution is not worded in what may be called absolutely imperative terms. It says, as far as possible, Indians may be attached to certain departments. Government may not appoint an Indian at all in any particular department—my friend Mr. Sastri was very careful in his argument and dilated upon this point and made the matter perfectly clear. My own submission is that, though the criterion of selection, as the Honourable the Home Member has put it, should primarily be ability, I think ability can only be developed and found out by giving opportunities. The amendment in terms does not materially alter the original proposition, but I do not see any objection to the original proposition, and if once Government concedes that ample opportunities should be given for the development of Indian talent and for the development of administrative ability among Indians, I think that assurance should satisfy us. My submission, therefore, is that it is wrong to place too much reliance or importance on that high standard of maximum efficiency to which my friend

[Sir Maneckji Dadabhoy.]

has referred. I quite understand that comparatively there are very few Indians in the I. C. S., but at the same time I cannot for a moment hold that you could not find a reasonable number out of these people to occupy the offices in the Secretariat with credit to themselves and advantage to the Government. I therefore submit that my friend will see his way to accept the original proposition as it stands.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhamadan): Sir, however much we would like to meet Government in order to bring about a compromise, I for one regret that, for the reasons which I will presently give, it is not possible for me to accept the amendment of my Honourable friend Mr. Crerar. To-day it is the Honourable Mr. Crerar who is speaking for Government. Eighteen months ago it was the Honourable Mr. Craik who spoke on Government behalf. But, it reminds one of the Biblical reference that the hand is the hand of Jacob and the voice the voice of Esau. The Honourable Mr. Craik, I believe at the request of the Honourable the Leader of the House who is always anxious to bring about a satisfactory compromise, brought forward an amendment to the Resolution of my Honourable friend Saiyid Raza Ali, in September 1921 to the effect that "Indians should be given opportunities" for becoming qualified for these appointments. To-day, Sir, it is not Mr. Craik who is speaking, but it is the Honourable Mr. Crerar who says that "Indians should be accorded wider opportunities to get an insight into the larger problems of Indian administration." As the House will see, the amendments on both occasions are on identically the same lines. If the previous amendment which the House accepted, I believe unanimously, was given effect to, I think the Government Benches would be perfectly justified in asking us to-day to accept a similar compromise as the one previously proposed. What is our experience? I think in my first speech I have given clear facts to show that absolutely nothing has been done in the matter of giving opportunities to Indians who are not members of the Indian Civil Service in the departments to which, under the exceptions to Schedule III, they are entitled to be appointed. Likewise I have shown that the position of Indian members of the Indian Civil Service is worse. Is it fair on the part of Government, after that experience, to ask us again to allow them to move that "wider opportunities" should be given in the case of all Indians, be they of the Indian Civil Service or not? I for one, therefore, Sir, certainly oppose the amendment.

Now, as to the figures which my Honourable friend Mr. Thompson gave, he said that if effect was given to the Resolution moved by the Right Honourable Srinivasa Sastri, it will be tantamount to selecting 9 men out of only 29 Indian I. C. S. men available for appointments as Secretaries. May I draw the attention of the Honourable Member to the Resolution which clearly says that only one Indian in each department should be appointed either as Secretary, Joint-Secretary or Deputy Secretary, and I hope my Right Honourable friend will also include Under-Secretaries.

The HONOURABLE MR. J. P. THOMPSON: May I explain, Sir? It is a question of multiplying one by nine, there being nine Departments.

The HONOURABLE MR. PHIROZE SETHNA: I beg to differ from my Honourable friend. He explained that only 29 Members will be available.

I would like to know from the Honourable Mr. Thompson if the figures I am quoting are correct or otherwise. If I understand rightly, a civil servant must be of at least 5 years' standing to be made an Under-Secretary, and I say, Sir, that there are to-day 19 Indian members of the Indian Civil Service with service between 5 and 10 years. Civil servants between 10 and 15 years are entitled to be appointed as Deputy Secretaries, and I hold that there are 8 such Indians. Similarly to hold the posts of Joint or Deputy Secretaries, a civil servant must be of 15 to 20 years' standing, and there are 13 Indians in the same service; and finally, Sir, so far as I know, there are not 29, but 15 Indian members of the Indian Civil Service with 20 and more years of experience to entitle them to the appointment of Secretaries and Executive Councillors. These figures will show that the Right Honourable gentleman is not asking too much when he asks for only one appointment as either Secretary, or Joint Secretary or Deputy Secretary, in each Department and I would appeal to the Right Honourable Mover to include in his list Under-Secretaries also in each Department of the Government of India.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhamadan): Sir, I rise to oppose the amendment. When the Honourable Mr. Crerar put his case before the Council, he laid so much stress on maximum efficiency that one felt that in the opinion of Government no Indian Civil servant came up or could come up to that maximum efficiency. I do not think he meant it, but he was practically defaming the Indian Members of the Service by trying to show that the Indian Members of the Indian Civil Service were so inefficient that they could not be entrusted with the work of either Secretary, Joint Secretary, Deputy Secretary or Under-Secretary. The way in which he spoke and the great emphasis he repeatedly laid every time on the words "maximum efficiency", and the words that he used—I am quoting his words "If we accept this Resolution it will mean the abrogation from the criterion of selection", all these showed that if Government appointed Indians to the Imperial Secretariat they will be abrogating their duty to the country merely to please a few members of the Indian Civil Service or a few Members of this Council. We on this side of the House do not want that efficiency should in any way be sacrificed, but we do believe that there are efficient men in the Indian Civil Service, men as efficient as the European members of the Indian Civil Service, and if Government will not find them, if they will not try to find out such men, then the fault is theirs and not of the Indian members of the Indian Civil Service who cannot reach the portals of what my Right Honourable friend said, the paradise of the Civil Service. Sir, the figures given by the Honourable Mr. Thompson do show, I think, that there may be some difficulty in carrying out fully the Resolution moved by my Right Honourable friend but the Honourable Mover has made it quite clear that he does not insist that in each case every post should be given to an Indian. In his speech and also in his Resolution the Honourable Mover clearly says "as far as possible." None of us want to take away from the European members of the Civil Service their rights. We want the rights of our countrymen to be respected and treated in the same manner as the rights of the European members of the Civil Service, and we want them to be given the same opportunities. And we want to give them same opportunities not for qualifying, because we do believe that they are as qualified as the European Members of the Civil Service, when they come here, but to be given an opportunity of working and showing their worth by being appointed either as Under-Secretaries—and I appeal to my Right Honourable friend

[Mr. Lalubhai Samaldas.]

to include the word Under-Secretaries as far as possible,—or Deputy Secretaries or Joint Secretaries, or Secretaries. Sir, it is a question not of racial discrimination. We do not want that Indians who are inferior to Britishers should be given preference but we want Indians of equal capacity, and we know that there are many of that kind—I will not refer to any by name—to be given an opportunity to do equally good work. We want this amendment to be thrown out and the Resolution to be accepted as moved by my Right Honourable friend.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to oppose the amendment of the Honourable Mr. Crerar. The speech of the Home Secretary seems to me to be very disappointing. He lays great stress on the word "efficiency". But what we Indians want is that opportunities be given to Indians to occupy such posts and that can only be done when Provincial Governments take them on in their Secretariats to qualify them for the appointments in the Imperial Secretariats. We have an instance in the Honourable Mr. A. C. Chatterjee here, who was selected by His Excellency Sir Harcourt Butler to occupy the post of Chief Secretary in the United Provinces. That gentleman came to the Imperial Secretariat as Secretary and he has been so successful that the Government have now appointed him as a Member of the Executive Council of Governor General. My friend the Honourable Mr. Thompson takes into consideration the proportion of Indians in the I. C. S. To my mind, he has strengthened the argument of my friend the Honourable Saiyid Raza Ali that other Indians should also be given the same chance. And I know that in India we have a great number of Indians who are quite competent for such high posts. I can only wish that this Resolution as amended by the Honourable Saiyid Raza Ali may have better fate than my Resolution had of this morning, though the object of both the Resolutions is the same—the Indianisation of the Services. I asked for it in connection with the Subordinate Railway Traffic Services and the Right Honourable gentleman asks for it in connection with the higher services—and for the prize posts. I should say that Government will see its way to accept this Resolution in its amended form so as to give practical shape to the policy which they have accepted in the Reform Scheme.

(At this stage the Honourable Sir Maneckji Dadabhoy took the Chair.)

The HONOURABLE SAIYID RAZA ALI: Sir, at times the best way of killing a rude, crude and undigested Bill is to refer it to a Select Committee. I have been noticing of late a tendency in the front Official Benches to try to kill well-thought out Resolutions by coming forward, with amendments which are intended to serve the same purpose, namely, kill those Resolutions. I, Sir, am opposed to the amendment of my Honourable friend Mr. Crerar. Now, Honourable Members know that an amendment in almost identically the same terms as that moved by my Honourable friend was brought up at Simla in September 1921. We know that my Resolution, as modified by the amendment of Mr. Craik, was unanimously passed. We also know, Sir, what has been done during the last 17 months, namely, our position in the Secretariat is worse to-day than it was in September 1921. That being so, may I ask whether the Honourable Mr. Crerar seriously wants this Council to give its acceptance to an amendment of this character? If he is prepared to have that amount of confidence in this Council, I have no doubt he is very seriously mistaken. I for one, Sir, would rather have a fair and square deal than going in for camouflage.

If Government are not prepared to listen to our recommendation let them come out with a clear proposition and let them say that they are not prepared to accept it. But to bargain and to camouflage in that way is not an attitude on which I can congratulate the Honourable Mr. Crerar. But, Sir, these things I need not repeat since my friend the Honourable Mr. Sethna has already referred to them. What struck me as particularly significant in the speech of Mr. Crerar was what amounts really to adding insult to injury.

The HONOURABLE THE CHAIRMAN: I must ask the Honourable Member not to use these expressions.

The HONOURABLE SAIYID RAZA ALI: I think, Sir, they are perfectly parliamentary expressions.

The HONOURABLE THE CHAIRMAN: I rule it otherwise. I do not think Mr. Crerar intended in any way to give any offence or insult to this House by proposing his amendment.

The HONOURABLE SAIYID RAZA ALI: No, I do not mean his amendment; I mean his speech. The point is this that he seemed to argue that we wanted to have Indians because they were Indians and he went on to dwell on the subject in such a manner as indicated that a sufficient number of competent Indians would not be forthcoming to be employed in the places mentioned in the amendment. Now, Sir, we do not want Indians to be employed in these posts because they are Indians. As a matter of fact, nobody wants that. Nobody has advocated that and that is the case of nobody. What we submit, Sir, is that Indians should not be excluded because they are Indians. That is the only proposition we have been pressing upon the attention of Government from time to time. If you find equally efficient Indians, if you find equally competent Indian officers, then don't ignore them because they are Indians. If you change that attitude I am quite sure, Sir, that you will be meeting the wishes of this Council.

Now, as to the percentages worked out by the Honourable Mr. Thompson, the only thing to which I would invite his attention is the wording of the Resolution which is before this House. Nobody wants that 9 out of 29 posts should be provided for Indians all at once or in one week or in one day. But let there be a start. Let not all the 9 posts be filled at present. Let 8 be filled, let 7 be filled. Let as many as 6 go to Indians for the present so as to reduce the disparity in the percentages brought out in the Honourable Mr. Thompson's speech. I think, Sir, that the only way in which we should deal with the Honourable Mr. Crerar's amendment is unwillingly but as in duty bound to oppose it.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I am sorry to say that I cannot agree to the amendment of Mr. Crerar. Since this House was established, Sir, two and a half years ago I have heard off and on in this Chamber two shibboleths by officials on the front Bench—sympathy and efficiency. Sympathy for everything. The Government have got sympathy. They put their hands on their heart and say "The Government have sympathy." But what is this sympathy? It is nothing but pure lip sympathy, barren sympathy. I have never seen that that sympathy has materialised in any way. So much for "sympathy." Now, as regards "efficiency." We are all talking about efficiency, efficiency. When the Commander-in-Chief is here or his Military Secretary, they say the same thing—we must have military

[Sir Dinshaw Wacha.]

efficiency. When a Civilian Member of Government is here, he talks about civil efficiency,—we must have efficiency. What is efficiency, we do not know. They keep a standard of efficiency for themselves and consider that we Indians have got no efficiency. In old times, the Athenians and the Greeks always spoke of people of the world outside their little one as “barbarians,” and it seems, Sir, that the Government also think that Indians are barbarians. They only are civilised people, having efficiency, sympathy, and everything else. They all pose as paragons of intellectualism. We, Indians, have nothing—absolutely nothing. We are mere dregs, we are leather and prunella or *kachadas* so to speak. That is the position of Government. All right. But what then is the use of Indianization? What is the meaning of Indianization? I have always said, “Let there be Indianization but let it be slow and steady, step by step.” So far I am prepared to agree. But if, when we ask for the smallest of small of Indianization of the services, they say that we should have only an iota of the Indian service! Then, of course, there is what I call a *non possumus* action. If that were to go on, where may Indianization be? It may not come on for 50 years. My Honourable friend Mr. Thompson gave out some statistics. I listened to these with very great attention. But what is the upshot of it? Practically speaking, I think that if this goes on, for the next half a century, at all events we shall not have a single Indian as Secretary or Deputy Secretary. Of course, there are the largest number of European civilians, and if the Honourable Mr. Thompson’s inference from his statistics was to be adopted, there shall be no Indianization at all! We shall never have any Indianization or even a single Indian Secretary to see. Is that the way in which Indianization is to proceed? Is that the spirit of Indianization? Is that the spirit in which the Chelmsford-Montagu reforms were framed? Is that the spirit in which Parliament has granted the reforms? You now say that we are not strong and efficient, and therefore we cannot be employed. Who are these people to talk of efficiency? They are the judge and jury themselves. They set a standard of their own efficiency. They are the judges of facts whether we are efficient men or not. We are nowhere. That is the position. It is all one-sided from beginning to end. And when this point is raised, if there is nothing else, the question of race is brought forward; if there is nothing else, the question of efficiency is brought forward. So that, the thing is moving in a vicious circle, and all those shibboleths which we have heard to-day have been repeated here for the last 2½ years. That is not the way in which the reforms were granted. That is not the spirit in which Parliament has given us the reforms. I am sorry to say that the Government are now really going back on their plighted word. There is no honesty or integrity in the Government I am sorry to say.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): Sir, Honourable Members when they move Resolutions in this House represent certain constituencies and it is clear that when they speak, they speak on behalf of the public, and it can never be imagined that the Resolutions which they move represent their personal or individual caprices or freaks, but they represent the sentiments which the public outside entertain. Therefore, the Resolutions carry weight and I hope that they are impressive enough to carry weight with the Government. Now, Sir, the Honourable Mr. Crerar said, as other Honourable Members have discussed that point of view, that efficiency prevents Government from appointing Indians to such high posts.

The HONOURABLE MR. J. CRERAR: May I point out, as a matter of personal explanation, that I never said anything of the kind?

The HONOURABLE SIR ZULFIQAR ALI KHAN: This is a consideration which weighs with the Government in the appointments to such posts. Well, Sir, the idea of efficiency has almost become a fetish with the Government. In fact, it is so worshipped and adored that it is supposed to kill all arguments against it. For all these years we have either heard of efficiency or prestige which suffers if there is any argument against it or if there is anything against the policy of Government. The speeches of the Honourable Members have, I daresay, shown to this House that there is an overwhelming majority and a dominant idea amongst the members here that the Resolution moved by the Right Honourable Member is so mild in character that it would commend itself to the acceptance of Government. In fact, it is a great surprise to some of us that even such a mild Resolution—in which he has put the words “so far as possible”—is not acceptable to Government. Now, Sir, with regard to this idea, I think if opportunities are given not only to Indian members of the Indian Civil Service but also to the Indians at large, I think they will prove as efficient in the discharge of their duties as any British member of the Indian Civil Service. Most of the members of Executive Council are not members of the Indian Civil Service, but they have shown their mettle and I daresay that they have proved themselves efficient enough to cope with the situation and the work. What the Indians want are opportunities to show that they are able to handle the responsibilities given to them, and I think that if these posts are not confined to the civil servants only, whether they are Indian civil servants or British civil servants, there will be no blame levelled at them afterwards that they are not efficient. With regard to the Honourable Mr. Thompson’s idea, that if Government advertises for candidates for these nine posts, perhaps there will not be a sufficient number coming forth to get them, I think there is a good deal of truth in that. I have known some Secretaries and Under-Secretaries, especially in the Punjab, who, when they are appointed to these posts, generally like to go back to their district and do the work there. I do not know whether they find the work too onerous that they would rather go back or whether the conditions are unfavourable. I do not know that. But this idea does exist amongst those people that they would rather go to their districts and do the work there. But if a wider scope is given in the Imperial Secretariat to the Indians, I have no doubt that Indians will be forthcoming who will show that they are able to do this work.

(As this stage, the Honourable Sir Maneckji Dadabhoj vacated the Chair and the Honourable the President resumed the Chair.)

Sir, with these words, I oppose the amendment which has been proposed by the Honourable the Home Secretary.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Sir, as regards the amendment of my Honourable friend Saiyid Raza Ali, I may at once say that I am in sympathy with it and when the time comes for voting on it I shall vote in its favour. With regard to the amendment proposed by the Honourable the Home Secretary I have got two or three words to say.

In the first place, he offers to members of the Indian Civil Service and to others alike wider opportunities of qualifying for particular posts. Does the Honourable Member wish me to understand and wish this

[Right Honourable V. S. Srinivasa Sastri.]

Council to understand that the members of his service, being Indians, having gone through the same experience as their European colleagues, passed the same tests, doing the same duties, having also served their term in the local Governments' secretariats, are still to be regarded as people requiring wider opportunities of qualifying for these services? It seems to me, Sir, that in using the word 'Indians' in his amendment freely so as to impress members of the Indian Civil Service as well as others, he casts a reflection impliedly, if not expressly, on his own colleagues. They at least are people of whom it could be said that they had established their merit and ability. I was astonished at the way in which he enunciated the doctrine that the Government of India cannot afford to pay any consideration to conditions other than efficiency. No one wished, not certainly I, no one wished that the Government of India should depart from that principle to the slightest degree, but I cannot assent to the implication that the Government of India have hitherto scrupulously adhered to that principle and have still been unable to give Indian members of the Indian Civil Service the facilities which I ask for. That is a proposition that I cannot in the good name of India agree to. Other considerations must have come in. I could, Sir, speak candidly as one man of practical affairs to other men of practical affairs. Could it be denied that some time ago at all events it was considered that an Indian, being an Indian, was to some extent as regards the innermost secrets of administration not a person quite to be trusted? No one can speak to a policy having actually actuated him or impelled him in the administration of daily duties; but there can be no doubt whatever that in the past, in the civil as in the military direction, Government's policy in filling up high appointments has to some extent been coloured by the requirement of the utmost trustworthiness in their officials, and they have held that such trustworthiness might not be found in Indians. I am here only to plead that if that suspicion has hitherto governed the conduct of Government, it ought no longer to be allowed to do so. We are here at a time when it has been accepted as the policy of the Imperial Government that India should be transferred gradually and by steps to Indians. Distrust of Indians, the wish to keep them out of secrets and trustworthy posts are considerations entirely out of place. I am here to ask in the name of the constitution of India that if such considerations still prevail in high quarters in Government they should be completely eliminated.

One word, more, Sir. It is true considering merely the numbers of Indians and Europeans in these services—I have been very happy to get from two Honourable Members on the official side an admission—that the numbers of Indians are still so low that, considering the numerical proportion only, it is not possible to provide them on equitable principles with the number of appointments that I seek. That at least will be a sufficient answer to the country at large, to the wild cry that has been raised all over the place that the Indianisation of the services is proceeding at a tremendous pace and at a pace so alarming that we must look to the extinction of the British element at an early date. Here I am met with the answer that there are not sufficient Indians in the services to choose from. I hope the country will duly appreciate the admission made here to-day on that score.

But then I am faced with a question of righteousness and honour. I am asked, if appointments are given to Indians on the ground that they

are Indians, it must operate to the exclusion of duly qualified and equally efficient Europeans. Quite so, I agree. It is further asserted that these European members will have a grievance that because of their birth they are excluded from certain offices to which but for this consideration they might have been appointed. I am very happy again that Honourable Members on the opposite side appreciate for the first time the odium of erecting a colour barrier. They see for the first time, when it threatens to be applied to them, what it is to be denied an opportunity because of one's colour. Sir, during the hundred years till now we have cried out to the world that we have been excluded on grounds of race and of colour from posts to which by every humane and righteous consideration we were entitled. The official world in the Government of India are beginning for the first time to feel the taste of racial humiliation and the bar sinister placed on the faces of people. I am glad the experience is coming home and I hope it will come home still more. Sir, this policy of Indianisation is nothing new. Ever since the great Proclamation of Queen Victoria we have been promised that in our own country there should be no governing caste and that all posts alike should be open to us. That however was long denied in practice as every one knows, and it has been abundantly admitted by all spokesmen who have spoken on the official side. Time passed. Various claims were put forward and negatived. Then came the declaration of August 1917 which put in the very van of its programme the increasing association of Indians in the public services. Not alone that. It was not merely a declaration that the Cabinet held up to the people of India long waiting for a word of that kind, but it was put into the preamble of the Act and it has therefore the force of Parliamentary enactment. There is the second promise, the third promise, the promise of the Queen and the Kings and His Grace the Duke of Connaught, and they are all promises, promises and promises. I come here to-day asking by a Resolution that in respect of one matter this hundred times iterated promise should be carried out. And what does the Honourable the Home Secretary tell me? He offers me another promise. The Honourable the Home Secretary must not be offended with me if I refuse to accept a promise after I have had abundant promises from far higher authorities. I am here, Sir, to ask for their fulfilment and not for fresh promises. We have had them till we are sick. Sir, I cannot support the amendment.

The HONOURABLE MR. J. CRERAR: Sir, I do not propose to detain the House long

The HONOURABLE SAIYID RAZA ALI: Can the Honourable Member speak again, because he has moved an amendment and has already spoken?

The HONOURABLE THE PRESIDENT: He is the Government Member in charge of the Resolution, and is perfectly entitled to reply on the whole question.

The HONOURABLE MR. J. CRERAR: Sir, as I said, I do not propose to detain the House long and the first of my very few remarks will be regarding the observations which fell from my Honourable friend Saiyid Raza Ali. He said the amendment which I submitted to the House was camouflage. If I understand that term correctly, it implies something of insincerity and of stratagem. I entirely deny that I entertained any such intention, and in imputing it to me my Honourable friend has

[Mr. J. Crerar.]

shown less than his usual regard for the courtesy of debate. Every Honourable Member of this House is entitled to have any motion or amendment he may propose to the House in plain language interpreted in the plain sense which it bears, and I think I am entitled to ask that the House should grant me that measure, I will not say of indulgence, but of justice.

My Right Honourable friend opposite suggested that I have been guilty of some disparagement to my colleagues in the Indian Civil Service. Though the Right Honourable Member usually gives reasons for what he says I fail to discover any reason for that particular suggestion. I do not entertain that sentiment; I did not express it, and there is nothing in the terms of my amendment which could reasonably bear that interpretation. My Right Honourable friend further, and in somewhat severe terms, referred to a certain distrust of Indians imputed to, as I understood him to say, or understood to be entertained by the Government of India and Governments in India generally. Well, Sir, I can only appeal from a general impression of that kind to my own personal experience. I have had a fairly long experience of work in a provincial Secretariat, and a brief experience of the work in the Government of India Secretariat. In the Provincial Secretariat it was my duty to be in charge of a department which is, probably more than any other department of that Government, entrusted with matters of a confidential nature, and sometimes of the greatest secrecy. I do not know whether I was guilty of any dereliction of duty, but I may inform the House that it was my constant practice in the course of the business of my department to entrust confidential and secret matter to Indians. I have been reminded recently by my friend the Finance Secretary that there are few secrets, of a more confidential character, which could be more readily turned to pecuniary advantage than the secrets of the Finance Department, and my Honourable friend Mr. Cook assures me that he has been in the constant habit of reposing secret matter of that character to the trust of his Indian subordinates. Sir, it is difficult to disperse atmosphere which is based solely upon surmises and upon impressions, but I ask the House to rely not on surmises, but on facts and I have given the House all that I can give if the results of my own personal experience which, on the whole, has been fairly comprehensive, with the corroboration given to me in that regard by my Honourable friend Mr. Cook. I have only this further remark to make. It struck me with considerable disappointment, because I think the debates in this House have always been characterised by scrupulous impartiality,—it caused me very considerable surprise that the definite facts and figures which I gave with regard to the progress made,—I think my Right Honourable friend opposite will agree that there is no important direction of progress than that of extending our sources of selection—have not been considered, have hardly been referred to by one single Member who spoke on the opposite side. I still maintain, Sir, that that is a most important and a most significant contribution in the question before the House.

My Honourable friend Mr. Kale said this was another occasion on which Government was merely giving assurances. May I invite him to consider the fact that I did give him evidence, very substantial evidence of very substantial progress in the direction in which Government had

promised that it would be made. I regret that so many speakers should have shown a disposition not to treat my amendment precisely upon its merits. When I moved it, I thought that it did substantially preserve and embody in its integrity the substance of my Right Honourable friend's Resolution. I maintain, and I still trust that the House will admit, that that is so.

The HONOURABLE THE PRESIDENT: The first amendment I have to put to the House is the amendment moved by the Honourable Saiyid Raza Ali which covers in part the amendment moved by the Honourable Mr. Crerar.

The question is that for the words "Indian members of the Indian Civil Service" the word "Indians" be substituted.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The second question I have to put to the House is that the remainder of the amendment moved by the Honourable Mr. Crerar which proposes that, for the words "he would be pleased to appoint so far as possible at least one such officer" the words "they should be afforded wider opportunities to become qualified for appointment" should be substituted. In order that the House may have an opportunity of seeing how the Resolution would run if that amendment is effected, I will read the Resolution with the amendment *in situ*. The Resolution will run as follows:

"This Council recommends to the Governor General in Council that in order to give Indians an insight into the larger problems of Imperial administration and policy, they should be afforded wider opportunities to become qualified for appointment to the posts of Secretary, Joint Secretary and Deputy Secretary in all Departments of the Secretariat of the Government of India."

The question is that the amendment be made.

The Council then divided as follows:

AYES—13.

Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. E. M.
Crerar, Mr. J.
Forrest, Mr. H. T. S.
Jha, Dr. G. N.

MacWatt, Major-General R. C.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Thompson, Mr. J. P.
Zahir-ud-din, Mr.

NOES—19.

Akbar Khan, Major Nawab.
Ayyangar, Mr. K. V. R.
Dadabhoy, Sir Maneckji.
Kale, Mr. V. G.
Khaparde, Mr. G. S.
Lal Chand, Lieut.
Lalubhai Samaldas, Mr.
Moti Chand, Raja.
Purshotamdas Thakurdas, Mr.
Ram Saran Das, Mr.

Ray, Raja P. N.
Raza Ali, Mr.
Sethna, Mr. P. C.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.
Umar Hayat Khan, Col. Sir.
Vasudeva Raja, Raja.
Wacha, Sir Dinshaw.
Zulfiqar Ali Khan, Sir.

The motion was negatived.

The HONOURABLE THE PRESIDENT: The next question I have to propose to the Council is that the Resolution, as amended, be adopted:

"That this Council recommends to the Governor General in Council that, in order to give Indians an insight into the larger problems of Imperial administration and policy, he would be pleased to appoint, so far as possible, at least one Indian as Secretary, Joint Secretary or Deputy Secretary to every Department of the Secretariat of the Government of India."

The motion was adopted.

STATEMENT OF BUSINESS.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, there will be meetings of this Council for official business to-morrow, the 1st March and on Tuesday and Wednesday, the 6th and 7th March. After the presentation of the Budget to-morrow, the Criminal Law Amendment Bill, otherwise known as the Racial Distinctions Bill, will be taken into consideration. On Monday, the 5th March, a non-official day, it is proposed, in the absence of non-official ballotted business, to put down the Right Honourable Srinivasa Sastri's Resolution about Indians in Kenya Colony, the Honourable Rai Bahadur Lala Ram Saran Das's Resolution, which has already been moved, regarding an export duty on benzine and petrol, and the Married Women's Property Amendment Bill, which is a private Bill in charge of the Honourable Mr. Sethna. On Tuesday, the 6th March, the amendment made by the Legislative Assembly in the Code of Criminal Procedure Amendment Bill, as passed by this House, will be taken into consideration. Wednesday, the 7th March, has already been allotted for the general discussion on the Budget.

The Council then adjourned till Eleven of the Clock on Thursday, the 1st March, 1923.

COUNCIL OF STATE.

Thursday, the 1st March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

MEMBER SWORN:

The HONOURABLE MR. ALI BAKSH MUHAMMAD HUSSAIN (Sind: Muhammadan):

THE BUDGET.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I rise to present a Statement of the estimated annual expenditure and revenue of the Governor General in Council for 1923-24. I have been charged by the Honourable the Finance Member to express his regret that, owing to the rules of the Legislature, he is unable to be here to present this Budget personally. He is however looking forward to facing the music in this Chamber at about 11 o'clock on Wednesday next. At the conclusion of my remarks this morning, there will be distributed to Honourable Members, together with a number of other papers relating to the Budget, a copy of the speech which the Finance Member is now, I have reason to hope, making in another place. Honourable Members will find that that speech contains, besides the usual account of the financial results of the current year and an estimate of the expenditure and revenue for next year, an appreciation by the Finance Member of the general financial position of India as it appears to him—a new-comer indeed to this country, but one, if I may say so, whose reputation as a financier has preceded him. I do not propose therefore to duplicate in my remarks this morning what Sir Basil Blackett has said, or rather is saying or will be saying, in the speech which will be in Honourable Members' hands shortly. I will confine myself, as I did a year ago, to giving the Council a brief summary of the more important facts regarding the current year. I will then proceed to announce our estimates of revenue and expenditure for next year, explaining at the same time what action we propose to take as a result of the inquiries of the Indian Retrenchment Committee. And finally I will indicate how far, after taking such credit as we can for the Inchcape Committee's recommendations, it will be possible to balance the revenue and expenditure of the Central Government.

Now, as regards the current year, it will be within the recollection of Honourable Members that the Budget for 1922-23, as it emerged from the Legislature, left us with a deficit of 9 crores 16 lakhs. Honourable Members will also recollect that Sir Malcolm Hailey warned the Legislature that the provision entered in the Budget for expenditure in Waziristan should be regarded as only tentative and he hinted that possibly the provision of 2 crores 13 lakhs on that account would prove insufficient. Well, Sir, in view of the reply which I gave in the September Session to a question which was asked me, I think by my Honourable friend Mr. Sethna, regarding the progress of revenue and expenditure this year so far as they

[Mr. E. M. Cook.]

could then be foreseen, the Council, I think, will not be surprised to hear that the estimated deficit of 9 crores 16 lakhs is going to be exceeded. As now revised, the estimates point to a deficit of about 17½ crores, that is a net worseness of 8½ crores. There will probably be a saving of 4 crores 14 lakhs in expenditure but revenue will be some 12 crores 48 lakhs less than the estimate.

When we framed our revenue estimates this time last year, we did not count on any hope of a marked or sudden revival in trade, although we certainly expected some improvement on the general trade conditions of the preceding year. On the whole, Sir, our anticipation has been justified. There was considerable stagnation during the earlier part of this summer but now I think, except perhaps in the cotton mill industry in Bombay, the general feeling in the business community is at present one of mild optimism. Considering the impoverishment of most of our former customers our exports have undoubtedly shown a very promising recovery. I will give the figures. So far as merchandise alone is concerned the balance of trade in favour of India during the first 10 months of this financial year has been 62 crores, which contrasts with an adverse balance of 29½ crores in the corresponding 10 months of the preceding year. As against this there has been a substantial net import of bullion, but after including the bullion figures there still remains a net balance of 20 crores in favour of India instead of an adverse balance of 33 crores in the first ten months of last year.

I will now make a few remarks about the figures under the more important heads. Under customs we budgeted for a total net revenue of 45½ crores, of which 9 crores was expected to accrue from the enhancement of duties imposed last March. We now expect a customs revenue which will be some 3 crores short of the figure which we budgeted for. Honourable Members know, I think, that the dominant factor in our customs revenue for the last year or two has been the import of sugar. In the previous year we got 6½ crores from sugar, although the duty was only 15 per cent.; in the current year on the increased duty of 25 per cent. we hoped that we might realise about 6½ crores. Actually we now expect that the revenue from sugar will be less by a crore and a half than the budget figure. The excise duty on cotton manufactures will also bring us in substantially less than we expected, and we shall probably be about 60 lakhs down under that head. As regards the other tariff heads, it is probable that there will be some deficiency in the revenue from liquors, matches, machinery, and cutlery, but any losses under those heads should be counter-balanced by increased revenue from the import duties on cotton piece goods, which are likely to give us nearly a crore more than our estimated revenue of 560 lakhs, and iron, steel and other metals, while the new excise duty on kerosene is likely to bring us in 89 lakhs as against 40 lakhs budgeted for. As regards the so-called "luxury" articles, which are assessed to duty at 30 per cent. the Council may be interested to know that, in spite of a very substantial fall in prices, we expect to get 273 lakhs as against 284 lakhs budgeted for; that has been due to the fact that the import of most of these articles has increased. Up to the present nearly twice as many motor cars have been imported as in the corresponding period of the previous years. On the whole, therefore, I think, Sir, that our estimates from customs, all things considered and having regard to the great difficulties of estimating the yield from increased taxes have not turned out so badly. But it is as regards Railways that the returns have been most

disappointing. The increase in passenger fares was expected to add some 6 crores to the receipts. The traffic, however, both passenger and goods, especially goods has fallen off, and as against the estimated gross traffic receipts of 99½ crores, we do not expect to get more than 92 crores. What small improvement there has been over the receipts of the previous year has been due to the increased passenger fares. On the other hand, we expect a saving of over 2 crores on programme revenue expenditure, but an excess of about a crore in ordinary working expenses, so that, altogether, our net railway revenue is likely to be down by 5½ crores; and I am sorry to say that, after taking into account interest charges, the final result for the general taxpayer will be that there will again be no profit from railways but a loss of about a crore. As regards Post and Telegraphs revenue, the effect of the new postal rates during the first few months of the year was to reduce correspondence. But since then there have been distinct signs of recovery, and it is clear that the public are now gradually getting used to the higher postal charges. For the present, however, I think we must anticipate a decrease of 106 lakhs in our anticipated receipts. There is a small saving in working expenses, and after debiting interest, the Department will probably prove to be running at a small profit of about 24 lakhs. As regards our income-tax collection, the Council will remember that we expected to make large collections of arrears, but after the beginning of the year it became evident, not only that the allowance that we should have to make for bad debts would be large, but also that our revenue was going to be seriously affected by the heavy refunds which have had to be made, chiefly in Calcutta, as a result of the adjustment system in force under the former Act. Fortunately, this complication will, under the new Act, not disturb our estimates again. I understand that in Calcutta in many cases Companies have actually received a cheque from Government instead of paying any tax at all; and the net receipts in Bengal are not expected to be more than 8½ crores. In other provinces the collections have been good, especially in Bombay, though I am afraid that the lower profits which the cotton mills are now making are going to affect our revenue from that city next year. Altogether we anticipate under Income-Tax a total deterioration of 3½ crores. As regards other heads, I think I need only say that we expect to get 89 lakhs more from Opium than we anticipated and probably a slight improvement of Rs. 7 lakhs or so under Salt.

As regards our expenditure, the only important variation that I need mention in our civil expenditure is the fact that there has been a substantial saving of about 186 lakhs in the budget provision for interest on debt. That is mainly due to the fact that a full half year's interest in respect of the greater part of our rupee and sterling borrowings this year will not fall due till after the end of the financial year.

I now come to the military expenditure. But before I give the figures, I must explain to the House a change of some importance that has been made in the method of exhibiting them. I do not think I need explain it at any great length, because the matter has already been discussed in this House a year ago, both in the general discussion on the Budget and also on a Resolution moved by my Honourable friend Mr. Kale. This change affects all the non-commercial heads, but it is specially marked in the case of military expenditure. I think most Honourable Members know that our practice in the last 2 years, in distributing the exchange adjustments, has been to show them against the individual heads of account in the case of commercial services, and that as regards other heads, we used to lump them together under the one head, "Exchange." Now,

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of course, that method would answer well enough if the difference between the statutory rate of 2 shillings and the actual rate had been less; it gives the figures a very misleading appearance when the difference between the two rates has been as large as it has been for the past two years or so. We have now decided to distribute the exchange adjustments between the individual heads in all future accounts and estimates; and the figures of military expenditure that I shall give this morning have accordingly been arrived at after converting sterling expenditure into rupees at the rate of 1s. 4d. Instead, therefore, of speaking of the military budget for the current year as being 62 crores 18 lakhs, as we spoke of it this time last year, I shall speak of it as being 67½ crores, which is the correct figure if you take the sterling expenditure at 1s. 4d.

Now, the military budget provided 65 crores and 10 lakhs for the established charges of the Army, 213 lakhs for Waziristan expenditure and 52 lakhs for demobilization charges, making, as I have said, a total of 67½ crores. Waziristan expenditure in the current year is now estimated at 385 lakhs. The demobilization charges will probably amount to 208 lakhs owing to unexpected progress that has been made with the discharge of surplus officers. On the other hand, the established charges will now amount to only 60½ crores owing to a continued shortage of British troops, the fall in prices and various other causes. A very careful control has been maintained over these charges, and savings in budget grants have not been allowed to be re-appropriated for new measures involving a permanent liability of any magnitude. By those means, in spite of the excess expenditure of 172 lakhs in Waziristan and of the increased demobilization charges, we have been able to effect a saving of 46 lakhs in the total budget grant for military expenditure.

I now come to the Budget for next year. The question, of course, that must be uppermost in the minds of all Honourable Members is, what we are going to do about retrenchment. Here, Sir, we come at once up against a matter that has made the preparation of this Budget so exceedingly difficult. Since they assembled in November last, Lord Inchcape and his colleagues on the Retrenchment Committee, and their Secretary, a distinguished predecessor of mine, have worked at their task with a devotion to the public interests which it would be impertinent for me to dwell on. I only invite the attention of the Council to the fact that each of these six gentlemen has attained a position of considerable eminence in the business world, and that the sacrifices which they have made in leaving their large and varied commercial interests in order to undertake a task of this magnitude must have been very considerable. I think, Sir, that we in this Council can well feel proud that two Members of the Committee are our colleagues here. When the Committee's report is published, the public will understand what an exacting task theirs must have been. Government feel confident that they will have the Legislature and the country behind them in seeing to it that the labours of the Committee shall not have been in vain, and that every effort is made to go to the utmost length in carrying the Committee's recommendations into practical effect, at as early a date as possible, and to the maximum extent practicable.

But, Sir, the more immediate problem is the extent to which we can translate the Committee's recommendations into the budget for 1923-24. Lord Inchcape's Committee, recognizing the difficulties in which we have been placed owing to the necessity for presenting the budget on March

1st, have very kindly provided us with a number of instalments of their report. We received the first portion a little more than a fortnight ago, the second portion last Saturday night and the third portion yesterday. These three parts cover the greater portion and all the more important heads of our expenditure. We understand that the last portion will be received during the course of the next day or so, and we hope then to publish the report as a whole, in complete form, as soon as the necessary number of copies can be printed. I think Honourable Members will now understand what I meant when I spoke about our difficulties in framing the budget. To present a budget with no Inchcape in it at all would be unthinkable—it would be like trying to play Hamlet without the Prince. On the other hand, when we attempt to calculate, at such very short notice and without there having been time to make any careful or detailed examination of the report, the extent to which we can take credit in this present budget for the Committee's proposed savings, once we attempt to calculate that, Sir, we are at once met by certain very grave practical difficulties. In the first place, even if we blindly accepted the Committee's recommendations lock, stock and barrel, it is obvious to the Council that some time must elapse, and in certain cases indeed a considerable time, before the full effect of the retrenchments can be reached. Indeed, when one comes to read this report it is clear that the amount of what I may call the 'lag' must be considerable. A second and very important fact, which I would ask Honourable Members to bear in mind when they come to read the report in a few days time, is that the Committee were throughout working on the budget estimates for 1922-23. Now, Sir, the budget estimates for next year, which necessarily had to be prepared without any specific reference to the Inchcape Committee's recommendations, already show a substantial reduction as compared with the budget for the current year. This is due to various causes; one of them is the general atmosphere of economy which, I am glad to say, now prevails; another cause is the fact that a good many of the savings are automatic, due to the fall in prices and so forth. Now, when one makes an allowance for these two important considerations, namely, the lag and the fact that the reductions proposed by the Committee are reductions on the 1922-23 scale of expenditure, then the extent to which credit can be taken in the budget for the Committee's recommendations, even supposing it were possible, which obviously it is not, for Government to accept the whole of the recommendations without any examination, becomes very much smaller than might at first sight appear.

I had to clear the ground in this way in order to enable the Council to follow me when I now inform it of Government's exact intentions. There is, however, just one more word of explanation I must give. I said that our budget estimates for next year as originally framed were prepared without specific reference to the Committee's recommendations. There are two exceptions to that; one is the military budget, which I will refer to later, and the second is the post and telegraph budget, in respect of which we had had some earlier information and therefore we were able to take into account some, though not all, of the Committee's proposed reductions.

I now come to the actual budget estimates. I will first take the civil expenditure. I have already indicated, Sir, that Government are not yet in a position to announce definitely which of the particular recommendations of the Committee will be adopted: nor has it been possible for us

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to frame an accurate forecast of the allowance which is to be made for what I have called the lag. Nevertheless the Government of India are of opinion that the situation is one which necessitates their taking some budgeting risks, and they have decided therefore to take the responsibility of saying that in the civil estimates they believe that a reduction of four crores can be effected during the 12 months commencing April 1st next, over and above the reduction for which credit has already been taken in the post and telegraph estimates, either in the ways proposed by the Committee or by some modification of them. Now, in the civil portion of our budget, excluding interest, the Committee have recommended reductions which, although we have still a few pages of their report to receive, we expect will amount to about eight and a half crores. The total civil expenditure in the 1922-23 budget is 103 crores and 9 lakhs. Now, the corresponding figure in the budget estimates for next year, as originally prepared last month, is 101 crores and 3 lakhs, that is, 2 crores and 6 lakhs less. The House will see therefore that our cut of 4 crores, together with this amount of 2 crores and 6 lakhs, makes a total of 6 crores and 6 lakhs; that is to say, out of a total reduction of 8½ crores proposed by the Inchcape Committee we propose in this budget to make allowance, on account of the lag or on account of any retrenchments which may be found impossible, for less than 2 crores. I think, Sir, that this allowance, or this margin as I may call it, is, having regard to all the circumstances which I have mentioned, a small one. The Government of India will leave no stone unturned to make actual reductions which will effect the further saving of 4 crores which I have mentioned in civil expenditure. But I must not conceal from the Council that it will tax all Government's ingenuity to give full effect to this 4 crores reduction within the year 1923-24.

As regards military expenditure risks of the same kind, and also of other kinds, are being taken. In spite of the fact that it will be necessary to provide 169 lakhs for expenditure in Waziristan next year, the Government of India are budgeting for a military expenditure which will be 5½ crores less than the current scale. That is to say, they will be budgeting for 62 crores as against a current military expenditure of 67½ crores. I am not in a position to-day to give precise details of the particular retrenchments in military expenditure which the Government hope to effect. I may say, however, that in the forefront of those reductions, and forming the pivot on which the other reductions depend, is a substantial reduction in the strength of British and also of Indian troops. These reductions are being discussed between the Government of India and His Majesty's Government. The exact form which they should take is necessarily a matter of some intricacy and complication, for it is obviously desirable to impair as little as possible the essential structure and organisation of the Army and so to retain, after the reductions have been made, the maximum degree of efficiency possible. The decision, as the House will understand, is also a very responsible one, and, the difficulties being what they are, there simply has not been time to arrive at a final decision. In any case, the full financial effect of these reductions, and of certain other proposals in regard to the military expenditure, could not for practical reasons be expected in the coming year. But if those reductions and others which have been agreed upon could have been fully and effectively in operation from the 1st of April next, then the net military expenditure for 1923-24 would be 57½ crores, that is a reduction of 10 crores on the current scale of expenditure.

As regards our expenditure estimates as a whole, I do not think I need take the Council in detail through the various heads. I think it is enough for me to say that, as compared with the budget estimate of expenditure for 1922-23 of Rs. 215 crores and 27 lakhs, inclusive of the working expenses of commercial departments, our total expenditure for 1923-24, taking the sterling expenditure at 1s. 4d., is estimated to be 204 crores and 37 lakhs, that is, a reduction of 11 crores in spite of an increase of 1½ crores on interest charges.

Similarly, as regards our estimates of revenue. I do not propose to trouble the House with many details. I will only say generally that we have assumed that trade conditions will continue very much as they are at present; we have not counted on any early boom or any sudden revival in trade. The utmost we have done is to allow for a small growth in revenue, such as may normally be expected from year to year. Under the various heads of our customs revenue, we have either repeated the figure which we anticipate for the current year, or we have provided for a small increase where an expansion seems probable. Altogether we are assuming a net customs revenue of roughly 45 crores, or 2½ crores more than in the current year. This estimate, I ought to mention, provides for a reduction to 5 per cent. all round, with no rebate, of the export duty on hides and skins. That reduction has been necessitated by the state of trade. In respect of income-tax we are not allowing for any increase over the current year's revenue of 19 crores. We shall not have the same heavy refunds to make, but, on the other hand, we expect that there will be a fall in revenue in Bombay. The Railway budget as originally framed, provided for a small profit of 35 lakhs. We are assuming, however, that as a result of the Retrenchment Committee's recommendations for a reduction in working expenses, there will be a profit of 3 crores. Similarly, in Posts and Telegraphs we hope by retrenching working expenses to realise a profit of 147 lakhs. The net result, after taking credits for retrenchment, military and civil, is that we are budgeting for an expenditure of 204 crores and 37 lakhs, against an expected revenue, on the basis of existing taxation, of 198 crores and 52 lakhs, leaving a deficit of 5 crores and 85 lakhs.

5 crores and 85 lakhs. What are we to do about that deficit? Are we going to leave it uncovered? I will answer that question in a moment. But meanwhile there is one thing we can do, which although it is not very much more than a change in book-keeping methods, nevertheless does relieve the revenue account. The Gold Standard Reserve consists approximately of £40 millions and is invested in British treasury bills and other short term securities. Government propose to utilise the interest on these securities by crediting it to revenue instead of adding it to the Reserve itself, and this will relieve the revenue account to the extent of 159 lakhs. The Council, I think, will remember that last year the Legislature agreed to this being done in the case of the interest on the securities in the Paper Currency Reserve, and we feel that to a very large extent these two measures are analogous.

There will thus remain a deficit of 4½ crores, and what are we to do about that? Some Honourable Members, who may fully share our anxiety to balance our budget, may suggest that we may safely leave that uncovered, in view of the fact that as time goes on the Inchcape Committee's recommendations will be brought more and more into effect and that, with the disappearance of the "lag," the budget will in a year or two be bound to balance itself. Sir, the Government feel that, however attractive such a

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course may appear to some, it would, to say the least, be a dangerous one. When one examines the Retrenchment Committee's proposals, it will be seen that, taking the military budget alone, over 2 crores of the reductions represent merely a reduction in stocks, in other words, that particular saving is non-recurring, for as soon as the stocks are worked down to the new minimum, the normal annual purchases will have to be resumed. The same thing is true of the Railway budget and the Posts and Telegraphs budget, and also of the budgets of one or two other Departments. Further, Government realise, and this I suggest is a consideration of the utmost importance, that this budget provides, to their great regret, for no reduction in the provincial contributions. Government are very much impressed by the undesirability of any further indefinite continuance of the present very unsatisfactory position as regards these provincial contributions. They have stated more than once that, as soon as they are in a position to do so they intend gradually to reduce and finally extinguish the provincial contributions, the aggregate amount of which is about 9½ crores. Now, the essential preliminary to any such reduction must be the balancing of our own budget. If this present deficit of 4½ crores is to remain uncovered, then I must warn the Council that any substantial relief to the provinces will almost certainly have to be deferred for some years, if not postponed indefinitely. On the other hand, if we can cover the deficit this year, then any improvement in our financial position, due to the ring-fencing into full effect in subsequent years of the retrenchments proposed, or to any possible future improvement in our revenues, can and will be devoted to giving to the provinces that relief of which most of them are so greatly in need.

There is only way in which we can bring that relief, if not actually within sight, at any rate within the range of practical politics, and that is by additional taxation. The Government of India dislike proposing additional taxation just as much as the Legislature will the voting of it. They feel, however, that the situation calls for it, not only because India's credit is very vitally involved, after the 100 crores of deficits that we have had in the last five years, in making a final and successful effort to balance our Budget, but also because without it the relief which the Provincial Governments and Legislatures have been anxiously awaiting must again fade into the indefinite future. The Government have carefully reviewed the whole sphere of taxation and have been obliged to reject all possible measures except one, and that is the increase of the salt duty to Rs. 2-8-0 a maund. In a full year this increase will probably give us 6 crores of rupees, although in the first year of its imposition it is not likely to bring in more than 4½ crores. If we can get this additional revenue, the deficit will be covered and we shall have a balanced budget, with a small surplus of about a quarter of a crore.

I have so far said nothing about ways and means estimates. During the last year or two public attention has naturally been concentrated mainly upon the ordinary revenue and expenditure, owing to the very large deficits that have occurred. But my Honourable and revered friend Sir Dinshaw Wacha has, I believe, on more than one occasion pointed out here the great importance of the ways and means figures, for it is in their ways and means operations that the actual financial policy of Government is manifested. At the same time, it is very difficult to budget for ways and means in the same way we budget for our ordinary revenue and expenditure, and it is never possible to adhere to any strict programme in

regard to operations which consist in financing the country's various liabilities and in finding cash for our own and the provinces' day to day disbursements. Of course we may say beforehand that we hope to do so and so, but it is never possible to forecast with any accuracy the changing conditions of the money markets, both here and in London. I am not therefore going to trouble the House with many details about ways and means. Honourable Members will find, however, in the Finance Member's speech a summary of our ways and means operations during the current year and a forecast of our liabilities and assets next year. The only thing I wish to say about the current year is to draw attention to the fact that, owing to our large rupee and unprecedentedly large sterling borrowings, we have been able to make a substantial reduction in our floating debt. We have reduced the Treasury Bills held by the public by 32½ crores and we have cancelled Treasury Bills held in the Currency Reserve to the extent of 8½ crores. We cannot hope to make such large reductions in the ensuing year, but it is Government's intention to do all they can to pursue the policy of funding the floating debt by converting it into securities of longer term.

These large sterling borrowings of ours in the current year have also facilitated the provision of funds in London to meet our sterling obligations. As the House knows, we took advantage of the strengthening of exchange which occurred at the New Year to remit funds to England by the sale of Council Bills. We did this somewhat in advance of the Secretary of State's actual requirements but at a time when we knew that it would be convenient to the market, and when we knew also that we could hope to get our money home at fairly favourable rates.

As regards next year, we are providing the usual 30 crores for railway capital expenditure *plus* the large lapse which has occurred in this year's grant, making a total of 38½ crores. We shall unfortunately have to allow certain Provincial Governments large overdrafts to meet their revenue deficits, and we also are making loans to several of them for capital expenditure, particularly a large amount to the Bombay Government for expenditure on their development scheme. Altogether, as the estimates stand at present, we expect to have to meet liabilities of about 67 crores, and we are assuming, of course purely for budget purposes, that we shall be able to secure a rupee loan of 25 crores and to make sterling borrowings of £15 millions. With these resources, added to certain other assets which are mentioned in the Finance Member's speech, we hope to meet the liabilities I have mentioned and in addition to effect a further reduction of 5 or 6 crores in our floating debt. On the estimates as they stand at present it will be necessary to remit the sum of about £27 millions sterling to London during the course of the next year. That can be done in two ways. Firstly, we can purchase exchange, one method of which is by selling Council Bills in London, and secondly, we can draw on the Paper Currency Reserve or the Gold Standard Reserve in London, against a corresponding ear-marking out here; but it is obviously impossible for Government to commit themselves in advance as to the extent to which they will combine these two methods, it must depend on the actual money and exchange conditions of the moment.

That completes my summary of the Budget and I have only to thank the Council very cordially for the great patience with which they have listened to what I fear has been a rather bald recital of dry facts and figures.

THE CRIMINAL LAW AMENDMENT BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that:

"The Bill further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings, as passed by the Legislative Assembly, be taken into consideration."

The HONOURABLE SIR MALCOLM HAILEY (Home Member): Sir, I rise to support the motion which has been put forward by Mr. Crerar. The Bill has been so much before the public and has been discussed at such length both in the Press and in another place, that I need not deal at any length with any question of detail that arises, for the details are no doubt well known to all Members of this House. I desire to deal with the motion, and I hope that the House will allow me to do so, on somewhat broad lines. This Bill will, I believe, be of exceptional interest to this House because there must be many here whose recollections, and indeed perhaps whose public life, date back to the time when this controversy was last before the Legislature, and aroused such animosity and hostility between the two communities. Since then India has gone far: and perhaps there is no greater proof of the change in the political and social atmosphere between these two communities, than the fact that we can now bring forward a measure of this type without again raising the antagonisms of the early eighties. It is not, I think, that Indians feel any less than they did then that the maintenance of special trial privileges in favour of Europeans constitutes a slur on the Indian judicial administration; it is not that they believe any less strongly that the maintenance of these special privileges involves on many occasions a miscarriage of justice. Nor do they feel any less that these privileges in themselves constitute a claim of superiority of one community over another. It is certainly not the case that Indians have less capacity for voicing their sentiments on this subject, nor have less power in giving effect to those sentiments in the sphere of legislation. Nor, again, do I think that Europeans cling any less tenaciously to their demand for the traditional privilege of a trial by a jury of their own countrymen. On both these positions the communities stand firm. But if we have been able to make an advance by mutual agreement on this question, it is, I think, because we have made a real advance in the path of statesmanship in India. I think that Europeans on their side realize that, if they are to maintain their position in India, it cannot be by emphasising that they belong to a separate community, by standing aloof from Indian questions, unmindful of the depth of sentiment on an issue which Indians themselves consider so vital as this. They recognize that it is necessary to make sacrifices on their side if they are to give a proof to India of their changed position. I think that Indians on their side, too, have felt that, if they can secure the good-will and co-operation of Europeans in working out purely Indian problems and if at the same time they can secure from Europeans some concession to Indian sentiment on a matter which has so moved the Indian national spirit, then it is worth while to make some abatement of the standpoint which they formerly held.

If I am correct, this is the true analysis of the circumstances by which we have been able to arrive at this agreement. For this is an agreement

which we ask the Legislature to ratify, an agreement of the representatives of the two communities, arrived at by a process both of levelling down and of levelling up. The net result is that Europeans retain practically a minimum of their former privileges; that is to say, that they will be distinguished only by the fact that they will not be tried by second or third class Magistrates, they will not be subject to the exceptional powers of those Magistrates who enjoy what are known as Section Thirty powers, and they will not be subject to a sentence of whipping; though in regard to the last, I may mention that the whole question of whipping is about to be investigated anew as a result of the recommendations of the Committee. Then Indians on their side, it is generally admitted, have also gained much. They have gained greatly in respect of the procedure regarding appeals. They have gained greatly extended powers of *habeas corpus*; and they have gained in another respect to which I know many Indians attach great importance: that is to say, that while we retain the safeguard of the right of Government to appeal against verdicts of acquittal, Government will now be able to make that appeal where racial considerations are involved both on fact as well as law. That I know Indians regard as safeguard against miscarriage of justice in those very vexed and unfortunately much advertised cases.

That, then is the net result of the agreement which we are asking the Legislature to approve. But I think, perhaps, the greatest result of all is this, that, whereas before the whole controversy turned on the question of the nationality of the judge, whereas Indians then claimed that there was no reason why Indian judges should not try Europeans, and Europeans maintained on their side that they would not be tried by Indian judges, now that question no longer exists. Nowhere in our new procedure will you find a reference to the nationality or the race of the judge. Europeans, except for the small point which I have mentioned, namely, that they will not be tried by second and third class magistrates, can be tried by any Indian magistrate or any Indian judge.

I do not think that my presentation of the case would be complete if I stopped at the agreement itself; because, as is well known, that agreement has been modified in two respects under the instructions of the Home Government, and this fact has been widely discussed in the Press. I do not expect this House, any more than the public, to accept without some expression of its feelings the fact that His Majesty's Government have modified the agreement arrived at by the representatives of the two communities. But I claim that that modification does not, as has so often been represented, in itself afford any proof that His Majesty's Government have been prejudiced against the claims of India, or is callous to the sentiment of India on the subject of the disabilities of Indians in respect of franchise and other civil conditions in the colonies. For myself I claim that the fact that His Majesty's Government has insisted that Dominion subjects resident in India should retain the rights which they now possess, is simply the result of a calculation of the advantages to be derived from two alternative lines of action. The Committee would have withdrawn from colonials the rights which they now enjoy. Now, that could not have been intended so much as a reprisal, as an instrument for negotiation with the Dominions in securing fuller rights in regard to the franchise and better legislation in regard to immigration procedure. But when one looks closely into the circumstances one is obliged to realize that the number of Dominion subjects resident in India is so infinitesimal,

[Sir Malcolm Hailey.]

that the withdrawal of rights from them would not in itself be sufficient to put any real pressure on the Dominions. That is to say, it might be a threat, but it would not be a threat which would carry with it any terrors. On the other hand, an attitude of forbearance and large-mindedness on the part of India might well secure for India that better atmosphere which her own Ambassador has done so much to foster in the Dominions, and which he, better than any one else, knows to be the one avenue for success in securing better treatment of Indians in the Dominions themselves. I claim, therefore, that, whether His Majesty's Government were right in their calculation, or whether we should be right or wrong in throwing away the opportunity of legislating in the sense recommended by the Committee, the decision arrived at in England does not show any prejudice on the part of His Majesty's Government against the claims of India, nor does it show that it is desirous of postponing the claims of India to those of the Dominions themselves. Then there is a second point, one which I admit has attracted far less public attention and is in itself perhaps of minor importance, I mean the modification in regard to the trial of certain cases which come under the Army Act. As the House knows, there are five major offences, which by virtue of section 41 of the Army Act are withdrawn from the purview of courts-martial and must be tried by civil courts. These cases now come before the High Courts but under our new procedure will be tried by Courts of Session. Only His Majesty's Government have required that the Act should contain a clause providing that at the instance of a competent military authority these cases should be transferred from the Court of Session to the High Court. But, as has been pointed out elsewhere, there is a substantial reason for this. Men serving under the Army Act do not come out to India of their own will; they are drafted here in the course of their military service. Already, when they come to India, they have what must certainly appear to them an inferior judicial status compared to that which they enjoy in England. That is to say, in England, if they are to be sentenced to more than six months' imprisonment they can claim a trial by jury. That trial in the case of all major offences would be before a Court of Assize presided over by a Judge of the High Court; when they come here they will find that for minor offences, they can receive at the hands of Indian magistrates in cases where no racial considerations are involved imprisonment up to two years without the benefit for jury. That is one point. Another point is this, that whereas before they knew that for the major offences which are withdrawn from the purview of courts-martial they would be subject to trial by High Court, now they will be subject to trial by Court of Session. But since the law provides that these cases are withdrawn from the purview of courts-martial when they are committed within a hundred miles of a competent court, and whereas the competent court is now the High Court, for the future since the competent court will be the Sessions Court, we are obviously extending greatly the sphere of trial by civil courts. I do not think it is unreasonable on the part of His Majesty's Government if, in view of the light in which this change of procedure is likely to appear to the British soldier serving in India and in order to prevent discontent arising from that fact, they have insisted that we should place in our Bill a provision that competent military authority should on occasion be able to require a transfer from the Court of Session to the High Court. I would remark that we have confined the definition of competent military authority to the higher authorities, namely, to the Army Commanders who are only four in number, and we have a guarantee from the

Commander-in-Chief that this authority will be exercised only in exceptional cases.

That then is our Bill as based on the recommendations of the Committee and as modified under the instructions of the Home Government. It has been discussed widely in the Press, it has been submitted to close scrutiny in another place. The only amendment of any importance there effected, is that relating to the provision of an appeal against whipping where whipping is the only sentence. That, of course, is not a point relating explicitly to any racial consideration. It was intended as an improvement of the general law. I shall not dwell further on that point now, because an amendment will shortly be coming before the House on which the whole question can be discussed. With that, Sir, I commend this Bill to the House. I believe that this House in accord with the greater part of the public will welcome it, not only as an improvement in our judicial procedure, but more—because it is an agreement between the two communities involving sacrifices and concessions on both sides, and because it should go far to put an end to a controversy which has lasted for 40 years. But most of all, I claim that it should be welcomed because it affords a guarantee that Europeans and Indians are prepared to work together in harmony and in mutual co-operation towards a common object, the development of India on lines which will fit it to take its place as a self-governing unit of the Empire. For I maintain that if India is to gain that position, it is essential for her to carry with her in her task the good-will and the assistance of the Europeans resident in this country.

The HONOURABLE SAYID RAZA ALI (United Provinces East: Muhammadan): Sir, it is not without mixed feelings of hope and doubt that I rise at this stage to say a few words on the Bill—hope, because I find that, after all, the Government have been able to remove some of the inequalities applicable to the procedure in cases in which nationals of the two races appear as accused in the dock; and doubt, because the distrust and suspicion that pervade the Bill are I am afraid bound to react on public opinion in this country. I must confess that if persuasive powers were allowed to influence the judgment of a man, I must stand absolutely converted to the views of the Honourable Sir Malcolm Hailey. He put his case so sweetly, and so persuasively that I for a minute had considerable doubt whether this Bill, after all, was not a measure of perfection. For a minute it appeared to me that all racial distinctions had been obliterated, that there was no preference shown in the matter of procedure relating to trials, and in a word so far as the Courts of law were involved, that the millennium had come. But, Sir, fortunately, I pulled up towards the end of the Honourable Member's speech, and I would try to express shortly the unprejudiced view that can be taken of the provisions of this Bill. I must at once say that the Bill marks a definite stage in the removal of inequalities in judicial procedure. The Bill is, and it has been admitted by the Honourable Sir Malcolm Hailey, by no means a perfect measure, but I do not think that it would be an extravagant claim on the part of the Government of India to say that they were guided by the considered report that was submitted to them by the representatives of the two communities that sat and considered the whole question. Unfortunately, it appears that His Majesty's Government has again asserted its will, not only asserted but imposed its will on the Government of India in three and not two matters as pointed out by the Honourable Member in charge. The two points he has already placed before this Council. I find that there is yet another matter in

[Saiyid Raza Ali.]

which the Indian opinion demanded reforms to be introduced but on which we find no action has been taken—I am referring to the procedure relating to the trial of Europeans and Americans. I know, Sir, it has been pointed out that because the Government of India had entered into certain treaties with certain countries, it is not possible to take away the rights which the subjects of those countries in India enjoyed. It is further pointed out that if the rights of a certain particular nationality, namely, the nationality that has entered into a treaty with India, are not to be taken away, it would be introducing an inviolable distinction to retain those rights while taking away the rights of the subjects of those countries who have not made any treaties with India and to whose subjects Indians are not bound by treaty obligations. Sir, if the recommendations of the Committee had been accepted in their entirety and the Secretary of State on the one hand and the Government of India on the other had not interfered with that report, the Bill would have been a far more welcome measure than it is to-day. It is true that the Bill marks a memorable stage inasmuch as it takes away the disability of the trying judge based on his colour to try cases in which European British subjects are the accused. That I must at once say is a very considerable advance but after going carefully through the Bill one would find that that is practically the only advance which can be brought forward by Government in support of the Bill. Sir, the measure was committed to the care of the committee at a time when unfortunately racial bitterness ran very high in this country. As one who not only gave evidence before that committee but was also present when the evidence of some English witnesses was taken, I can say that great stress was laid by certain leading witnesses representing the non-official British community on the fact that racial feeling at that time was at its height. Some of them went on to say that but for the fact that the political situation was so grave and racial feelings were embittered the non-official British community would have been prepared to go much farther to bring about the removal of these inequalities. That was, Sir, in January last year. Thirteen months have passed since and every one knows that the situation in the country is much better and more hopeful than it was then. Was it too much then to expect that the non-official British community and the Anglo-Indian community would make good their promise and would be prepared to consent to the removal of those inequalities that yet disfigure or will disfigure our Statute Book? But, Sir, I can understand the case of a special procedure in criminal trials being conceded to Colonials or the British residents in this country. Indefensible though the retention of such procedure would be, it has at its back the sanction of usage and law which have obtained in this country for many many years. What I entirely fail to see, Sir, is why non-British Europeans and Americans should be accorded any preferential treatment in this country. Sir, only the other day the Supreme Court of the United States denied the rights of citizenship to an Indian. Is this the record which should encourage us to extend this privilege to the people of America which are not enjoyed even by ourselves? Sir, I will venture to say, that the attitude of Government on this question as regards the inhabitants of the United States in relation to us is one of adding insult to injury, as it comes very closely upon the decision of the Supreme Court of the United States. I hope, Sir, I have not used any unparliamentary language and that I am within my rights in criticising the attitude of the Supreme Court of the United States.

Now, then coming to our own disqualifications I find that sections 30 and 34 of the Criminal Procedure Code have been retained. It might be open to one to say that though that in a way evinces inequality in the matter of procedure, yet it is not a very serious complaint. I submit, Sir, if the powers of the magistrate empowered under sections 30 and 34 when trying an Indian were to be compared with his powers if he were to try an European British subject, the comparison would evince a great disparity. It would disclose in fact a concession in the case of the European British subjects and would amount to hardship in the case of the Indian inasmuch as the magistrate would be in a position to impose an enhanced sentence. The Honourable Sir Malcolm Hailey has already dealt with the question of the definition of 'European British subject' as embodied in the Bill. Sir, nobody wants to start a campaign of reprisals against Colonials. Nobody wants in fact to subject them to any disadvantages in this country. We are not vindictive and we do not propose to take any reprisals but our proposal to modify the definition of the European British subject was not based on any vindictiveness. The simple question was whether in this country we should give any people a right which we ourselves do not enjoy. In the case of European British subjects, as Honourable Members are aware, those rights are much wider even than those which have been extended to non-British Europeans or Americans. Lastly the proposal to make it obligatory that every case in which a British soldier is charged with a major offence, on the report of the military authorities, should be transferred to the High Court does largely nullify the effect of improving the procedure to the extent to which it has been improved by the committee. The net result, Sir, let me say at once, will be this that, whereas in the case of a British civilian it would be open to the Sessions Judge to try him, if the accused happens to be a British soldier, the accused would be in a position to insist, if a report to that effect is made by the military authorities, that his case should be transferred to the High Court, and the High Court is not given any power to exercise its discretion if a motion is made to it for transfer. Sir, I for one am not prepared to say that the Bill introduces a change in our political evolution which would satisfy the vast bulk of public opinion in this country. On the whole it is unfortunately a halting measure, but I do not forget that it is the result of a compromise that has been arrived at between the two communities. The essence of a compromise, Sir, is that none of the parties should be in a position to say that it has entirely succeeded, and the other party has entirely failed. In that view, Sir, personally though I would like these modifications to go much further than they do, I, having regard to the manner in which certain special privileges have been enjoyed by our British friends, cannot say that I will be entitled to move the rejection of this Bill. It is not a Bill, Sir, which can enable us to throw up our hats in joy, but yet I must recognize that the passing of the Bill marks a distinct stage in the career of our political evolution, and it is after all a measure of considerable advance. As such, Sir, I support the consideration of the Bill.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, may I without impertinence congratulate the Honourable the Home Member for the dispassionate and impartial way in which he analysed the whole Bill and gave the reasons why this Bill is now before our House. He paid compliments, Sir, to both communities, to Indians and Englishmen, for having changed their angle of vision; he said that the mutual distrust which was visible some years back has practically

[Mr. Lalubhai Samaldas.]

disappeared—I won't say, totally disappeared, but it has disappeared to a very large extent. May I, Sir, add that Government have also changed their angle of vision; and if they had not accepted readily the motion in the other House by my Honourable friend Mr. Samarth, perhaps this Bill would not have been before us. Sir, the way in which the then Home Member and the then Law Member were prepared to accept the Resolution and then to carry it out to its final logical conclusion shows that Government also have recognized that the time has come when racial distinctions should be removed as far as possible. I hope the Honourable Member will not accuse me of a carping criticism when I say that the interference by the Secretary of State if not on both the questions referred to by him but at least in one of them, has really led to a very great disappointment in the minds of many of us. It is not, Sir,—let me assure the Home Member and the Council, as my Honourable friend Mr. Raza Ali said, it is not in a spirit of retaliation that we want that the special privileges granted to Colonials should disappear. May I, Sir, with the permission of the House, read what two Indian Members of the Bombay Council say on this question; they clearly say, 'we are of opinion that the subjects of those British Dominions and Colonies in which Indians are denied the right of British citizenship and equality of treatment should not have any privileges accorded to them in India. We desire that our views be communicated to the Government.' Sir, the feeling is due to the fact not that we do not want to treat them equally,—we want as much reciprocity as possible and we want that they should be treated as Indians, but we do not want that they should be given any more privileges than what Indians are getting in their own country. As regards European British subjects, I realize that they have been enjoying certain privileges and we will not grudge those privileges for the present, but we do grudge the privileges that are being given to those Colonials. Although the number of these Colonials is very small, and the practical effect of this Bill may not be very great in their favour, but we want to show that we on our part do not want to show any favour and although we do not want to hit back, we do not at the same time want to take it lying down, and that we will treat them as equals but not as our superiors. That feeling does exist, and there is a feeling of disappointment not only in this House and in the other place but also in the country that we cannot, without fear of losing this Bill, show our resentment. We have either to take the Secretary of State's interference in the best spirit that we can and accept it or we can throw out the Bill. We do not want to throw it out, and therefore we accept it, but we do protest, Sir, against the Secretary of State's interference. This may not be due, as the Honourable the Home Member put it—it may not be due to his want of appreciating our difficulties or he may have no idea that in bolstering up of Colonials, his attitude leaves a feeling as of a sting in the minds of most of us. Sir, having said so much I ask the House to allow me to read the concluding portion of the Honourable Sir Malcolm Hailey's speech on the subject in another place, which I do to re-echo what he said there; he said that "of all things the spirit of compromise and good-will is the most elusive. Catch it while you may, and enshrine it in an imperishable form in your Statute Book."

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I do not share the apprehensions of doubt or despair to which my Honourable friend Mr. Raza Ali has given vent, but I

welcome this Bill as a straight-forward and statesmanlike solution of a problem, of a controversy which has been raging for 40 years or more. I welcome this Bill not because it finds a permanent solution of the troubles that have agitated this country during the last 40 years, but as it is the only practicable and, as I said, statesmanlike solution of the difficulty. This Bill which we have the pleasure of welcoming to-day is the result of a motion which was made by a distinguished Indian Member of our Legislature in the other House and of the joint deliberations of a Committee on which Indian talent, Indian legal acumen was largely represented. I quite admit, Sir, and as the Honourable the Home Member has said to-day and elsewhere, this is not a final and permanent solution of the question; it is a solution of the question for the time being, as it marks a great advance, as it marks an enormous improvement on the existing law, and as it constitutes a departure from that policy which has been the source of trouble, which has been the source of bad feeling and discontent all over the country. And, Sir, as such, this measure will receive in this House a full measure of support. We accept this Bill and accept it with a feeling of gratitude for one main reason, and that reason is, Sir, that it removes for all time to come that colour bar, that feeling, that stigma of inferiority with which Indians were judged and treated heretofore. No matter what were the qualifications of an Indian, whether he was a Joint District Magistrate or Additional Sessions' Judge, he was debarred from trying a European. Whatever may have been the qualifications of an Indian he was not allowed to take cognizance of trials in which European subjects of His Majesty were arraigned. Now this Bill completely does away in a very satisfactory manner with that colour bar; that stigma which hitherto has remained on our Statute Book has been removed for all time to come; and here I do express my gratitude to the European members of the Committee and to this Government for having helped the solution of a controversy and having put their Indian fellow subjects on a footing of racial equality. Let all honour be to Europeans for this great concession, this large and just concession in the history of this country.

So far as the Bill is concerned, Sir, as far as I have marked the public pulse, there has been a great measure of satisfaction. The Bill has been received by the press and the public throughout the country with perfect satisfaction. I have not seen any adverse criticisms in the papers against this Bill as it now stands. I have not seen any adverse criticisms or notice, nor meetings have been held by the public to express their disapproval of this measure. The Bill has been favourably received and it has been favourably received because it marks a distinct departure and permanently removes a stigma and racial disability. Sir, I may claim to say that this Bill is the greatest achievement of the Reformed Council. This Bill will remain a historical document on our Statute Book and it will remain as a monument of that good feeling and fellowship which both Europeans and Indians displayed in coming to a compromise and solving a most difficult, a most intricate and delicate problem of the age. Sir, after all, the sacrifices made by the European community are large: but for their co-operation, but for their good-will, we would not have been able to achieve this result. And if they have suffered a substantial reduction in their privileges, on the other hand I may say that the privileges gained by Indians have been large, solid and substantial. An Indian to-day when the Bill is passed can claim to be tried by a majority of the jury of his own countrymen. An Indian to-day can claim, if he is tried by a Sessions Court, with the aid of assessors who will

[Sir Maneckji Dadabhoy.]

be his own countrymen, and that is a great improvement. The Bill further marks a solid improvement, inasmuch as it gives powers to Government to appeal both against convictions and acquittals on questions of fact and law. We shall hear no more of those insinuations, of those stories sometimes very well founded and at times based on mere surmises, of miscarriages of justice. The power which this legislation now gives will do away for ever with that wanton disparagement of our judicial officers and will restore confidence in all judicial trials in the country. It will give confidence and protection to our judges and the fair name of our judiciary will not be sullied by unfounded reports and insinuations. It will give confidence to the public because in every case in which it appears that there has been a miscarriage of justice there will be the satisfaction of an appeal. It will remove from the European subjects of His Majesty when acquitted in a court of law the insinuation of a partial and dubious acquittal. It will once for all make a very satisfactory solution of our troubles, misgivings and doubts.

Sir, my friend the Honourable Mr. Lalubhai Samaldas has alluded to the fact of the Colonials being given the benefit of special privileges in this country in the matter of criminal trials. Mr. Saiyid Raza Ali has also referred to that matter. I venture to differ from them and I may say with confidence that it would have been both impolitic and inexpedient for this country to have withheld from the Colonials those privileges which we are giving to other European and American subjects. I do not think that, because some of the Dominions have denied to us the fuller rights of citizenship, we should retaliate. I appeal to the sentiment of the Right Honourable Mr. Srinivasa Sastri. He said elsewhere that we should not counter the Dominions with retaliation at any time. He has wisely said that our remedy lies in meeting them more in a spirit of friendliness than in a spirit of retaliation and vindictiveness. I cordially share those views. And further, as the Honourable Sir Malcolm Hailey has pointed out, even if we do not give this concession to the Colonies it would not be an effective threat carrying its own terrors. After all the Colonials in this country are few. They can be counted on the tips of our fingers' end, and all of them are not going to be offenders. When occasionally a Colonial is tried in a court of law, what will it matter if you give him this concession? I think therefore that our sister House has acted in a commendable spirit of magnanimity in giving this privilege to the Colonies and in carrying out the suggestion of the Secretary of State, who in the exercise of his privilege under section 65 of the Government of India Act had intimated that he would not give his approval to the Bill unless the Colonials were given the benefit of this privilege. I say further that this act on our part will be regarded even in the Dominions as an act of magnanimity, forbearance and appreciation which will receive its own reward in time. Because the Dominions are obstinate over certain matters, because the Dominions will not see eye to eye with us in certain measures, it is neither politic nor expedient for us to treat them unfavourably in a matter like this where we extend similar privileges to other nationalities. In conclusion I shall only say, let us hope that this Bill when passed into law will be administered in a manner which will remove friction and promote good will and fellowship between the different subjects of His Majesty in this country, that it will be favourably received and administered with that same spirit of generosity in which it is passed into law to-day. Sir, we owe our gratitude to two Members of the Executive Council,—two members of the Racial

Distinctions Committee who took a great share in the conception and manufacture of this Bill, whose names will ever remain enshrined on the records of our proceedings, I mean Sir William Vincent and Sir Tej Bahadur Sapru. We owe to them a great debt of gratitude and we owe also to the Honourable Sir Malcolm Hailey our gratitude for piloting through the Legislatures the Bill with great adroitness and with marvellous skill and considerable restraint and earnestness. I welcome this Bill therefore and say it is not put on the Statute Book a day sooner than it ought to be.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): I want to make some observations on this Bill, but they will be confined mostly to the general outlines of the Bill. The Bill equalises the status of the Indian subjects of His Majesty with that of the Europeans. The racial distinctions which were enjoyed by Europeans were resented in some quarters by some people of India, and therefore it is a great magnanimity on the part of the Government of India to raise our status to that of Europeans. (*The Honourable Saiyid Raza Ali*: "No, they have not.") They have improved it. They have raised our status, and in raising our status this Bill represents a landmark in the constitutional history of India. This Bill shows that the Government of India are anxious to give equal status to everybody. The Committee had a most difficult task to perform in drafting a Bill which could be unanimously agreed to by both parties. We are grateful that certain concessions which were denied to us formerly have been given to us. Those concessions are trial by jury which did not exist. My Honourable friend Mr. Raza Ali just now said that there was no concession granted. I want to point out that a concession that has been granted is trial by jury. It did not exist for the Indian and it is being granted under this Bill. And a right of appeal in case of conviction has also been extended to us Indians. We hope that the Bill will be so modified in due time that the points to which our friends object will be removed and the Bill made acceptable to them. But the thing that I want to bring to the notice of the Honourable Member in charge of the Home Department is clause 2 of the Bill. In that the Judicial Commissioner

The HONOURABLE THE PRESIDENT: If the Honourable Member wishes to deal with clause 2, he had better reserve his remarks till if later the Bill is taken into consideration.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: Well, Sir, I will deal with it when clause 2 comes up, but at the present juncture, the only thing that I have to say is that the Bill is a great advance on the previous conditions that existed in India, and I heartily welcome the Bill, and support it strenuously.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Though some may think that this Bill does not fulfil the object for which it has been brought forward, personally I think that it is a very great step forward and as such we should all welcome it. Sir, when the Romans conquered and went to England they were in various stage of development and different from the English. So now we in India are in an entirely different stage of advancement from the English. Their habits and ours are different. So, in that way I think there is a difference, and if there is a difference in trial there is no harm. Indians have been welcoming people from overseas, and if there is some leniency shown to those who come from there I think it is a good thing. Something has been said

[Colonel Sir Umar Hayat Khan.]

about the Colonies. The whole question is whether our stake or our interests there are greater than their interests in India.* For instance, if they had some funds, say worth Rs. 1,000 here and we had there in the Colonies funds worth Rs. 20,000, if we confiscate their little stock of money here with us, what would they do? They will confiscate our money twenty times as much there. In the same way, if there are 10 or 12 of them here and we give them trouble, they can give trouble to hundreds and thousands of Indians there. So I do not think we should quarrel about the matter. The best thing is to keep quiet and see what they do, and then perhaps they shall reciprocate. I am very glad there has been some latitude given to soldiers. I think those who had seen soldiers fight and die for their country would realise the necessity for this. The life of any English soldier in India is at the service of the country, so that if when he is tried he is shown some courtesy, I think it is the right thing.

With these few remarks, I welcome the Bill.

The HONOURABLE THE PRESIDENT: I call upon the Member of Government to whose Department the Bill relates. If the Honourable Sir Malcolm Hailey is delegating the duty to the Honourable Mr. Crerar, it is for him to reply. If he is retaining the duty in his own hands it is for the Honourable Sir Malcolm Hailey to reply, if he is so inclined.

The HONOURABLE SIR MALCOLM HAILEY: I was afraid that I might be offending against the rules of the House if I rose to reply on the subject, as I am not in charge of this measure in this House. I have been obliged to delegate those functions to Mr. Crerar as a Member of the House.

The HONOURABLE THE PRESIDENT: If a Member, not being a Member of the Executive Government, moves a Bill, he naturally has the ordinary rights of the Mover, that is, he can make his motion and he can reply. But the Members of the Government have a further right. They have a right to speak last after the Mover, and I was wondering whether in these circumstances, as the two positions are practically united in the present instance, for the Honourable Sir Malcolm Hailey really moved the Bill (though he was not technically able to do so), whether he could shorten the matter by making a reply.

The HONOURABLE SIR MALCOLM HAILEY: I am glad to do so, Sir, particularly as replying to the criticisms we have received to-day can be nothing but a pleasant task, for it has been recognised I think throughout, that the agreement which has now been put forward for endorsement by this Legislature was a sound and substantial advance towards ending a controversy of old standing. Moreover, it is a measure which can be defended on its own merits. It is true that Saiyid Raza Ali thought that we had paid rather too much observance to the Home Government. I had noticed two points on which they had conveyed definite instructions to us. He detected a third, namely, the status that we propose in our Bill to maintain for Europeans other than European British subjects, and for Americans. That I think we must claim as our own action and not that of the Home Government. If there are any criticisms to be directed on that account, he must direct them against us. He will remember that the Committee recognised that we might be

bound in certain respects by treaty obligations to certain countries, which might force us to retain sections 460 and 461, which define the present rights of Europeans other than British subjects and Americans: "We are of opinion that unless any of the privileges in regard to such persons are found to be based on treaty, they should be abolished." When we came to examine the subject, we found that there were six nations with whom we had treaties which practically bound us to maintain the section 460 rights. I may take as typical European countries Switzerland and Italy. The American countries were perhaps of somewhat less importance, Costa Rica, Venezuela and Columbia. But the practical question for us was this. Assuming, as I think we were justified in assuming, that we were bound to maintain these rights to Swiss and Italians, could we refuse them to the French? Could we refuse them to the Spaniards or the Portuguese? The question of protection for their subjects had never been raised by those countries; they had not suggested making a treaty with us in this respect because they had their rights under 460. If we proceed now to take those rights away, maintaining them at the same time for Swiss and Italians, pressure would naturally be put upon the Home Government by such nations as the French, to secure to them equal rights, and I do not think it could, in reason, be refused. But Saiyid Raza Ali's shafts were directed mainly, I think, against the United States. He quoted a judgment the full effect of which I have not yet mastered, for I do not know the full details. I mean the judgment refusing the rights of naturalization to one Bhagat Singh on the ground that he was not a resident of a free white State. If that be the true effect of that judgment, I admit that Saiyid Raza Ali has some justification for a feeling of resentment against the United States, which give the franchise to American Negroes, but how does our case stand? We are giving these rights to Costa Rica and Columbia; could we refuse them to the United States of America? It would be an illogicality to which I do not think we really could commit ourselves; I do not speak of the States of Costa Rica and Columbia with any depreciation; but could we give them rights which we refuse to the citizens of the United States of America? That is the sole ground on which we have maintained our existing provisions regarding Europeans other than European British subjects and Americans. And what do these rights amount to after all? There are no great privileges attached to their position in our Code. If they happen to be tried by a jury (and they can, of course, claim no special jury rights nor can they claim any of the special rights for which we provide in our chapter relating to racial considerations) then the majority of that jury must be Europeans or Americans; if they have to be tried by assessors, then those assessors are to be Europeans. That is the sole right they enjoy. And I may remind the House that Indians in similar circumstances can claim that the majority of the jurors shall be Indians or that the assessors shall also be Indians. We have therefore placed them in exactly the same positions as Indians themselves. The rights which we maintain for them are so slight that I do not think that any one would be justified in taking serious umbrage at our deciding on the logical course of extending to France the privilege we have given to Switzerland, and to the United States the privilege we have given to Costa Rica.

For the rest, I desire to join with other Members of this House in expressing feelings of appreciation at the statesmanlike attitude of the representatives of the two communities which came to this agreement. I consider myself that India at large as well as their communities are under

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obligations to them. I recognise the great work that was done by the Chairman of that Committee, Sir Tej Bahadur Sapru. I think it would have been impossible perhaps for them to have arrived at any satisfactory conclusion without his political tact, and his sense of equity to guide them. If I may, I should like also to acknowledge the appreciation (which I shall not fail to convey), expressed in regard to the part that was played in these proceedings by my predecessor Sir William Vincent. If it is true, as many members of the public and many Members of the House have said, that this is really an epoch in the relations of the two communities, and if it is true that it does mark a new stage in the progress of the reforms, then the part played by the representatives of the two communities and those who guided them in their deliberations is not a small one. For myself, I believe that it is such an epoch; I believe that it does mean a real step forward in the reforms, because I have one firm article of faith, and that is that, if India is to progress on the path of reform, and if, above all, she is to attain a greater independence in the management of her own affairs, if she is to gain and maintain the position which she desires in the Empire, then it is essential that she should carry with her the Europeans resident in India. I have said before, I have no hesitation in repeating here, that in the struggle, and it must be a struggle, to gain her full position, she will have no greater argument to bring before the British public and the British Parliament than that the Europeans in India want what she wants, are willing to help her in the development necessary to attain that position, and are as much interested in the final result of that effort as she is herself. Then again there is her attitude in regard to the Dominions. If she can take with her the good-will and co-operation of the Europeans resident in India as a proof to the Dominions that whatever her form of Government nevertheless she will always be actuated by ideals that are consonant with those of the British Empire, then she has far better hope of success than if she determines to walk her own path and by her own lights.

Sir, I must ask the pardon of the House if I have proceeded somewhat beyond the immediate details of this Bill, but I have never regarded the details as of great importance. In ordinary life indeed, it is seldom that we regard the details of a compromise as of first importance. What we look at is the fact that a compromise has been arrived at; what we value is the spirit which has actuated those who have arrived at an agreement; for we know that the spirit and the atmosphere in which we envisage large negotiations of this nature, and that the ideals and the objective with which we legislate, transcend in importance the details which are comprised in the agreement or the laws which we pass in legislation.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The Council then adjourned for Lunch till Fifteen Minutes to Three of the Clock.

The Council re-assembled after Lunch at Fifteen Minutes to Three of the Clock. The Honourable the President was in the Chair.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill. We will reserve the Preamble as usual.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That clause 1 be re-numbered as sub-clause (1) of clause 1 and that to that clause the following sub-clause be added, namely:—

'(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint'."

The purpose of this amendment will, I think, be quite clear to the House. It is necessary to provide some brief interval before the Bill comes into operation as an Act in order to permit the Courts and the Magistrates who will have to administer it to obtain and to have in their hands copies of the law as amended.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That for sub-clause (2) of clause 2 of the Bill the following be substituted, namely:

'(2) In clause (j) of the same sub-section, after the word 'Rangoon' the words 'and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind' shall be inserted'."

This, Sir, is a purely drafting amendment. If Honourable Members will refer to Schedule I of the Bill recently passed in this House to amend certain enactments and repeal certain other enactments, they will find at the bottom of the first Schedule an amendment of the Code of Criminal Procedure which will affect the original Code before the Bill now under consideration takes effect. The present amendment is prepared in pursuance of that entry in the Schedule.

The HONOURABLE SAIYID RAZA ALI: Sir, the amendment proposed has been necessitated by a change in the law and the practical effect of the amendment is this. Under the Government of India Act, 1919, it is only the High Courts that can deal with and try European British subjects in serious cases. Now, it is proposed to give the powers of a High Court to certain Judicial Commissioners who but for this amendment, would have no jurisdiction to try such subjects. I am glad to notice that the power is proposed to be extended to the Judicial Commissioners of the Central Provinces, Oudh and Sind. But I find, Sir, that there is at least one Judicial Commissioner's Court that has not been included in the amendment, and that is the Court of the Judicial Commissioner of the North-West Frontier Province. The result of the amendment as proposed by the Honourable Mr. Crerar would be that whereas it would be open to the Judicial Commissioners of the provinces named, *viz.*, the Central Provinces, Oudh and Sind, to try a certain class of His Majesty's subjects or to deal with them if a reference is made to such court by the Sessions Judge, it will not be open to the Judicial Commissioner of the North-West Frontier Province to exercise such powers. That, I submit, Sir, seems to be an anomaly. If the power has been extended to the Judicial Commissioners in three Provinces, there is no reason why the same should be withheld

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from the Judicial Commissioner of the North-West Frontier Province. Now, I am sensible of the objection that might be raised by the Government Benches to the effect that the Judicial Commissioner's Court in the Frontier Province consists only of one Judge. There is at present only one Judicial Commissioner who is the highest court of appeal in the North-West Frontier Province, whereas in the other Provinces named in the amendment that court certainly consists of more judges than one. It might be said that in view of the strength of the Frontier Province Court it would be hardship in certain cases if references by and appeals from Sessions Judges were heard by one Judge alone. Sir, this objection loses sight of one very important matter, and it is this: every High Court Judge sits singly when he holds a criminal sessions trial. The law does not provide for any bench of judges to hold a criminal sessions trial. If that point is kept in view, then surely the objection cannot be raised against the Judicial Commissioner's Court. It is true that there is only one judge who presides in that court. All the same, in all the criminal sessions trials of European British subjects he will be in no way more handicapped than any single judge of any High Court. So that on that score it is not open to Government to say that there will be difficulty if the Judicial Commissioner of the North-West Frontier Province is included in the amendment.

Now comes the second point, *viz.*, that in the case of certain references and appeals, such references and appeals will be heard by one Judge instead of two as will be the case if such references and appeals go to the High Court at Lahore. Now, Sir, on that point I venture to submit that there is very serious dissatisfaction and discontent in the North-West Frontier Province, which is not concealed from Honourable Members of this Council, because there the highest court consists only of one Judge; they want the court to be strengthened. Those who have followed the evidence taken by the North-West Frontier Committee as it came out in the Press last year know what very serious agitation has been raised by the people of this Province on that question; and there is no doubt that ultimately—I should say sooner than later—that court will have to be strengthened, and another Judge will have to be appointed to that court. It may be that perhaps to-day the Government of India are not in possession of sufficient funds to strengthen that court, but I doubt not that that will have to be done very soon; and if that court consists of two judges then all possible objections that can be raised against my contention automatically disappear. I do not think I will be in order if I move an amendment at this stage, but I think I will have gained my point by inquiring as to what the intentions of the Government on this question are and as to what is the justification for not including the Judicial Commissioner's Court of the North-West Frontier Province in the definition of High Court as embodied in the amendment.

The HONOURABLE THE PRESIDENT: I understand the Honourable Member does not want to move an amendment.

The HONOURABLE SAIYID RAZA ALI: If Government have no objection, I am quite prepared to move an amendment.

The HONOURABLE THE PRESIDENT: The Government are entitled to stand on notice for this amendment.

The HONOURABLE MR. J. CRERAR: The Government are not prepared, Sir, to accept an amendment to that effect at this stage.

The HONOURABLE THE PRESIDENT: You object on the ground of want of notice?

The HONOURABLE MR. J. CRERAR: Yes.

The HONOURABLE THE PRESIDENT: Before I can put this clause to the House I should like to read section 65 (3) of the Government of India Act. I understand this clause is the first mention in the Bill of the new power by which these courts are empowered to try European British subjects on capital charges. Is that correct? I am not very familiar with the Bill and I shall want information on this. I had better take the point at once. Section 65 (3) runs as follows:

"The Indian Legislature has not power without the previous approval of the Secretary of State in Council to make any law empowering any court other than a High Court to sentence to the punishment of death any of His Majesty's subjects born in Europe, etc."

I understand this is the first mention in the Act of that power. The Bill does not on the face of it bear evidence that approval has been obtained. Before, therefore, I put the clause to the Council I must have some evidence that that approval has been obtained.

The HONOURABLE SIR MALCOLM HAILEY: Mr. Saiyid Raza Ali did not really, I understand, wish to press his motion for an amendment; indeed he ended by asking only for information on the subject. He inquired what justification there was for excluding the Court of the Judicial Commissioner of the North-West Frontier Province from the extension which we have given to other Courts of Judicial Commissioners. If the House will allow me, I will explain the reason. In the first place, this point was carefully considered by the Committee, and very naturally I imagine that the latter wished to give as wide an extension as possible to the scope of this provision, that is to say, they wished to withdraw wherever possible from Europeans the privilege which they hitherto enjoyed of their cases being taken to Chartered High Courts. They found it possible to do so in the case of Courts of certain Judicial Commissioners such as Oudh, Sind and the Central Provinces. They themselves do not find it possible to do so in the case of the North-West Frontier Province. I think that the Honourable Saiyid Raza Ali has himself seen the reason. It is true that in original cases, a High Court trial is presided over by one Judge only, but it is an important part of our Bill that Government should have the right of appeal both on facts as well as law in cases where racial considerations are concerned. Now if such a case arose in the North-West Frontier Province, and if Government desired to appeal, I think the Committee felt, and not without reason, that it would be preferable that such an appeal should go to the two Judges of the High Court of Lahore, rather than to a single Judicial Commissioner. Mr. Raza Ali added that great dissatisfaction was felt in the North-West Frontier Province at the fact that there was at present only a single Judicial Commissioner. That may be the case. There was evidence before the Frontier Enquiry Committee that such is the fact. But the inclusion of the Judicial Commissioner within this clause would not suffice to create a second Judicial Commissioner for the North-West Frontier Province. I am unable to say what course will be taken in regard to that Court. There are of course two alternatives which have been canvassed in this connection. One is that the Judicial Commissioner's Court should be strengthened by the addition of one or two Judges; the other is that it should be entirely abolished, and that the whole of the appellate work of the North-West Frontier Province should be handed over to the High Court of Lahore. At

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present I am unable to say what course Government is prepared to take in that direction, but it will suffice to repeat that the inclusion of the Judicial Commissioner in this Bill would not have the effect of adding to the strength of the Judicial Commissioner's Court in the North-West Frontier Province. When the matter was mentioned in the Assembly, we had to point out that we had not obtained the sanction of the Secretary of State to the inclusion of that Court among those which could try Europeans. I am grateful to you, Sir, for pointing out this to the House again here. I have only to say that we have no such sanction from the Secretary of State, and that any proposal on our part to include the Judicial Commissioner would, of course, have to be referred to the Secretary of State, with the result that there will be considerable delay in the passing of this Bill.

The HONOURABLE SAIYID RAZA ALI: May I know, Sir, whether sanction had been obtained in the case of the Judicial Commissioners of Sind, Oudh and the Central Provinces, and not in the case of the highest Court in the North-West Frontier Province?

The HONOURABLE SIR MALCOLM HAILEY: Certainly. In accordance with the recommendations of the Committee that point was put to the Secretary of State and his sanction was obtained.

The HONOURABLE THE PRESIDENT: I do not think the Honourable Member has quite apprehended the point. The law requires that the previous approval of the Secretary of State in Council should be obtained, and I was inquiring from the Honourable Member whether that sanction had been obtained. It is not the approval of the Secretary of State, but it is that of the Secretary of State in Council.

The HONOURABLE SIR MALCOLM HAILEY: If you will allow me to refer to the correspondence, I could state definitely that sanction was obtained from the Secretary of State in Council.

The HONOURABLE THE PRESIDENT: Perhaps the Honourable Member would like me to reserve this clause for the present.

The HONOURABLE SIR MALCOLM HAILEY: Yes, certainly.

The HONOURABLE THE PRESIDENT: We will reserve clause 2 in order to give the Honourable Member an opportunity to refer to the papers.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

The HONOURABLE THE PRESIDENT: On the paper before I see an amendment proposing the addition of a new clause, and on the formula before me I see that it should be inserted after clause 4. If the Honourable Member likes to move it now, he may do so. But I may say that as a general rule of procedure the proper course in moving a new clause in a Bill is to move it at the end of the Bill when the old clauses have been disposed of. If the Honourable Member wishes to move his amendment now, he may do so.

The HONOURABLE MR. J. CRERAR (Home Secretary): I will take advantage of your permission. I move, Sir, as an amendment:

"That after clause 4 of the Bill the following clause be inserted, namely:

'4A. In sub-section (1) of section 29 of the said Code, for the words and figures 'provisions of section 447' the words 'other provisions of this Code' shall be substituted'."

This, again, is a purely drafting and consequential amendment. Section 447 of the present Code which is specifically referred to in section 29, will, on the passing of this Bill, be superseded by the more comprehensive provisions of the new Chapter XXXIII, and section 29 must be amended accordingly.

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I move as an amendment:

"That in clause 5 of the Bill in the proposed new section 29A, the words 'Notwithstanding anything contained in section 28 or section 29' be omitted."

This again is a purely drafting amendment. If Honourable Members will refer to the new section 29A, they will find that the words "Notwithstanding anything contained in section 28 or section 29" are otiose and ineffective and it is therefore proposed to omit them.

The motion was adopted.

Clause 5, as amended, was added to the Bill.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): May I be permitted to say that I have now found the necessary material to answer the question which you put me. I find that on the 29th December, 1922, the Secretary of State stated that, "I have now approved in Council under section 65 (3) of the introduction of legislation which will have the effect of . . . bringing within the definition of 'High Court' in section 4 (1) (j) of the Code for the purpose of trial of European subjects, the Courts of the Judicial Commissioners of Sind, Oudh and the Central Provinces." I regret, that this fact was not recited, as perhaps it should have been, on the Bill when it was introduced to the House.

The HONOURABLE THE PRESIDENT: My only object in asking for the information from the Honourable the Home Member was that unless I had an indication that that approval had been obtained, I should not be justified in putting the clause to the Council. I am now satisfied that that sanction has been obtained and clause 2 is open to discussion by the Council. Perhaps, I might suggest to the draftsman of the Crown that they might consider the advisability of either reciting in the Bills themselves any sanctions which are required by the Government of India Act or at any rate endorsing the fact on the Bill. If they are neither endorsed on the Bill nor contained in the Bill, it makes it somewhat difficult for the Chair to exercise its functions under the Act.

Clause 2 is now open to discussion.

I shall then put the amendment already moved by the Honourable Mr. Crerar, which runs as follows:

"That for sub-clause (2) of clause 2 of the Bill the following be substituted, namely:

'(2) In clause (j) of the same sub-section, after the word 'Rangoon' the words 'and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind' shall be inserted'."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

The HONOURABLE SAIYID RAZA ALI: Sir, the question that is involved in the consideration of clause 6 is practically the same as that which has been disposed of by this House while considering clause 2. Sir, the only

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thing that I would point at this stage is that I believe it is rather unfair for the Government Benches to take advantage of what is purely a technical plea. The plea has been raised by the Honourable the Home Member that under section 65, sub-section 3, no Court can be invested with this jurisdiction unless the sanction of the Secretary of State in Council is obtained. Now, that is a very strong plea but my submission is that, when the consideration of the revision of the Code was involved, then it might have been well for Government to have obtained the sanction of the Secretary of State in respect of more Judicial Commissioners' Courts than three and leave the choice of the Courts to the Legislature.

The HONOURABLE THE PRESIDENT: I think that point has already been decided. The Honourable Sir Malcolm Hailey gave an answer not only on the technical point but on the merits and the Council, by passing clause 2, gave its decision.

The HONOURABLE SAIYID RAZA ALI: I am not speaking on the merits. So far as the merits are concerned, the matter has been disposed of by this House, but I am speaking only on the technical plea put forward by Government which is a very bad plea.

Clauses 6, 7, 8, 9 and 10 were added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That for clause 11 of the Bill the following clause be substituted, namely:

'11. In section 266 of the said Code, after the word 'includes' the following words shall be inserted, namely:

'the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind and '."

This is a drafting amendment for reasons similar to those applicable to my second amendment and is necessitated by an entry in the second schedule of the Repealing and Amending Bill. I do not think I need add to that explanation.

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clauses 12, 13, 14, 15, 16, 17, 18 and 19 were added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That after clause 19 the following clauses be added, namely:

'19A. In section 390 of the said Code, after the word 'shall' the words 'subject Amendment of section 390, Code to the provisions of section 391' shall be inserted. of Criminal Procedure, 1898.

19B. In sub-section (1) of section 391 of the said Code, for the words 'is sentenced' Amendment of section 391, Code to whipping in addition to imprisonment in a case of Criminal Procedure, 1898. which is subject to appeal' the following shall be substituted, namely:—

'(a) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(b) is sentenced to whipping in addition to imprisonment '."

The object of these two additional clauses is to give effect to clauses 21 and 22 of the Bill as passed by the Legislative Assembly and to effect the necessary reconstruction in section 391. I may point out to the Council that

on a close examination of the effect of the two clauses in the Bill which I have mentioned, the following consequences will happen. If a convicted person were sentenced by a Magistrate to a sentence of whipping only, that sentence would ordinarily have to be given effect to immediately, and unless some special provision is made, the only remedy which is left to the convicted person is to make an appeal after the sentence has already been carried out. It is true that if his appeal is successful, he will succeed in having removed from himself the stigma of the sentence but not the other consequences of the sentence. I think that is sufficient to explain to the House the purpose of these additional clauses.

The HONOURABLE SAIYID RAZA ALI: Sir, it is a pure matter of procedure whether these two parts are put together to vote or separately. Now, coming to the substantial question, I was not able to follow the argument of my Honourable friend. I do not know how in view of the right of appeal that has been given by the other House to the accused who is sentenced to whipping, that sentence can be carried out without the appeal being disposed of. Section 391 of the original Code says:

"When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence"

The state in which the change brought about by the Assembly has left the law is not, I am free to confess, very satisfactory. But all the same, I do not think the amendment of my Honourable friend improves matters. If I understand his amendment correctly, the result will be this. If a man is sentenced to whipping and if he is unable to furnish security, it will be open to the Magistrate to have the sentence carried out there and then because there is no provision to the contrary. The amendment of my Honourable friend presupposes that the man will be willing and able to find security. Let us take the case, Sir, in which the man is unable to find security. What is going to happen then? The clear meaning of the amendment, as it stands, will be, Sir, that it will be open to the Magistrate in spite of the fact that the sentence of whipping has been made appealable to carry out the sentence. I submit, Sir, that some steps should be taken by Government Benches to remedy this state of the law. The amendment, if accepted, will bring about the following change in the law. The section will read thus:

"When the accused is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or is sentenced to whipping in addition to imprisonment, the whipping shall not be inflicted until fifteen days from the date of the sentence."

So that, in case the man is not able to furnish security, the Magistrate will have power to carry out the sentence, which I am sure is not what Government desire. Therefore, I would submit that the law should be changed something on the following lines, i.e., that the word "furnishes" should be substituted by the words "is unable to furnish." The section will then read:

"is sentenced to whipping only and is unable to furnish bail to the satisfaction of the Court, etc."

Then, in that case, the law should provide for the man to be detained in jail till fifteen days. I think it will be hard on the man, but that would be much better than the state of the law which will be brought about if

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the amendment of my Honourable friend is accepted. I hope, therefore, that Government will see their way to reconsider this question.

The HONOURABLE SIR MALCOLM HAILEY: I am sorry that Mr. Raza Ali was not able to follow Mr. Crerar's statement of the case. I will, if the House will allow me, again endeavour to put the facts before the House although in different language. The present provision of section 390 of the Criminal Procedure Code is as follows:

"When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct."

That is usually held to make it incumbent on the Magistrate to execute the sentence as soon as possible, because, if that were not done, the sentence of whipping only would obviously be converted into one of whipping *plus* imprisonment. There is at present no provision for giving bail before execution of the sentence. Now, if my Honourable friend will turn to section 3 of the Whipping Act, he will find that in a considerable number of cases, the accused may be sentenced to whipping in lieu of any punishment to which he may be for such offence liable under the said Code; and Magistrates frequently, and quite rightly, prefer to give a sentence of whipping only in order that offenders, especially juvenile offenders, may not be detained in jail. Indeed, one object of that section of the Whipping Act was to allow whipping to be inflicted instead of making the offender what is usually known as a 'jail bird'. The Assembly considered that in every case, that is, not only in cases where whipping is given in addition to a sentence of imprisonment but also in cases where a sentence of whipping only is given, there should be an appeal. At once we were met with the difficulty presented by section 390. If the accused desired to appeal, then how were we to provide for the period, sometimes rather a long one, between the sentence of the Magistrate's Court and the date of the appeal being heard? A sentence of whipping only cannot be held to cover detention in jail during that period. We thought that the proper course was to provide that if the accused could give bail, then the Magistrate should release him pending appeal. That was the course indicated to us by some of our friends who pressed for an appeal. The Honourable Saiyid Raza Ali objects to this clause of ours on the ground that if a man cannot give bail, then the Magistrate would have option to execute the sentence of whipping. But what other option has the Magistrate? He has not the option of keeping the offender in prison, because a sentence of whipping only has been inflicted; he ought not to liberate a man under sentence without taking bail from him. He is proposing, as I understand, a redraft of our amendment, which would convert a sentence of whipping only into a sentence of whipping with imprisonment. That seems to me improper. I do not think that in substance there is any real hardship. After all the Magistrate in a somewhat petty case of this kind can always take bail of a small amount, and there should be no great difficulty in providing bail in such cases. As I said, as between the two alternatives, I have no doubt that it is far better that we should accept that which we have put forward, rather than Saiyid Raza Ali's alternative which is whipping *plus* imprisonment. Everyone knows the undesirability of keeping juvenile offenders in jail. Our constant endeavour is to induce Magistrates to avoid sentencing juveniles to short terms of imprisonment in jail. We have in our new Code provided special sections whereby juvenile offenders can be released on probation. I think one can hardly read a single report on the administration of criminal justice in which a Local Government does not

again impress on the magistracy the undesirability of sending juvenile offenders, or indeed sending anybody else to jail for short terms of imprisonment and yet that is the alternative which Saiyid Raza Ali offers to us.

The amendment was adopted.

Clauses 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move that the clauses of the Bill be re-numbered in consecutive order.

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, and amended by the Council of State, be passed.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I think that as a non-official European elected Member of this Council—the only one in this Council at present—it is but fitting that I should rise at this stage to express my cordial approval of this Bill. The Bill presents itself, Sir, to me not so much in the light of a compromise—to which word I am not particularly partial,—but rather as the outcome of a studied spirit of concession from two opposite schools of thought. This spirit of concession, characterised as it has been by marked restraint, has been very welcome and to my mind augurs well for the future progress of reforms in this country. I sincerely express my approval of this Bill.

The HONOURABLE SAIYID RAZA ALI: The only thing I would say at this stage is that we are perhaps fortunate in having considered this Bill clause by clause. About the attitude of Government I would just say one word. Government no doubt helped the two parties to come to a compromise and did not, I may say, place any difficulties in their way. All the same it must not be forgotten that Government were impervious to all the attempts that were made in another place to improve the scope of the Bill. The entire ground was fought inch by inch and they did not yield on any single point. There was only one small amendment that was made in the Bill in another place and that was to give the accused the right of appeal from a sentence of whipping. That amendment was carried by a large majority in spite of Government opposition and it must be acknowledged that by skilful manœuvring, and I use the word without any offence, Government have so managed things that that amendment is practically killed in this House. I do not know whether we all of us realise the significance of the position but that amendment stands killed. This Bill must go back to the originating Chamber for its concurrence in this amendment. As to what will be the attitude of that Chamber is more than I can say but I do not think, Sir, Government are entitled to any congratulations from us on the attitude they have taken up on this question. If one concession had been wrought from them, Government ought to have allowed it with good grace. That however is not what they have done. As to the broad features of the Bill I do not want to inflict another speech on this Chamber. The only thing I can say is that whether this Bill satisfies the advanced wing of both parties or not, I for one am prepared to accept this measure as on the whole satisfactory.

The HONOURABLE SIR MANECKJI DADABHOY: I did not desire to speak at this final stage but I do not think I can allow the statements just now made by my Honourable friend Saiyid Raza Ali to pass unnoticed. I think he has indirectly paid a poor compliment to this House and especially to his non-official colleagues when he stated that Government has killed an important amendment made in the Assembly by incorporating in it something new here. If my Honourable friend is zealous and watchful of the interests of the people, he must give us a little credit also for watching the interests of the people of this country. After the convincing and explicit explanation given by Sir Malcolm Hailey, after the clear manner in which it was indicated that unless the words about the bail are added there will be no option to magistrates but either to carry out the sentence of whipping or to send juvenile offenders to prison, a policy which has been deprecated throughout the country, it does scarcely lie in the mouth of my Honourable friend to say that the Government and non-official Members have killed what was said to have been an improvement made in the Bill in the other House. I therefore take exception to his remarks as a non-official Member of this Council and I say that his remarks were both unnecessary and uncalled for.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras: Non-Muhammadan): Sir, I have only a word to say on this subject and it is this. Personally I think that whipping as a form of punishment is a relic of the past and should be done away with. It is so repugnant to our enlightened conscience. If at all it is to be retained, it should be confined to juvenile offenders alone. I hope the Government would see its way to take away this kind of punishment in the very near future.

The HONOURABLE SIR MALCOLM HAILEY: I would not have wished to prolong the discussion after what Sir Maneckji Dadabhoy has said were it not that I feel that Mr. Raza Ali has done us somewhat less than justice. Those who follow closely European politics and study continental newspapers, must often be astonished at their comments on British policy. Again and again, when we have done something that seemed to us ourselves merely obvious and straightforward and to our critics at Home so obvious as almost to be stupid, the continental newspapers ascribe to us an attitude of Machiavellian hypocrisy. Something like that has occurred in this case. We accepted an amendment regarding whipping. We took exactly the course which our friends in the other House suggested to us; we did nothing more than to ask our draftsman to put it in his own words. We had no ulterior motive. We decided to make it possible for a Magistrate who had condemned a person to whipping to release him on bail in order that he might appeal. We did not care to face the alternative of forcing the Magistrate to send him to jail or compelling him to set him at large without bail in order that he might pursue his appeal. There were those indeed who thought that in spite of the vote in another House we should not have accepted the provision for an appeal; but in view of the way in which it has been pressed upon us, and in view of the general attitude of that House on the subject of our Bill at large, we thought it advisable to accept the decision and to ask this House to endorse it. But Saiyid Raza Ali finds it within his conscience to describe us as manœuvring in order to render null and void the whole of the appeal provision. I can only say that he gives us credit for an amount of cleverness which I am sure we do not possess and a degree of dishonesty which I am the first to repudiate.

He complains that throughout we have maintained an attitude of rigid opposition against amendments proposed in the other House. We had, I think, there about 50 amendments. It is true that we opposed them, and for reasons which I am prepared to justify. A large number of those amendments, in the first place, harked back to a Bill put forward some two years ago, which proposed to withdraw entirely all the privileges now enjoyed by Europeans; they overlooked entirely everything that had happened in the meanwhile,—the Committee, the concordat, the general agreement of the public with our present measure. We opposed them, and the House agreed with us in rejecting them. Other amendments we opposed because they struck at the root of the instructions that were conveyed to us by the Home Government, I mean as regards the protection of Dominion subjects. We obtained the statutory approval which was necessary to this Bill on certain terms, and we could not therefore agree with those who attacked those terms in the Assembly. Obviously, we had to oppose such amendments; but if we did so, we could hardly be described as obstructive, or as reactionary. And again, in this case also, the House agreed with us. Other amendments we opposed because we thought they were not improvements on the Bill; and here again we carried the votes of the House. But, indeed, is it not somewhat illogical to describe the attitude of Government in such matters as obstructive? We are not in the days of the Morley Council. We go into a popular Assembly with some twenty official votes, and have to face over 100 non-official critics; if we oppose a proposal we can only oppose it on the merits; we can attempt to persuade or convince; we cannot, like our opponents, whether convinced or not, whether with reason or without reason, vote a proposal down by mere force of numbers. We can make appeal to reason only,—and on this particular occasion we seem to have made an appeal to reason not without effect. We made, no concessions there; and, if I am taxed with making no concessions here, I may remark that if they had been made, we should have yielded to a minority of one.

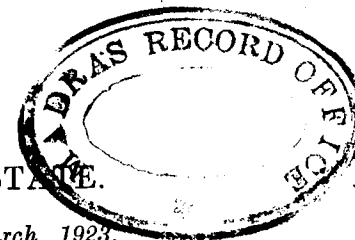
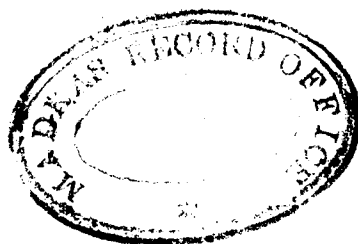
The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings, as passed by the Legislative Assembly and as amended by this House, be passed."

The motion was adopted.

The HONOURABLE THE PRESIDENT: That terminates the business of the Council for to-day.

The Council then adjourned till Eleven of the Clock on Monday, the 5th March, 1923.



COUNCIL OF STATE.

Monday, the 5th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

MEMORIAL FROM MRS. SUNDAR BAI PALSHIKAR.

160. The HONOURABLE MR. PHIROZE SETHNA: (a) Will Government be pleased to state whether they have received a memorial from Mrs. Sundar Bai Palshikar, wife of Krishnarao Ramrao Palshikar of Indore, now residing at Cawnpore?

(b) Is it true, as stated in the memorial, that the said Krishnarao Palshikar is a first class Sardar of the Deccan and a British Indian subject as well as a subject of the Indore State?

The HONOURABLE MR. J. P. THOMPSON: (a) Government have received a memorial from a lady styling herself as stated in the question.

(b) No such name appears in the latest list of the Sardars in the Deccan, published in the Bombay Civil List of 1st July 1922 and Government cannot say whether the gentleman referred to is a British Indian subject.

CODIFICATION OF HINDU LAW.

161. The HONOURABLE MAHAMAHOPADHYAYA DR. GANGA NATH JHA: Will Government be pleased to make available, for the information of Honourable Members, the replies that have been received regarding the codification of Hindu Law?

The HONOURABLE MR. J. CRERAR: Copies of the replies have been placed in the library of the Legislature.

STATEMENT LAID ON THE TABLE.

The HONOURABLE MR. J. CRERAR (Home Secretary): I lay on the table the information promised in reply to a question by the Honourable Mr. Kale in the Council of State on the 24th January, 1923, regarding the cost of Professor Horne's deputation to America.

The total cost of Professor Horne's deputation to America, including the cost of salary, passages and all travelling allowances, amounts to Rs. 37,573 according to figures supplied by the Local Government.

RESOLUTION RE IMPOSITION OF AN EXPORT DUTY ON BENZINE AND PETROL.

The HONOURABLE THE PRESIDENT: The Council will now resume the further discussion of the Resolution* moved by the Honourable Rai Bahadur Lala Ram Saran Das on the 19th of February.

* "This Council recommends to the Governor General in Council to take into immediate consideration the desirability of imposing a duty on benzine and petrol exported from Burma and other Indian Provinces to foreign countries."

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I have to move an amendment to the Resolution and it will be:

"That after the word 'duty' the words 'of not less than 6 annas per gallon' be added."

In moving this amendment I should like to draw the attention of the House to a few interesting facts in connection with the export and the production of petrol in this country. From the information which has been given on behalf of Government it appears that the production of petrol in Burma amounts to about 32 million gallons per year, and from the figures which were supplied by the Honourable Mr. Chadwick in reply to a question put to him in this House a few days ago, it appears that for the five years from 1917-18 the export of petrol from Burma and other provinces amounted, on an average, to 23 million gallons a year. The excise duty during the same period was, on an average, 45 lakhs per year. It appears from these figures that only 12 million gallons of petrol paid excise duty. I do not know exactly what the balance of production in India was or whether that production paid any excise duty or not. From an answer given to a question relating to petrol in the other House recently, it was pointed out that the petrol supplied to the Army Department did not pay any excise duty. Perhaps the difference between the figures which I have given to the House may be accounted for by the fact that the petrol supplied to the Army Department has not paid an excise duty. Another interesting fact to be noticed is the very small amount of the cost of production of petrol in Burma. If six annas per gallon were to be added to that cost, which has been declared to be the value of petrol exported from India, and which seems to have been accepted as the value by Government, the value should come up to 8 annas per gallon; but, as a matter of fact, the price that the public has to pay is something like Rs. 1-12 or Rs. 1-14, so that the companies concerned are making a profit of more than 200 per cent. I do not know why the Government of India should be powerless in not being able to compel these companies to reduce the price of petrol supplied to the Army Department. If they are exempted from duty there is no reason why the petrol companies should extort from Government and indirectly from the public a higher price than is really justified. If all the petrol produced in India had paid excise duty it should have produced, on an average, Rs. 80 to 90 lakhs, so that there is a leakage of 40 lakhs per year, and I do not know to what extent that leakage is to be accounted for by the explanation I have given, namely, that petrol supplied to Government does not pay this excise duty.

It has been suggested in a question which was put in the other House that there is a powerful combination among oil producers. It appears that a very large quantity of petrol known as shell petrol, is sold in this country, but from statistics of imports one finds that, except for a very small quantity imported into this country, shell petrol does not seem to come into India to any appreciable extent. So, there is a kind of agreement between the Burma Oil Company and the Shell Company perhaps and that agreement enables them, if I may put it so, to evade the duty which legitimately the companies ought to pay. I should like to draw the attention of Government, therefore, to this important feature, namely, that they must make these oil companies pay the proper duty. If the Government were to levy an export duty of 6 annas per gallon, the addition to the amount of revenue received by Government would go up to something like 80 to 90 lakhs of rupees per year. Now, when we are thinking of making up the deficit in

the Budget for next year, I do not think that this amount is a negligible one. I wonder why the attention of Government has not been drawn to this important productive source of revenue up to this time, and I have no doubt that when all the facts are taken into consideration Government will see their way to impose an export duty of 6 annas per gallon, corresponding to the excise duty. From the figures of the excise duty collected during the six months ended in last September it appears that about 40 lakhs were realized from the duty. If the progress that is indicated by this figure is maintained during the remaining six months of the official year, then perhaps the duty might amount to 80 lakhs; and if we have another 40, 50 or 60 lakhs from an export duty, I think it will mean a substantial addition to the resources of Government.

With these words, therefore, I commend this amendment to the favour of this House.

The HONOURABLE THE PRESIDENT: To the Resolution which is under discussion the amendment has been moved:

"That after the word 'duty' the words 'of not less than 6 annas per gallon' be added."

That amendment and the original Resolution will be susceptible of discussion together and are therefore now open to debate by the Council.

(At this stage the Honourable Sir Maneekji Dadabhoy took the Chair.)

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, last week the House did me the courtesy of adjourning the debate on this Resolution, and I wish to express my appreciation to it for that courtesy. As the Budget has now been published, it enables us to place before the House all the facts which guided the Government in coming to their conclusions; and if I put those facts before the House I think it will aid us very much in our discussion of this question to-day. It is a question which, I think, has very rightly been brought for discussion in this House. It has attracted an enormous amount of attention among the motoring section of the public, who feel somewhat annoyed and irritated at the high price they have to pay for petrol. They recognise that this is to some extent due to the excise duty. The statement that the excise duty is a duty on consumption and is not thereby imposed upon exports does not satisfy them. Perhaps naturally; although of course that principle holds entirely for the cotton excise duties. However, Sir, they also point out by an arithmetical calculation that if we place an export duty on petrol we shall get something like 75 to 80 lakhs as my Honourable friend Mr. Kale says. Before I come to that there is one little point I want to clear away completely. It is not material really to the arguments put forward by those who advocate an export duty, though it does to some extent cloud the issue. They have examined the old Sea-borne Trade returns and, from the figures they saw there, deduce that the Oil Companies declare the value of petrol exported from Burma at 1½ annas per gallon. Comparing that figure with the price they have to pay for petrol they are naturally amazed. Well, Sir, my only regret was that the zeal of those who studied our statistics did not carry them a little further in their search for knowledge, because had they looked at a volume later than that which ended with the trade of 1920-21, they would have found that the price of petrol was not declared at 1½ annas but at over Rs. 1-2 a gallon. I will explain very quickly what happened. In the early years of the Oil Companies in Burma the product sought for was

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kerosene. In those days—it seems strange to us now—petrol was of practically no value. It was either thrown away, burnt or otherwise destroyed. Then a demand, a small demand, began to spring up in Europe. Petrol had no market value in Burma or in India. The Collector of Customs for the time being had to assess a value and took the arbitrary value of $1\frac{1}{2}$ annas a gallon. Right back at the beginning of the century or at the end of last century, that ruling became enshrined as a standing order in the Statistical branch of the Rangoon Customs Department, and one can understand how that venerable order stood firm for all those years. The Burma Oil Company returned the true value, but a Collector of Customs at once said that the value of petrol for purposes of export was $1\frac{1}{2}$ annas and therefore in the eyes of the Statistical Department it was $1\frac{1}{2}$ annas.

The other portion of that story is that after a time a demand for petrol sprang up in India and petrol was exported to India. Then it was brought into the returns of coasting trade; but that venerable order said nothing about the coasting trade; so the Statistical Department entered in the returns of the coasting trade the actual declared value of the petrol. The result is, we have an absolute absurdity in our old returns, namely, that the same petrol exported to India is shown at an average of Re. 1, and in our Sea-Borne Trade figures at $1\frac{1}{2}$ annas a gallon. Fortunately, Sir, for Government, the first person who detected the absolute ridiculousness of this was the Collector of Customs, Rangoon. A year ago, that is, in February 1922, he slew that old order, and in the monthly volumes of our Sea-Borne Trade which are published every month those beginning with April, 1922, show the correct value of petrol and all the back figures given in those issues were corrected. I apologise, Sir. I am extremely sorry we laid this trap for students of statistics. It was done quite unwittingly. I am also sorry, Sir,—perhaps I may be allowed to say so—that their thirst for information was satisfied when they came to such amazing results and that it did not lead them to look into some of the later returns. The annual sea-borne trade returns for 1922-23, published in October last, gave the correct value of petrol exported oversea.

I trust by that short explanation three things have been done. I have exploded the idea that Oil Companies have been making false declarations. That they have not done. Secondly, I trust the deduction made from these figures, namely, of excessive profiteering as far as it is based on those figures, falls to the ground. And thirdly, I hope the House will accept my apology for the mistake that has occurred in the early returns and will recognise that it was corrected before this agitation really started.

Now, Sir, I come to the main point. I ask the House to dismiss this $1\frac{1}{2}$ annas per gallon entirely from their minds. We shall have to deal with other and more important figures, and it is necessary to keep those perfectly clear. The assumption really as it appears to those who advocate an export duty, is that this export duty will be paid by the foreigner and that we are losing a great deal of revenue. But that first conclusion needs a little bit of examination.

The total exports of petrol from Burma, as has been pointed out by my Honourable friend Mr. Kale, are 20 million gallons. That, Sir, is a mere drop in the consumption of petrol in the world. Take the imports into the United Kingdom alone. They are 210 million gallons, to say nothing of the consumption in other European countries. From 200 to 210 million

gallons for one country alone. It is perfectly clear, therefore, that a Company which can handle 20 million gallons cannot rule the world's competitive price when the total consumption in only one country is over 210 millions. There are free markets in the world. There is a free market for petrol in the United Kingdom where it has to be sold at a competitive price. We have had plenty of evidence that this competition between oil companies exists in the statements that have been made in the papers of the anxiety of the contending companies to get oil concessions in different parts of the world. Well, Sir, since the war three countries have tried an export duty, Mexico, Rumania and the Dutch East Indies; and it is worth while to see what their experience has been. Mexico from the very old days had only one tax and that was a very small export duty. It did not trouble over income-tax, or royalties or all those other duties which companies in India pay. After the war Mexico endeavoured to impose a real export duty and before a year was over she dropped it; she dropped that export duty altogether because she found that it did not increase her revenue. Production was lessened. Rumania and the Dutch East Indies also tried export duties and I would rather like the House to see the kind of export duty they put on. One of them put on a duty of half an anna a gallon and the other put on quarter of an anna a gallon. In both cases production dropped. The revenues expected were not obtained and within a year they abandoned their export duty. Sir, those facts alone are sufficient to warn us that we have very little chance of getting this export duty out of the foreigner, i.e., the foreign buyer. Other countries have failed to do it. Our exports are small compared with those of those other countries, very small, and there is no likelihood whatever that we would be able to succeed where they failed and least of all if we put on such a big sum as six annas a gallon.

There is another point. We may accept it as a rule that any taxation on commodities is passed on to the consumer or at any rate those that handle that commodity will do their best to pass it on to some consumer; it may be to foreign buyers or it may be to the people of our own country. It is immaterial to the company which handles the product how it recoups itself for the taxation that is imposed on it. Petrol is only one of the products from crude oil; another and much more important one is kerosene. We have to consider the position of India in regard to kerosene. Burma sends to India 100 millions of gallons of kerosene a year. She exports to foreign countries, as we have said, 20 millions of gallons of petrol. Therefore for every gallon of petrol exported by Burma to foreign countries five gallons of kerosene are sent from Burma to India. I would ask the House to try and keep that proportion in their minds—five gallons of kerosene to India to one gallon of petrol exported outside. India also imports from 50 to 80 million gallons of kerosene from abroad; that is, her supply from Burma is insufficient for her needs. Therefore, Sir, under the ordinary rules of supply and demand if from $\frac{1}{5}$ to $\frac{1}{4}$ of our total consumption of kerosene is obtained from foreign countries, the price of kerosene in India would normally be that of the imported article. The world's competitive price would fix the normal price of kerosene in India. But, Sir, the position in regard to kerosene in India is peculiar. In the old days, the end of the last century, the Burma oil fields supplied all India's needs of kerosene. Since then consumption has increased enormously. As far back as 1905 the Burma Oil Company, the biggest of our local suppliers, sold its inferior kerosene at Rs. 2-14-0 per unit of eight gallons. It maintained that price right through up to 1919. The

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costs of production were increasing; the cost of foreign kerosene rose abnormally, freights rose very much and those who were here in 1919 will know and remember to what height the prices of foreign kerosene rose. They rose to such an extent that while the Burma Oil Company continued to charge Rs. 2-14 opportunity was afforded for a whole crop of intermediary profiteers to buy it and to sell it in the bazar in retail at exorbitant prices. When that state of affairs came, there were only three courses open to oil companies; one was to allow this irregular profiteering, which was causing much irritation, to continue. The second was to put up their own prices to the world's competitive prices, which is the normal thing in trade. The third was to endeavour by some means to increase the total supplies of kerosene in India so as to supply India's needs at something like a reasonable figure. It is this last course that they adopted. In combination with the biggest importers of kerosene into India, *viz.*, the Asiatic Petroleum Company, they came to an arrangement, an arrangement which has been extremely beneficial to India and it was this. The Burma Oil Company put into a pool the whole of its supplies of kerosene, inferior and other, and the Asiatic Petroleum Company bought in the world's market from time to time sufficient kerosene to supply the estimated needs of India. The market price at which the combined kerosene was sold was the mean between the price of the Burma Oil Company's inferior kerosene at 2-14 per unit, the old price of 1905, the price of the superior kerosene that it had to put in, and the market price of the foreign kerosene that the Asiatic Petroleum Company bought. The result was that India has been getting its kerosene at prices below the world's competitive price. That agreement was a voluntary one. Government was not a party to it and it has been loyally observed till to-day. To-day the price of inferior kerosene in India is three annas a gallon below the world's competitive price. To show roundly what this meant to India, I may say that the Chairman of the Burma Oil Company in his speech at the annual meeting in 1920, said that had the Burma Oil Company been able to obtain the full market value in India of its kerosene, their profits would have been increased by £4 millions; *i.e.*, as a result of keeping this average price constant in the manner indicated above, India has been saved that sum. In the years since that date he claims that India has saved something like Rs. 33 crores on what she has had to pay for kerosene. These are arithmetical calculations somewhat analogous to those which my Honourable friend Mr. Kale has made. I only quote them to show the magnitude of what this pool arrangement may have meant to India.

Now, I think the position is becoming clearer and the considerations which have moved Government are, I hope, becoming more apparent. If an export duty is levied on every gallon of petrol sent abroad and the cost to the company increased thereby, they will naturally try to recoup themselves as well as they can, they will naturally recoup themselves in the market in which they are strongest and on the commodity over which they have the biggest control; that means to say, it will in all probability come down on kerosene in India. That voluntary agreement, which is still being observed, and which is very useful to this country, will go. My Honourable friend, Professor Kale, will see that with a consumption of 100 million gallons of kerosene here and with an export of 20 million gallons of petrol, the companies have only got to raise the price of kerosene by one anna a gallon in order to recoup themselves for five annas a gallon export duty on petrol. Apart from all theories of export duties, that, Sir, is the

practical point which I very much want the House to consider and which has weighed with Government in this matter. The whole question has been considered most carefully and I would summarise it very briefly as follows. A tax of an anna a gallon on exports of petrol, if you assume those still remained at 20 million gallons, would be Rs. 12½ lakhs a year, or if it is, as now proposed by Professor Kale, at a rate of 6 annas a gallon, it would arithmetically, theoretically, bring in Rs. 75 lakhs a year. The experiences of other countries, which have tried these export duties on a very much smaller scale, make it perfectly clear that it would be quite impossible to put on an export tax of anything like 6 annas a gallon on petrol. The only result would be that the export trade in petrol from Burma would be destroyed, that is to say, as far as Government is concerned, we should get no revenue from the export duty or practically nothing. At the same time we should gravely injure those oil companies in India. We should make their surplus petrol unsaleable and it is extremely probable that they would endeavour to recoup themselves for the loss of these profits by increasing the price of kerosene in India on which at present they have a margin of 3 annas a gallon. The net result, therefore, would be that, while on our examination of the position, we entirely fail to see that we get any considerable revenue from this export duty, we have every reason to believe that the effect of that export duty will be to increase by at least one anna a gallon the price of kerosene in India. Moreover, I want to point out that that increase in the price of kerosene in India would not come into the coffers of Government; it will go into the pockets of the oil companies. Therefore, Sir, I feel that a vote to-day for an export duty on petrol will in actual effect be a vote for maintaining or possibly raising the price of kerosene to the detriment of the very large number of consumers in this country and that it will profit the Oil Companies and not the Government revenues. I am extremely indebted to the House—the House will have seen from the arguments which I have presented, how impossible it would have been for me to have dealt with all these figures before the Budget was issued—I repeat I am extremely indebted to the House for adjourning the consideration of this question so that it could be debated to-day.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, the Honourable Mr. Chadwick thanked the Council for the courtesy extended to Government in not pressing to a vote the Resolution moved by the Honourable Lala Ram Saran Das a few days ago. The Council asked for a postponement themselves because they had hoped that in reply to the numerous representations made to the Finance Department by public bodies as also by private individuals, Government would see their way to include an export duty on petrol in the Budget. In that we have been disappointed. Neither the Honourable the Finance Member in the other place nor the Finance Secretary in this House in the first instance gave us any reasons as to why such export duty was not included. But to-day, Sir, we have had a very long explanation and an array of figures from the Honourable Mr. Chadwick. Sir, immediately following, as I am, the Honourable Mr. Chadwick, in the speech he has made it is not possible to dissect the figures he gave in the manner one would like. But I cannot help saying that at first sight it strikes me that in spite of his figures we have reason to hold that an excise duty on petrol will be beneficial to this country. The Honourable Mr. Chadwick first of all apologised for the mistake made by Government in allowing the price of petrol to remain in Government publications at only 1½ annas per gallon for such petrol as

[Mr. Phiroze Sethna.]

was exported. We accept the explanation, but it leads one seriously to think that if mistakes of this kind are allowed to creep into Government blue-books, then we cannot always accept their figures and statements as gospel but must do so *cum grano salis*.

However, after the explanation that he has given about the cost of the petrol to the Burma Oil Company being Rs. 1-2-0, he said that because the price is that and because other countries like Mexico, Rumania, and the Dutch Indies, have tried an export duty and have failed, we shall also meet with the same fate if we likewise impose an export duty. He has not told us whether the cost of production of petrol in those countries is the same as here. I take it that it would be much higher on account of the cost of labour being higher in those countries. Assuming, however, that the price of petrol in those countries is the same as here, namely, Rs. 1-2-0 per gallon—and he has told us that the export duty in these countries was the equivalent of either half an anna per gallon or a quarter anna per gallon. He added that the trade could not bear this extra burden and the export duty had to be dropped. If my Honourable friend has worked out figures he will find that half an anna or a quarter anna on Rs. 1-2-0 represents an increase in the price of only $3\frac{1}{2}$ per cent. or $1\frac{3}{4}$ per cent. and does the Honourable Mr. Chadwick in all seriousness desire this House to believe that in a business like the business of oil companies, the trade could not stand an increase of $3\frac{1}{2}$ or $1\frac{3}{4}$ per cent, as the case may be when these same companies, as we all know, are paying dividends from 40 to perhaps 100 per cent. and when their shares of £1 stands at £5 and much over? Therefore I say that figures set forth by my Honourable friend Mr. Chadwick require very careful dissection, and I, for one, am not prepared to accept his theory that an export duty on petrol on Burma will prove disadvantageous to our revenue or inflict an injury to the oil companies.

Now, Sir, according to the Act of 1917 a duty of 6 annas was to be levied on all motor spirit produced in India and Burma, and that for as long as the war lasted and for six months thereafter. In 1919 the latter provision was repealed, so that it has been paid continuously till now and will continue to be paid for we do not know how long. When the Act was passed, the country understood—and I believe that the Government in their own minds had the idea—that this duty was to be levied on all petrol which was issued out of the premises of every manufactory in British India. In 1921 I asked a question if the six annas duty was charged only on petrol which was consumed in the country or was also charged on exports. The reply then received from Government was:

“(a) The duty is not levied on motor spirit exported by the owner of a manufactory in British India 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 commodities subject to such duties in order to enable these goods when exported to compete on equal terms with similar goods of foreign markets. In imposing an excise duty on motor spirit the Government of India followed this general principle.”

Taking the figures as they appeared in the blue-books, namely, that the cost of petrol which was exported was only $1\frac{1}{2}$ annas per gallon, the country was right in assuming that the “general principle” referred to by Government in their reply just quoted could not apply at any rate to the oil trade. But after the explanation to-day from the Honourable Mr. Chadwick, we take it that the cost is not $1\frac{1}{2}$ annas a gallon, but Rs. 1-2-0 as stated by Mr. Chadwick or Re. 1 as the oil companies themselves make out. In the returns they submit that when oil is landed for

consumption in this country the value is given by the oil company for customs purposes as Re. 1 per gallon. But whether the cost is Re. 1 or Rs. 1-2-0, I contend that the profits of this business on account of the combine are so very large that a duty as proposed by my Honourable friend of not less than six annas per gallon would not kill the trade, nor, as my Honourable friend said, “gravely injure the oil companies in India.”

I have already told you what the position of the Burma Oil Company is. I have quoted their profits and the price of their shares, from which the House will have seen that the position is perhaps different from what my Honourable friend made out. My Honourable friend has, as it were, presented the view-point, not of the consumer, but of the oil combine. When Government replied to my question or to the representations made by public bodies and private individuals, Government would have done well if they had given us then the explanation which the Honourable Mr. Chadwick has thought right to give to the House as late as to-day. Therefore I repeat that I am not at all convinced, and we cannot decide this point all at once. If, as I say the Honourable Mr. Chadwick has put before us the point of view of the oil combine, then it is but fair that those who hold the contrary view must be given the opportunity to contradict those figures if they can. I am consequently in favour of the Resolution of Lala Ram Saran Dass with the rider added by Mr. Kale, that the export duty should be not less than 6 annas per gallon.

Mention was made of the Shell Company. Every one knows that the Shell Company is an American concern. To a question put in the other House a reply was given that there were only 1,348 gallons of shell petrol introduced in the year 1919-20. Can Government expect any people in their senses to believe that the import of the Shell Company's oil was only 1,348 gallons in a year when we see all around us, all over the country, not hundreds, not thousands, but tens of thousands of tins carrying the label of the Shell Oil Company. And yet the Government reply was correct. The explanation has been given to-day by Mr. Chadwick that the Burma Oil Company fill their own oil in shell oil tins, a process by which the shell oil, a foreign company, robs the Government of this country by thus escaping what import duty it would have paid if it imported its petrol from America.

I contend that the question requires to be looked into very thoroughly. The Honourable Mr. Chadwick holds that this duty will not bring in any revenue to the Government. We who hold the contrary opinion, say, if as originally intended when the Act was passed, a duty of 6 annas a gallon was levied, not only on what is consumed in the country, but also on what is exported, we would by now have had another five crores of rupees in revenue, a sum which would have proved a great help to our finances at the present time. And as the Honourable Mr. Chadwick has told us that if we now charge 6 annas a gallon on petrol exports the income would be about 85 lakhs of rupees. Mr. Chadwick observed that in other countries they experimented for a year, and after that they had to give up the duty. I say, let us experiment in this country also for a year and we will find that the results will be eminently satisfactory from the point of view of the revenues of the Government of India.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I cannot but back up the amendment and the Resolution. The amendment has brought forward specific proposals which, if accepted, will be very useful. By this we will kill two birds with one

[Colonel Sir Umar Hayat Khan.]

stone; on the one hand we will get revenue by imposing a duty, and on the other hand we shall get cheap petrol and kerosene oil. Sir, being a zemindar, I do not see it from the point of view of motor cars only. There are numbers of agricultural colonies which have sprung up in the Punjab in the last two or three decades, such as the Colonies of Upper and Lower Jhelum, Lyallpur and Chenab Canals. There is another Colony coming into existence, that is the Sutlej Valley Project and irrigation is also going to be extended to the States of Bahawalpur and Bikanir, which have got vast lands. On the top of all that a very large tract of country called the Sind Sagar is to be irrigated. Where will the tenants for these lands come from and from where will the proprietors get their labour? They will have to use tractors and other implements and they will require kerosene oil, and petrol, etc., and I think it is necessary for the prosperity of the country to do something of the kind that has been asked for, so that when the time comes, when these tracts are irrigated, they will be able to use implements with cheap oil. There is one of my relations, Sir, who bought a tractor, and we calculated that with this dear kerosene oil he lost money. If he had had bullocks and ordinary tenants, he would have run it cheaper than with the machine and he was losing two or three rupees a day. But if there was some means by which the oil could be made cheaper, the tractor could have taken the place more cheaply of the men workers and the bullocks. Already we find, Sir, that the number of tenants is growing less and less and I think we should look ahead. Then again there are many other small machines used by zemindars which require kerosene oil, such as those for ginning, grinding and some others. So that if we can do something in the way of cheapening kerosene oil, etc., it will be for the prosperity of the country. India is a country which is mostly agricultural, and it is for this reason that I very strongly support the Resolution which would be useful for all those who require kerosene oil and petrol.

The HONOURABLE MR. D. T. CHADWICK: May I make a personal explanation. I gather my Honourable friend has misunderstood me. I pointed out that this duty would result in an increase in the price of kerosene oil, not in a decrease.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I rise to support the Resolution with the amendment of my Honourable friend Mr. Kale. The Honourable Mr. Chadwick, in his reply, said that the levy of excise duty should not be objected to, and in support of it he cited the instance of cotton piecegoods. Perhaps he did not realise then, Sir, that there is very little export indeed, if any, of cotton piecegoods, and the excise duty in this connection has been objected to, but without any result because of the Secretary of State's orders. It is not that we like an excise duty on cotton goods; we do not like it, but we have not been able to remove it. And I may say that we expected that the Finance Department would have in this year's budget removed it, but they have not been able to do so. Still it is a duty we accepted under protest. Moreover it cannot have any analogy with the duty on petrol because there is very little, if any, export of cotton piecegoods compared to what there is of petrol. The other argument used by my Honourable friend Mr. Chadwick was that only 20 million gallons of petrol are exported from Burma to the United Kingdom, while, if I remember the figures aright, he said about 200 million gallons are

imported by the United Kingdom from other places, and that consequently, if a duty of, say, 6 annas a gallon is levied, it will fall on the oil merchants of Burma, and that they will not be able to sell in the market in the United Kingdom and may have to close down the wells. I do not think that it is likely that the levy of duty will lead to this result, because, in spite of the freight that they have to pay over these thousands of miles, they are able to get the same price as before and make huge profits, as my Honourable friend Mr. Sethna has shown.

The HONOURABLE MR. PHIROZE SETHNA: In spite of the duty.

The HONOURABLE MR. LALUBHAI SAMALDAS: In spite of the duty. So that, if we put a duty of six annas, there is a duty in England . . .

The HONOURABLE MR. D. T. CHADWICK: I do not think there is any duty in England.

The HONOURABLE MR. PHIROZE SETHNA: I think it is six pence per gallon in England.

The HONOURABLE THE CHAIRMAN: I do not think the Honourable Member ought to be interrupted.

The HONOURABLE MR. LALUBHAI SAMALDAS: I do not think the trade of 20 millions will in any way suffer. Nor do I think the oil magnates will in any case have to suffer; I think they will be able to pay six annas per gallon and yet make a profit, though a smaller one, and India will gain Rs. 80 lakhs. That figure will, I think, be accepted both by the Honourable the Finance Secretary and by the Honourable Mr. Chadwick as the income at six annas per gallon on 20 million gallons. When India is trying to balance her own budget, she ought to try and look at all the available sources of income, and it is rather strange that it never occurred to the Finance Department to adopt this source of income and only to adopt another source which is the most unpopular tax in the country; but that is by the way, Sir.

Now, coming to kerosene, I do not think my Honourable friend Mr. Chadwick was quite correct when he said that, even if India had to import 50 to 80 millions of gallons from outside—if I am wrong in my figures I hope the Honourable Mr. Chadwick will correct me—as compared with 100 millions from Burma, the controlling factor will be the price of non-Burma petrol and that the price of kerosene would go up to the world prices. I do not think economically that is quite correct. If we import more than half of the 100 millions from Burma, it will be the Burma prices that will force the producers of foreign oil who export kerosene to this country to reduce their prices to the level of the Burma prices and not that the prices of the Burma oil will have to be raised to the level of other countries. I think too it is wrong to say that because one-third of the oil is to come from outside the price of the remaining two-thirds can be or ought to be raised to the level of the one-third. It should result in the reducing the price of the one-third that is imported to the level of the Burma prices. It is a question of economics and I wish the Honourable Mr. Kale had been free to speak on the subject, but he is not now entitled to speak again. (The Honourable Mr. V. G. Kale: "I think I have a right to speak again on the Resolution.") On these grounds, Sir, I do not think that the fear that the Honourable Mr. Chadwick has in his mind that, if we put a duty of six annas on petrol, the income of petrol companies will be reduced and that, consequently, they will be forced to put up the

[Mr. Lalubhai Samaldas.]

price of kerosene, will be justified. I do not think there is any fear of that kind. Surely, they did not give a present out of magnanimity of 33 crores to India; they may say so now, but they must have made their profits; they must have thought that they could not get higher prices. It may be that they can now say "we pooled our prices in the interests of the country," but it is very difficult to believe that, Sir. But even if it is so, I think the country ought to be prepared to take that risk of a supposed rise in the price of kerosene, which will never come off, and make Rs. 80 or 85 lakhs of revenue by taxing petrol.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Mr. President, when Honourable Members from Bombay have a case to present in this Council, we almost invariably find that their case is presented with a lucidity and clarity that invariably shortens the debate and yet makes it a real one. On the present occasion, if I may say so, the Honourable Members who have spoken in support of this Resolution have not presented the issues with quite that clarity that we have been accustomed to expect, and this is my excuse for rising in this debate. I still feel considerably mystified as to the real reasons why it is sought to ask the Council to agree to an export duty of six annas per gallon on petrol. Now, it seems to me, Sir, that there are three possible lines that you can take in support of this duty. You may say, first of all, that it is necessary or desirable, in order to give the country more revenue at a time when we find much difficulty in balancing our budget. (*The Honourable Mr. Lalubhai Samaldas*: "Quite so.") That would be a perfectly good line of argument, if it were a correct one also. Secondly, you may say that this tax, apart from any fiscal reason, is necessary in order to bring down the price of petrol for the Indian consumer of petrol, namely, to the Indian motorist community, who are being fleeced by a profiteering trust. You may take either line of argument, or, possibly, you may take a combination of both and you may say that this export duty is that *rara avis* that every Finance Minister in the world is looking for, namely, new tax, which is going to make the commodity taxed cheaper to the consumer. I have not come across such a tax yet, but, if I have apprehended my friends opposite correctly, this is what they maintain is going to happen.

Now, Sir, first of all about the additional revenue. My Honourable friend Mr. Lalubhai Samaldas has said that he is surprised that the Finance Department, faced with an unbalanced budget, should not have adopted this obvious means of raising revenue. He does not imply, I suppose, that we have abstained from doing so out of consideration for Mr. Rockefeller, or for the Burma Oil Company, or for anybody else in the world. Why is it that we have had to reject this, purely as a finance measure? It is because we are convinced that we are going to get nothing out of it. The figures which the Honourable Mr. Chadwick gave about the proportion of India's petrol exported to the total world consumption are surely quite enough to convince anybody that an export duty on this commodity would be a failure. Personally, I admit I do not like export duties at all, but if ever there was a weaker case for an export duty, economically and financially, I do not think, if we searched our whole list of exports, we could find one. What are the facts? You have an export of 20 million gallons of petrol going to foreign countries. Is it seriously asserted that the foreign consumer is going to pay that

tax? What is the total world consumption of petrol? Why, the United Kingdom itself consumes more than 200 million gallons, and I suppose the world's consumption must run into thousands of millions of gallons. The amount India can export is thus a drop in a bucket; the whole export would shut up just like that (indicates with a gesture). If I had to make an estimate of the revenue that we should get from this tax I might put in five lakhs for the first year; but certainly nothing for the second year.

Then, as regards protecting the Indian consumer. The Indian consumer of what? Of petrol. The Honourable Mr. Sethna tried to work, I am sure unsuccessfully, on the feelings of the Council by saying that the Honourable Mr. Chadwick had looked at the matter not from the point of view of the consumer but from that of the petrol companies. He certainly did not look at it primarily from the point of view of the petrol consumer, but he did most emphatically and most fairly look at it from the point of view of the kerosene consumer. Which consumer is more entitled to consideration in this matter—the poor people who use

12 NOON. kerosene or the people, possibly of moderate means, who use petrol for their motor cars or motor lorries? The argument about kerosene is not merely a debating one. Everyone knows perfectly well, it is common knowledge now, that the price of kerosene in India has been kept artificially low for a good many years. Now, who is going to pay this export duty on petrol? It is idle to contend that the foreign consumer is going to pay. It is equally idle to contend that the Oil Companies are going to pay. They are business men and they are not going to pay if they can possibly put it on somebody else. They will put it on the consumer of kerosene. That is a result which must follow: there is no other way out of it.

I was astonished that my Honourable friend Mr. Sethna was not able to controvert this point. Or rather, I was not astonished, but I was astonished that he, if I may say so, rather evaded the point. I must say that I feel some sympathy with the users of motor spirit in this country. They see that India is a producing country; a country—India and Burma—in which motor spirit is produced. But after all, are they quite sure that present conditions are going to continue? The price of petrol at the present moment in Calcutta is I believe Rs. 1-8 a gallon (that is, two shillings) without the excise. In England it is exactly Rs. 1-14.

The HONOURABLE SIR ARTHUR FROMM: What is it in Bombay?

The HONOURABLE MR. E. M. COOK: It is about two annas more, ignoring the excise. Well, Sir, people compare the internal prices in India with the prices at the present moment prevailing in Europe. Everyone knows that at the end of the War there were very large accumulated stocks of petrol—I believe, chiefly in America. Those stocks have been let loose and it is too early yet to say what the price of petrol in Europe is likely to be in the course of the next 12 months. But in any case, whatever the future comparison of prices be between India and Europe, I feel quite certain that, if one wants to put pressure on the Oil Companies or if one wants to cheapen the cost of petrol in India, this is not the way to do it.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I do not at all agree with the Honourable Mr. Chadwick or with the Honourable Mr. Cook that the proposed export duty will fall on the consumer. What I say is that it will fall on the manufacturer who is now profiting enormously. The Honourable Mr.

[Rai Bahadur Lala Ram Saran Das.]

Kale and the Honourable Mr. Sethna have drawn the attention of the House to the combine between the Asiatic Oil Company and the Burma Oil Company. In my opening speech on the 19th of last month I referred to this combine, but I did not go into details. From the reply that was given to a question put in the other House by Mr. Spence, the Government said that the total import of petrol from America, the Straits and other foreign countries into India in 1921-1922 was 1,348 gallons only. It is now an open secret that the combine between these two Companies came into effect in 1920. If we take a survey of the prices of petrol from 1909 onwards, what do we find? From 1909 to 1915 the price of petrol in Rangoon was 13 annas a gallon, and in Calcutta it was Re. 1 a gallon. In 1916 the price rose by two annas. In 1917 and 1918 the prices advanced by another six annas. In 1919 the price rose all of a sudden to Rs. 1-12-6 in Calcutta and Rs. 1-7 in Rangoon. In 1920 we find that there was a fall in price, and the fall amounted to four annas a gallon. The price came down to Rs. 1-6. When we look for the reason why this fall occurred, we find that the Asiatic Oil Company, that is, the Shell Company, came into competition with the Burma Oil Company, and the Burma Oil Company had to reduce the price. Afterwards, both those Companies combined, the Assam Oil Company was bought over and, as the rumour goes, an understanding was come to between the two Companies that in India 60 per cent. of the petrol was to be sold by the B. O. C., and the other 40 per cent. was also to be found by the B. O. C. but was to be sold by the Shell Company in their tins as "Shell" petrol. Up till now the public have always been under the impression that the petrol they found closed in the Shell Company's tins was "Shell" petrol. It is now evident that the petrol is B. O. C. petrol although it is filled and sold in "Shell" tins. In 1921-22 the price of petrol rose to Rs. 1-14 in Calcutta and Rs. 1-10 in Rangoon. We find that on an average the difference between the Rangoon price and the Calcutta price has been about 4 annas a gallon. I have consulted some of my shipping friends and they tell me that this freight of 4 annas a gallon is enormous. Of course I am not an expert in Shipping. Perhaps my Honourable friend Sir Arthur Froom, who is a great expert in this line, might throw some light on this question. I personally consider that this difference of 4 annas is a very reasonable one. The Honourable Mr. Chadwick said that the annual export of petrol to foreign countries is about 20 million gallons. The other day the same Honourable Member, in reply to one of my questions, said that in 1919-1920 the export of petrol to foreign countries was over 36 million gallons. In this connection, Sir, as the Honourable Secretary for Commerce has said, in London the annual consumption of petrol is over 200 million gallons, and includes the major share of the 20 million gallons exported from Burma to England. And then he says that an export duty on petrol will restrict the export of petrol, and that the income which we do expect from this export duty will be simply nominal. I do not agree with that view, Sir, because what we find is that the B. O. C. at present with a capital of about 5 million sterling last year. I mean for the first half of the year 1922, is said to have declared a dividend of 40 per cent. Its £1 shares in the month of January this year were quoted at from £51 to £54; that is, the value of the £1 share is more than five times its face value. Last year, in 1922, these shares rose to £6 7/32. When the Company is making such huge profits, it can very easily afford to pay an export duty of 6 annas

a gallon out of its own funds. What do we see, Sir? The Asiatic Oil Company is a much bigger company with a great many oil fields behind it and its activities are not confined to only one province but extend to many countries. The Shell Company with a capital of over £19 millions, had a profit for the same half year of 35 per cent.; its £1 shares were quoted in January last at about four times their face value. My reason for giving these comparative figures is that the Shell Company, although it had a bigger capital than the Burma Oil Company and had the same markets, excepting India, has not made the same profit as the B. O. C. has with a smaller capital. I want to prove by this that B. O. C. is making most of its profits by its sales in India. Otherwise its profits would have been almost the same as those of other companies. It shows that the B. O. C. is making that huge profit out of the Indian consumer.

The Honourable Mr. Chadwick and the Honourable Mr. Cook have tried to make a big case about kerosine oil. I have not been able to follow their arguments; at least I have not been convinced by them. What do I find as regards the price of kerosine? "Victoria" kerosine oil of the B. O. C. to which my Honourable friend seems to refer is selling in Calcutta at Rs. 5-11-0 for 8 gallons or 2 tins and that oil certainly is the ruling factor in the prices of burning oils. The next grade of oil which we find is the American "Elephant" Brand oil, the present price of which is Rs. 7-8 for two tins. In case we deduct import duty of 2½ annas per gallon from the American and take out the excise duty of one anna a gallon from the B. O. C. prices we find there is only a difference of two annas a gallon. That is not much. We do not consider that the B. O. C., which wants to take all possible profits, has been magnanimous enough to give India a big concession. The Attock Oil Company, which is just in its infancy, is selling its "Squirrel" Brand kerosine oil at a cheaper rate than even the "Victoria" Brand. The Honourable Mr. Cook says—and I am thankful to him for his sympathy towards India's poor people—that for the sake of the kerosine oil the export duty on petrol ought to be ignored. In case the Government of India is so keen on the interests of the poor people, why should they impose an import duty of 2½ annas per gallon on kerosine and one anna excise duty on the same? Is that not inconsistent? In case they want that the kerosine oil must become cheap, let them remove that duty. Remove the excise also and let the people gain. My own contention is that the idea of the Government that the export duty on petrol will have a restrictive effect on export is quite wrong. I am sanguine that the amount of export duty will be almost what we contemplate.

The Honourable Mr. Chadwick intervened in the debate with the remark that in England there was no duty on petrol. Of course in the theoretical sense of the term he may be right; but what we find in practice is that petrol is selling at 11½ annas a gallon in New York and 8½ annas in Belgium but it fetches a price of Rs. 1-8-0 in London. Why? That point I have not been able to understand. We find, however, that there is an inflation in prices and that the Government of India whether directly or indirectly has not taken any steps to do away with the combination and monopoly which these two big monstrous oil concerns have made.

Another point, Sir, which the Honourable Mr. Chadwick has mentioned is that it is the result of competition that the prices in England and other world markets are low. That is quite right. But in this case the Government of India themselves have not allowed competition to come in as far

[Rai Bahadur Lala Ram Saran Das.]
as India is concerned. If competition had been allowed or the monopoly broken these prices would never have existed. The Honourable Mr. Cook referred to another point. When the Standard Oil Company (Mr. Rockefeller) wanted to acquire some interests in Burma, Lord Curzon, who was then the Governor General of India, did not allow them, in the interests of this country, to acquire lands, and we Indians at that time thought that great good had been done. But now we find that if the American Company could have started and established in Burma, the B. O. Company would not have had the monopoly which they at present enjoy. The Honourable Mr. Chadwick said that the quantity of petrol exported was 20 million gallons only; I hold, Sir, that the quantity of petrol produced in Burma is daily increasing and the exports in the coming years will be much more than the Honourable Member anticipates. My Honourable friend, Colonel Sir Umar Hayat Khan, said that in these days we require cheap transport and as two more big colonies in the Punjab and elsewhere will come into existence very soon we will require a great number of bullocks for those colonies for agricultural purposes. Even now, Sir, in the great cities and in the commercial towns we find paucity of bullock carts, which are being overloaded notwithstanding the legislation against it. Unless petrol prices are brought down the agricultural community too will suffer. In these days when we have deficit budgets, new railway constructions are out of the question. Communications are to be established and for that we require petrol lorries, petrol omnibuses, all for agricultural improvements, because it is in the interest of the agriculturist to get as much price for his produce as he possibly can. In petrol lorries, freights are much cheaper than they are in the country carts particularly for long distances. So, in the case even of the agriculturist a fall in price of petrol will be greatly appreciated. The Honourable Mr. Cook remarked that our policy of levying an export duty on petrol is ghastly fatal. No, I do not agree there, Sir, at all. It will not be ghastly fatal. It will be productive and will bring in a good revenue. With these remarks, Sir, I commend this Resolution as amended by my Honourable friend Professor Kale for favourable consideration of this Honourable House.

The HONOURABLE MR. D. T. CHADWICK: Sir, I do not think I need take much time to reply. I have laid all the facts before the House. Some of those facts and the deductions and conclusions from them are perhaps new to students of this problem and will receive further consideration from those who have been and are examining this question. But I did not put forth the point of view of the oil companies. I gave the considerations which guided the Government. It is clear that Government has examined the matter very thoroughly. The fact that kerosene oil is to-day at our present price, Rs. 4-4-6—my Honourable friend quoted the price in tins and thereby brought in complications, while I quoted in bulk—that the price is as low as Rs. 4-4-6 is due to this arrangement which was come to in 1919 between the Burma Oil Company and the Asiatic Petroleum Company, of which notice was given in the press at the time and which still holds. We are convinced that we should not get the revenue expected from this tax; we are also convinced that it would mean that the companies would in all probability recover whatever we put upon them from the market in which they can do it most easily. Obviously the one way by which they could do this most easily is by raising the price of kerosene. It would be a very costly thing to the country as a whole and it would give practically nothing or very little to the State.

The HONOURABLE THE CHAIRMAN: The Honourable Mr. Kale's amendment is now before the House, viz:

"That after the word 'duty' the words of not less than 6 annas per gallon' be added."

I will first put the amendment, and if it is carried, then I will put the Resolution as amended.

The HONOURABLE MR. PHIROZE SETHNA: Will the Honourable the Government Member in charge allow the officials to vote as they please in a question of this public importance?

The HONOURABLE THE CHAIRMAN: As the Honourable Member in charge has not said anything, I shall now put the amendment to the vote.

The Council will now divide.

The HONOURABLE MR. PHIROZE SETHNA: May I now ask if, in the absence of the President, when you are in the Chair, you can record your vote as a Member.

The HONOURABLE THE CHAIRMAN: I will not pronounce any opinion on that question. I decide not to vote.

The HONOURABLE MR. PHIROZE SETHNA: I want a ruling; I did not ask what your personal intentions were.

The Council divided as follows:

AYES—14.

Ayyangar, Mr. K. V. R.
Chettiyar, Mr. S. M. A.
Harnam Singh, Raja Sir.
Kale, Mr. V. G.
Lal Chand, Lieut.
Lalubhai Samaldas, Mr.
Muhammad Hussain, Mr. Ali Baksh

Ram Saran Das, Mr.
Ray, Raja P. N.
Sethna, Mr. P. C.
Srinivasa Sastri, Rt. Hon. V. S.
Umar Hayat Khan, Col. Sir.
Vasudeva Raja, Raja.
Zulfiqar Ali Khan, Sir.

NOES—18.

Amin-ul-Islam, Mr.
Baker, Mr. C. M.
Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. E. M.
Crerar, Mr. J.
Forrest, Mr. H. T. S.
Jha, Dr. G. N.

MacWatt, Major-General R. C.
Miller, Sir Leslie.
Muzammil-ullah Khan, Nawab.
Rawlinson, H. E. Lord.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Thompson, Mr. J. P.
Zahir-ud-din, Mr.

The motion was negatived.

The HONOURABLE THE CHAIRMAN: I shall now place the original proposition before the House:

"This Council recommends to the Governor General in Council to take into immediate consideration the desirability of imposing a duty on benzine and petrol exported from Burma and other Indian Provinces to foreign countries."

The Council will now divide.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I will not press for a division in the circumstances.

The Resolution was negatived.

RESOLUTION *RE* RIGHTS AND STATUS OF INDIANS IN KENYA.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadian): Sir, I beg to move this Resolution:

"That this Council recommends to the Governor General in Council that he be pleased to convey by telegraphic message to His Majesty's Government the view of this Council that no settlement regarding the political rights and status of Indian settlers in the Crown Colony of Kenya would satisfy the people of India unless Indians in Kenya are granted full and equal rights of citizenship with European settlers.

And this Council records its indignant protest at the reported threats of violence on the part of the latter and fully trusts that His Majesty's Government will take effective steps to prevent any such outbreak and to afford them the necessary protection.

And this Council records its emphatic conviction that no restrictions on new immigration from India will be acceptable to public opinion here."

Sir, at the outset may I be permitted to draw the attention of the Council to a slight grammatical inaccuracy in the Resolution? In the second part the last words are "and to afford them the necessary protection," but the word "them" is without a proper antecedent. I think, Sir, if you will allow a small verbal amendment to be moved, it might be changed into "the Indians resident in Kenya."

The HONOURABLE THE CHAIRMAN: Yes.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Thank you. In speaking on this Resolution it is my great desire to avoid all rhetoric or attempt to excite feelings. I will confine myself merely to a statement of view because I believe that the facts in themselves are such that they carry their own conclusion. In the first place, I think in the course of public discussion upon this subject, there has been some mistake of an important character which, if I may, I would try to put right. Those who have advocated the Indian case have grounded themselves more or less expressly upon the Resolution which in the year 1921 the Imperial Conference of Prime Ministers adopted on the subject. I venture to think, having been a party to that Resolution, that it is somewhat of a serious mistake. That Resolution, Sir, was the result of a case that the Government of India put forward. I am in a position to say, and the public are in a position to judge from the memorandum of the Government of India, published at the time, that our case did not concern any of the Crown Colonies. It was concerned solely with the self-governing Dominions of the Empire, and the case was also argued, as I have a right to state, solely on the ground that it concerned itself with the self-governing Dominions of the Empire. The case for the Crown Colonies rests on equity and does not derive in the least from that Resolution. We have got pledges of equity dating far back in the history of India. We have got it asserted again and again on high and solemn authority and it did not require the Resolution of the Imperial Conference of the year 1921 for the first time to give vitality to our claim for equity of treatment in the Crown Colonies. I make this repudiation at this early stage of my speech because I am particularly anxious that nobody here should carry the impression that the implication of that Resolution applies to Kenya Colony. That Resolution cites in the very beginning the right of every community in the Empire to exclude elements of the Empire's population which it does not care to assimilate. We have given that right to the self-governing Dominions and to India. We have not given that right, and if the people of India have a voice in the matter, they will not allow the right to be given, to the Crown Colonies. The whole claim of

the self-governing Dominions in the matter is based upon the fact that, whatever the equities, whatever the rights and wrongs of the case, a people who can govern themselves, have a right in the last resort to say who shall compose the population. The Crown Colonies, neither Ceylon, nor Fiji, nor Mauritius, nor Kenya, has yet acquired the right to say who shall form the population. If it is to be determined entirely by the Colonial Office, the Colonial Office being a part of the British Cabinet cannot settle the matter without amicable arrangements with the India Office; and the Colonial Office and the India Office, agreeing together, will determine these matters and not the people of Kenya. I am very anxious to make this repudiation also for the reason that, when this is once granted, the expression "the people of Kenya", "the community resident in Kenya" has, by a sort of verbal jugglery which I cannot understand, been applied solely to the white population of Kenya as if they were the only community who had a right to determine who shall go to Kenya and who shall not.

Having made that point perfectly clear, so far as I can, let me now proceed to say that our claim to equality is, even as regards Kenya, rather academic and theoretical to-day. We assert the right to equality but we are quite content—and I wish more general recognition were given to that circumstance than has been given to it before—in the achievement of equality to proceed by stages. For what are the demands of our people in Kenya and what are the demands that the Government of India and the Secretary of State for India have so long supported? In the first place, we do not ask for universal suffrage as the European community there enjoy to-day. We do not ask that the Legislative Council of Kenya, such as it is, should be composed of elements giving to the Indians a proportionate representation, either considering the number of the population or considering the amount of taxation that they have to pay towards the general support of the Colony. We are content that we should be less than a half in the legislature, and, so far as the Executive Government is concerned, no more than a bare admission of the Indian element has been conceded. If I may be permitted to say so, nothing more has yet arisen in the shape of a definite demand of our people. It is then, Sir, considered on the merits of the question, a partial, a very partial, fulfilment of the rights of equality that is being asked for. As to the franchise, we have expressly agreed that such a qualification should be fixed as will enfranchise only 10 per cent. of the resident Indians. Now, upon what ground is even this modest demand for a partial fulfilment of equality, where the full assertion of equality would have been eminently justified resisted? Sir, I think it is best in answering the question to go to the root of the matter at once and without hesitation. The root of the matter I had personal opportunity of understanding. Last year, there were in London certain representatives of the white Kenya community, come to press their views on the authorities, and I was privileged to be present at a private discussion in which their claims were put forward. I may at once state that their claims were clear and were firm. East Africa, Sir, and the Colony of Kenya with which we are particularly concerned, is unfortunately dominated by the spirit of South Africa. It is that spirit that reigns there. The spirit of South Africa to those who have understood it is to be summed up in two expressions. The first is "no admission of equality with Indians"; the second is "the expulsion of Indians, if possible." There is no mistake about that. I heard these things myself, and the residents who came there told us that it was their desire as early as possible to get into the Union of South Africa as an African Empire, so that Kenya is now to be prepared

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in its treatment of the Indian element to enter the future African Confederation. That means clearly that Indians are to be expelled and such as happen to be residents are to be denied in so many words that there would be anything like equality accorded to them. Why, Sir, it was my painful business that day to listen continually to statements of this kind: "We will not allow this equality which is an academic theory, which is the folly of the Colonial Office; we cannot have it here. Let people come out there and see for themselves." And, in order to enforce this point of view, all things that we have seen usually on such occasions are being enacted.

Sir, it is quite extraordinary that the facts of history are even being denied to support this claim. History is falsified and even the facts that the Indian was on the soil before the white settler appeared, that he has done a good deal to make the Kenya Colony what it is are being denied. And, on the occasion that I have referred to I further heard it said that if the Indian has done something as any human being would have done if he were resident in a place, that thing could have been done for the Kenya Colony if the African native was educated for the purpose, and that it was not necessary, that it was not desirable, that the Indians should be allowed to base their claim on the mere fact that they were there, and that they did something to build up the railway or to carry on the trade. If that was done, it was a mistake and it should be modified at the earliest possible opportunity. The Colonial Office were spoken in terms of the utmost disrespect and contempt and everybody can see now in the papers that my unfortunate friend Major the Right Honourable Ormsby Gore has come in for a good deal of abuse at the hands of the African press for the simple reason that he stands up for the dignity, for the righteousness and for the good name of the British Empire.

With regard to the natives of Africa, Sir, as I have said to the Council already, I will try not to raise feeling. The natives of Africa are, as everybody knows, not quite civilised. They are advancing by leaps and bounds. Great efforts are necessary to pull them up along the line of evolution. But will history answer the question in the affirmative, that when the European exploiter, the European colonist, has gone abroad and come into contact with semi-savage tribes the contact has been beneficial to the latter invariably? Could it be claimed to the credit of the European nations that they have been careful, that they have been solicitous, to observe scrupulously the rights and serve the needs of a semi-barbarous population? Assuming, however, that here and there such a statement could be made with an approximation to the truth, we are in a position to say from information that comes over that the European settlers in East Africa can by no means claim to come under this humane description. Well, Sir, innumerable instances could be quoted to show that their treatment of the East African native is by no means marked by a consideration of common humanity. I will only read one or two extracts to show the spirit in which the thing is done.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): May I suggest, Sir, that we are dealing now with the question of Indians in East Africa, and having regard to the state of feeling it might be desirable not to dwell too long upon the question of British *versus* natives of East Africa.

The HONOURABLE THE CHAIRMAN: The Honourable Member has not yet done so. His extract, when he reads it, will show us what he means. I will allow the Honourable Member to proceed.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Sir, I was only saying that as regards the East African native of the soil, it is not the Indian but the White settler from whom he has to be protected. It is that point which I was trying to labour, as it is being exploited in England that the introduction of the Indian and his maintenance in full rights of citizenship would be injurious to the development of the East African native. Our whole point is that in so far as that humane object is concerned, we are far more useful in East Africa than the White settlers. I will only read one extract, Sir. This is the quotation that I wish to read from a paper which was addressed to the Head of the Government in East Africa by the Indian residents:

"Again a party consisting of members of the same school of thought, including amongst them a prominent member of the present Reform Party, assembled in front of the Nairobi Court House, and in the presence of the Magistrate and Police Officer, and in the teeth of the remonstrances from the former and checking by the latter, they publicly flogged certain innocent natives on the plea that it was useless to take them to court to be dealt with according to the law, etc., etc."

I only mention this to show that Indians could not have done such a thing; but the White settlers in Kenya seem to have a notion of ordered life in a community very different to ourselves. On another occasion it would appear that they did something which was most extraordinary. A number of Europeans, including some prominent members of the present Reform Party, marched up in an unlawful assembly to Government House, insulted Sir James Hasler, the then representative of His Majesty's Government, threw stones at Government House, shouted to Sir James to resign his office, and behaved themselves in such a rebellious manner simply because the then Governor disagreed with them in their views and policies of forced labour. I do not wish to contemplate what would happen if a number of people came to the Imperial Secretariat in Delhi and behaved in that manner. His Excellency the Commander-in-Chief would have something to say to that.

Now it is a fact that the White settlers of Kenya have been, through the weakness of that Government, led to believe that they can deal shortly and summarily even with their Government, and when they threaten violence in case equality is forced upon them, they are not bluffing by any means. When the Honourable Member in charge of this subject spoke in another place, he seemed to regard these assertions as mere threats which were never intended to be carried into effect. I thought at the time that he was much too optimistic, and I hope the news that has since come over has made him also change his opinion somewhat. Sir, I can only say that our people, whether in India or abroad, have shown such humility, such respect for order, such patience under the greatest provocation, and such forbearance and modesty in their demands for perfectly established rights, that what an American lady told me recently is perfectly true, that we Indians are about the only Christians left now, omitting the Chinese, on the face of the earth! Honourable Members will notice that there is a third clause in my Resolution. I wish to say a few words on that subject.

The third clause protests against immigration restrictions which it is the intention, it would appear, of the Colonial Office, to enact for the first

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time. In the other place when this matter was discussed recently, this matter was not brought to the attention of the authorities in the same way. But immigration and the control of immigration in respect of Kenya Colony is so important that I ask your leave, Sir, and the leave of the Council while I keep them for a few minutes on this subject.

It has been admitted and admitted on authority that is no longer questionable that India is an equal partner in the British Empire with Great Britain and with the dominions. It is a proposition with an enormous variety of implications. I do not believe that the Indian people will ever take advantage of that claim and draw out all the implications and insist on each one of them. But on this they will. We are three hundred millions in this country. If eighty millions of people must have an outlet and if they find enormous outlets, vast unoccupied spaces all over the world, and keep them all to themselves and coop up the three hundred millions within the limits of India and say to them "You have no outlet, but you are equal partners in the Empire nevertheless", that is a proposition to which it is very hard for us to assent. I can understand, although I cannot approve, its being said that other parts of the Empire with vast unpeopled spaces were not conquered by Indians, were not settled by Indians. Perhaps it is a sort of answer; I will not pause to examine it; but the case of East Africa, the case of Kenya Colony is clean. There can be no gainsaying that it cannot be called a British colony and it cannot be allowed to become a British colony. If anything it is a British Indian colony. Indians having somewhat prior rights, but because they are politically weak and cannot assert their rights in full, they are quite willing to share their rights equally with the British people. It ought to be considered a British Indian colony and we cannot therefore allow the Right Honourable Winston Churchill's assertion that Kenya must be kept a characteristically British colony. Moreover, look at the irony of the situation. Quite recently a sum of £10,000 has been taken from the public revenues of Kenya colony to which Indians contribute, I understand, somewhat over 50 per cent., and set apart for establishment of a Publicity Bureau in London with the object of attracting English settlers to that colony. At that very time and while public money to which Indians contribute is freely used for the purpose of attracting White settlers, it is proposed—what an irony of things—to enact restrictions as to Indian immigration which will have the effect of excluding Indians altogether from India. It is impossible for a self-respecting people to submit to such bare-faced violation of the fundamental equities of the case. We are afraid that under pressure it is quite possible that the Colonial Office may yield. Sir, speaking on this occasion I will, as I have done very frequently before, acknowledge on the part of the Indian public with the fullest appreciation and gratitude the way in which the Government of India and the Secretary of State for India have throughout championed our cause in this matter. We only beg them to keep the fight up a little while longer. If we lose in Kenya, the result is we lose all along the line. The Dominions where I received such hospitality and such sympathetic hearing when I presented our case, the Dominions will be perfectly justified, when a successor of mine goes round hereafter, in turning on him and saying, "What is the case in the Crown Colonies which are administered by the British Cabinet themselves? How can the British Cabinet solemnly pass a Resolution and send you out to seek fulfilment thereof, while its spirit is being violated by the British Cabinet themselves?" Losing in Kenya, we

lose therefore in the self-governing dominions; we lose all round, and its moral reaction on the progress of India itself towards the status of a dominion need not be described in detail. Sir, we cannot afford to lose there. There will be very few friends left in India to plead for the cause of the British Empire. You will wipe out the friends of Britain in India by any such settlement. Britain herself in the eyes of the world will be generally condemned as having fallen a victim to moral decay. For, after this war and the amount of brotherhood that has really come up amongst the nations after the League of Nations, and solemn pledges on the part of the British Empire that they are only a lesser League of Nations within the larger League of Nations, the world will be quite justified in passing upon the British Empire the judgment that it has become subject to moral decay, and moral decay cannot long precede material decay. I will say nothing more, Sir, but commend the Resolution to the acceptance of the Council.

- The Council then adjourned for Lunch till Half past Two of the Clock.

The Council re-assembled at Half past Two of the Clock. The Honourable Sir Maneckji Dadabhoy was in the Chair.

The HONOURABLE THE CHAIRMAN: The Council will now resume discussion of the Right Honourable Srinivasa Sastri's proposition.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, the high level to which my Right Honourable friend has raised the debate on this question may make it rather difficult for us to follow in the same vein. Moreover, we may not be able to restrain ourselves in the same way as my Right Honourable friend has done. The feeling in the country has been, Sir, very strong, and, if I may say so, to whichever party people may belong, the country as a whole is strongly agitated at the attitude of the White settlers in Kenya. Before I speak on the Resolution proper, may I, Sir, with your permission, remove a misapprehension—I believe it was a misapprehension in the mind of my Right Honourable friend? Whenever this question was discussed in this Council we never mixed up the Dominions with Crown Colonies. If the Resolution passed at the Imperial Conference was brought in, it was merely to show that if the Dominions agreed to reciprocity, much more should the Crown Colonies give liberty and freedom to our people. It was merely to show the strength of our position that we referred to it. We realised that in Crown Colonies we have greater rights and the White settlers have practically no rights excepting those that were given to them without our sanction by Lord Milner's despatch. Sir, the Resolution is divided into three portions, and I lay the greatest stress on the last portion. So, I speak on it first. That is:

"And this Council records its emphatic conviction that no restrictions on new immigration from India will be acceptable to public opinion here."

During the last two years, Sir, we had two debates in this Council on that subject and on each occasion this point has been put before the Council as strongly as possible. An attempt is made in the name of equality to restrict the immigration by raising the deposits to be given by an immigrant

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before he goes there. As it was shown here, the amount ought to suffice for sending the man back if he was found to be undesirable. Now, in the name of equality of status the amount of that deposit is being increased more than 3 times, and we feel that it is done not for the sake of equality but under the name of that charming word to keep back many of our countrymen from entering the Colonies and that is what we resent most. Then, again, another restriction has been put upon immigration and that is that the immigrant must have knowledge of the English language. That also, Sir, was brought in the name of equality and as was shown in another place, it meant that while a husband who knew English could go there, a wife or a daughter who did not know English could not. That is a restriction that we do not want to be put and we want that the old rule as it stands should not be altered in any way. The Resolution says "That no restrictions on new immigration from India will be acceptable". I believe what my Right Honourable friend wants and what we all want is that no new restrictions will be acceptable. The old restrictions are acceptable and we do not object to them. I think I am right and I hope my Honourable friend will tell me if that is so. We do not want that Kenya—to which I add Uganda and Tanganyika—should be turned into a White colony. That is the attempt that is being made by the White settlers in the Colony, and that is an attempt that we want to thwart, and in that attempt we want the assistance of the Government of India. I take this opportunity of expressing the thankfulness of this House and the country to the Honourable Member in charge and to the Government of India and to the Secretary of State for India for the strong fight that they are putting up for our countrymen in Kenya. We want them to continue that fight. We want them not to be cowed down by the threats that are being held at us by the White settlers. As my Right Honourable friend says, the threats may not be quite false. There have been instances when even the Governor was stoned. There have been equally bad instances.—I would not quote them because I am afraid of my Honourable friend getting up and saying that I am not in order—but there have been similar cases where not only natives have been shot and assaulted, but White settlers have entered into the married quarters of Indians, threatened to shoot and set fire to the whole location. Fortunately they were prevented from doing so. We do not want these things to be repeated. Our countrymen there are as mild as the Indians here are mild, and if they protest, they protest because they know that physical strength is with the other party, and even if they were strong, the Indians will not under any circumstances, unless the provocation is very strong, take law into their hands as the other communities would do. That is another reason, Sir, why we want Government to take immediate action. I dare say many of the Members of this House must have seen the letters which His Highness the Aga Khan wrote to the press about a month and a half ago. He suggested two alternatives, one was to appeal to the Indians here to send a deputation to Kenya to guide the Indians and try to bring about an amicable settlement between the Indians and the White settlers there. He also made appeal to the non-official Europeans in this country, and, may I add, a similar appeal to the officials in this country to use their influence, whatever they have, to see that this racial bitterness there does not spread to this country. I think we can very well count upon the good-will of my non-official European brethren in this country, and I am quite sure I can equally count upon the good-will of the officials also. If we all join our hands together in a friendly spirit to restore peace where there is

extreme bitterness and fear of riots and lawlessness then we will be rendering a great service not only to this country but I believe to the whole of the British Empire; because once this poison of anti-British or anti-White spreads from East Africa to this country, I do not know where it shall end. The country at present has strong faith in the justice of the Imperial Government and in the British Parliament and if once that faith is shaken, we do not know where the country will be. It is not an idle threat that I am giving, but I say this because I believe, we in this House are the best friends of the British Empire and we want our connection with the British Empire to continue. I appeal to my brethren here, both official and non-official, and I want them to support this Resolution whole-heartedly, so that there may be no mistake that at least in this House there is no difference of opinion as regards the solution of this problem.

The HONOURABLE MR. H. T. S. FORREST (Bihar and Orissa: Nominated Official): Sir, I rise to a point of order. I submit that this Resolution is out of order inasmuch as it contravenes provision (a) of Rule 23. "A Resolution should be clearly and precisely expressed and shall raise substantially one definite issue." I submit to you that the Resolution, as drafted, does not raise one definite issue; it raises several issues, at least two, and possibly three. The issue raised in the last paragraph is not the same as either of the issues raised in the two previous paragraphs.

The HONOURABLE THE CHAIRMAN: I cannot allow the Honourable Member to raise an objection at this late stage. If the Honourable Member thought that the Resolution was not properly worded, the proper time for him to have taken this objection was before the Right Honourable Srinivasa Sastri moved his Resolution. I therefore allow the debate to continue.

The HONOURABLE MR. LALUBHAI SAMALDAS: I have not finished. I know I have very little time and I will try to finish at once. My Right Honourable friend said, referring to the common electoral roll, that the Indians in Kenya and their supporters here had agreed to a roll which gave a franchise to 10 per cent. of the community. May I say we did not agree to it as a final solution; we have done it merely as a compromise and merely to show our desire to live amicably with the White settlers there. We do not wish that Kenya should be joined to South Africa. There is that danger. As the Members of the Council will remember, an appeal was made to General Smuts to come and annex Kenya. We want that effort to be thwarted and it can only be done if the Government of India, with the whole-hearted support of both the Houses of Legislature and the Indians and Englishmen in this country, back our countrymen in that part of the world. We do not want it to be said that Indians in Tanganyika under German rule were better treated than they are treated by the English and to keep up the fair name of Britain all over the world we must all unite and pass this Resolution.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras: Non-Muhammadan): Sir, this question is coming up again and again and no one need wonder at it. The issue at stake is so enormous, nothing less than the self-respect of India and her ability to protect her children abroad. Sir, this reminds me of a small story I have heard, and I ask the Honourable Members to permit me to indulge for a couple of minutes, not more, in the narration of that story, which appears to my mind to be exactly to the point. Sir, there was a king and a famous musician from a long distance came to his court and wanted to show his excellence in the

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having so much in common and because, to refer to the incident read out by the Right Honourable the Mover, they will never expect from Indians treatment of the kind that he read out, namely, of being publicly flogged in the streets. Sir, Indians have been there for ages past, they have been there since the time of Vasco de Gama and even before, and if they are in the majority, should not the Imperial Government respect the views of the majority as they have been doing elsewhere? In fact it is now recognised by all nations since the great war that it is the mandate of the majority that has to be carried out. And has not the Imperial Government been doing so throughout the Empire? During only last week the Premier announced in the House of Commons that Government intended to give effect to the result of the recent referendum in Rhodesia and grant it responsible self-government as the majority desired instead of uniting it to South Africa. The majority in Kenya Colony only demand equal status which we know is being stoutly opposed and perhaps encouraged in certain quarters.

In the words of the Right Honourable Winston Churchill "Is it possible for any Government with a scrap of respect for honest dealing between man and man to embark upon a policy of deliberately squeezing out the native of India from regions in which he is established under every security of public faith." Equally high authorities in their evidence given before the Inter-departmental Committee have said that, if the British enjoy the position that they do to-day in Kenya Colony, they owe it to the Indian merchants, to the influence that these Indian merchants wielded in that Colony and which influence they exercised in favour of the British.

Indians are not guided purely by sentiment in what they demand. They ask for what is their legitimate due and any attempt to deprive them of their rights give weight to the belief that all the talk about equality throughout the Empire is but a myth. It is evident that it is colour, definite and different pigmentation, that is the bar. It is admitted that no nation on the face of the earth can colonise as well as the Britisher, but it is equally true that the British do not possess the power of assimilation as do other nations. Take for example France. France claims nothing less than to be able to assimilate her coloured people, to make them into French people. She will not call a Senagalese soldier a Senagalese but a *Français de couleur*.

According to recent reports terms have been offered as a basis of settlement to the Indians according to which there is to be a common franchise for both Indians and Europeans. I believe the Colonial Secretary desires to have 11 constituencies returning 7 Europeans and 4 Indians. If I understand rightly, the Government of India hold out for 12 constituencies with 8 European and 4 Indian representatives. The Honourable Mover said clearly this morning that we do not desire to have a majority in the Executive Government, and in the new terms that have been suggested the representation on the Executive Council will continue as at present and the official majority retained. The new terms suggest that there is to be no segregation either in commercial or residential quarters, but the people will have to comply with both sanitary and building laws.

The chief point is with regard to immigration, and I agree with the Honourable Mr. Lalubhai Samaldas as also with the Honourable the

Mover that on no account should the Government of India give in as regards immigration. I understand the Colonial Secretary says he will withdraw restriction on immigration but with the right to put a check should at any time there be an undue influx of Asiatics into the Colony. Then there remains the last question of the Highlands. They desire to keep them exclusively for Europeans. I am not quite sure what attitude the Government of India hold on this point but according to telegrams received within the last few days, they on their part also rightly insist that if they so choose to do, they will have the right to reopen the question of the Highlands at a later date.

One would have thought that these terms which are far more favourable to the European settlers would have satisfied them. We have heard a good deal within the past few weeks in this House and at another place in regard to a particular Bill which became law only a week ago of the process of "levelling up" and "levelling down." Even if "levelling up" and not perfect equality is acceptable to Indians in Kenya, the European settlers on their side are determined to have no "levelling down" whatsoever.

My Honourable friend Mr. Chettiyar just referred to the telegram saying that the Governor of the Kenya Colony Sir Robert Coryndon is proceeding to Europe for the purpose of discussing this matter and is taking with him representatives of the European community. It is a pity there was no mention in the same telegram of any desire on his part to be accompanied by any Indian representatives. But as the House is aware, there are telegrams from the Indians there suggesting that the Central Legislature should send, not a mission as my Honourable friend proposes, to Kenya, but that representatives from the Central Legislature might proceed to London while the Governor is there and discuss the matter with him and the other authorities.

I was one of those who was also under the impression that the Resolution passed by the Imperial Conference in 1921 regarding equality of status related not only to the self-governing Dominions but also to the Crown Colonies. The Right Honourable the Mover has to-day corrected that impression which prevails with most of us. But, Sir, that is the impression not only in this country but also in Kenya Colony itself, for the European settlers there have said that if the Imperial Conference by the Resolution which they passed in 1921 agreed to an equality of status being given to Indians, they did so because of the services rendered by Indian soldiers during the War, and that if Indian soldiers came over to their Colony they would have no objection to having them but that the Indians there belonged to the trading classes. They imply that if Indian soldiers went to settle in Kenya they would welcome them with open arms. To say the least this is asking us to believe the impossible. It is nothing else but cant and hypocrisy.

These European settlers also urge that the present attitude of the Indians is not so much of their seeking as due to what they think was the mischievous suggestion made in the English press at the conclusion of hostilities by men of the type of Sir Theodore Morison that the Colonies the English took over from Germany in East Africa might be handed over to Indians for the purpose of colonisation. Sir, the well informed correspondent of the *London Times* telegraphing from Nairobi on

[Mr. Phiroze Sethna.]

February 1st in regard to this particular matter to his paper in London wired as follows:—

"The Indians authorise me to state that they have no desire now or in the future to seek to control the administration and are willing to give any pledge or to agree to any safeguards which will meet the fears of the Europeans on this score. They only ask for adequate representation of their peculiar interests on the same electoral system as Europeans."

To deny this to Indians and to deny them the other rights which they claim as subjects of the great British Empire will be the grossest piece of injustice that we can think of and will by no means tend to further the consolidation of that great Empire which ought to be our great aim.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, there are no two Indians who can differ on this question. This vexed question has come up many times before the House and the only course that an Indian can take I have always taken and supported this cause. Sir, we all of us waste time in this House by empty talk. We do all the talking we can but talking is nothing. My Right Honourable friend there has done his very best in arguing the righteousness of our cause. That is exactly what happened when the bunnia's cow was being eaten by a lion. He brought out his books and said "On what account have you got any right to eat my cow." At this the lion simply roared at him. The bunnia said, "if this is the justification, I submit and withdraw my claim". We have got the same thing in the Hindustani proverb—

"Jishki Lathi, Usiki bhais."

That is to say, if there is any dispute about the ownership of a buffalo, the man who has a big club in his hand the buffalo is his. However, by speaking we do one useful thing, and that is all the anger and sorrow we feel in our minds we can empty it out of our hearts in this House. That is one useful purpose it serves.

Then, Sir, it is known by all that when our Government went to war with South Africa, the main reason why they went to it was that the South African people did not behave well, and did not treat properly the English subjects of His Majesty the King Emperor. Now what is happening here in Kenya Colony is exactly the same thing, only in the other case the people concerned were the Dutch. It is known to all that the first regiment which landed in East Africa . . .

The HONOURABLE THE CHAIRMAN: Will the Honourable Member kindly confine himself to the terms of the Resolution?

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, the only thing I want to say is that we must have claims to put before the Government, and if we do not put our claims we cannot expect anything. So I was trying to put before the House that we took the lion's share in conquering a big portion of Africa. The climate was considered to be very bad and the Europeans could not stand it without injury to their health. In the same way the Indians went there and cleared the jungles,

because it was then considered that this colony was only capable of being worked by those who could stand the climate. But directly this was done we were not wanted any more. In working there

many of our brethren got killed and became ill and died owing to the bad climate; and when we thought that we were going to get the price for those services, what do we find? Quite the reverse. We are told "No, your work is now over; off you go." Of course, we are all very proud and very thankful to the Government for their having done their best to help us. Now, if one side says "We want this portion of the country for Indians," and the other says "No, you cannot have it," what is going to happen? When diplomats get a question of that kind and find that they cannot go any farther, then they have got a remedy; they can even do something more by declaring war; but here we are under the Government and we cannot do anything more of the sort; all that we can do is to come here in this House and do the talking which we are doing to-day. The Government claims that they protect Indians. But we are unprotected, i.e., in Kenya Colony; the Government should therefore either say very clearly "We cannot do anything in the case," or say "We can do it," and do it. Of course, Sir, we are so sore on the point that if we could have done anything according to the proverb which says "God helps those who help themselves," we would have done it; but we cannot do it because we are under the Government which ought to help us. If there are 25,000 men of one nationality and eight of the other and they are equally organised I do not think there can be anybody who can get us out, because it has been seen and tried in the last war that a bullet sees no white, black, red or yellow colour and equally pierces through them all. One can speak a lot on this subject, but I think it does not help as much. We only hope that our Government, which is responsible to God for us, will come to our rescue and if the Government does not do so our God will.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, the Government fully appreciates the strength of feeling on this subject both in the Council as well as outside and acknowledges the moderation with which Honourable Members have discussed it. The Resolution divides itself into three parts; the first asks for a recognition of equal rights and full rights of citizenship. The Government of India's attitude is well-known on this point. His Excellency Lord Chelmsford in clear and emphatic terms defined the position of the Government of India in these words:

"The position of the Government of India is and always will be that there is no justification in a Crown Colony or protectorate for assigning to British Indians a status in any way inferior to that of any other class of His Majesty's subjects."

The despatch which the Government of India sent Home in 1920 proceeds upon the clear enunciation of this principle and on the basis of its acceptance. Further, when the position of Indians had to be defined in respect of those who were domiciled in the Dominions, the Government in a memorandum which was presented to the Conference and the text of which has been substantially reproduced in a Resolution published on the 5th October, 1921, have again emphatically drawn the attention of the Imperial authorities to the essential importance of the recognition of this principle in these words:

"It is the desire of India to remain a partner in the British commonwealth of nations, but her own self-respect demands that the partnership should be equal. She cannot be expected to acquiesce in a position of permanent inferiority. The essential conditions of equal partnership are the demand of British Indians to full rights of citizenship in whatever part of the Empire they are domiciled. It is believed that the only final solution of the controversy which has so long embittered the relations between India and the other parts of the Empire will be found on these lines."

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provides for certain restrictions by way of deposit of a certain amount of fee to guard against paupers and undesirable persons from landing in the Colony. No body can reasonably take any exceptions to such restrictions. Well, therefore, if any restrictions are sought to be imposed, they would have to be discussed and the negotiations must naturally accept the essential principle. I am not suggesting for a moment that no modification of these Ordinances would be possible or desirable under any circumstances whatsoever. Reasonable restrictions such as would not discriminate against the Indians as against others, reasonable restrictions which would safeguard and protect the interests of the Colony, reasonable restrictions which may be imposed in the interests of the Empire, we shall always have to submit to. But the House may rest assured that the Government of India cannot and would not be a party to the acceptance of any principle in respect of the Crown Colonies or Protectorates which would be unreasonable in the minds of all right-thinking men or effectually bar the door to the entry of Indians.

There is one point with reference to this question to which special allusion has been made by the Honourable Mr. Samaldas. He has said, "Oh, this may have been the attitude of the Colonial Office in the early stages, but later on we have reason to believe that that attitude has been changed for the worse so far as India is concerned." We have no reason to believe that the essential principle hitherto acted upon would ultimately be departed from, except after full discussion with the Government of India and the India Office, and with their consent and it is perhaps too soon to cry before there are any concrete proposals before the Government suggesting what those modifications are to be. But the principle upon which the Government of India has guided its policy hitherto and hope to guide their policy hereafter, I think I have already indicated to the House. There seems to be really no reason why there should be any anxiety on the part of the white settlers or anybody with regard to there being no room in East Africa for all races. You find here a country of 246,800 square miles, a size larger than that of Madras and Bengal put together, which have a population of roughly 90 millions, the population here being only 2,719,000, with large rivers, a fine climate in many places, with possibly minerals, immense possibilities for the improvement of cotton and the growing of other agricultural crops. There seems to be no reason whatsoever why there should not be sufficient room for both the Indians and the Britishers in that Colony. I am sure when the position is really analysed those who are at present anxious about the future of that Colony from the British point of view will realise that they are running too much after the shadow and abandoning the substance, and that it is desirable to develop the Empire in peace and harmony and with the mutual co-operation of all the component parts of the Empire. There is no doubt a fear in the minds of the British settlers that, given equality of status and a common franchise, with a large influx of Indians into the Colony, a day may arrive when the balance of power would pass from the hands of the Britishers settled there into the hands of the Indians. I will read a few words from a speech by Lord Milner, which will clearly indicate that that day must be very far distant, and with the assurances which have been given by the Indian community themselves that they have no desire to usurp the function of Government in that country, there ought not to be any reason for anxiety or apprehension in the minds of any reasonable man. Speaking of the

possibility of a change in the form of Government, this is what His Excellency said:

The RIGHT HONOURABLE V. S. SRINIVASA-SASTRI: The date of that speech?

The HONOURABLE MR. B. N. SARMA: I think 1919 or 1920.

"I may say at once having regard to the embryonic condition of the country and its very early stage of development, I think that position will have to be maintained for a considerable time, the position, that is to say, of an official majority in the Legislative Council leaving to the authorities at Home the responsibility for the main measures of legislation adopted."

It is true that there is a keen desire on the part of some of those settled there to introduce at a very early date a responsible form of Government, and the fear that is entertained is that this equality of status may stand in the way of that happy era dawning in the immediate future. But I think it is too soon to speculate on the lines which have been followed by some statesmen occasionally, those who wish to peep into the dim future rather rashly and unnecessarily prematurely. There is no real danger, and I hope that the British settlers themselves will realise that the harmonious development of the Colony would be fostered by the growth of a friendly spirit with India. Now, Sir, one further remark has been made, and that is that the Colonial Office have asked for the Governor of Kenya to go to London with some European settlers to discuss the position. We have no information that the Colonial Office has invited the settlers, but the Government of India fully appreciate the strength of feeling in the country, both here as well as in Kenya, that if the British settlers were to go there to represent their case, the Indians in Kenya should have an equal chance, and we propose to press upon the attention of the Secretary of State that an equal opportunity should be afforded to the Indian community in Kenya to state their case before the Colonial Secretary in the same manner as their British brethren hope to do when they proceed on the mission on which they have embarked. I have already said that the problem is full of difficulties, that it is in some respects assuming a serious aspect, and I am glad that this House has, in the terms in which they have discussed the Resolution, shown that they would not excite themselves or the country unnecessarily in a way to embarrass the Government of India or the Home Government and preclude them from pursuing steadily and patiently the course of action which they had set before themselves. I have already indicated the attitude of the Government of India on the various points detailed in the Resolution. It is not unnatural, there is nothing unexpected in the British settlers getting alarmed at a settlement which they think may place them in a minority in the distant future

The HONOURABLE MR. LALUBHAI SAMALDAS: There is no reason for them to do so.

The HONOURABLE MR. B. N. SARMA: I think in a discussion of this character we must give all parties credit for a little clear thinking, and analyse why these fierce passions have been excited over this controversy. I think therefore if one looks into the merits of the case one can readily understand why some of them at any rate fear that the balance of power may pass into the hands of the Indians, and consider that is an undesirable feature which they should safeguard against. Sir, it is a matter for congratulation that the discussions are going to be carried on in London in an atmosphere as free from passion and prejudice as may be expected,

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human nature being what it is and political conditions being what they are. There is no doubt that the British public, the British press and British statesmen would be roused to a sense of the reality of the issues confronting the Empire and would exercise a moderating influence upon the wild passions which have been excited in this controversy. It would be unreasonable for us to attribute to the Colonial Office any desire to depart from the strict policy which they ought to follow, namely, one of fairness to all races living within their jurisdiction, a policy which is likely to preserve, continue and consolidate the Empire which we all hope would be a living Empire full of freedom for all and freedom-loving institutions for all time to come. I hope that the public press would really see the view point of the Indians and of the Britishers alike, take into consideration the wide political issues which are involved and not narrowly assume that one side or the other is correct in its assumptions, in its facts and in the correctness of its future policy. I have no doubt that in the new surroundings in which this problem is going to be discussed a reasonable compromise would be effected which would be satisfactory to all. More than one Member here as well as in the lower House has alluded to the fact that the Indian community has helped considerably in the building up of this Colony, has been instrumental in promoting its prosperity and can justly claim credit for the present improved state thereof. No one demurs to that, although we should not belittle what has been done by the use of British capital, British industry and British initiative. No one, I think, would lightly set aside the great help which India has rendered in the hour of peril of securing East Africa for the British Empire on a permanent footing. I am sure that all these considerations would weigh with the statesmen who have in their hands the future of the Empire. Nor would I think it would be forgotten that in the discussion of the Racial Distinctions Bill a desire has been manifested throughout India, both on the part of the British community as well as of the Indian community that there should be harmony and peace throughout the Empire. Give and take must be our principle. Let us not, therefore, ask for a strict following of what logically may be the result of the assertion of certain principles of action. Both the Britisher and the Indian would have to give and take and if I have refrained from discussing the details of the negotiations which have been going on, it is on the ground of principle as well as on the ground that it would be undesirable to say where we have given a little and where we propose to take a little.

Sir, I have little more to add. The Government of India do not oppose this Resolution. They leave it to the House to decide and would communicate the wishes of this House to the Secretary of State. The official Members would naturally abstain from voting if they wish to do so having regard to the attitude of the Government that they do not oppose this Resolution.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Sir, I am duly impressed by the weighty and magnanimous remarks bearing both on policy and expediency which have fallen from the Government spokesman to-day and I could wish from the bottom of my heart and I have no doubt my unofficial colleagues would do the same, we could wish from the bottom of our hearts that they were heeded duly by the authorities in England. I was in particular impressed by the statements made on the

subject of immigration and immigration restrictions by the Honourable the Member for Emigration. The history of this matter, Sir, is a little worthy of regard in this connection. About the beginning of September 1922 the question of imposing new restrictions came up for consideration and the colonial authorities, of course backed by the Governor, actually suggested that a combined property and education test should be instituted with the object of keeping out what they described as the undesirable immigrant from India. The India Office, of course, protested; the result was that the Secretary of State for the Colonies sent out a despatch to the Governor of Kenya saying that, while he held himself free in the case of actual danger from the influx of the Indian element into Kenya to propose additional restrictions, for the time being he was not convinced that there was any necessity for additional legislation, because the figures quoted for influx and efflux of Indians did not justify any apprehensions of that danger. That being so, we drew our breath easily for a time, but, unfortunately, recent information, which we cannot doubt, has come to us in a cablegram, dated the 13th February, from the General Secretary to the Indian National Congress of East Africa, a gentleman of the name of Shamsuddin, who has kept the Viceroy and the Government of India duly informed of the progress of events there, that in February of this year, the Governor of Kenya actually told the representatives of the Indian population "Well, we decided that there should be no restrictions some time ago, but I am addressing the Colonial Office again. I have reconsidered the position and I think we shall impose some restrictions on immigration", and he suggested a combined education and property test. Now, Mr. Shamsuddin is apparently a Member of the local Legislative Council in Nairobi and he can be expected to understand what he is talking about. This is what he says about the effect which these proposed restrictions might have. He says emphatically "This will no doubt mean the danger of Africa being shut on British Indian subjects." This is what makes some of us on this side of the House a little uneasy; and that, Sir, is the secret really of my introducing the third clause into this Resolution. It is a matter requiring instant attention. I have not asked in so many words that it should be sent by telegraphic message to His Majesty's Government and no point need be made out of that. As a matter of fact, even supposing in the first of these clauses the words "telegraphic message" did not occur, I know from the profound interest that the Government of India are taking in this subject and from the importance of this Resolution, that they would be cabling all these things, whether we requested them specially to do so or not. But if a special clause is necessary, I put it in now.

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

"That this Council recommends to the Governor General in Council that he be pleased to convey by telegraphic message to His Majesty's Government the view of this Council that no settlement regarding the political rights and status of Indian settlers in the Crown Colony of Kenya would satisfy the people of India unless Indians in Kenya are granted full and equal rights of citizenship with European settlers.

And this Council records its indignant protest at the reported threats of violence on the part of the latter and fully trusts that His Majesty's Government will take effective steps to prevent any such outbreak and to afford the Indians resident in Kenya the necessary protection.

And this Council records its emphatic conviction that no restrictions on new immigration from India will be acceptable to public opinion here."

The motion was adopted.

THE MARRIED WOMEN'S PROPERTY (AMENDMENT) BILL.

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

"That the Bill further to amend the Married Women's Property Act, 1874, as passed by the Legislative Assembly, be taken into consideration."

The Married Women's Property Act of 1874 in this country was based on a similar Act enacted in 1870 in the United Kingdom. The object of Section 6 of the Indian Act is evidently to enable a man if he wishes to make provision for the benefit of persons for whom he has natural love and affection and for whose maintenance he is in duty bound to make some arrangements to take out a policy on his life for the benefit of his wife or wife and children and thereby create a trust of the policy moneys and that such policy moneys "shall not be subject to the control of the husband or to his creditors or form part of his estate". The object therefore is one which must appeal to all who would not like to see widows and children left destitute and unprovided for.

I think the Council will follow me better if with their permission I now read Section 6 of the Act which is proposed to be amended by the Bill. It is as follows:

"A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall enure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to the interest so expressed and shall not, so long as any object of the trust remains, be subject to the control of the husband or to his creditors, or form part of his estate."

When the sum secured by the policy becomes payable it shall, unless special trustees are duly appointed to receive and hold the same, be paid to the Official Trustee of the Presidency in which the office at which the insurance was effected is situate, and shall be received and held by him upon the trusts expressed in the policy, or such of them as are then existing.

And in reference to such sum he shall stand in the same position in all respects as if he had been duly appointed trustee thereof by a High Court under Act No. XVII of 1864 (to constitute an office of Official Trustee) section 10.

Nothing herein contained shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of assurance which may have been effected with intent to defraud creditors."

It would appear, however, that the application of this section in the opinion of some is restricted by the second paragraph of Section 2 of the same Act which is as follows:

"But nothing herein contained applies to any married woman who at the time of her marriage professed the Hindu, Muhammadan, Buddhist, Sikh or Jain religion, or whose husband at the time of such marriage professed any of those religions."

Because of this second paragraph of Section 2 a conflict of judicial opinion has arisen and which appeared for the first time in 1913. The Bombay High Court in an appeal case presided over by the then Chief Justice Sir Basil Scott decided that the Married Women's Property Act did not apply to Hindus. This case is *Shankar versus Umabai*, 1914, I. L. R., 37 Bombay 471. The Court held that the creditor of the assured could claim the policy and not the widow for whose benefit the policy was taken out inasmuch as the assured was a member of a joint Hindu family. A few months later a similar case was contested in the Madras High Court. It was referred first to an appeal Court and subsequently to a full Court consisting of three Judges. The case is *Balamba versus Krishnayya*, I. L. R.

37 Madras 483. The full Court gave their decision in 1914 which was directly opposed to the judgment given by the Bombay High Court a few months previous. The Madras full Court held that the Married Women's Property Act does apply to Hindu widows. The Calcutta High Court on the other hand holds the same opinion as the Bombay High Court. The point has not yet come up before a court of law in the other provinces but it is quite likely that they too may not all hold identically the same opinion. The Council will therefore understand the necessity of this Bill which is now brought forward so that the Legislature might decide one way or the other in order that throughout the country the law Courts might interpret the Act uniformly and relieve the general public as also the Insurance Companies from the very uncertain position in which they now find themselves.

The question therefore arises whether the benefit of the Married Women's Property Act should be given or be denied to others than Christians and Parsis in this country. When this Bill was first introduced in another place the Honourable Mover, Mr. Kamat, proposed to amend section 6 by the addition of a clause to say:

"Notwithstanding anything contained in Section 2 this Section shall apply and shall be deemed to have always applied to Hindus, Muhammadans, Buddhists, Sikhs and Jains."

As the Bill has emerged from the Legislative Assembly this Council will see that Buddhists have been left out. This was so done by the Select Committee on the suggestion of the Government of Burma where there are the largest number of Buddhists in this country and at the last reading a similar desire was expressed in the other place by a prominent representative from the province of Burma. Another change that this House will notice is that the amendment is to apply to the Madras Presidency after 31st December 1913 and in the rest of British India after 1st April 1923. There is good reason for this. The amendment seeks to reconcile the action of the Madras High Court, since the date of the decision of that Court I have already referred to.

We may now proceed to consider the advisability or otherwise of extending the benefit of the section to communities other than Christians and Parsis as asked for in the Bill. We might first consider the objections that have been or might be advanced and thereafter the advantages. The principal objection is that if a policy hereafter or existing policies are considered to be taken out under the Married Women's Property Act then although the husband is paying the premiums himself, he will not be able to have any control over the policy and much less will he be able to borrow on the security of the policy either from the Company itself or from any one else and not be able to so borrow even if the wife agrees to join in the request for a loan. Now I ask why should this be considered a hardship in the case of Hindus, Muhammadans, Sikhs or Jains when it is not considered a hardship when policies in the United Kingdom are taken out by any one under the Married Women's Property Act? The main object of the Act is to enable the husband to set apart from his income enough to pay premiums for a life policy the proceeds of which at maturity would exclusively benefit the wife and the children and no one else. The husband is under a moral obligation to make suitable provision for his wife. The Married Women's Property Act as it stands, or the amendment proposed in this Bill does not by any means compel any person to name the wife in

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the policy and thereby bring it under this Act. It is perfectly open to him to do so or not but once he exercises the privilege given to him under this Act the policy moneys cannot be dealt with in any other way but must go at maturity to the wife or wife and children as the case may be and to no one else.

A further answer to the same objection is, that if a person chooses to take out a policy for the benefit of his wife and yet desires with the concurrence of his wife to have the right to borrow moneys on the same he need not insure under the Married Women's Property Act. He might take out a policy in his own name and then assign it to the wife in which case likewise the moneys in due course will be paid by the Insurance Company to the assignee, *viz.*, the wife, but should at any time during the currency of the policy the husband desires to have a loan on the policy he could do so by getting his wife to be a party to the loan agreement. Therefore there is no hardship of the kind that has been urged in some quarters. As to existing policies, by making this Bill operative in British India (except in Madras) only after 1st April 1923 Hindus, Muhammadans, Sikhs and Jains who have taken out policies before that date in the names of their wives may be able to borrow on such policies but after this Bill becomes an Act which we hope will be before 1st April 1923 they must be given equal privileges under the Act with Christians and Parsis.

The second objection is that a Hindu policy holder being a member of a joint Hindu family might insure very heavily for the benefit of his wife and children and pay premiums of amounts which are far in excess of his own share in the joint family income. In such cases the surviving co-parceners may claim the policy moneys. If the policy holders does pay premiums with the moneys he has no right to, then paragraph 4 of section 6 is clearly against him which says:

"Nothing herein contained shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of assurance which may have been effected with intent to defraud creditors."

But I ask the Council would there be any appreciable number of cases of this kind. The best proof that there will hardly be any such cases is in the fact that they have not come within the experience of Insurance Companies so far.

Some Insurance Companies hold that the application of Section 6 to Hindus, Muhammadans, Sikhs and Jains would be attended with considerable difficulties in practice because there is no general legislation amongst Hindus as to marriages and the validity and the effects of marriage are determined by the customs and usages of the particular caste, sect, tribe to which the party belongs. Also that there is an absence of Indian legislation as to Muhammadan marriages and there are many sects of Muhammadans and the prohibited degrees, etc., may vary with the sect. The marriages of Sikhs and Jains too are governed by their customs. Therefore they urge that they are faced with the task of ascertaining that the claimant was validly married and also that there was no other widow or if there were another widow then the claimant was entitled in priority. It is urged in consequence that such a task would be beyond the capacity of the Company and it would be compelled to relegate the claim to a Court of law for its own protection and such references to Courts would reduce the popularity of Life Insurance policies. Such a view to my mind is incorrect. If an assured were to say "pay the money to my wife A on the policy maturing"

and if the Company paid it to A on the assured's death and if afterwards it turned out that A was not the legal wife of the assured the Company would still be safe because the legal representatives of A who in such a case would be entitled to the money, would be estopped by law according to Section 115 of the Evidence Act from denying that A was the assured's wife. Consequently if the wife is named in the policy as is invariably done no difficulty will arise. In practice every Insurance Company in such policies does require the name to be inserted before issuing the policy. Moreover, Section 6 provides for policies to be taken out only by a "married man" and not by "any man" as the amended English Act of 1882 does, so that under the Indian Act a bachelor cannot insure his life for the benefit of his future wife and no difficulty in practice could possibly arise from the extension of the Section to Hindus, Muhammadans, Sikhs and Jains.

The only case where a difficulty may arise would be when a policy is for the benefit of a wife who has been named and children who are not named, *e.g.*, for all such children as may be in existence when the money became due. In such a case the Company would require proof as to the identity and legitimacy of the children but this difficulty is not confined to Hindus, Muhammadans, Sikhs and Jains alone. It would also arise in the case of Christians and Parsis to whom Section 6 already applies. This I hope conclusively establishes that the extension of Section 6 to Hindus, Muhammadans, Sikhs and Jains will by no means entail any greater difficulty on Insurance Companies.

Now a word in regard to the advantages of extending the section to the communities named in the Bill. They are so self-evident. First and foremost, if the wife is named in the policy there is hardly any loss of time after the assured's death and the policy moneys are paid without any delay and what is more without any expense in obtaining legal representation. Again, it would obviate the responsibility of Insurance Companies having to ascertain the validity and legality of the legal representation to be obtained by the claimants. Most of all it would prove to many a Hindu, Muhammadan, Sikh and Jain a source of infinite relief and solace to know for certain that his wife and children alone and no one else will get the policy moneys which is such a doubtful proposition at the present moment owing to contrary views held by different High Courts in the country.

The Bill therefore though small is pregnant with deep meaning and will render a great service to Indian womanhood. It must be the paramount duty of the Legislature to help them as best possible and the Legislature will thereby advance the cause of Life Insurance in the country which needs all the support it can get for it will be the means of instilling habits of thrift among the people and enable them to discharge the sacred duty of leaving one's dependants provided for after the bread winner is himself dead and gone.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I welcome this amending Bill. The case for the Bill coming before this House has been so well explained by the Honourable Mover that I need not go and waste the time of the Council any more. As the Bill does not affect any religious law I give it my hearty support and wish that the Council will pass it unanimously.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I strongly support this Bill and wish that it is passed

[Colonel Sir Umar Hayat Khan.]

at once; the cause is this, that before this there was a class of money-lenders who used to accumulate money and then become insolvent and everybody lost money invested with them. Now, we are glad that poor zemindars who are plunged in debt will have some way of getting out of it by giving their property to their sons and their wives. Of course I need not say anything about the other side of the shield before this House as to how it might be helpful to the other people, as I represent the zemindars. All that I want is how the zemindars can easily evade their creditors and leave all their property in the hands of their sons and their wives and this can be effected by this measure. It has been seen that one of the officials who used to take bribes and knew he was going to be run in, quietly, before being prosecuted, transferred all his property by deed to his son and he got out of the trouble. This will be a very useful Bill in this respect for the zemindars.

The HONOURABLE THE CHAIRMAN: The question is:

"That the Bill further to amend the Married Women's Property Act, 1874, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE MR. PHIROZE SETHNA: Sir, I now beg to move:

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

I should like to say only one word. This Bill, as the Council knows, was the first private Bill after the Reforms came into existence to be introduced in the other place about a year ago. Since then another private Bill was also introduced there and passed and came to this House, but unfortunately this House rejected it. If, therefore, the Council of State will now be pleased, as I hope it will, to pass this Bill, it will be the first private Bill after the Reforms to be passed by the Central Legislature.

The HONOURABLE THE CHAIRMAN: As it is a small Bill and a non-contentious one, I do not propose to put it clause by clause. I shall place it before the Council as a whole. The question is:

"That the Bill further to amend the Married Women's Property Act, 1874, as passed by the Legislative Assembly, be passed."

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 6th March, 1923.

COUNCIL OF STATE.

Tuesday, the 6th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

MEMBER SWORN:

The Honourable Sir Henry Moncrieff Smith, Kt., C.I.E. (Secretary, Legislative Department).

The HONOURABLE MR. V. G. KALE: May I, Sir, in the absence of the Honourable Mr. Sukhbir Sinha request that the questions be answered? I want an answer to question No. 162.

The HONOURABLE MR. B. N. SARMA: The proposal is under consideration.

*(Questions Nos. 163 and 164 were also answered.)

The HONOURABLE THE PRESIDENT: Does the Honourable Member want an answer to question No. 165?

The HONOURABLE MR. V. G. KALE: No, Sir.

The HONOURABLE THE PRESIDENT: Does he want an answer to the next question?

The HONOURABLE MR. V. G. KALE: No, Sir.

The HONOURABLE THE PRESIDENT: I shall have to ask the Government Benches whether they have got any information from the Member about his absence?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF and the HONOURABLE MR. B. N. SARMA: No.

The HONOURABLE THE PRESIDENT: I have on several occasions pointed out that if Honourable Members putting the questions on the paper absent themselves, it is only a matter of courtesy, if they cannot come here, that they should give notice of their absence, especially when there is the Budget discussion in another place where Government Members should be there or rather would like to be there. I have called their attention to this on several occasions.

QUESTIONS AND ANSWERS.

IMPERIAL CATTLE BOARD.

162. The HONOURABLE LALA SUKHBIR SINHA: Will the Honourable the Revenue Member be pleased to state whether the proposal of the Board of Agriculture made in their meeting last year for the establishment

* See page 1128.

(1127)

of an Imperial Cattle Board to formulate and carry out a general cattle-breeding policy has been considered by the Government and if so, with what result; and if not, do Government propose to establish an Imperial Cattle Board? If so, when?

The HONOURABLE MR. B. N. SARMA: The proposal is under consideration.

STANDING COMMITTEES.

163. The HONOURABLE LALA SUKHBIR SINHA: Will Government be pleased to state the number of meetings of the Standing Committees that have been held in every Department of the Government of India since their appointment in September last?

The HONOURABLE MR. J. CRERAR: The number of meetings held by the Standing Committees attached to the following Departments of the Government of India are as follows:—

Home	2
Commerce and Industry	1
Education and Health	1

The Committee attached to the Revenue and Agriculture Department has not yet met as no case of importance is yet ready to be laid before it.

REVENUE AND AGRICULTURE DEPARTMENT STANDING COMMITTEES.

164. The HONOURABLE LALA SUKHBIR SINHA: (a) Why no meeting of the Standing Committee has been held up to this time in the Revenue and Agriculture Department?

(b) Is it a fact that there was no work for the Committee in that Department?

The HONOURABLE MR. B. N. SARMA: There are two Standing Committees attached to the Department of Revenue and Agriculture. One deals with Emigration: the other is intended to deal with other subjects which are the concern of the Department. The Emigration Committee has met no less than 13 times since its establishment. The other Committee has not yet met as no case of importance is yet ready to be laid before it.

BURMA MEAT TRADE.

165. The HONOURABLE LALA SUKHBIR SINHA: (a) Is the Government aware that the United Provinces Legislative Council and the Central Provinces Legislative Council have passed Resolutions to stop the Burma meat trade?

(b) Whether the Local Governments and the Government of India have approved of those Resolutions and from what date effect will be given to those Resolutions?

The HONOURABLE MR. B. N. SARMA: (a) Yes.

(b) It is not known what action, if any, was taken by the Government of the United Provinces on the Resolution passed by the United Provinces Legislative Council. The Government of India did not take any action in the matter. As regards the Resolution passed by the Central Provinces Legislative Council, the Government of India suggested to the Local Government that action might be taken under the Central Provinces Slaughter

of Animals Act, if they considered it desirable or necessary to do so. The Central Provinces Government have taken the requisite action under that Act—*vide* the Rules published on pages 565 to 568 of the Central Provinces Gazette, Part I, dated the 3rd June 1922. These Rules probably took effect from the date of their publication, *viz.*, the 31st May 1922, but the Government of India have no definite information on the subject.

HORSE-BREEDING OPERATIONS IN MUZAFFARNAGAR.

166. The HONOURABLE LALA SUKHBIR SINHA: Is it a fact that the number of breeding mares has gone down very much and what steps Government is going to take for the revival of horse-breeding operation in the Muzaffarnagar district?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: There has been a decline in the number of breeding mares in the Muzaffarnagar district, owing chiefly to the special demands created by the war and to the inclination of breeders to sell their mares rather than to use them for breeding purposes. Other causes which may have contributed to this decrease were the conditions of scarcity which prevailed in the district during the year 1918-19 and an outbreak of influenza which occurred also in that year.

With a view to arresting the decline, a stallion stand was established at Muzaffarnagar in 1919-20 to replace the one at Sisowna which was abolished. At present there are 3 stallion stands in the Muzaffarnagar district and in addition, in order to stimulate the horse-breeding industry, an annual distribution of premiums, prizes and medals is made at the Muzaffarnagar Horse show to the best breeders of stock and the owners of the best branded mares. The new arrangements have found favour with the breeders and the number of mares is increasing.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the amendments made by the Legislative Assembly in the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, be taken into consideration.

The HONOURABLE THE PRESIDENT: The question is:

"That the amendments made by the Legislative Assembly in 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 MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I beg to move that the detailed condition of this Bill be postponed till the next official day. My reasons for making this proposal are that there is one amendment on the agenda paper which practically rejects the amendment made in the other House. This is not the time, Sir, to enter into the detailed consideration of that amendment, but I am making this motion for adjournment, because if time is given to the Government Benches, I mean to the Honourable the Home Member and the Home Secretary to have a round table conference with some of the lawyers and the leaders of the two parties in the other House, I believe

[Mr. Lalubhai Samaldas.]

that an amicable settlement can be arrived at. The wording of the amendment is the principal thing that matters. I believe the Government in their amendment have practically accepted the principle, but as regards the wording of that amendment, there is a feeling among some Members of the other House against it, and I have been asked by the leaders of both Parties to say that they will be very glad to consider the whole question at a round table conference with the Honourable the Home Member and come to some understanding which might be acceptable both to the Government as well as the two Houses. It is to prevent a conflict between the two Houses that I suggest a postponement of the detailed consideration of this measure. It may be that the amendment of the Government will be carried here, because we on our side have very little to say against it. But even if it is carried here, it must go to the other House, and there the majority of the Members may take up the attitude that they did not want any interference from this House.

The HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Why?

The HONOURABLE MR. LALUBHAI SAMALDAS: My Honourable friend, Sir Arthur Fromm, asks why? Because unfortunately something was said in the other House at the time when this amendment was carried that it would be brought before a more reasonable Chamber and the amendment made here. That put up the backs of most of the Members there, but now I believe they are in a more reasonable state of mind, and I think it will be possible, if the Honourable the Home Member does not press for the detailed consideration of this Bill at this stage, and agrees to have this matter postponed and to the round-table conference between the Government Members and the lawyer Members of the other House, it will be possible to arrive at an amicable settlement. I, therefore, move, Sir, that the detailed consideration of this Bill be adjourned.

The HONOURABLE THE PRESIDENT: I would ask the Government Member in charge to say if he agrees in this suggestion.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): Sir, perhaps you will allow me to answer for Government in this matter as the motion concerns my Department and my name has been mentioned in this connection by the Honourable Mover of the motion. The points at issue are not, of course, raised for the first time. They have been much discussed already in another place, and indeed we have had informal discussions since the date on which the original amendment was moved in the other Chamber and carried. I recognize the advisability of full discussion on an important question like this—a discussion which may perhaps smooth over some of the difficulties felt by many Members in the other House. I do not admit that we have brought this amendment here for the precise reasons that my Honourable friend suggested; we have brought it here, because we thought it was in itself essential, and could be defended on its merits either here or in any other place. But, if there is an earnest desire for further discussion on this question, in spite of the inconvenience of fixing another date—and there is great inconvenience in doing so, for at this time of the year when the Budget is on hand our time is heavily engaged—in spite of that inconvenience, if Members opposite desire that there should be an adjournment, I am not prepared to oppose it. As regards a formal round table conference, the Honourable Member will, I am sure, agree that it is

better that those of us who wish to discuss this question choose our own methods for doing so.

The HONOURABLE THE PRESIDENT: The motion before the House, therefore, is that the detailed consideration of these amendments be adjourned to a date—I don't think it can be the next official day, it must be a date to be fixed by Government. That motion is now open for debate to the House.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, the Honourable the Home Member has said that, if there is an earnest desire on the part of the Non-official Members to further discuss this matter, he is not prepared to object to the proposal for adjournment. I assure him, on behalf of the Non-official Members of this Council, that there is a very strong desire on their part to come to some happy and amicable solution of a very very difficult and important question. Section 162 as it stands has been a sore section for many years with not only practising lawyers but also with the Judges and Magistrates who are called upon to administer the existing criminal law. We also feel—many of us deeply feel—that there is a great deal to be said on either side—on the view propounded by Government and also on the opposite view. We also believe that the problem is not free from difficulty and involves very many intricacies. We think it therefore advisable that, if it is possible we should come to some happy conclusion and if necessary we should meet and confabulate with our colleagues in the other House and see if we can solve this matter amicably. The adoption of this course will save considerable time and it will also probably dispense with the necessity of a Joint Session, because we are not sure that, even if the Government amendment is accepted here, it will be received and accepted by the Legislative Assembly. I also think that it may be necessary for Members to suggest some other alternative. If I find that a solution cannot be arrived at, I would go further and, if it is permissible under our rules, I will ask as a solution of the controversy the deletion of the whole clause which would automatically restore the original law. It is for this reason I ask, Sir, that this House will accept the motion for adjourning the debate at this stage. I know that the Honourable the Home Member and other Government Members are very busy at present with the budget which they have in hand, but in a matter of this important character, I trust that Official Members will meet the wishes of the Non-official Members and agree to the proposed adjournment.

The HONOURABLE THE PRESIDENT: The question is:

“That the detailed consideration of these amendments be postponed to a date to be fixed by Government.”

The motion was adopted.

BILLS ASSENTED TO BY THE GOVERNOR GENERAL.

The SECRETARY OF THE COUNCIL: Sir, information has been received that the Governor General has been pleased to grant his assent to the following Bills, namely:

The Malabar (Completion of Trials) Supplementing Act, 1923.

The Cotton Transport Act, 1923.

[The Secretary of the Council.]

The Indian Mines Act, 1923.

The Indian Boilers Act, 1923.

The Indian Factories (Amendment) Act, 1923.

The Indian Naval Armament Act, 1923.

The Indian Paper Currency Act, 1923.

The Repealing and Amending Act, 1923.

The Cantonments (House-Accommodation) Act, 1923.

The Workmen's Compensation Act, 1923.

The Council then adjourned till Eleven of the Clock on Wednesday, the 7th March, 1923.

COUNCIL OF STATE.

Wednesday, the 7th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

THE BUDGET.

The HONOURABLE THE PRESIDENT: Before we commence the debate on the Budget, I should like to remind the House of the fact that the total time available for the debate is limited. The President has power under Standing Order No. 74 to fix the time limit for speeches. Last year I did not fix any time limit and I left it to the good sense of the House and its considerate feelings for others to restrict speeches within reasonable limits. That was entirely satisfactory, and I propose to adopt the same practice on the present occasion. I only trust that if any Member is relying on the written word, he will remember that he has a special duty on him to restrict his speech within reasonable limits.

The Council will now proceed with the Budget debate.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadian): Sir, this occasion is a reminiscence of the old Councils when we treated subjects in general and tackled large problems which one way or the other were connected with the budget.

At the outset I must congratulate our Finance Member who, the very first year of his arrival, has brought in a surplus budget after five years of heavy deficits. I for one welcome the salt tax which will be no extra burden to the public especially at a time when the prices of all the other food stuffs have gone down. There will be people who are accustomed to criticise Government in and out of season but I hope we will not lend an ear to them.

As a zamindar belonging to rural area, I want to put forward that all the classes of the country should equally shoulder their burden and when an agriculturist is paying to the exchequer for a yard of land in his session, his wealthier neighbour is immune on his fairly large income of two or three thousand rupees. In the same way the inhabitants of the towns who did next to nothing in the way of sacrifices needed during the war, are considered to be the choicest sons of India. They have got colleges next to their homes, beautiful roads, arrangements for sanitation and hygiene and various other facilities. The consequence is that they have a walk over in the way of Services and when they are posted to rural areas they have not got much sympathy for those in such areas.

This brings in one of the items of discontent in the country. While on this point I will say a word about our communications which are also neglected as the money is always spent on productive schemes like Railways and Irrigation and we find difficulty in getting our products to the market and have to sell things cheap when Revenue at each Settlement is raised. In the same way when the water is halved or even further

[Colonel Sir Umar Hayat Khan.]

diminished by different processes of irrigation we are threatened with increase of water-rate. I hope a line was drawn somewhere for the poor agriculturists and small holdings should be exempted from Revenue which are not sufficient to feed even one individual.

Time and again I have brought this question forward but this is my duty being a representative of the zamindars and I will go on knocking at the door till it is opened. The double set of the pests of Revenue and irrigation staff could be done away with to a very great extent and a great deal of retrenchment effected and the worries and troubles of the zamindars could be diminished.

I now turn towards the Army. The remarks I made the other day when the Resolution for the Indianisation of the Army was moved hold equally good to-day. To whittle down the expenditure in the Army is false economy when we are threatened by Bolshevism from within and without especially when the adjoining countries are resorting to conscription. The policy of having the double set of buffer States towards the Frontier has been a cause of constant expenditure on operations there. No half-way house is possible nor will any half-hearted measures suffice till the border land is annexed thus putting an end to constant friction.

While on the Army I may just say one word and that is, where would all the progress of the country be if it was invaded and conquered? I have seen with my own eyes beautiful Schools, Churches, Colleges and well-designed cities being levelled to the ground in no time by the invaders.

Turning towards the Civil departments I have always advocated the retention of the British element just as much as the British soldier in the Army, to settle the disputes between various castes and creeds and lead us to the right path during our progress. But I have always emphasized the paramount necessity of weeding out the weeds among them who contribute handsomely to the present troubles in the country.

I would not be true to my country if I did not touch on the political situation which owing to the mistakes the two parties are making, now prevails, and for which the poor tax-payer has to pay more and more every day. The first to blame is the Government. The policy pursued to reconcile the irreconcilables has brought chaos to the country. When the Government has been unable to make friends with their enemies, it has been rapidly losing their friends by their acts. The inconsistent policy of punishing the law-breakers one day and after exasperating them by sending them to Jails to let them loose again for further action, as happened the other day, has been responsible for the big movement where hooligans and others have learnt to have no fear of the Jails and if civil disobedience is ever resorted to they will be responsible for teaching the people to do so by their action. India was nearly lost to the Empire by its previous administrators in England and in India and we are thankful to His Majesty's Government who have sent our present Viceroy who may conquer the country back for the Empire as his policy has already stemmed the current to a very great extent. I would secondly accuse the professional politicians most of whom are such as do not pay much towards the exchequer and thus think that any revolution would be for their good as they have got nothing to lose and everything to gain. The more prisoners they can induce to go to jails the more the country has to pay. Those

who have got a stake in the land are naturally peace loving subjects of His Majesty and cannot be indifferent to the mistake or mischief done by their irresponsible countrymen as well as to the weak policy pursued by the Government which has been responsible for the present situation.

At the end I would like to add a word for my province. When Bengal gets off by having a Permanent Settlement, the Punjab which has got a deficit was assessed in connection with its contribution at a time when it had money which was realized by the sale of land. The land not being a crop which could be sown and reaped every six months, it is hard lines that it was so assessed and I only hope that consideration would be shown to it on this score.

Last but not the least, when every Member of the Legislature is doing his level best to effect economy, would it not be advisable for them to give up their travelling and daily allowances, etc., and diminish interpellations to answer which a great deal of staff is needed.

With these remarks I welcome the Budget.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I believe this is the first time when the Honourable the Finance Member has come to this House and we on this side of the House welcome him. Although the Honourable the Finance Secretary said that he comes here to face the music, I hope the music will not be unpleasant to his ears and that he will not have to hear the same sort of strong criticism that he had to hear in the other place.

Sir, the Budget speech that was circulated to us, a summary of which was given by the Honourable the Finance Secretary, left on our minds one feeling and that was, if I may say so, one of some gratification, gratification in the sense that the intelligent non-official criticism of the past three years of financial record was endorsed by a fresh mind coming with a European reputation as regards finances. Whatever we said about the extravagance of the Government, whatever we said about the inflation policy of Government, whatever we said about Government carrying on by issuing Treasury Bills, or whatever we said about the exchange has met with the approval of my Honourable friend the Finance Member. That shows, Sir, that although we were amateurs, we gauged the situation much more correctly than the Finance Department did. In this connection, Sir, may I draw the attention of the Finance Member and of the House to one point. When he refers to the people wrapping up their money or savings in a napkin or investing them in unsound securities, he perhaps exaggerates the idea of the savings in the country. The country is not rich nor is the hoarded wealth so great as reports very often state. I want him, Sir, to find out for himself whether the country can afford to bear any further taxation without hindering the industrial and commercial activities in the country. It is up to him, Sir, to make these inquiries. But before he has quite very rich he need not have said that the self that the country is really very rich he need not have said that the Indian people should be taught to invest their talents in reproductive enterprises rather than wrapping them up in a napkin. The people are getting more into the habit of investing whatever savings they have either in Government securities, in Post Office Cash Certificates, or in financing the co-operative movement. In this connection, Sir, I want to enlist the sympathy of the Finance Member in one matter. He says he would like to have as much money out of the savings of the poor through Postal

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Certificates as he could get so that he can carry on his work of financing the country's requirements. We want money for the co-operative movement, and very often the poor man, if he puts his money in the Post Office Savings Bank, he takes it or keeps it away from the co-operative movement which is in such great need of finances. If the rate of interest for Postal Certificates is raised, it is necessary, Sir, that part of that money should go to financing the co-operative movement.

Coming to the figures given of the revenue and expenditure of 1922-23, may I, Sir, say that the Finance Department overestimated the income by taking credit for a larger income in Railways and Posts and Telegraphs? We said at the time that very often a limit of income is reached whereafter any increase in the rates will, instead of helping the Government to realise larger revenue, lead to a decrease, and our prophecy has proved correct. The goods income has gone down, and while the passenger income has increased, it has increased very little and the actual number of passengers carried has decreased. So, the Finance Member must be very careful whenever he levies a new tax to see that the tax will bring him the income that he estimates and will not, on the contrary, lead to losses.

Coming to the expenditure side of 1922-23, may I, Sir, make a suggestion? I am referring to paragraph 11 on page 57, where it is said that owing to the rupee and sterling borrowings not having to pay a full half year's interest, that amount was not debited. I believe, Sir, the correct system of account keeping is to debit the interest due even if it is not paid. At least, in Joint Stock Companies that is the practice.

The HONOURABLE MR. E. M. COOK (Finance Secretary): It was not due.

The HONOURABLE MR. LALUBHAI SAMALDAS: The interest due up to that period—proportionate up to that date—although it is not paid. The Honourable the Finance Secretary says it was not due. The Finance Minister's speech however says "But a full half year's interest in respect of the greater part of these does not fall due till next year." I want the amount due up to that period—the amount proportionate to that period—to be debited. That is the system followed in Joint Stock Companies, and I think that is the correct system and ought to be followed by the Government of India.

Now, Sir, coming to the Budget figures of 1923-24, may I refer to what His Excellency the Commander-in-Chief said here in reply to a criticism last year? He told us that if he was satisfied that the internal commotion in the country had ceased and that peace with Afghanistan was assured and that the trouble on the Frontier Provinces had gone down, he would be the first to see that there was a reduction in expenditure. His Excellency Lord Rawlinson has been more than true to his promise, because it was he who enabled Lord Inchcape to make suggestions in reduction of expenditure on the military side. He has set his approval to the reduction of the number of units both in the British and the Indian Army. We know, Sir, that had it not been for His Excellency Lord Rawlinson's support, perhaps the Government of India, even backed by Lord Inchcape's Committee, could not have its recommendations accepted by the Secretary of State or the War Office. The greater is the

credit to the Commander-in-Chief for having, as he said in the other place, taken certain risks and agreed on financial grounds to a reduction both in the British and the Indian units, and I hope, Sir, that what good work he has now begun,—not as regards the reduction of units, because we do not want any further reduction, but in other directions—will be carried to its logical conclusion and that Lord Inchcape's recommendations will be carried to their fullest extent. While speaking on Lord Inchcape's Committee's work, may I, Sir, say that we here in this House, as well as the other House, and I believe the country at large, appreciate to the greatest extent the good work that has been done by Lord Inchcape's Committee? We may take reasonable pride, Sir, that two of the Members of the Committee belong to this House, and although unfortunately they are not present here, I think we may congratulate them on the good work they have done as Members of Lord Inchcape's Committee. Sir, there is only one recommendation in the Inchcape Committee's Report which I am sorry to say does not meet with the approval of myself and many of my friends. I refer to page 54 where the Committee recommends that the 4 crores of rupees that are put down for barracks for Indian troops should not be spent. I think that our sepoys require a really better treatment and that they should have good barracks. May I read that portion? On page 53 the Committee says:

"Formerly Indian troops constructed and maintained their own lines, regiments receiving an annual hutting grant for the purpose."

In the next page they ask:

"Whether the old system should not be reverted to, until the future distribution of the army and strength of units have been definitely decided."

I think that our sepoys should be well housed and that His Excellency the Commander-in-Chief will bear this in mind when he has to redistribute or reappropriate the expenditure sanctioned in the budget.

Then, Sir, there is another appeal which I should like to make to His Excellency. My Honourable friend Sir Dinshaw Wacha when he moved his Resolution about the army amalgamation scheme laid stress on the heavy expenditure of recruiting in England. That Resolution was thrown out, but I think that His Excellency the Commander-in-Chief can use his influence to have the capitation grants reduced as far as possible. While I am speaking of this, may I congratulate His Excellency the Commander-in-Chief on his having begun the Indianisation of the Army by having eight Indian units officered by Indians only. That system has its advantage and disadvantage—disadvantage in one way that they will not be able to come in contact with British officers as they would have done if they and the British officers were put in the same unit. I hope that when His Excellency the Commander-in-Chief said that he would have eight Indian units officered by Indian officers he did not mean that there would not be Indian officers in the other units of the Indian Army or in the ancillary services. I hope that they will have the same opportunities of comradeship with the British officers as they have had till now and that they will be given opportunities of serving in the ancillary services also.

Coming now to the civil side of the budget, I refer to a remark made by the Honourable the Finance Member in his speech. He said that he would not be able to carry out fully the recommendations of the Inchcape Committee on account of two causes—he used two technical words, "lags" and "terminal charges." Those phrases may mean anything.

[Mr. Lalubhai Samaldas.]

It may mean acceptance within a year, it may mean acceptance within a month. The Honourable the Finance Member says:

"The difference between these two figures, amounting to less than 2 crores, represents the allowance which it is thought necessary to make for the fact that many of the recommendations, even if accepted, cannot be in full operation during 1923-24."

This allowance, the Honourable the Finance Member says, is not a large one. It is very difficult for us laymen who are not in the secrets of the Finance Department to say whether it is a large one or a small one, and we would like the Finance Department to give a comparative statement as early as possible of the recommendations of the Inchcape Committee in one column and in another column the time and date when they are likely to be introduced and the extent to which they will be introduced. Then we will be able to judge whether the Finance Department has accepted the Inchcape Committee's recommendations whole-heartedly or not. Unless we have a statement of that kind, we will go on nagging at the Finance Department.

Sir, there is one remark in the Report of the Retrenchment Committee to which I want to draw the attention of the Finance Member and the Railway Authorities. That is about the large stocks held by the Railway and also by the Army. It will surprise many, it came to me as a surprise, that 58 crores of rupees, or rather 59 crores because it is 58.96 crores, have for reasons which we do not know been locked up in stocks which may not be used for years. With interest at 6 per cent. it means a charge of 3.60 crores. I do not say that there should be no stocks, but even if the stocks had been only 20 crores, there would be a saving of 39 crores which at 6 per cent. would have meant a saving of about 2.40 crores. Not only that, but there would have been a saving in the cost of accommodation for the stores and management charges. In a private company this would have been called criminal negligence. I am sorry to use strong words, but it is practically criminal negligence on the part of the Government either in the Railway Department or in the Military Department that such large stores have been kept up.

Now, I come to the last portion of the Finance Member's speech, that is, about balancing the budget. The Budget ought to be balanced. There is no doubt about it. Those of us who have anything to do with commercial concerns realise that unless the budget is balanced, neither the country nor the Government can have any credit with the outside world. India has its credit very well established, but she wants to improve it. Time was when we had to borrow in England for our sterling loan at 7 per cent. I see the Honourable Mr. Cook smiles. I know it was a blunder, but I do not now want to refer to it. It was a blunder on the part of the Secretary of State, but I am not going to rub it in. What I wish to say is that our credit has improved thereafter, and we have been able to borrow at a much lower rate, and I hope that when the Honourable the Finance Member next goes in to the market for a rupee loan he will be able to raise it at a much lower rate than what he paid for the last loan. I hope the country's credit has improved to that extent and that he will be able to get the loan successfully raised at a lower rate, for, if the Honourable the Finance Member is able to reduce the rate it means also an all-round reduction in the expectations of investors in industrial concerns. I hope he realises that if he raises the rate to get more money

he indirectly hits the industrial progress of the country, for the lower the rate the greater is the assistance to the industrial concerns and to trade and commerce in this country.

Naturally, I will be asked, how I am going to balance the budget? The Honourable the Finance Member has his own way. He says, tax the salt. I am not going to repeat the arguments which have been repeated everywhere that it is no use taxing the food of the poor man. That argument has been repeated so many times that I am not going to repeat it. Nor can the Honourable the Finance Member say to us in this House that we are objecting to it on political grounds. Sir, we have not got to seek re-election at the end of this year. We have five years' life, and two years more yet to run before we go to the country for re-election. It is not because if we go back to our constituencies with the addition of salt tax we shall run the danger of being thrown out in re-election that I say we should not tax the salt of the poor. We do not want it because there is sentiment behind it. The Honourable the Finance Member recognises it, but he thinks that sentiment ought not to count. It is a mistake to do so. In India sentiment does count. In oriental countries it is sentiment that counts and not material profit that counts. However, as a businessman I cannot say that for the sake of sentiment salt duty should be given up without finding out an alternative. I am therefore suggesting some alternatives which the Finance Member may consider and then accept them or not as he thinks best. Before I come to methods of taxation I would refer to probable reduction in expenditure. I think that if the Finance Department and the other departments earnestly make efforts to carry out the recommendations of the Retrenchment Committee they will be able to reduce the expenditure by a crore or a crore and a half. The Finance Member says 'No.' I am sorry I am not in the other House. If I were there I could reduce the grants.

The HONOURABLE THE PRESIDENT: I would remind the Honourable Member that if he were in the other House he would have terminated his speech some minutes ago. He must remember that there are other Members to speak.

The HONOURABLE MR. LALUBHAI SAMALDAS: I would have been able to show to the Finance Member that the estimated expenditure can be reduced by cuts in the grants. Even now, if he is prepared to give me time, I shall be glad to suggest cuts without in any way reducing the efficiency of the commercial departments or the work of the administrative departments. As that is not perhaps possible, I shall confine my remarks only to two or three items and I shall be as brief as possible. The first point to which I want to refer is what may be called the hardy annual of railway annuities. That is an item about which we fought last year. Had I not been quite confident of the justice of my case, I would not have pressed it, but I believe that from the purely accounting point of view the real method would be that the annuities payable against the purchase price and which this year amount to 1 crore 21 lakhs, should be debited to capital account and not to revenue. May I ask the Finance Member what would be the result when all payments of annuities are made? The amount against capital will be reduced to the price which was paid in cash. Is that fair? Should the block account be reduced so much below the intrinsic value of the Railway? No company does it. Depreciation there is but not annuity. I agree to depreciation but not to annuity. However it is a question of book-keeping. In 1907, this matter went up

[Mr. Lalubhai Samaldas.]

to the Secretary of State and from 1907 no attempt had been made to bring the Secretary of State down to this point of view. I have tried to see the correspondence which was laid on the table of the other House and I find that the only argument used in support of this practice is that the Act says that the annuities shall be paid from revenue. If the Act is changed, the Finance Member's deficit will be reduced by 1 crore 21 lakhs. I believe that is a correct figure. Then the other item which can be reduced is the item of service charges mentioned on page 33 in the Demands for Grants for 1923-24. It is rather difficult to understand in the first place what service grants mean. At first I took it as most of my friends on this side of the House would do, that it was something like brokerage or under-writing commission. My Honourable friend the Finance Secretary was good enough to explain to me that it was nothing of the kind and that it was merely the interest that would be payable for the period intervening between the date of the flotation of the loan and the dates fixed for the first payment of six-monthly interest. I want to draw the attention of the Council to the fact that the provision for services in Budget estimates for 1922-23 was 1 crore 25 lakhs. Not a single pie of it has been spent. That means that Government have not spent it this year. In spite of that, provision of 80 lakhs is made in the next year's Budget. In the same way, as regards the sterling loan in England, the item put forward in 1922-23 Budget was 53 lakhs pounds, and nothing was spent therefrom, as seen in the revised estimate column, and yet provision is made for £4,750,000, which means about 71 lakhs of rupees. If you omit these two items, there will be a saving of about one crore 50 lakhs. If the Finance Department exercise their discretion well at the time of raising the new loan, and they ought to because they are paid for it, we will be able to save 1 crore 50 lakhs there. This amount added to 1 crore 21 lakhs of Railway annuities, makes 2 crores 71 lakhs which leaves a balance of about 1 crore 50 lakhs to be raised. I propose to meet this deficit by levying a higher duty on iron and steel. I hope the Finance Member will not reject it. We all expected that when the Finance Minister will present his Budget he will take into consideration the recommendations of the Fiscal Commission. I believe I am right in saying, and my Honourable friend Sir Maneckji will correct me if I am wrong, that the unanimous recommendation of the Fiscal Commission was that iron and steel should be looked upon as a basic industry and should be the first to get protection from Government. I do not want this protection just now, because the industry can get this protection when the tariff Board is established, but before doing so, if the Finance Member had taken up the work of examining the fiscal powers of the Government he could easily have found at least 1 crore 50 thousand by doubling the duty from 10 to 20 per cent. The income this year is 2 crores. It could easily be raised to 4 crores but I have underestimated it and put it down at 3 crores 50 lakhs, that is, an increase of 1 crore 50 lakhs. I desire to suggest one other mode of raising money, and that is to levy a tax on the gross freight income of ships as is done in other parts of the Empire. My Honourable friend the Commerce Member smiles. I have in my hand some papers about this, and I will make a present of them to the Honourable the Commerce Member and the Finance Member as I have very little time at my disposal to read them. They show that the other parts of the British Empire are levying such a surcharge. If the other parts of the Empire can do it, why should we be prevented from doing it? Here is an indirect method of raising revenue, a method which

is most suited to this country. I shall now refer to a telegram from the Indian Merchants' Chamber and Bureau, which I daresay the Finance Department have received also. The Chamber strongly protests against the levy of salt duty and recommends that there should be a gold standard with open gold mint. I do not want to read it as Government have got it. With these words I welcome the Finance Member's lucid exposition of the defects in the financial administration of past years, but I regret that he has not taken his courage in both his hands and gone in for reform on the lines on which we should have liked him to go.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I am not unduly pessimistic to view the present budget with any feelings of alarm or dissatisfaction. This budget on the whole is a good budget and I congratulate the Honourable the Finance Member on his success. The first thing that strikes as outstanding to a non-financial expert is the disparity between the budget estimates and the actual receipts of our revenue. Our revenue has fallen short of the budgeted figure by 13.34 crores of rupees and this has ultimately swelled the last year's deficit to 17.50 crores.

Thus there seems a general tendency on the part of the Government to over-estimate the revenue, and this ultimately goes to swell the deficit to an unusual high figure.

The Honourable the Finance Member in his speech has drawn a very accurate sketch of the perilous state of India's finances. He has rightly observed that the recurrence of deficits in the Central Budgets for the last five years coupled with the deficits in the Provincial budgets is likely to impair India's credit in the eyes of foreign creditors.

Coming to the report of the Retrenchment Committee, I fully realise the difficulty experienced by the Government in incorporating the recommendations of this Committee in the present budget. It is evident that full benefit of all the retrenchments proposed by the Committee cannot be realised during the first year of their operation. The gross deductions recommended of 8½ crores in Civil Administration and 10½ crores in Military expenditure are highly gratifying. Altogether when all the retrenchments are fully realised our expenditure will be reduced by 19½ crores of rupees. Notwithstanding the difficulty of introducing the retrenchment proposals in the present budget, the estimated expenditure for the year 1923-24 has been reduced by over 11 crores. The reduction of 6½ crores in the Civil expenditure and 5½ crores in the Military budget is a very reasonable reduction during the first year of the enforcement of retrenchments.

The military expenditure as shown by this budget now stands at 62 crores as compared with 67.75 crores as the last year's estimated figure. I admit that the Military figure is still high but I hope as promised by His Excellency the Commander-in-Chief every endeavour will be made to reduce it to 57.75 crores which seems to me a very reasonable figure. I cannot leave the subject of Military expenditure without a passing reference to the operations in Waziristan. I personally advocate a close Border Policy as all the people acquainted with the frontier condition will do. But I should not be understood to under-estimate the marvellous success achieved by the present Military policy. There is every reason to hope that within a few months the situation in Waziristan will considerably improve when it will be handed over to the Political Department and then there will be sufficient reduction in the Military budget. I do not intend to detain

[Major Nawab Mohamed Akbar Khan.]

the House with any detailed examination of the various heads of revenue but I cannot help making a few observations about Railways. As shown by the Honourable the Finance Member in his speech, there has been last year a net loss of about a crore in the Railway budget. Now, Sir, the Railways being essentially a commercial enterprise, they should be run entirely on business grounds. Their administration should be conducted purely on business considerations and they must pay their way. I hope the Railway authorities are giving their serious consideration to this fact. The perusal of the memorandum accompanying the statement of receipts and demands for grants for 1923-24 shows that next year the Railways will not only meet their expenditure but will also yield a net profit. I hope these expectations will be realised.

I come in the end to the much vexed question of the proposals to meet the present deficit of 5.86 crores. Out of this it is proposed to wipe off 1.59 crore by crediting the interest on the securities of the Gold Standard Reserve to the revenues of the country. Thus under the existing taxation there remains a deficit of 4.26 crores uncovered. The imperative necessity of getting rid of this and to balance the budget cannot be exaggerated. It is not safe to add every year to the appalling figure of 100 crores of the accumulated deficit. But the question is how to meet this deficit. There are only two ways of doing this—(a) either by reducing the expenditure or (b) increasing the revenue by fresh taxation. So far as the former method is concerned, a considerable reduction of over 11 crores have already been incorporated in the existing budget estimates and it would not be possible at least this year to make further reductions without a danger of impairing the efficiency of our administration. On the other hand fresh taxation is the least desirable thing. We are already over-taxed and there is hardly any possibility of increasing any other form of tax since both land-owners and business communities have already been heavily taxed and there is no further room to fleece anything more out of them. I therefore welcome the proposal of the Honourable the Finance Member to increase the salt duty to Rs. 2.8 per maund. This is not going to press so heavily upon the poorer sections of the community. As shown last year by the Finance Member in his speech, this enhancement will add only one anna per seer. One anna per seer is a very insignificant burden. Besides as this is a general tax, it will press equally upon all and will prove very remunerative. It will bring in something like 5 crores into the Exchequer and the burden will be very insignificant and equally distributed. I strongly advocate the enhancement of the salt duty in order to terminate the era of budget deficits and to embark upon the road of brighter prospects of surpluses in the coming year.

After all besides the land-owner and commercial classes all other communities equally enjoy the protection of the benign Government and should therefore bear at least a part of the burden of light taxation. If further taxation is required, it would perhaps be desirable to increase the duty on liquor and other excisable commodities including snuff, because it will both be a financial gain and a moral advantage. With these words I strenuously support the introduction of this Budget.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I have heard it said that the debate in this Council is often infructuous after a full and exhaustive debate in the Assembly and has no material value. To my mind the debate in this Council has a special value in the sense that it enables Government correctly to know the opinions of

the landed aristocracy of India, the representatives of the zamindars and large landholders and the representatives of the commercial interests which principally aid, influence and guide the financial policy of the country. Viewed from that aspect, the budget needs our special consideration. Various epithets have been applied to this year's budget and compliments have been paid to Sir Basil Blackett for the clear and lucid presentation to the Legislature of the financial position of the country. Sir, I do not propose to join in the conventional compliments, not because Sir Basil Blackett does not deserve them, but because I propose to put him at ease by telling him that he has presented to the country this year what may be termed a practical and common-sense Budget. The Budget has its special features. I do not propose to quarrel with the minor aspects of this year's Financial Statement, to cavil with certain figures either on the side of expenditure or on the side of revenue; I do not propose to enter into a discussion whether the expenditure is over-estimated and the receipts under-estimated but I propose to attack the Budget from certain broad points of view as somewhat offending those canons of prudent taxation, a fair and equitable taxation which should be the acknowledged policy of Government. Sir, I am aware, the last three years have been strenuous times with the Finance Department, they have been times of great anxiety and much trouble. Sir Malcolm Hailey, we all know, had the misfortune to confront sorrowful days when a general trade depression dwindled our revenues and made the prospects of the financial condition almost hopeless. When we realize that in the last three years the gross deficits of the Government of India have amounted to 100 crores, of which 31 per cent. have been covered by paper money issued by the Government of India and the rest, 69 per cent. by borrowings, when we consider the disheartening past, we have received this Budget with mixed feeling of relief as well as of hope. I say, Sir, relief, because, to be frank, we anticipated a much larger deficit. I say that I welcome this Budget with a feeling of hope because it gives hope and indications of the future policy of the Government of India, a policy which is to be framed and based on well-recognized canons of taxation and in absolute compliance with the economies recommended by Lord Inchcape's Committee. Sir, the stupendous taxation of the last three years has told heavily alike on the poor and rich, and I do not find in this Budget, to my sorrow, any allusion from the Finance Minister, any expression of sympathy and consolation, or any hope held out for general reduction of taxation. Sir, I shall not at any great length allude to these matters. My friend Sir Basil Blackett has justified the abnormally high 30 per cent. duties on luxuries by the statement that these duties have not killed the trade, that the figures indicate that motor cars, watches and other things have come into this country in larger numbers and quantities, and that the duties have justified themselves. Sir, there is also another aspect of the case. My Honourable friend, with his financial knowledge, and his versatile experience in the domain of finance, ought to know that heavy duties, excessive duties, have their tale of sorrow to tell in the long run. These duties you may continue for a little time, you may continue them for a year of two, you may continue them with impunity for a brief space of time, but the eventual result will be disastrous to the revenues of the country. Sir, in the same way I find, to my utter disappointment, that in alluding to the postal charges my friend Sir Basil says:

"The effect of the new postal rates during the first few months of the financial year was to reduce correspondence, but there have since been signs of recovery and the public are now gradually getting used to higher postal charges."

[Sir Maneckji Dadabhoy.]

I read, with great discomfort, this statement. I never knew before that the postal service was an avenue or channel for any Government to make money out of it. I understood that the postal department was a service for the country; the postal service is the foundation of all trade, of all commerce, of all business, and if the people have taken to it and are gradually getting used to the higher postal charges, they are doing so not of their own liking but out of sheer necessity. These high postal charges might have been justified at one time, but I think that the Government of India ought to seriously consider the desirability of reducing the postal charges and restoring the old cheap service. The Government, in the end, will get a larger revenue by resorting back to the half and quarter anna service. In a country like India where there is a great deal of illiteracy, where every encouragement possible should be given for the promotion of education and internal communication and correspondence, I view with disappointment and dismay this feature of policy propounded by the Honourable Finance Member. Sir, likewise the commercial community in this country view with dismay the absence of all allusion, the absence of all sympathy in the matter of excessive income-tax and super-tax. It was not left to a democratic Assembly to cavil at this form of taxation, but it is certainly open to the representatives of commerce and industry to make their voice audible in this House so that the Government may in the near future shape their policy in consonance with public opinion and in consonance with its former traditions to encourage the commercial growth of the country. Sir, what is the result of this excessive taxation? My friend has rightly alluded to the fact that there has been a fall in the income-tax that Government has not been able to realize in Calcutta much on account of the refunds given, and that in Bombay, on account of the decline in the cotton industry, the amount has not come up to their expectation. Sir, just consider what has been the policy in this country. It is diametrically opposed to the policy in England from which my Honourable friend comes afresh. In England, Sir, during the war, no doubt, heavy income-tax and super-tax were levied; in India they went in for a high, excessive income-tax and an exorbitant super-tax policy three years

after the war had ended. In England when the Chancellor of the Exchequer is doing his best to reduce the income-tax in order that the commercial enterprise and the industrial progress of the country may be developed, our financiers in this country are sitting tight and not heeding the popular view but endeavouring to keep the tax as it stands at present. Sir, the present killing super-tax is destructive of all enterprise, is destructive of all serious progress, in trade and industry, and I trust the Government will see their way to give a substantial measure of relief in this matter as early as possible. In England last year they reduced the income-tax. There is already fresh talk of another shilling reduction. They are seriously contemplating in what way relief could be given in the matter of the super-tax. I say—and say with great respect to Sir Basil Blackett—that as the Government has accepted the other day in the Assembly a recommendation of the Fiscal Commission promising all encouragement to trade and commerce and the development of new industries in this country, I hope Government will see at an early date the desirability of giving a substantial measure of relief in these two matters.

Sir, I entirely endorse what my Honourable friend the Finance Member has said in the matter of the currency and exchange policy in this country. I am glad that my friend has not given way to the tempting proposals of men who do not really understand the importance of the question. I

quite agree that you cannot by any artificial measures manipulate your currency policy. The currency policy must work in conformity with the world factors, with the price of wages, with the prices of food and materials. You cannot give an artificial stimulant one way or the other. You cannot resort to temporary measures by fixing and stabilising exchange, because the result will be more disastrous than what we have already experienced. The sad experience of the past is quite ample to guide us in this matter. Three years ago we came to know what was the result of a policy of interference. I therefore welcome the policy propounded by Sir Basil Blackett that the right and proper policy is the waiting policy, a policy of allowing matters to adjust themselves naturally in conformity with trade conditions and world factors.

Sir, these are the few remarks that I have ventured to offer on the special features of this Budget. Now, it is no use our quarrelling with the past. We must see as to the future. I am very glad that this Budget incorporates the valuable recommendations of the Inchcape Committee. The Inchcape Committee have recommended a total reduction of 19½ crores, of which 10 crores are in the matter of the Army estimates and 9 in the matter of Civil estimates. I quite understand the difficulty of Government in giving effect to all the proposals made by the Inchcape Committee. I have no doubt that in the next few months the Government will see their way to incorporate all the proposals and effect as much economy as it is possible consistently with efficiency in the administration of Government. Sir, there is one matter to which I must allude, and that is the subject of our military expenditure. I must tender the gratitude of this Council to His Excellency the Commander-in-Chief for the whole-hearted support which he gave to the Inchcape Committee and for consenting to have the axe applied to many of his departments and to many of the services which he so honourably controls. Sir, I have heard, however, His Excellency's speech yesterday with a feeling of disappointment. His Excellency has stated and given every assurance possible that economy will be effected, but His Excellency, as I understood him yesterday, has however subscribed to the proposition that the military expenditure of the country could not be brought to the eventual figure of 50 crores as recommended by the Inchcape Committee. His Excellency has endeavoured in the coming year to fix the military expenditure at 62 crores and an appreciable reduction of 5 crores is welcome. But, I appeal to His Excellency in view of the conditions now prevailing, in view of the policy of Government as declared by Mr. Bray in the other House, I impress upon him the necessity of drastic curtailments and enforcement of further economy in the military expenditure of the country. Sir, I feel certain that if His Excellency again applies his mind to the details of this problem, His Excellency will succeed and before he retires he will leave a monument of his sympathy and industry, of his solicitude for the welfare and the interests of India.

Sir, the question which is now confronting us is the question of how to meet the deficit. I endorse all what Sir Basil Blackett has said as regards the necessity of a balanced Budget and of covering the deficit. It would be impolitic, it would be unwise, it would not be in consonance with a well-regulated policy, to leave the deficit uncovered, and some means must be found to attain that object. Sir Basil Blackett in concluding his speech stated:

"That the Government of India will receive the credit which I claim is their due for courageously shouldering their burden and boldly coming forward with a budget which, at one and the same time, effects drastic reductions in expenditure and calls for a further sacrifice in the form of new taxation."

[Sir Maneckji Dadabhoi.]

The House does give credit to Government for these reductions. We also feel we ought to carry out his suggestion about the further sacrifice in the form of further taxation. I, Sir, and my Honourable colleagues would give every support to Government in the matter of making a sacrifice if that sacrifice could be made consistently with our principles, if it can be made consistently with the interests of the country and with the declared policy of the Government as stated in the past. Sir, my Honourable friend the Finance Member seeks to cover this deficit by a salt tax. My friend yesterday declared the policy of the Government and he said that the Government have carefully considered and come to the conclusion that there is no other avenue which can be explored in the matter of fresh taxation, and the only course left to Government was to impose a salt tax, which my friend said was both economically and socially sound, if I remember his words aright. Sir, with great respect, I venture to point out that there has been a change in the policy. The Honourable Sir Malcolm Hailey when he presented his lucid budget last year said that the salt duty had always been regarded as Government's ultimate reserve and another Member, my friend the Honourable Mr. Innes, said, defending the salt duty last March, that the tax was raised from Rs. 2 to Rs. 2-8-0 in 1888, and it remained at that figure until 1903 when a reduction was made because Government recognized that it was theoretically a bad tax and because it was thought that there should be a reserve of taxation to be drawn on in case of emergency. Within 12 months the angle of vision has been considerably changed. Sir, the ultimate reserve for which the salt tax should be kept, the theoretically bad tax has now become a sound one. When the Salt tax was raised in Lord Dufferin's Viceroyalty, a promise was given that it would be reduced at an early date, and if possible the whole of that form of obnoxious taxation would be done away with as early as possible. Now, Sir, I do feel that this form of taxation at the present time is objectionable. I am prepared to accept Sir Basil Blackett's statement that the incidence of the taxation will not fall materially and heavily on families. But, Sir, in my humble opinion, if this tax is to be ever raised in the country, it should be kept up the sleeve of Government to meet some unavoidable crisis or extraordinary emergency when such a tax would be necessary. Could it be honestly said that the present is a suitable opportunity for introducing this tax? Could it be legitimately urged that the ultimate reserve should be called upon at this juncture when drastic economies have been recommended, and when Government themselves have willingly and readily adopted those economies in their budget? Sir, I therefore venture to say that the time has not yet come for the imposition of this increased duty. My friend has stated that it has been objected to on political grounds only. It is true that it has been objected to on political grounds, and could any reasonable Government, especially the Government of India, afford to ignore political considerations at this stage in the history of the country? Sir, I say with great emphasis that, apart from the incidence of taxation, this is a time when the Government is not right in introducing this enhanced taxation. I will not say, as was said in the other House, that this tax is a messenger of revolution. I disagree with that statement, but I do contend that this tax is a messenger of widespread discontent in the country, and why should the Government, when it can adopt other methods, resort to a form of taxation which from a political as well as sentimental standpoint has been abhorred and objected to in the country. Sir, political considerations are of great importance at this juncture. Sir, this Council has two years longer . . .

The HONOURABLE THE PRESIDENT: I must draw the Honourable Member's attention to the fact that he has not two years longer, and that other Members of the House desire to speak.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, a part of our Legislature is on the eve of dissolution. The peoples' representatives in this country have in very difficult and anxious times helped and endeavoured to help the Government in the matter of Reforms, they have supported Government in many measures that were brought before them. Sir, is it right that Government should not give these men who have now to seek the suffrage of the electors, the right to say that they have done their best, that they have opposed what was not proper, what was not expedient, what was not just? . . .

The HONOURABLE THE PRESIDENT: The Honourable Member must address his remarks to the Chair.

The HONOURABLE SIR MANECKJI DADABHOY: I ask the Finance Minister to give his consideration to this matter. Further, this Council cannot ignore the wide public opinion outside this Legislature. The whole country, the entire press with the two solitary exceptions that I have seen, have condemned this taxation at the present stage. Government cannot ignore that large volume of public opinion. Sir, we must therefore find out some other method of covering the deficit. My Honourable friend Sir Basil Blackett yesterday quoted a metaphor from a cartoon and remarked that the soldier said "If you can find a better hole, take me to it." I wish we could suggest a better hole to him, but I think he will find a better hole if he will readjust entirely the present policy of taxation. It is not for us to suggest methods. It is for Government who are in possession of all the details, facts and circumstances to find out a method that will be acceptable. In this connection I must say that the entire policy of taxation needs revision and thorough revision. . . .

The HONOURABLE THE PRESIDENT: I really think the Honourable Member has had more than his fair share of the time of the House.

The HONOURABLE SIR MANECKJI DADABHOY: If you wish me to sit down I shall obey your ruling. In view of what has fallen from the Chair I shall not prolong the debate. This is an occasion on which a great deal has to be said, but I must submit to the ruling of the Chair. I shall only say, Sir, that the Government may find some way of getting out of this difficulty. As they now have time for a few days I hope they will reconsider the matter and will not insist on raising an impost which is not only of a dubious character, but which has met with considerable opposition. I shall say only one word more and that is that this budget on the whole has been a satisfactory one. We hope, Sir, it will be given to the Finance Minister to fulfil the dream of his life and to serve his country of birth and when the time to quit his office comes he will have the satisfaction to leave an imperishable record of success in the domain of finance and strict economies in the administration of this country.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, at the outset I should like to associate myself with the expression of welcome uttered by my friend the Honourable Mr. Lalubhai Samaldas, to the Honourable Sir Basil Blackett on his first appearance in this House which has been described as the House of Elder Statesmen. Elder, yes; statesmen, we hope.

The HONOURABLE SIR DINSHAW WACHA: We are all statesmen here.

The HONOURABLE SIR ARTHUR FROMM: Sir, when I first received the budget, it at once occurred to me that one important thing arising out of it would be that it presented but little material for discussion. I do not know that my impression has since been altogether justified here. The Budget seemed to me to be rather in the light of a colourless one. In so describing it, I do not mean to adversely criticise it; I think it has come up to the expectations of the people of this country, although perhaps it has not exceeded them. I am in entire agreement with the Honourable the Finance Member in his emphatic views of the necessity of providing for the estimated deficit, a deficit of 4½ crores. Not to provide for this deficit would not only be unstatesmanlike, but it would be unbusinesslike, and it is unthinkable that the Legislature should add in any way to the regrettable total of 100 crores, which represents the deficits ranging over a period of 5 years.

The expenditure side of the Budget should not, I think, be discussed in detail. I regard it as being *sub judice* until the recommendations of the Inchcape Committee can be tried or given full effect to. We shall see probably next year the result of those recommendations as applied to the expenditure throughout the country and I have every hope that the result will be gratifying to the full to both Houses.

We now come to the revenue side or rather to the task which presented itself to the Honourable the Finance Member of providing extra revenue to meet the estimated deficit of 4½ crores, and, as was, I think, anticipated throughout the country, he has turned again to the salt tax. Well, Sir, I gave my opinion on this salt tax just about a year ago. I have reflected on it since, and I must at once say that I see no reason to change the opinion I then expressed. I have never met anybody in this Council who has been able to convince me that an extra Rs. 1-4 per maund excise on salt would be oppressive to anybody in this country. It should be viewed, I consider, side by side with figures, and I understand that if you apply figures to the proposed advance in the salt tax, the result is an increase of not more than four annas per person per annum. I am unable to believe that that can be oppressive. One Honourable gentleman this morning more or less admitted that it was not oppressive; he said it was sentimental. Sentimental! I ask him, is not the country of India being educated and is it not time now to neglect sentiment when you want to obtain revenue? The Honourable Mr. Lalubhai Samaldas opposed the salt tax and then very rightly made various suggestions as to how the salt tax should be replaced. I much admire him for this, because I do think that, when any Honourable Member wishes to have withdrawn a tax proposed by the Finance Department, it is up to him to make some constructive proposal in its place. Amongst the proposals made by the Honourable Mr. Lalubhai Samaldas was one that I did not quite understand. It was a tax on the gross freight income of ships. I have not the foggiest notion of what that means. Ships pay income-tax in India now and what other tax does the Honourable Member mean? It is quite true that upto a few years ago ships not registered in India did not pay income-tax, but they do now, and the tax that they pay is a very appreciable increase to the revenue of this country.

Well, Sir, I do not propose to speak very long. I have already expressed my opinion of the salt tax and, therefore, I have no other suggestion to make of any other increased tax.

A few days ago I received a telegram from the Western India Motor Trade Association; I have no doubt others, and possibly the Finance Department, have received similar telegrams. I should not refer to it, Sir, except that I am in entire sympathy with the views of that Association. To describe motors in these enlightened and progressive days as a luxury is, I say, entirely wrong. (The Honourable Mr. E. M. Cook: "Who describes them as a luxury?") It is included under the luxury tax of 30 per cent. (The Honourable Mr. E. M. Cook: "It is not a luxury.") I say the tax of 30 per cent. ought to be reduced and materially reduced. The deductions arrived at and given by the Honourable the Finance Member that the imports this year, or as far as we have gone this year, 1922-23, are in excess of the imports of motor cars in the previous year are, no doubt, entirely correct, but they give an entirely false impression. There was a post-war boom in motors and some few years previous to the year 1921-22 there was a tremendous import of motors into this country. Those who have met anybody connected with the motor trade know how very badly bitten some of the motor traders were. In 1921-22 the import of motor cars was reduced enormously as it comprised a period when the traders tried to get rid of the cars that they had imported during the boom. Therefore, 1921-22 is not a fair year to compare with the present year. I feel sure that this outcry from this trade would not have been so bitter if there was not full justification for it. I repeat that motor cars, motor transport, the accessories of motor cars, tyres and so on are not in these days a luxury. We should remember that not so many years ago travelling by railway train was considered a luxury, and look at railway travelling now. We have got to be progressive in this matter, and I do hope that the Finance Department will reconsider this duty of 30 per cent. on motor cars and their accessories. The amount involved is a mere fleabite in the finances of the Central Government, but it is a real thing to the motor industry.

I have listened with interest to the remarks of my Honourable friend Sir Maneckji Dadabhoi. Naturally we should all like the super-tax and the income-tax reduced, but I am not quite sure that I feel justified in pressing for this this year.

The HONOURABLE SIR MANECKJI DADABHOY: I did not press for it this year.

The HONOURABLE SIR ARTHUR FROMM: Next year we hope . . .

The HONOURABLE SIR MANECKJI DADABHOY: I did not say next year either. I said as early as possible.

The HONOURABLE SIR ARTHUR FROMM: Personally, I hope as early as possible will be next year.

With these few remarks, Sir, I have nothing to say against the Budget. I support the Salt tax this year as I did last year. I am entirely unconvinced that it is an oppressive tax. With the Salt Tax the Honourable the Finance Member will be able to budget for the estimated deficit, and I sincerely hope that the business-like instincts of Honourable Members of this House will not allow sentiment to outweigh their commonsense.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab; Non-Muhammadan). Sir, I congratulate the Honourable the Finance Member on the Budget which he has presented to us this year, which

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Budget I must say is decidedly a far better Budget than we have been getting for the past few years. I also take this opportunity of recording our thanks to Lord Incheape and his colleagues for the retrenchment proposals that they have put before the Government of India at great personal sacrifice of time and money.

Our new Finance Member has in the Budget only proposed an additional duty of Rs. 1-4 on salt, which works out to about half an anna per seer, which in my opinion is not so much as to be worth consideration. But as sentiment is against it and as I personally feel that any tax which directly affects the poorer classes is not proper, I do not welcome this proposal.

My Honourable friend Sir Arthur Froom said that when we oppose any taxation we must also suggest some other method of raising income. In that connection, Sir, I should like to propose that an additional export duty of four annas per maund be levied on jute. Of course, people say that it would affect our exports and lead to substitutes being employed. But as far as my information goes, substitutes have hitherto proved to be useless. In this connection I may also say that the bulk of our jute exports do go, besides England, to America and Germany. We find that in the United States of America, the Government is levying an import duty on manufactured jute but not on raw jute, which means that they want to encourage the jute industry in their own country at the expense of India. Germany as our next largest customer having found their substitute to be useless have had to fall back on jute from India. If I rightly understand, India is the only country which has a monopoly of jute. This extra taxation that I propose will bring us, Sir, about 3½ crores of rupees.

The Honourable the Finance Member suggests that the export duty on hides and skins be reduced from 15 to 5 per cent. In my opinion, Sir, this is not proper and we ought not to make any reduction in this duty, which would cause loss of 19 lakhs to the country. An export duty on petrol and motor-spirit will be quite welcome. As this matter has been already debated on in this Council, I do not like to go into details again on the subject; but I cannot refrain from saying that kerosene oil, the "Victoria" brand, which is considered as the ruling factor in the price of cheap burning oil in India, is such an inferior oil that it will be simply thrown away if placed for sale in Europe or America. This kerosene gives a great deal of smoke and particularly in the case of our reading public it is injurious to their eye-sight and injurious to their lungs. In the old days when inferior kerosene oil was not in use and the country burnt vegetable oil, our eye-sight was much better. When I was in college myself early in the nineties I saw very few students who used glasses, but now if we visit any college or even a school we find that 75 per cent. of the students wear glasses. I think that inferior kerosene oil is chiefly to blame for that.

Of course, the question of sentiment weighs a great deal with us. The other day the Honourable Mr. Chadwick, whilst laying great stress on the importance of cheap kerosene for the poor, was rather inconsistent as he did not secure any reduction in the excise or import duty on kerosene oil. As I have already proposed other taxation, I wish that the excise duty and import duty on kerosene oil should be removed. It will mean sacrificing 90 lakhs, but as the other two items which I have proposed are likely to bring in more than 5 crores, the loss of 90 lakhs will not matter.

Another thing, Sir, I find in the Budget is that on the Kabul Legation we are spending a lot of money. Afghanistan has now secured a Sovereign status and as such her Embassies have been established in chief countries of the world; so I think India ought not to bear any expense in connection with this Legation. For the information of this House I might mention that in 1913-14 the cost to India of this Kabul Legation was only Rs. 40,000; in 1922-23 it rose to Rs. 5,26,000, and in this Budget we find it at Rs. 4,80,000.

Similarly, Sir, I find that in Persia and the Persian Gulf we are spending something like 22½ lakhs, which I think ought to be borne either by the Iraq Government or by the British Exchequer, as these places cannot be considered to be a part and parcel of India. Then in the Persian Gulf alone, Sir, out of this expenditure which I have already enumerated, about 6 lakhs go for lighting and buoying in the Persian Gulf itself. I find that no tax is levied on steamers which do ply in that gulf. However, as I do not wish that this charge should fall on India, I do not like to go into details as to whether these lighting and buoying charges be borne by the steamers or by the Government concerned.

My friend the Honourable Sir Arthur Froom questioned what the Honourable Mr. Lalubhai Samaldas said about the Shipping Tax. As far as I understand, my Honourable friend Mr. Lalubhai meant that this tax should be levied on the total freight money. We find that in Australia a similar tax is levied which amounts to about 1½ per cent. (£700 in freight of £46,000); also we find a similar tax levied in the Union of South Africa where it, roughly speaking, amounts to 1 per cent. (£60 in freight of £8,000). I think, Sir, that if we levy such a tax in India at 1 per cent., we shall make about Rs. 50 lakhs from foreign trade and about 10 lakhs from the coastal trade.

As far as the Military Budget is concerned, I thank His Excellency the Commander-in-Chief for the reduction which he has already effected in the military expenditure. I hope that in the years to come he will be able to make much larger retrenchment. As far as the Military Works Services are concerned, as my Honourable friend has already pointed out, the saving of expenditure on military barracks and on works of sanitation should not be made; for the Indian troops in particular, the present barracks are all *kutchas* and are not as sanitary as they ought to be, and so in such directions reduction is not proper.

As far as the Waziristan expeditionary expenditure is concerned, since India is an asset to the whole of the British Empire, in my opinion the British Exchequer should bear at least a portion of the cost of such expeditions.

In India, Sir, since the last few years the ruling rate of interest has been very high and one of the reasons, I think, is paucity of money; and as my friend Sir Maneckji Dadabhoy has already referred to the matter of income-tax and super-tax, I just want to say how in my opinion this heavy taxation reflects or falls upon the poor. Big bankers and big banks have to pay something like 7½ annas in the rupee in income and super-taxes which certainly reduces their own income by 50 per cent. and they naturally try to make that up by asking much higher rate of interest from the commercial public or the agricultural people who borrow money. So this taxation which presumably seems to fall upon the rich does fall on the poor in that way, and so, Sir, I would suggest that when the time comes a reduction in super-tax and income-tax should be made. India is

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a poor country and the present rate of taxation is unbearable. In this connection, Sir, I might also say that in years gone by the Imperial Bank, or the then Presidency Banks, were given better facilities in crop times. Now, as far as my information goes, accommodation up to the extent of five crores only is allowed against securities, or secured commercial drafts. I would suggest that in crop times this limit ought to be raised to 10 or 15 crores, that will also cheapen the money.

Then I come to Exchange. The condition of exchange has been a great factor in depressing trade and in dislocating all business. Merchants and dealers do not feel inclined to order any goods on a large scale because they do not at all know when the goods actually land at the Indian ports what their cost will be in rupees. That is limiting the British imports into this country as well as other imports, and does affect our trade balances.

In the military budget, as far as I understood, the Honourable the Finance Secretary told us that in future under the heading of Railways the strategic lines capital expenditure and maintenance charges would be separately shown. I am sorry, Sir, that even in this budget which is put before us—I refer to Appendix III, page 22 of Explanatory Memorandum on Railway Budget—commercial lines and military lines are bracketted together. That is not right because this does not give us any idea as to how much we are losing on military or strategic lines. It is simply a matter of accounting; but all the same, I think the House would like to be in a position to know what that particular expenditure on the military side has been in the Railway accounts.

Another way, Sir, of increasing our income, would be the location of currency reserves in India instead of in England. This will bring more money in India, and at times of financial stringency in the money market it will be a great relief to the Imperial Bank and the other big bankers of good status and standing. In addition, we shall be getting much higher rate of interest, certainly more than double of what we are getting in England. If I mistake not, that would mean according to my calculation an income of over two crores of rupees.

Then I find, Sir, that in presses and other industrial concerns, Government is beginning to interfere a good deal. Private enterprise ought to be encouraged, but I find that a great deal of money has been in this and in the past year provided for new machinery in Government Printing Presses. Sir, I would suggest that every effort should be made to encourage private enterprise. I presume, Sir, that the Government is going to appoint a Tariff Board and we shall all welcome that Board. In this connection I must say that India needs protection very badly. We see that our great industries as well as small industries are not doing as well as they ought to do. My friend the Honourable Mr. Lalubhai Samaldas has already put before the House that the greatest of our Indian enterprises, the Tata Iron and Steel Company, is in need of protection. Before the Ruhr trouble began the prices of imported continental steel were much cheaper than the Tata Company's Steel; and in those days the difference sometimes ranged between Rs. 20 and Rs. 25 a ton. Then take the case of the Scindia Steam Navigation Company or other shipping companies in which India's capital, as far as I understand, is over Rs. 10 crores. What do we find? We find that these Indian companies are being driven into liquidation by the British India Steam Navigation Company. In

September 1921 when the Scindia Steam Navigation Company took up the Burma trade and when the British India Steam Navigation Company's ruling rate of freight was Rs. 20 per ton from Rangoon to Bombay, competition was started with the result that freights from Rangoon to Bombay were reduced to Rs. 6 per ton by European shipping companies, a rate which was far below the cost of working. Even the rate from Rangoon to Colombo was Rs. 9 a ton, while the rate of freight from Rangoon to Bombay was Rs. 6 a ton. In this connection I may point out that if our indigenous industries are not encouraged and supported, they will be driven into liquidation, and for another half a century or so nobody in India will be enterprising enough to float again such concerns.

The HONOURABLE THE PRESIDENT: I would remind the Honourable Member that he is taking up more than his share of the time of the House.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Then again, I find that Lord Inchcape's Committee is proposing a reduction in agriculture, industry and in public health. In this connection I must say that India is mostly an agricultural country, therefore expenditure required for the development of this most important industry should not be curtailed. Public health is not in a satisfactory state, and medical and sanitary relief in this country is very much behind time. We have many districts in the Punjab, where a single dispensary serves a radius of 20 or 30 miles, which cannot be considered adequate for the needs of a civilized country. Therefore, medical relief ought to be extended as much as possible, and no retrenchment made therein.

As regards the post office, Sir, I must say that this department ought not to be considered like the Railways a money-earning department. What do we find, Sir? In the Retrenchment Report we see the figures

The HONOURABLE THE PRESIDENT: I would ask the Honourable Member to attend to my suggestion. There are other Members who are anxious to speak, and I would therefore ask the Honourable Member to bring his remarks to a close as soon as possible.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Very well, Sir. In this important matter, Sir, I find that 2 per cent. of the *personnel* of the sorters in the Railway Mail Service is being reduced notwithstanding much heavy mails. That is not in the interests of the sound working of the R. M. S. post office which has lost a great deal in its efficiency, and I should like to draw the attention of the authorities to the fact that instead of reducing the number of sorters who are already overworked they should reduce two of the three Deputy Inspectors-General.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, the outstanding feature of the Budget is a very intense desire on the part of the Honourable the Finance Member to balance the Budget. I am, Sir, reminded of the similar position in which India stood when the first Finance Member of the Government of India came out to this country in 1859. The Finance Member on that occasion had to face similarly persistent deficits; and the Public Debt was mounting up from year to year. He was confronted with the after-math of the Sepoy Mutiny as we are confronted with the after-effects of the war. Naturally, therefore, he felt keen anxiety to place the finances of the country upon a sound footing. My Honourable friend the Finance Member finds himself in a somewhat

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the 30 crores which are allotted to them from year to year. I wish it were possible to have a sort of a financial committee to look into these matters. I appreciate the desire of many of my Honourable friends who do not like the interference of the Finance Department in the affairs of railways. They do not want the control of the Finance Department but I do not think they ought to object to financial control, though they may not like the control of the Finance Department. Some sort of financial control of this nature is essential if our railway property is really to yield us the revenue that we want. On behalf of the tax-payers, I strongly urge that unless the Government of India take timely measures to see to it that our railways are worked economically and yield to the public what the Retrenchment Committee proposes the railways ought to yield, I think there is no hope for the improvement of the finances of India in the near future. One word, Sir, about what has already been said concerning the annuities and sinking fund. I do not understand how this sinking fund and these annuities can in any way be compared to the ordinary sinking funds which are set aside by Governments and are so very desirable. My Honourable friend opposite knows as much as I do the story of the sinking fund in England of over 100 years ago. He knows what absurdities were practised in the name of that sinking fund when in times of huge deficits money was borrowed to be put into sinking fund; money was borrowed at high rates of interest in order that the sinking fund might grow, the idea entertained being that there was some sort of magic in a sinking fund which automatically increased from year to year and would wipe out the whole public debt. Something of that nature, Sir, is happening in connection with these annuities and sinking funds. Now, these sinking funds and annuities are provided for paying off the railway capital. We have an asset in the railways against the liabilities. I do not see then, why it is necessary to liquidate the capital in this fashion and why money should be taken out of revenue for the purpose. I can understand an ordinary sinking fund set aside from year to year in our budget; but to take away even in times of deficits 24 crores of rupees a year in order to liquidate capital invested in such a business as the railways, is a curious procedure and it really passes my understanding why the Government should be opposed to taking that money in times of deficit to revenue, a measure which has been very strongly recommended.

I will close, Sir, with only one observation and it is this. This proposed increase in the salt duty is a kind of apple of discord which has been thrown by the Government of India in the midst of the Members of the Legislature. A vague sort of assurance has been given that if by means of this increased salt duty the Government of India is able to balance its budget, then it will be possible for it to take into its favourable consideration the question of reducing and remitting the provincial contributions. I hope that Honourable Members in this House will understand that no remission of contributions is going to be made in any case in the next year, and that this increased salt duty is not in any way going to relieve the stringency that is felt at the present moment by the provinces. I hope also that the representatives of the various classes in this House and elsewhere will not nullify their criticisms of the Government budget by some proposing a reduction in the income-tax or the customs and by others supporting or opposing any addition to the salt duty. But I think we must all be united in asking the Government to

see to it that the fullest scope is given to retrenchment before we are asked to support a duty like that on salt.

The HONOURABLE RAJA PRAMADA NATH RAY OF DIGHPATIA (East Bengal: Non-Muhammadan): Sir, the Finance Department is to be congratulated for being able to present what may be called in many ways a far more cheerful budget than those of the last few years, and it is admittedly a budget in accordance with the present financial position of the country, and not dictated solely by the policy of the Government as has hitherto been the case; yet with an expert financier at the head of the Department one would have naturally expected that this year's budget would be fully balanced. That unfortunately has not been the case, and a new taxation had to be proposed. While heartily endorsing the principle that balancing the budget is the first consideration in a time of peace, it is difficult to agree with the method suggested for that purpose, *viz.*, that of further taxation on an already overburdened people. A tax on salt—one of the prime necessities of life—cannot but be very repugnant as it will affect even the poorest in the land, who, as it is, find it difficult to keep body and soul together. I venture to say that to impose such a tax would be nothing short of spreading discontent amongst the masses and thus giving facilities for Bolshevist propaganda, with the result that it will help a certain section of people to get into the Councils more easily at the next election. At the same time India cannot afford to have a deficit budget any longer—that is obvious—especially as her total deficits have gone up to something like 100 crores (almost calling her credit into question). It is necessary, therefore, that some method other than taxation should be resorted to for wiping off this deficit, and the only other method that suggests itself is further retrenchment than is already proposed by the Finance Minister. Since it is not possible to give effect to all the recommendations of the Inchcape Committee at once on account of the shortness of time, the best way would be to reduce the expenditure gradually say in 3 or 6 months, and bring it down to the level that would cover the present deficit. After all, it is not difficult to cut down two per cent. of the expenditure and it is much better doing so than incurring the opprobrium of a fresh taxation. Besides, a portion, however small, of the deficit can be easily covered by imposing an export duty of 6 annas per gallon on petrol, which, in spite of the scepticism of the Government, may yet bring in a substantial customs revenue to its coffers.

The creation of Territorial Forces will, it is hoped, to a certain extent enable His Excellency the Commander-in-Chief to reduce the number of regular troops (both Indian and British) and bring them down to the peace level, as has been suggested by the Inchcape Committee; and if His Excellency keeps a tight grip over the Waziristan expenses, it will not be difficult to make further effective retrenchments on the military side of the Budget in 3 or 6 months at the latest.

Sir, with these words, I beg to say that it would be very impolitic on the part of Government to impose any further taxation on the people, who are already groaning under the burden of high taxation.

The HONOURABLE THE PRESIDENT: I think this will be a convenient moment for the Council to adjourn.

The Council then adjourned for Lunch till Half past Two of the Clock.

The Council re-assembled after Lunch at Half past Two of the Clock. The Honourable the President was in the Chair.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadian): Sir, the Budget placed before this House to-day is more satisfactory than what it was last year as the deficit last year was about 9 crores, while this year it does not go beyond $4\frac{1}{2}$ crores. Why is it so? I should say it is the result of the attacks that were made on the budget last year in this House as well as in the other House on the policy of Government that was adopted for several years past in framing the budget. The policy was to realise as much revenue as possible to meet the expenditure. No attempt was ever made to reduce the expenditure. It was only last year, when this point was raised in both Houses and the Government's attention was drawn to the fact that a substantial reduction ought to be made in the expenditure. The result of that discussion and debate was the appointment of Lord Inchcape's Committee. That Committee has made a report for the reduction of $19\frac{1}{2}$ crores of rupees in the expenditure, about 10 crores in the Military Department and about $9\frac{1}{2}$ crores in the other departments. I think we are very grateful to His Excellency the Commander-in-Chief for the assistance he gave to the Inchcape Committee by making a reduction in his Department. Last year I believe many attacks were made on his Department in regard to military expenditure, and he was pleased to make a promise to reduce the expenditure as much as possible looking to the efficiency of the Army. I think he has kept his promise and has carried it out very creditably in allowing a reduction of 10 crores in his Department. I may still suggest that there is further scope for retrenchment in his Department. For instance there are two items to which I should specially refer. The first is about the administrative services. What I find from the Inchcape Report is that from 1914 to 1922 the fighting services have been reduced by 16,000 but the administrative services have been increased by about 22,000. So I think there is much scope for reduction on the administrative side of the military expenditure. The second point is one which was raised by my revered friend, Sir Dinshaw Wacha, in this House some time ago, that the Army Amalgamation scheme should be remodelled. If that could be done the war policy will be much improved and we shall have to spend only as much money as is absolutely necessary for this country, and we shall not have to depend so much on the War Office. The expenditure at present incurred in England on the training of recruits for military service is very high and, if possible, some reduction can be made in that direction also. I think, if His Excellency the Commander-in-Chief will give a little more attention to these items, a further reduction can be made in the Military Expenditure.

Sir, the new Finance Member is perfectly right when he said in his speech that having deficit budgets in this country is a very bad policy because the credit of the country is being lost in the whole world. Therefore, his attempt in the first year of his coming to India to balance the budget is most praiseworthy. I think it is the right policy and it is the right principle that should be adopted in framing the budget that the expenditure should not exceed the revenue. This year the deficit will amount to about $4\frac{1}{2}$ crores and, in order to meet this deficit, an increase in the salt tax is proposed. I am strongly opposed to this proposal, first on the ground that last year this question was raised and was most vehemently opposed in both Houses. From that time till now nothing new has happened that will

justify an increase in the rate of the salt tax. Sir, I think all the Members of this House will agree with me that salt is one of the prime necessities of life. Not only do people want salt but the cattle also require it, and as it is such a necessary of life which cannot be dispensed with, it should be as lightly taxed as possible. If this salt tax were to be raised, I think there will be an outcry in the whole country against the Government and against the Legislature. Therefore, I think it is not advisable or appropriate to increase the salt tax which has been in force for so many years past. No attempt was ever made except last year to increase the salt tax, and, when we remember the opposition that was raised against it last year, I think no case has been made out this year to increase the salt tax from Rs. 1-4 to Rs. 2-8. I think the budget can be left as it is. Last year the deficit was 9 crores. This year it is only $4\frac{1}{2}$ crores and it is likely that we may have more revenues from Customs, income-tax and other sources and that this deficit may be made up from these growing sources of revenue. (The Honourable Sir Arthur Froom: "No, not from Customs.") How can you say the revenues will not grow? If they do grow, there will be no deficit; if they do not grow, there will be a deficit. (Laughter.) Nobody can say what the result of this will be, but, so far as I can judge, I think there is every likelihood of our having growing revenues, because trade and commerce are looking up bright and there is no reason why we should not have more income from so many different sources. Therefore, my suggestion will be to leave the budget as it is without seeking for any fresh taxation. A deficit of $4\frac{1}{2}$ crores is not so big as to require the imposition of fresh taxation or a further increase in the present taxation, but, if it does, then I would suggest that the duty on foreign sugar may be increased by 10 per cent. At present it is 25 per cent. and our markets are flooded now with Mauritius and Java sugar. The price of imported sugar is now much cheaper than country made sugar, and if the duty is raised, I think there will be protection for the Home industry and home-made sugar may improve. My second suggestion will be that if it is possible, the customs duty on cotton piecegoods may be raised from 11 to 15 per cent. It may be said that it will fall on the consumer, but it is the case in all taxes. In every case the tax falls on the consumers, whether it is piecegoods or salt. On salt also it will fall on the consumers. My third suggestion will be to increase the tax on cigarettes by at least 10 per cent. And my fourth proposal will be, as we proposed here a few days ago, to put an export duty on petrol going out to other countries from Burma. There is no reason why India should pay a tax of six annas per gallon on their own produce and other countries pay nothing. I do not find any reason or justification for this policy. If there is any tax it ought to be put on all consumers alike, whether Indians or outsiders. Therefore, if the Finance Member thinks that to leave the deficit uncovered is not right and desirable, I would suggest that instead of having recourse to an increase in the duty on salt, he may consider over the three or four items that I have suggested.

Now, Sir, I have to make a few observations on a few other items of the budget. For instance, the Railway. What I find is that at present there is no saving to the Government. The total income from railways is about 95½ crores. The working expenses are 66½ crores. Surplus profits paid to companies are about 1 crore. The net income that remains with the Government is only 28 crores; out of that they pay 28 crores towards Railway Revenue account, that is, towards interest and so on. Practically, therefore, there is no profit. I would suggest that some steps should be taken to make these railways a paying concern either by making

[Lala Sukhbir Sinha.]
them State-managed or some other measures should be taken to make them pay.

Sir, the Honourable Sir Arthur Froom said that the objection to the increased salt duty is sentimental. I may point out to him that it is not sentimental; it is a fact that any increase will be felt by the people from the top to the bottom. Everybody, rich or poor, requires salt. Even cattle require salt. It is not a question of sentiment. It is a question of necessity. I do not know why my Honourable friends Colonel Umar Hayat Khan and Nawab Mahomed Akbar Khan have supported this proposal. Last year, so far as I remember, they opposed it and nothing new has happened since then.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: No.

The HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: No, I did not.

The HONOURABLE LALA SUKHBIR SINHA: The whole House opposed this tax and therefore Government were obliged not to raise that taxation. But I do not know why some Members support this proposal this year.

Sir, I find that in the postal department, no reductions have been proposed in the postcards and letters. Last year there was a great deal of opposition to this increase. From the figures, we find that the income has been less than what was anticipated or estimated. I find from a statement before me that the number of paid unregistered letters is reduced from 271,157,926 to 216,538,339 this year in the half year ending September 1922, and similar is the case with post cards. They have been reduced from 3,188 to 2,500 lakhs. That shows that the number is going down, that is to say, correspondence is being reduced by the people, while the income is also going down. So I think Government should take into consideration this question that the postal service in this country is very useful to the people generally and to the commercial people specially and therefore, if they could find their way to do it, the postage may be reduced to what it was before, namely, $\frac{1}{4}$ anna and $\frac{1}{2}$ anna. I find that there is a similar result owing to the increase in fares for passengers and goods in railways. I find that the income is not up to the estimate, and that the number of passengers carried and the amount of goods carried is going down. That also is a very big commercial question and I wish that the Government might give it its full consideration whether it is possible or not to reduce the passenger fares and the goods rates.

Then, Sir, there is a proposal made in the Inchcape Committee's Report to reduce the expenditure on Agriculture. I am very much opposed to this reduction because agriculture is the most important profession in this country, and instead of giving more money to it I do not see any reason why it should be reduced. I was going to suggest to Government that more money should be spent on research work in agriculture so that the produce per acre in this country may increase; now the produce per acre is one-fourth of what it is in other countries. Therefore I think it is most desirable that in order to produce more food-stuffs from the land more research work should be done in the Agricultural Department, and more money should be spent.

There is one more point and that is about the provincial contributions. I think Government admits that provincial contributions should be reduced or abolished as soon as may be possible. But the time has not

yet come for that reduction or abolition because when we have a deficit budget how can we suggest to Government that the contribution should be remitted or abolished? But this question is a very important one as almost all the provincial Governments are in deficit; they are doing their best to raise their revenues by new taxation; for instance, in the United Provinces the deficit will be about Rs. 1½ crores and they want to increase the stamp and court-fees duties and to levy a tax on motors at about Rs. 180 a motor. Therefore until and unless the provincial Governments are relieved of these contributions, I think they will not be in a position to run their Government on proper financial basis. But I hope that after this retrenchment we shall have a balanced budget very soon, if not next year, the year after the next, and I hope that our new Financial Member who has a very good and distinguished financial history at his back will be able to make our budget a balanced budget and not a deficit budget, which he has so much at heart.

With these few remarks, Sir, I welcome the budget and I strongly again protest against any increase in the salt duty, and would suggest to the Financial Member to think of some other duty if he thinks it necessary to cover the deficit; otherwise he may leave the budget as it is for future improvement in the revenues.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I think it is some source of satisfaction to the country that the financial barque of the State has weathered the storm and the stress of the heavy seas that overtook her for the last few years and is now in sight of a safe harbour. I do hope, and sincerely hope—as it is also the hope of the country—that next year may see the barque in a haven of safety, and not only a haven of safety, but one of such safety as would gladden the hearts of the tax-payers. Having said so much, Sir, I must, of course, pay my tribute of praise to the very talented mariners who navigated this barque through the troublous times, particularly the Retrenchment Committee and the Departmental Committee at the head of which was our Financial Secretary. I think we must not forget that in the first place, it is the labours of the Departmental Committee that facilitated the work of the Retrenchment Committee. It is also a source of considerable satisfaction that the Retrenchment Committee had a distinguished Chairman in Lord Inchcape, who was also a distinguished member of the Geddes Committee, and also other business men of experience as members, who have been able to produce a total retrenchment of 18½ crores. Next, I have to pay my tribute of praise, as others have done in this place, to our excellent Commander-in-Chief. I must say that he has, after all, climbed down from his lofty attitude of *non possumus* and done some good. Sincerely do I say that the Commander-in-Chief has rendered a service albeit that after all he is a War Office man. He fought strong against us as long as his force of resistance could go and stood out till he could no longer stand.

Lastly, Sir, I think the House ought to thank my Honourable friend Mr. Kale for having been the first to suggest a Committee of retrenchment last year. Members on the front benches often seem to think that we are all babies and they are all talented people who know everything. They seem to think that we non-officials are nobodies, and that we are incapable of suggesting anything. Sir, I assure you that we can make any number of valuable suggestions if time, leisure, and other necessary information were given to us—information which the departments themselves have got before them. Practically speaking, Sir, on a budget day,

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we can speak for hours and never finish; but somehow or other the reformed constitution is such that we cannot speak for more than thirty minutes save on sufferance. How can you expect on a heavy budget of this character, that each should finish his speech in thirty minutes only? How can we enlighten the Government and indicate to them the divers directions in which further curtailment of expenditure might be effected if we are not given that adequate time to express our opinions and sentiments on the subject? However, this is a matter quite apart from the main question, but I do think that it is necessary that the Government should consider well whether in future fairly reasonable time should not be given to Members of both the Houses to speak fairly on the Budget and to express their sentiments in such a way so as to impress upon Government Members the necessity of taking action in the direction indicated by the non-official Members.

Having said so much, Sir, I may say that I am not going to elaborate all the points but, I think I should congratulate the Honourable the Finance Member, Sir Basil Blackett, for the very lucid Financial Statement that he has put before us. It is not only lucid, but I would go further and say that it is an admirable effort at what you call crystallization and compression of facts and figures. We have had before very many able Finance Ministers, but owing to other circumstances their facts and figures were a little diffused. But I am glad to say that our present Finance Minister has put forward a Financial Statement in the form of Liebig's Extract of Meat—I think we have all drunk Liebig's Extract and fully digested it.

Now, Sir, as far as the question of military expenditure is concerned, I shall say nothing more than this from my fifty years' experience, namely, that military expenditure, however, reduced for a time has subsequently increased by leaps and bounds. Somehow or other no brake has ever been applied to the Military Buke. No strong brake has ever been put upon military expenditure. That is the reason why year after year it jumps up and mounts and mounts; and that is the reason why it has now gone up to 67 crores. Now, Sir, in order to control the military expenditure in future, even if we come to a certain limit, we must have a strong controlling authority, an independent authority, like the Parliamentary Control Committees in England. Honourable Members who have read the papers will have known what these Parliamentary Control Committees have done. There have been a number of leakages which the Auditors have revealed to the public gaze. There have been enormous leakages—where have they come from? I am quite sure that, if there be any big leakages in the future, a Control Committee would find out at once and stop them. Therefore, Sir, one of the important administrative reforms which the Government of India should initiate is the appointment of a strong Controlling Committee of a permanent character which should control expenditure, both civil and military, so that any leakages and mistakes may be found out betimes and corrected. As a matter of fact, in my letter addressed to the Incheape Committee, I have referred to the strict control which is necessary in order to prevent expenditure outrunning revenue. It is an unsound system of finance to allow expenditure to outrun revenue. No civilized country which considers its finances as the backbone of its prosperity should allow expenditure to run on as the Indian expenditure has been for years. But that is exactly the thing that has been going on in the Government

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of India for several years and I regret to have to say it, notwithstanding that very able Finance Ministers have been in charge of the Department before—such as my friend the late Sir William Meyer, Lord Meston and others. What is wanted in that respect is that the Government of India should apply a very tight brake; and I repeat that that brake can only be put by an independent committee of control who should see that the expenditure was not allowed to over-run the income. There is also one other observation that I want to make about military expenditure. As my friend Mr. Sukhbir Sinha pointed out, I spoke the other day on the amalgamation scheme. I do say again, and most emphatically and vigorously, that the amalgamation scheme of 1859 is the root cause of the larger and larger military expenditure for years together. The scheme is there; the Amalgamation Act is there. It may be that our present Commander-in-Chief might do us a great deal of good. But a new Commander-in-Chief might come and the War Office may command him to do this, that and the other. It may direct him to adopt an organisation which may not be within the capacity of India. What should be done then? As I observed the other day to His Excellency the Commander-in-Chief, that although I may be defeated here once, although I may be defeated here twice, when the third time comes I will succeed and see that the amalgamation scheme is repealed, because that is at the root of the whole of the present burdensome military expenditure. Otherwise you will find yourself faced with even a bigger deficit within the next few years. A single large item may be insisted upon, say further addition to the soldier's pay or something else demanding half a million pounds *plus* exchange. Where shall we be? The revenue is inelastic. I am afraid our revenue will remain even more inelastic in the future, if you have rank protection, or a high protective tariff. I condemn this new fangled protection which is sought to be introduced and the recommendations of the Fiscal Commission in this public place. I am a free trader. I am a convinced free trader and I say that the recommendations of the Fiscal Commission will do much more harm than good to the country, and the country will never prosper. The country greatly prospered while there was free trade between 1882 and 1896. After that year the country has become slowly protective. Therefore, Sir, all these other administrative precautions have to be taken in order to see that in future our expenditure does not overrun the income. What is now wanted is a Committee for examining the existing taxes and revenue. There are varieties of taxes prevailing and the time has come when a Minister like Sir Basil Blackett, who has been connected with English finances for a long time, and who has made his mark, ought to enforce clear principles of taxation on the basis of which India should be taxed in the future. What we want is fewer items of taxation but of a productive character, that is, of such a character that it may go on expanding and expanding. What is the use of having 15 per cent. on this and 30 per cent. on that? Really what happens is this. As far as customs duties are concerned, what has happened is that instead of having a larger revenue from a larger duty, we have got practically next to nothing by way of additional *grist*. The law of diminishing returns should be taken into account. The higher you mount up duty the lower will be its yield. And if your revenue falls off, where are you? Therefore, Sir, I consider that the duties should be reduced with a view of stimulating and encouraging trade. If owing to a heavier income-tax and other burdensome duties trade is crippled, where will you get the needed funds for carrying on the administration. Let the whole House remember this,

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that it is the trades, industries and manufactures which bring grists to the State mills and the Treasury. Therefore, I say, develop your trades and develop your industries. But how are you to develop these? If you impose heavy taxes, capital is crippled, and with little or no capital nothing can be done. If trade declines, the revenue declines and the Finance Minister of the future will be at his wit's end what to do and they will all go wool-gathering. (Laughter.) I am sure of it. You may laugh if you please. I am an old man verging on eighty. I may die to-morrow, but you will remember my words. If we want that trade, commerce and industry should flourish we should reduce our taxes and duties so much that the country may go forward with larger savings as capital. But there should be no protection. I think Indian prosperity in the future will lie more and more in free trade rather than in protection.

The only other remark that remains for me to make is in reference to the proposed enhancement of the salt duty—I do not want to take up the time of the House, and shall therefore be brief. Everything has gone right and I do hope and sincerely hope—though I am not sanguine—that, possibly, Sir Basil Blackett will be in a position next year to bring about a surplus. There are many reductions still to be made, there are many recommendations of the Retrenchment Committee still to be adopted, and if they are adopted during the course of the year, that may bring us financial prosperity provided we have a good monsoon and our harvests turn out good. Indian finances will then be in a sound and healthy condition. But in the meantime we have got this deficit to cover of 4½ crores. The Honourable the Finance Member says that he has considered and considered what may be the possible source of taxation to meet it. I can understand his solicitude to balance expenditure. He is perfectly right there. We have to take two things into consideration, the ability of the tax-payer and what should be our further sources of taxation. The salt tax is no doubt a good tax, but I will ask the House to recall the words of that very wise Finance Member who flourished some 40 years ago, I mean Sir Evelyn Baring, afterwards Lord Cromer. It was he who, really speaking, established free trade in India. It was he who actually reduced the salt duty from Rs. 2-8-0 to Rs. 2 per maund. At that time it was only a difference of half a rupee, but there were already people who objected to that modest reduction such as the Bengal Chamber of Commerce and others who are rather a very selfish class, a class I should say who looked more to their own interests than to the interests of the country. (*The Honourable Sir Arthur Froom*: “I am not from Bengal.”) You are from Bombay Chamber of Commerce, six of the one and half a dozen of the other. Well, Sir, I do say that Lord Cromer when he was criticised for having foregone that half a rupee, he gave a very good reply which I think is equally pertinent to-day. He said that half a rupee for a poor man with an income of Rs. 27 or 30 a year was a great thing. He could buy a piece of cloth or a loti. Now, Sir, half a rupee saving is a great thing to the poorest. But when Rs. 1-4-0 duty is put on salt what happens? Look at the effect on the poorest class of people. They may be better off now, but you must remember that although their wages have increased, the cost of living has also increased, and if you take the one with the other you will find that a poor man is not so very well off as some people imagine. I say, if we are to increase the duty on salt let us anticipate what will be its effects? In the first place, there will be a diminution in the consumption of salt. That has been the experience every time the salt duty has been increased.

The Honourable the Finance Member will look into the old records and will find it for himself how far my statement is correct. What happens? Consumption goes down from 12½ to 10 lbs. a year for a family of four. The family suffers. The vitality of the family becomes lower. After all, salt is a necessary of life, and if such a heavy duty as Rs. 2½ on salt is imposed the poor really economise even in their daily pinch of salt. It means in the end that their vitality is lowered. Do you expect that with the vitality so low the poor man will live long? Look at the vital statistics. What do they show? Even to-day the mortality is somewhere about 35 per thousand. Not only does humanity suffer, but even the cattle suffer. Every time that the salt duty has been increased, various people, collectors and others, have said that our cattle are dying, and dying for what? For want of the necessary salt. That is the position. Are you going to allow the cattle to die by thousands and thousands as they did before? That will be a very serious affair to the whole of the human society in India and I ask the Finance Minister to pause and consider what may be the effect of this duty on salt on the poorest classes of the population. Remember also that this additional duty of Rs. 1-4-0 a maund means this. Between the profits of the producer and the profits of the retailer there are the profits of the intermediaries and when the last retailer sells his salt to the consumer, the consumer will have to pay very much more than annas three. Remember also that although the rich and the well-to-do can afford it the poor cannot. There are besides what are called Imperial taxation, provincial taxation and local taxation. Consider the combined burdens of this triangular taxation on the poor people. There are not yet sufficient hospitals and dispensaries in the country and there are not doctors enough and thus the poor die like flies. Are you going to bring about this deteriorated condition of health to the poor by increasing the salt duty. Please mark my word. I speak from experience of similar evils that have resulted in the past from the effects of a heavy salt duty and I say that this will be the result once more and it will not redound to the credit of the Government. Therefore, Sir, I do say that it may be wrong in principle to leave the deficit unbalanced, yet in the circumstances it is better to leave the deficits unbalanced. But it can be balanced by other ways and means. For instance, the Civil Works are there. There are a large number of civil and military works costing crores of rupees which are all debited to revenue. Now, I have been fighting against this sort of book keeping for years and years and only the other day in the letter on retrenchment I addressed to the Inchcape Committee I observed that military and civil works beyond Rs. 10,000 ought never to be debited to revenue. They ought to be debited to capital account. Irrigation, Railways, all these are public works in the same way as military works. They are meant not only for the present generation but also for posterity. Why should we be penalised and posterity allowed to escape their just burden? Every year crores and crores of rupees are debited to revenue account for military works and civil works. That ought not to be. I wish to draw the attention of the Finance Member to this subject with a view to eliminating these items from the revenue budget. For instance, in the Budget before the House I find that at least 1-96 crore rupees are included on account of military works which ought to go to capital. I challenge the best twelve economists in London to say whether I am right or wrong in my contention. It is wrong, I repeat, to debit this 1-96 crores to revenue and burden the tax-payer. Why should you do so. In the same way if civil works to the extent of nearly a crore are debited, which should properly go to capital account, 3 crores will thus

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disappear. The revenue will be relieved to that extent. Then we can, of course, leave the one crore alone and I am quite sure that with the movements of a better foreign and inland trade the revenue accounts for the current official year will show no deficit even of this unbalanced one crore. Then I say that it is a comfort to know that this Budget is a vast improvement on the old and, given good times and a good harvest next year, we may see our accounts balanced and even there may be perhaps a surplus. Still the one thing that remains to be done for which the Government of India ought to take full responsibility is to control expenditure. In the first instance put your book keeping on a sounder basis. The present form of presenting the Budget and the method of preparing the estimates are vicious. The method has gone on for years and I do not know how long it may still be continued. Here we have got a new broom. I hope it will sweep well and sweep away all old and obsolete methods so that the next year's Budget may be a radical improvement on the present one. Having said so much, I do believe that all will congratulate the Government on having responded to the call of public opinion, anyhow enlightened and well informed, not ignorant and ill-informed public opinion, while the tax-payers will be gratified and the future financial barque of the State will sail smoothly. I earnestly trust and hope that the suggestions I have presently made will be firmly borne in mind. With these remarks, Sir, I beg to take my seat and I congratulate the Finance Minister and the Finance Secretary both on their very good budget under the present circumstances of finance.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, before referring to the military expenditure as envisaged in the budget, there are one or two points that have been raised by Honourable Members here to-day to which I should like to reply. The military expenditure has not been subjected this year to the same virulence in attack that it suffered from last year. But at the same time I have observed both in this House and in another place that there has been a certain amount of sniping, and I should like to refer at once to the points which have been singled out for attack. The point that was made by one Honourable Member, as in another place, is the remark in the Inchcape Committee's report with regard to the economy which they recommend in reference to the building of barracks for Indian troops. It is one, I need scarcely say, which has my entire sympathy. I may perhaps mention that I only accepted it with the very greatest reluctance. At the same time, Honourable Members will notice that in one paragraph of the Committee's report I am given a certain latitude for adjusting the savings that may possibly accrue from force of circumstances during the year as I may think fit. That particular item in reference to barracks for Indian soldiers will receive my very sincere and favourable attention.

Another point raised by Mr. Lalubhai Samaldas had reference to Indianization and the appointment of Indian officers with King's Commissions to the Indian Army. I thought I had made it clear in the statement which I made to the House on the subject, but to prevent there being any misunderstanding let me make it quite clear now that the Indianization of the eight units which will take place gradually by the appointment of junior officers to those eight units will in no way interfere with the progress of young Indians passing through Dehra Dun and Sandhurst for appointments to other units of the Indian Army besides those eight units.

Another Honourable Member has referred to the eventual reduction of military expenditure to 50 crores. He will have observed no doubt in reading the report of the Inchcape Committee that that particular item did not receive the approval of the Commander-in-Chief, and perhaps he did not observe at the same time that that reduction to 50 crores was dependent upon a fall in prices. Now, a fall in prices must be such a fall that it is almost inconceivable that it can attain a magnitude of something like 10 crores of rupees. Therefore I could not give my consent or approval to any such very large reduction as that particularly as it would inevitably effect further reduction in fighting troops, for a reduction of such magnitude could not be effected by a fall in prices alone.

Another Honourable Member has referred to the administrative services and to the increase that has taken place at the present time in the expenses of those services compared to what they were in 1913-14. That increase I must admit. It is consequent upon,—well, I would almost say—the higher standard of living which is demanded by all of us since the war. It was one of the increases that the war has brought about, and particularly in the soldier; it is just the same in all countries in the world. Since the war, it has been necessary to provide the soldiers practically of all countries with a higher standard both in the shape of comfort, in food, in clothing, in arms, in everything else than was the case before the war, and it is largely owing to that that there is an increase in the military expenditure of all countries since the Armistice. Two Honourable Members referred to what was discussed in this House not very long ago in connection with the Army Amalgamation scheme of 1859. Well, I do not know that I have anything further to say on the subject, but I would point out that the suggestion which had been made by two Honourable Members in this House, namely, that that scheme is going to bring to us the benefits which they think it will, and which I have myself always disputed, was similarly disputed by an Honourable Member in another place only yesterday—an Honourable Member who had probably better facilities of knowing and studying the real and true facts of the case, than any other non-official Member for he has been a member of the Military Requirements Committee which sat at Simla 18 months ago. Now the tale of the military estimates this year is a simple one; it is written plainly on the pages of Lord Inchcape's Retrenchment Committee's Report on which the estimates are really based and with the contents of which no doubt Honourable Members of this Council are already fully acquainted. Perhaps, however, the Council will permit me to give at the outset of these remarks a short retrospect of the outstanding events in the administration of the Army in India during the past two years. The internal situation, when I came to India, was far from satisfactory. While active hostilities were in progress in Waziristan, the internal situation also continued to give the Government and their military advisers cause for anxiety. At the same time on the domestic side of the army administration the active re-organization of the Indian Army in the light of the lessons of the Great War was in full progress. The Report of Lord Esher's Committee had been published, and many important issues arising out of the recommendations of that Committee had to be considered and adjudicated on by the Government. The difficulties of the situation did not disappear for some time. In fact our troubles were augmented in 1921 by the outbreak of the Moplah rebellion and by the threat of serious internal disturbances in various parts of India. While I was sensible from the beginning that the cost of the military services in India was disproportionate when viewed with reference to the revenues of the country, it was impossible for me, while these

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adverse conditions prevailed, to advise any substantial reduction in that military expenditure. Certain minor economies were of course feasible, and I had no hesitation in pruning the military estimates where this could be done without prejudicing the safety of India. The Council will recollect, however, that I have always made it plain that no large reduction could be effected unless the actual number of fighting troops were reduced. On previous occasions when the matter was at issue I have stated frankly and openly my opinion, that we were not then justified in making any reductions in fighting troops. Since that time, I am glad to say, the skies have cleared and the brighter outlook has enabled me to adopt an attitude which permits of larger economies. The past year has on the whole been a year of greater peace, a year too in which the re-organization of the Indian Army has been further consolidated and the reorganised Indian Army has recovered from the inroads of war and made substantial progress towards the restoration of that high standard of efficiency which for years has been one of the proudest traditions of the military forces of the Indian Empire. In these more favourable conditions it has been possible for myself and my Staff Officers to turn our thoughts towards the possibility of effecting economies and retrenchment of a kind which would relieve the very serious financial situation into which the country has drifted. We had domestic inquiries of our own into these matters and the inquiries culminated in the investigation of the military expenditure concluding by Lord Inchcape in his Retrenchment Committee, with whose efforts in the field of military retrenchment I have associated myself throughout. As Honourable Members of this Council are aware, it has been found possible as a result to frame a programme of reduction in military expenditure to which I have been able to give my concurrence. The retrenchments are real and substantial. They extend practically to every department of the defence services. In the forefront of the recommendations will be found a very considerable reduction in the fighting troops, both British and Indian. It will be realised that the reductions in the fighting troops are large and very much more than I could have contemplated with equanimity a year ago. I cannot assure this Council even now that if these reductions are given effect, we shall not be incurring some degree of risk, but as I said yesterday in another place, the time comes when risks must be taken and the risk which is involved in accepting the proposals the Retrenchment Committee have recommended and which I myself have approved is one which, I think, the Government will be justified in accepting in view of the financial disaster which in the opinion of all would ensue if this Budget is not balanced. I will not take the Council into the details of the various reductions which it is proposed to make, but I may say that His Majesty's Government have already agreed to the reduction of the strength of the British Infantry. The case of the other British personnel is still under consideration. I have always been glad to be able to co-operate in relieving the difficulties of the administration of India, when I do so without failing in the first duty which I owe to the Government and to the people of India, the duty of ensuring that adequate military provision is made for the maintenance of law and order in India and for the protection of India against external aggression.

There is one other point which in conclusion I should like to bring to the notice of the Council, and it is this. In advising the Retrenchment Committee and in advising Government, I have had one main object in view, namely, to direct the reductions in such a way as to secure the

maximum of economy consistent with preserving unimpaired the essential features of the organization of the Indian Army. I believe myself that if and when the reductions contemplated are carried out, the capacity of the Army in India will necessarily be more limited than it is at present, but will still remain an efficient and scientifically organised fighting machine. In my attempts to achieve this object, I must acknowledge that I have received the fullest sympathy, consideration and assistance from Lord Inchcape and his Committee, who, if I may be permitted to say so, tempered their desire for retrenchment with a just sense of the paramount necessity of preserving the safety of India.

There is only one other major problem of the year concerning the military administration to which I desire to refer, that is the settlement of our relations with the Frontier Tribes of Waziristan. And here, again, I am glad to say, the policy which the Government have been pursuing, in the face of which much adverse criticism has been made, shows signs before long of achieving success. The recent military operations have been admirably carried out and the test of what I say is to be found in the fact that most of the hostile tribes have recently made overtures for peace. This is satisfactory as far as it goes, but we shall continue to prosecute our policy with vigour and determination, and unless some untoward or wholly unforeseen development should occur, we shall be able to withdraw our military forces during the coming autumn. Our aim is to consolidate the military result of the operations of the past three years and to leave the control of the country in the hands of our frontier political officers, and thus effect a very considerable reduction in the financial commitments in Waziristan.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): I rise to add my voice to the chorus of congratulation which has greeted the Finance Member on the lucidity of his budget. But, Sir, at the same time I find some bitter criticism of his proposals, especially of the salt tax. To my mind, Sir, this is a most enigmatical opposition which has been offered to the salt tax. The situation appears to me like this. A series of bad years entailed heavy deficits and consequently fresh taxation, and in this way the taxation which was levied had to meet the exigencies of the State's requirements. All possible sources of taxation were tapped by Government and I may say that all the big camels are carrying full loads and there is no room even for the last straw; and the Finance Member, in his search this year again for some kind of El Dorado, finds that the salt tax has remained immune from increase for some years and he therefore raises the tax from Rs. 1-4 to Rs. 2-8. Now, Sir, even this doubling of the duty on salt is not so crushing as to justify the big howl which has been raised in the Assembly as well as in the Council of State. After all this fresh increase in taxation means about three annas only per head in India, which means perhaps one quarter of an anna per month per head. Well, to meet this little rise, the wages have gone up so enormously, that I think even the poorest man in India can afford to pay this little bit. We find in the Punjab that the cheap rates of grain due to very good harvests have made living comparatively cheaper than before, and in spite of this cheapening of living, we find the wages have increased. In spite of this cheapening of living, we find that the wages have not fallen. The labourer in the Punjab gets Rs. 1-8 per head *per diem*. Well, I do not think that an average labourer cannot pay even one quarter of an anna per month per head. I cannot therefore understand why this sentimental

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tenderness is shown for this little rise. I find that even some of the capitalists who were not disposed to give the poor man the benefit of some compensation for injuries which he may have received during his working hours in the factory have shown such a generous attitude on this occasion that they are disposed to empty the pockets of Government to recoup the loss on this account. Now, Sir, this is about the salt tax.

I wish to make a few observations about the military expenditure. I wish I had spoken before His Excellency the Commander-in-Chief delivered his speech, but I think I may be able to offer some observations which he may find relevant to his position. Now, Sir, our military strength in India must be in accordance with the strength of the neighbouring States. Travelling from China right to the extreme west of India, that is, Baluchistan, we find a series of States which are not well organised. China is in a condition of utter chaos and perhaps on the point of breaking up into fragments. Next comes Tibet, which is full of Lamas and has no disposition to fight at all. Then comes Nepal which is bound by treaty to India and is actually receiving a subsidy from us, and we cannot imagine that Nepal is so strong as to attack India. Then comes Afghanistan. Well, Afghanistan may have started on a path of organisation and the Amir may be introducing the principle of conscription and he may have the idea of training the whole Afghan nation to arms; but that is not all for a big aggressive policy. If Afghanistan is so disposed, it is not men only who are required, but it is money. Afghanistan cannot afford to indulge in the expensive luxury of aggression.

The HONOURABLE MR. V. G. KALE: Why not levy a salt duty there?

The HONOURABLE SIR ZULFIQAR ALI KHAN: I have finished with the salt duty. I wish you had spoken then. Afghanistan has no money, and even if the Army were organised or the whole nation were organised, it could not afford to wage a war of aggression even for a month. Besides that, Afghanistan is bound by treaty to us.

Well, Sir, then comes Persia. We all know the state of Persia. Persia possesses perhaps a few inefficient regiments and that is all. She is not able even to keep peace within her borders. Therefore, I fail to see, Sir, where the menace comes in. There is a cry that Bolshevism is the menace. Well, let us see what there is in this cry of Bolshevism. All those countries south of the Russian Empire are affected more by Bolshevism than India is likely to be at present; and what do we see there? Those countries, chiefly inhabited by Muhammadans, have a thorough dislike for the principles of Bolshevism. Therefore I think before Bolshevism advances on India, those countries will have to be reckoned with by the Soviet Government.

Now, Sir, military strength is maintained either for meeting internal commotion or for repelling external aggression. Well, I have explained the situation with regard to external aggression. But what are the possibilities of internal commotion? I think the worst times are over and India is again settling down to peace and tranquillity and normal times are rapidly coming back. Therefore I do not think that we are justified in maintaining such an expensive force as is now maintained by the Government of India. I should like to know how many or what number of forces were employed even during the worst period of the disturbances in India. If the number of forces employed was insignificant and not so large as are kept to meet foreign aggression, then why, I again ask, is such a big force maintained?

Sir, the whole policy of taxation in India is influenced by the military expenditure, and I would again appeal to the Government of India to reconsider that policy which is approved by the apostles of a forward policy. His Excellency the Commander-in-Chief deserves our best thanks for having initiated a policy of retrenchment in his Department, and this year he has actually cut down his Budget to the tune of something like 5 crores. Well, I hope it will be a progressive ratio and I do hope that in time to come he will meet the demands of the people which are based on the actual situation and condition of the people of this country. This much in regard to the military.

One word more, Sir, with regard to the policy to be pursued towards railways and canals. I think the Government of India should give more scope for constructing more canals and more feeder railways because the prosperity of the country depends on these two things, especially as we find that India is *par excellence* an agricultural country. With these few remarks, Sir, I wish to congratulate the Honourable Finance Member on his good budget.

The HONOURABLE RAJA VASUDEVA RAJA OF KOLLENGODE (Madras: Nominated Non-Official): Mr. President, in making a few general observations on the Budget, I should like to express in the first place my admiration for the quick and comprehensive manner in which the Finance Member has mastered the problems connected with the financial position of India, and I congratulate him on the very able and instructive review that he has made, affording much matter for study and thought. His review and the policy that he proposes to take fully justify the high reputation that preceded his arrival and create in us anticipations of greatly improved financial conditions in the future.

Next, Sir, I should like to say how very thankful we are to Sir Malcolm Hailey and the Government of India for securing the appointment of so strong and able a Retrenchment Committee as the Inchaape Committee and go into the financial position of India and to suggest retrenchments and improvements. The results of the labours of this Committee are embodied in the valuable report that has been placed in our hands and I must express the country's great indebtedness to that Committee for the most valuable services they have rendered in suggesting appropriate measures for pulling the country out of the financial straits in which it is placed. (At this stage the Honourable the President left the Chair which the Honourable Sir Zulfiqar Ali Khan took.)

It is the good fortune of the Financial Member that he has in his hand, just at the threshold of his stewardship, an X-ray photograph as it were, which reveals not only our financial conditions but the seat and cause of the malady from which we are suffering. With a firm determination to avoid the mistakes of the past both on the side of the Government and of the people's representatives, it ought to be a comparatively easy task to attain a solvent position. The diseases are now known, the atmosphere is favourable and both the Doctor and the patient seem to be agreed as to the remedies to be prescribed. I have no doubt this Council will heartily co-operate with Government in carrying out all the valuable suggestions made by the Retrenchment Committee.

Now Sir, coming to definite proposals the Honourable the Finance Member says that the balancing of the budget is his first consideration. It is impossible for any one to question the soundness of this proposition and I readily agree that every effort should be made to balance the budget.

[Raja Vasudeva Raja.]
 this year. When we turn to the ways and means proposed to attain this object, there can be no doubt that there is a strong feeling against additional taxation and that the form which the additional taxation proposed has taken is one regarding which there is genuine misgiving. That feeling may seem partly sentimental but it has always been hoped that recourse to an increase of the salt tax would never again have to be made. In this country as elsewhere there is a feeling against taxing the breakfast table of the poor and although the incidents of the additional taxation proposed may seem negligible in view of the comparatively small amount per head of the population, that sentiment at least is founded on a sound and intelligible instinct. While, therefore, conceding as I do that we are bound to seek a balance budget, for I cannot ignore the serious effect which failure to secure one may have upon our credit, I should like before deciding my attitude, to have fuller assurances that every possible alternative has been explored. I sincerely hope, in his reply the Honourable the Finance Member will be able to deal with this very important question. It is one, not merely of imposing additional taxation, but of the proper selection of the articles to be taxed and of the selections of the community on which the additional burden may fitly be placed. Coming as I do from a Province, of which the financial prospects are perhaps more intimately bound up than those of any other with the solvency of the Government of India, I cannot overlook the fact that a wrong decision on the part of the representatives of that Province may react most seriously to its prejudice. The longer the period of recurring deficits continue the longer must a settlement of the claims of my Province be deferred and the more serious will its financial position become. Further I recognise that delay is dangerous and may encourage those who are opposed to our claims to continue and extend their campaign to question and ensure the ultimate negation of those claims. In this connection I will suggest to the Honourable the Finance Member that if he has taken the bold course and proposed financial measures which would have enabled an immediate reduction to be made in the contributions which my own and certain other provinces have to make to the Imperial Exchequer, he would have made it much easier for us, their representatives, to accept his proposals. At present we are in the unfortunate position of either having to reject additional taxation and thereby, as I recognise, postpone the day of relief or incur the odium of accepting taxation of an unpopular character without being able to point to any immediate benefit to the provinces which we represent. I would ask the Honourable the Finance Member whether it is yet too late to recast his financial proposals so as to enable us to say that by accepting them we have secured for our Provinces the first instalment of that relief to which we have so long and persistently urged our claims. This is of such paramount importance to my Province that I have thought it right to lay these considerations before the Finance Member. It may be possible that on a further review of the financial prospects for the coming year, he may see his way to combine with the additional taxation he has proposed some measure of relief to these provinces. It seems to me that he has been certainly cautious in his estimate of such improvement in trade or revenue as may be expected. I do not complain of that in view of the experience of recent years but if on further consideration he came to the conclusion that he had been overcautious and could accede to my suggestion no one would welcome a declaration to that effect more heartily than I would. In any case I hope that he will be able in his reply to throw further light on this very important issue. As for my part I shall give anything he may have to say

the most careful and anxious consideration before I come to any decision as to the attitude to be adopted in the difficult position in which, I think he will realise, that others as well as myself are placed. Already you have heard this morning from a Member hailing from Bombay saying that the Provincial contributions are not going to be released next year whatever may happen. You will be giving a lie to that statement if you adopt the suggestion I have made.

Before closing, I should like to say one word more. The Honourable the Finance Member has made a remark to the effect that he was told that Provincial Governments were deliberately showing deficits in their budgets to get a charity from the Central Government. I am surprised to hear such a statement but so far as Madras is concerned that Province pleads not guilty to the charge. Economy has been the watchword and probably the sin of that Province all along and at the present time under the guiding influence of our distinguished Governor, our Finance Member is ruthlessly cutting down all expenses with a vengeance in view of our financial embarrassments. The Ministers also are working in harmony with them in that direction and have cut down even their own salaries to achieve still further retrenchment. With these proofs before him I hope the Finance Member will not believe his informant's ingenious fiction if he had included Madras also.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I do not claim to have studied the Budget as minutely as some of my Honourable colleagues seem to have done, and therefore I will merely content myself with a few observations of a general nature. I do not know whether I should sympathise with the Honourable the Finance Member or admire him most. I sympathise with him as most of the criticisms that I have read and heard during the last six days are unjust and based on prejudice. I admire him for his ability in producing a lucid Budget in exceptionally hard times. If ever there was a time for congratulating Government on an occasion like this, I think it is to-day. The cutting down of the expenditure in all departments including the military must fill our hearts with gratitude. The fact that over 5,000 men will be reduced from the British infantry and that 3 regiments will also be reduced from the British cavalries should mark an era in the history of the Indian army. However, I will not deal with these points now and will only content myself with saying that Government have shown a degree of solicitude and regard to the wishes of the people and deserve nothing but congratulations. Sir, by this I do not mean that the Budget presented is without its defects and that Government's proposals are perfect in every respect. There are several very objectionable omissions as well as commissions and I do not at all propose to minimise them.

(At this stage the Honourable Sir Zulfikar Ali Khan vacated and the Honourable the President resumed the Chair.)

There is, in the first instance, the salt tax. I will not say that this tax will break the camel's back. I do not even say that this will create very great discontent and disaffection in the country. I object to it on the ground that it is a tax on a sleeping population. The Honourable Mr. Cook told us the other day that all other schemes for taxation were examined and had to be rejected. I have thought over this and come to the conclusion that the Government of India is under the influence of capitalists and big landlords and they thought they should impose a tax which

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should tell on a community which has no representatives practically in the two Houses. For, is it not inconsistent, Sir, that the minimum taxable income should be raised from Rs. 1,000 to Rs. 2,000, as was done a couple of years ago, and the salt tax be doubled? Here, in India, our chief complaint is not that we are over-taxed, but that our taxes are not evenly distributed. The land revenue policy of the Government, for instance, is most objectionable. There are grades of income for the assessment of income-tax but there are no such grades so far as land revenue is concerned. A man who is in possession of only one acre has to pay at the same rate per acre with one who possesses 50,000 acres. But that is a vast subject and I do not propose to deal with it to-day. My point was that where one class is not touched before they can be shown to possess an annual minimum income of Rs. 2,000, the very bread of the other class is taxed. Equity and justice demand that the poor peasant proprietor also should have a minimum income fixed before he can be asked to pay land revenue for his land. Several of my other Honourable friends also take objection to the salt tax. I am not in favour of altering the Budget proposals so long as a substitute for this tax is not put forward. But this differential treatment brings home the truth of the maxim that, "To him that hath shall be given, from him that hath not shall be taken away even the little which he hath." What an irony of fate that when this poor agriculturist asks for his share in the public services, he is told that he is not fit for it. When he asks for representation according to taxation and population, he is told, "No, you are not organised and the stake of your individual members in the country is not enough for a vote." He pays the tax, yet he has no voice in the administration. The hands of his wealthy brethren and influential brethren are in his pockets.

I now turn to the military expenditure. I am glad a change in the old policy has come in, but I cannot congratulate His Excellency the Commander-in-Chief as well as I should. I feel, and Government will feel ten years hence, that the pay of the Indian soldiers is not such as to

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attract men of the required standard. I do not mean any slur to our Indian army when I say that the old stuff which built up the reputation of the Indian Army and which played such a gallant part during the Great War in order to maintain that reputation is fast disappearing and unless early steps are taken to give him better pay and higher opportunities the Indian Army will deteriorate in value and Government will only realise when it will be too late for the old soldier to be called back to colours. Many a family of old military traditions are taking to agriculture and trade as they realise that they can make better living in those professions than in the Army. The Great War has broadened the Indian soldier's outlook and he is not content with eight annas a day which Government is giving him. Reduction in expenditure is welcome to us all, but there is a general feeling that the present pay of the Indian soldier needs revision if maximum of efficiency is to be aimed at. I come in daily contact with Indian soldiers and my impression is that they are over-worked and under-paid. A further decrease in the strength of the Indian Army will therefore seriously affect their efficiency and Government ought to take note of this warning.

I cannot leave the subject without paying a tribute to the magnificent and generous spirit of His Excellency the Commander-in-Chief in Indianising eight units of the Indian Army. The announcement which His Excellency made the other day in the Assembly has not been received

with the sense of gratitude it deserves. Although this was an epoch-making announcement and ought to have been acknowledged with feelings of obligation and gratitude to His Excellency, yet the Press and the platform have both failed in their duty of expressing the real sentiments of the people. The reason is not far to seek, and I assure His Excellency the Commander-in-Chief that the classes affected have neither a hold on the Press nor are they organised for the platform, but their hearts are filled with joy and the future generations will remember the name of Lord Rawlinson as one of the greatest and most generous of our Commanders-in-Chief. This departure will in the long run prove economical and I am sure the experiment will be a great success.

Under head "General Administration" I would only attempt to show that Government again is guilty of gross negligence in ignoring the claims of rural classes. Most of the subjects in which these classes are interested are provincial and transferred. This is not the place for lamenting over those complaints and all I wish to show is that even in places where the administration of these departments, that is, agriculture, co-operation and allied departments, is under the direct control of the Government of India,—there too these communities are not better off. The other day I put a few questions to the Honourable Mr. Sarma asking him some information about agriculture and co-operation, and his reply was that the subjects are transferred and he has nothing to do with them. I was looking forward to an opportunity to find out what the Government of India was doing where these subjects were directly under their control when the blue book entitled "Estimates for demands for grants" was handed over to me. I have studied the figures for the Delhi Province rather closely and my impression is that the rural communities there in that province are under the same disabilities as in other provinces. I refer to page 209 of the book referred to and I find that the grants for agriculture have been reduced from 30,184 for the year 1921-22 to 10,122 in 1923-24. This is not all. If we look to the details of these Rs. 10,000 we find that Rs. 5,970 represents the portion of pay of the Superintendent of Gardens which is not agriculture proper and these gardens are within municipal limits. So, if Honourable Members will see page 209 they will find that only Rs. 1,500 have been set apart for agriculture within the Delhi province. There is no provision for an agricultural school. There is no provision for stipends for boys of agriculturists to go to Lyallpur or Pusa. We look in vain for demonstration and experimental farms.

Now I pass on to the Veterinary Charges. There too the same tale is repeated. There are no itinerant veterinary dispensaries for the improvement of cattle. The Veterinary Department is to content itself in that province with Rs. 1,600 in 1923-24 as against Rs. 3,500 in 1922-23 but the Delhi agriculturists have one consolation and it is this. While they get Rs. 1,500, the bigger Province of Ajmer-Merwara gets only Rs. 450. The more one goes into details of income and expenditure the more one is convinced that the rural classes are called upon to fill the coffers of the State without getting due return. *Begar* is said to have been abolished but I doubt it very much. To put burden upon a rural population without guaranteeing a proportionate return is nothing short of *Begar*. We are passing Resolutions about Kenya and other Colonies and do not care about the rural population in India itself. The other day the Honourable Sir Zulfiqar Ali Khan mentioned the unholy alliance of big zamindars and capitalists and I think with Government they make a triple alliance, whether holy or unholy, to exploit the small farmers.

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and labourers. If another instance of this alliance were needed I would refer to the Indianisation of the services. The Indianisation of the services under the present conditions is only substituting the urban bureaucracy for the British bureaucracy. Indianisation is in fact another name for urbanisation. Whether this is for good or for worse is a matter for future generations to judge when there may be a new war. The rural classes shed their precious blood in the defence of the Empire and it is unjust that they should be denied a proper share on the concessions that are being given daily by the Government as a result of those very sacrifices. We do not want any special favours. We rural people only wish that in the matter of the services we should be treated as human beings, that is, a villager should count as equal to a townsman. Fix minimum qualifications by all means for each post and give us our due share without sacrificing the efficiency of the services.

I have only one more observation to make, Sir. The Currency and the big Gold Reserve should be invested in the country itself. The co-operative movement which was started to benefit the agriculturists has not touched even one per cent. of the population. The big funds to which reference has been made by me just now should be invested in this movement, and I am sure it would be for the benefit both of the people and the Government.

I congratulate the Honourable the Finance Member for a balanced budget and have every hope that when he budgets a second time he will have the claims of the rural population in mind and that Government will not forget the services of the Saviours of the Empire, that is, the military classes, in times of peace.

The HONOURABLE SIR BASIL BLACKETT (Finance Member): Sir, I came up to-day to this House with a sense that it was a great privilege to be allowed thus to come among the elder statesmen. At the same time I came up with a certain amount of trepidation as I was warned, even before Mr. Lalubhai Samaldas spoke, that I was expected to face the music. But, Sir, although the poet says that heard melodies are sweet and those unheard are sweeter, I have faced the music to-day and I confess I have enjoyed it. There has been nothing but kindness for me personally and there has been a great deal more support for the little addition to taxation which appears as one of the budget proposals than there seemed at any rate to be in another place. I have not got the score totalled up exactly, but of those who have spoken, certainly not more than one-half have opposed the tax in its entirety. Some have said that they are still waiting in hopes either of being convinced of its absolute necessity or of some promise that will make it a little more palatable; and everybody, I think, with the exception of my friend Professor Kale, has done, as in the other House, at any rate lip service to the necessity of balancing the budget. Professor Kale enjoys the distinction, or perhaps I should say is the sole one who is marked with the mark of the beast, of having boldly suggested that the deficit should be left uncovered rather than that a salt tax should be imposed.

The position this year is really not the same as it was last year. Last year the House opposed to the proposals of the Government a firm demand for reduction of expenditure. They did not say that the budget ought not to be balanced, but they said that the country could not afford the expenditure and they refused to vote some of the taxes that were proposed in

order to put pressure upon the Government to reduce expenditure. I do not wish to say that it was possible for the Government to reduce expenditure last year. The position is different from what it is to-day. As His Excellency the Commander-in-Chief has said, there were considerations which made it easier for him to agree to reduction of the army this year than last year. But this year the position is different. We have made very drastic reductions in expenditure. I think that it is recognized on all sides that the Government has made an honest and in some respects an heroic effort to reduce expenditure.

The HONOURABLE MR. LALUBHAI SAMALDAS: Not heroic.

The HONOURABLE SIR BASIL BLACKETT: Judging by some of the criticisms that were levelled against particular recommendations for reduction made by the Retrenchment Committee, it is impossible for us to feel quite sure that all the reductions which we propose and which are assumed to be in force in the estimates will actually take effect. If they do not, what becomes of the charge that our estimates of expenditure are capable of reduction? The position is not therefore the same as it was a year ago, and this is I think the answer to more than one Member who said that he had voted against the salt tax last year and must vote against it this year because there was no real change in the situation. Consistency is not always a very great virtue, but I would claim that the consistent thing to do this year for those who voted against the salt tax last year, in order to secure a reduction of expenditure, is to vote for it this year, in order to complete a very good work. Full reductions of expenditure have been made; the estimates assume all possible reduction. It was said, 'why should we not go on for another six months and then reach the position where we could see whether we could effect our reductions in full?' If we wanted to get our figures for 1923-24 lower than at present, we should have to make additional cuts over and above the cuts made by the Retrenchment Committee, that is, if we want to secure that, our estimates of expenditure for 1923-24 should be reduced. Those estimates assume that all the reductions proposed by the Retrenchment Committee, or other reductions equivalent thereto, will be put into effect with the least possible delay. I know the House would like to have details of figures. Now that is obviously one of the difficulties under which we are all labouring this year. It was a difficult thing for the Government to prepare and present this Budget on the 1st of March; it is a little difficult for the Legislature on the 5th, 6th and 7th of March to be engaged in a general discussion of the Budget when they have scarcely had time even to read through the voluminous volumes which were put into their hands for a week-end amusement. We have not yet circulated the Demand Grants in their final form, and we have not yet distributed over the various heads one crore out of the four crores special cut which is to be found by cuts in the civil expenditure other than the railways. But I can give the House just a few figures which will give an inkling of the position. When we received the first report of the Retrenchment Committee, the total reductions recommended by that Committee as compared with the 1922-23 Budget, amounted to—I may be out by a lakh or two—230 lakhs under these particular heads. We examined the estimates carefully and we found that 126 lakhs of those reductions were already included in our Budget estimates as they stood at that moment. That left 104 lakhs of the special reductions recommended by the Retrenchment Committee. We went through each item and considered what would be the earliest

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 date—assuming a decision had been taken then and there—on which those reductions would come into force, and we came to the conclusion that something between 60 and 70 lakhs was the maximum that we could secure during 1923-24,—and our estimates were based on the assumption that we would secure something between 60 and 70 lakhs out of those particular heads. That will show the House that we have taken—as I said, speaking in another place—we have taken some risks in presenting our Budget figures on the basis of those hopes which are not yet realized. I can assure the House that the Government of India has every intention that they shall be realised if it is physically possible to do so, but at the same time that is the position. We have assumed for purposes of our budget figures next year, the lowest possible figures on the expenditure side. If, therefore, the deficit of 4½ crores is to be covered, it must be covered by other means than reduction of expenditure during 1923-24. A wag told me the other day that some of the reductions were reductions *ad absurdum*, and of course it is perfectly true if you go too far, that is what happens. But I am not prepared to endorse that view or to say that all the reductions that are possible for all time have been made or that the figures for 1924-25 expenditure will not show further reductions. Wherever it is possible to find any expenditure which I can induce the majority of those responsible to regard as unnecessary, it will not occur in the estimates; but for 1923-24 we have reduced expenditure to the minimum. The alternatives, therefore, for covering the deficit of 4½ crores are faking the figures and increase of taxation. Those are the two alternatives, faking the figures of expenditure or revenue and increase of taxation. I was very sorry to hear both Professor Kale and Sir Dinshaw Wacha lend the support of their great authority to a suggestion for what I honestly regard as faking the figures in regard to our expenditure. It is very easy to say that this is Capital expenditure, and therefore is not chargeable to Revenue. If you charge it to Capital, what is the difference between that and a deficit? If you spend a crore on a new building, or a new unproductive project, at the end of the year you have, it is true, the asset worth presumably a crore. You have the enjoyment of spending 5 lakhs during the year on keeping it up. You have no income from it. You also have to pay 5 or 6 lakhs a year for interest on borrowed money. You add to your unproductive debt. The legal arguments as to whether a thing is Capital or Revenue from the point of view of the State quickly lead you to rather curious conclusions and undoubtedly increase your debt at a very rapid pace. I ventured in another place in my Budget Speech to compare the position of the State which had continued deficits to that of an individual who continuously overspent his income. The State has a deficit just as much if it puts up a large number of unproductive buildings and charges them to Capital as if it is charging them to Revenue and has a big deficit. It is asked why should we not make the tax-payer of the future bear a little of this burden. What, people ask, has posterity done for us that we should do that for them? What have we done for posterity? We have given them 100 crores of deficits as the result of the last five years. I think it is nearly enough for posterity without adding a little more. I agree with Sir Dinshaw Wacha, that it would be possible to improve some of the forms of our accounts, but my impression is that if I were let loose on them, the deficit would be greater rather than less, because there are some items which I regard as very doubtful items charged to Capital. There is no proper provision for a reasonable sinking fund. There are certain sinking

funds, but there are not, I think, sufficient; and in a few weeks one of the problems that I am looking forward to dealing with when we have got this Budget balanced is the general form of the account, provision of a proper sinking fund and another subject, on which a good deal was mentioned to-day, the production of real commercial accounts for our commercial departments. I think that is a matter of very great importance. In regard to Posts and Telegraphs I understand that a firm of Chartered Accountants have very nearly completed their report, so that by this time next year I hope we shall be able to have real commercial accounts for the Posts and Telegraph Departments, and similar efforts are being made in regard to the railways. But to come back to the point from which I started. I do hope that I shall hear no more of demands that the accounts should be so faked (I will repeat the word, for that is what I regard it as) as to turn the deficit into a surplus. The other method of faking a surplus is to increase our revenues. Revenue figures are always very difficult figures to forecast. We have been through our revenue figures with a fine-tooth comb; we have tried very hard to be as optimistic as it was reasonable to be. We were very anxious not to subject ourselves to the charge of being unduly cautious in our revenue estimates and we have not been unduly cautious. We foresaw that if we were open to a charge of being unduly cautious in our revenue estimates, our request for additional taxation would be quite rightly regarded with suspicion. But our revenue estimates are, I am afraid, on the optimistic side if the law of averages works and we get a poor monsoon this year. If it does not, we have every hope that they will be realised, but they are not unduly pessimistic. That being so, we are driven back to this problem of how to cover a deficit of 4½ crores. The first speaker to-day, Colonel Sir Umar Hyat Khan, said that the salt tax was justified at the present moment on the ground that all prices had recently fallen. Of course it is not pleasant when a man has got the benefit of a fall in prices that a little bit should be taken away from him, but that is really a very sound argument. Especially if you turn it in another form it is equally sound. The results of the deficits in so far as they have led to taxation and inflation have been to put up prices, and a very small increase in food prices generally would have the effect of adding a great deal more than the three annas per head per annum which the salt-tax put on to the cost of living for the very poor. That three annas per head per annum raised out of salt is, we are convinced, economically the least objectionable form of raising this taxation. Various alternatives have been suggested to-day. Most of them had already been fully discussed by the Government of India before we came before the Legislature, and we have been considering all of them with very great care since, but the curious thing about them all, or nearly all of them, is that they impose a charge of a great deal more than three annas per head on the poor per annum without bringing in anything like the same amount of money to the Government. There is not the least doubt that an increase in the cotton excise duty or the cotton import duties, which would bring us in much less than the salt tax, would cost an average poor man's household more. The same is true of the tax on sugar that was suggested. It also would not bring us in the money that we are asking for. I am not quite sure what would be the effect of the suggestion that we should double the duty on iron and steel. Our difficulty in regard to that is that, in accordance with the recommendation of the Tariff Commission, it has been agreed that a Tariff Board should be appointed, and the recommendation of the Tariff Commission itself was that the Board should first of all examine the subject. We must not therefore rush in and impose a duty and then ask the Tariff Board to

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[Sir Basil Blackett.]

examine whether it ought to be there. (*The Honourable Mr. Lalubhai Samaldas*: "This would be a revenue duty and not a protection duty.") The main criticism that the Tariff Commission made of our existing duties was that they were revenue duties imposed unscientifically, and we do not want to do anything more unscientific until the Tariff Board tell us what is scientific. I am not sure that an effect of protection in India would be to bring in all the revenue that was suggested. That is one objection. The time may come when the Honourable Mr. Lalubhai Samaldas will see all the protective duties imposed that the Honourable Sir Dinshaw Wacha does not want to see. I am not sure how the Finance Member of the day will be able to satisfy this House or anybody else as regards his revenue estimates in the years of that period. I do not think the suggestion could be seriously made that this year we should get on with protection and thus bring in money which would cover our deficit.

I should like for a moment to refer to one or two of the other subjects that have been raised. With perhaps a little bit of inconsistency, after saying that the deficit must be covered and opposing the salt tax, more than one Honourable Member has suggested that he or somebody else was very much disappointed that we have not reduced the tax on motor cars, or have not reduced the income-tax or have not reduced other taxes. I have been accused of justifying the motor car tax and of calling it a luxury tax. I decline to agree that I have done either of those two things. I described the tax on motor cars as being one of the so-called luxury taxes; I did not justify it. What I said is that our conclusion was that the time had not yet come for reconsidering the Schedule of 30 per cent. duty, because obviously that time can only come when we have a little revenue to spare, unless in regard to one particular tax therein we are convinced that it is so injurious that it will be better to reduce it and lose revenue rather than continue it. The curious thing is that even the one little bit of reduction of tax in our budget for this year has produced quite a large number of telegrams of protest. On strong representations made to us by representatives of trade and industry, the Commerce Department came to the conclusion that the export duty on hides and skins was doing serious damage to the trade. Much as we want revenue, we came to the conclusion that we had better get the revenue we need by reducing it rather than continue it and kill both the trade and the revenue. But nonetheless as I say, considerable opposition has been voiced from certain quarters even to this reduction. So true is it that the Finance Member can get no complete agreement from anywhere.

I should like to refer to a few other points which were raised, usually by more than one Member. A very interesting point was made by Rai Bahadur Lala Ram Saran Das when he said that the high rate of interest was in part the result of high taxation. That is an instance of the very curious results that flow from the imposition of particular taxes. You may hurt the poor man more by taxing the banker's income than by taxing his salt. But I agree with the general conclusion that one of the causes of the high rate of interest in India and in the world to-day is the necessarily high demands made by the tax gatherer on the production of the word and on the surplus in the hands of the individual before he pays taxation.

The same speaker referred to the 5 crores limit for special advances on *hundis* from the Paper Currency Reserve. That is a subject which the Government of India have already been examining. It is quite obvious

that the law as it stands either goes too far or does not go far enough. That 5 crores at 8 per cent. is not a complete solution of the difficulty of high money rates in the busy season which it was intended to assist in dealing with. I cannot express any final decision on that point, but the subject is being examined with a view both to an increase of the total and possible alteration of the rules governing the rates at which the advance has to be made.

I do not think that there are any other points to-day to which special attention requires to be drawn in the speech of the Finance Member. Those who mentioned the subject I was glad to see, agreed with the conclusion which I ventured to express, that the time has not yet come for fixing a new policy in regard to exchange. That is a very puzzling subject which has a very close interest for any Finance Member; but the state of the world to-day is such that he would be a bold man who made up his mind that any particular rate without reference to possible fluctuations in the purchasing power of gold was the rate ordained for the salvation of India.

Before I sit down I would like to come back therefore to the central problem of the Budget. Nearly the whole of the discussions both here and in another place have eventually come back to the problem how to cover the deficit without taxing salt. The Government of India would be as eager as anyone else to cover that deficit by some other means if they were satisfied that there was any other means which was on all considerations on the whole preferable. I think it is almost admitted by everyone that if the narrow financial view alone prevailed—that was the phrase used to-day and I admit its correctness—the salt duty is the right form in which to raise this taxation. It will hurt the poor less on the whole than any other of the taxes suggested or any of the other means of dealing with the deficit, including the concealed method of taxation by inflation leaving the deficit uncovered, but it is urged that there are wider considerations than mere narrow financial considerations which have to be considered. I agree that there are. But do you think that the poor man will really thank you if on sentimental grounds you refuse to tax him three annas a head for a year in order to tax him a rupee per head per year in some other way? (*The Honourable Mr. Lalubhai Samaldas*: "Quite sure.") Do you think that if he does thank you, you ought to let him? That is really the problem to which you are reduced. Sentiment is important; but it has not a complete right to dominate the decision in this matter. It is always courageous and sometimes stupidly courageous of a Legislature to teach the electorate that it knows better than the elector, but I think it is our duty in this case not to play up to the prejudices of the elector, but to try and convince him that, all said and done, you are considering his interests more truly when you do a thing which you know will benefit him in the long run than when you do otherwise. I said yesterday—as was repeated here by one speaker—in another place that if the Government could be shown a better shell-hole in which to face the music they would be glad to be told which it was and would go there readily. That is still the position of the Government. The more we hear—and I think the more Honourable Members study the subject they are really coming to the same conclusion—the more convinced we are that the suggestion which the Government have made after full consideration for meeting this deficit is the one which the united wisdom of the legislators of the country should accept.

The Council then adjourned till Eleven of the Clock on Thursday, the 8th March 1923.

COUNCIL OF STATE.

Thursday, the 8th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

ABSENCE FROM HOUSE AT QUESTION TIME OF MEMBERS WHO HAVE GIVEN NOTICE OF QUESTIONS.

(The Honourable Khan Bahadur Ibrahim Haroon Jaffer was absent when called on to ask the questions standing in his name.)

The HONOURABLE THE PRESIDENT: I must inform the House that this Honourable Member particularly asked that these questions might be put down between the 7th and the 12th. It is only the other day I drew attention to this practice of not informing the Honourable Member of the Government concerned that the Member putting the question intended to be absent. It really shows great lack of courtesy, that is all I can say. I said this two days ago and I say it again. I do not know what the House thinks about it. (*Hear, hear.*)

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I should like to say, Sir, that it is with great trouble we arrange the answers to these questions, and I have come down myself here to-day at considerable inconvenience, having had to leave my office and the work to be done there, in order to reply to the questions of the Honourable Member, and he himself has not turned up. I suggest, Sir, that these answers be not given.

The HONOURABLE THE PRESIDENT: I thoroughly sympathise with His Excellency in this matter. I think this is a matter concerning the reputation of the House. The pressure of public opinion is the only remedy for a thing of this kind.

QUESTIONS AND ANSWERS.

RATES FOR PASSAGES TO JEDDAH.

167. The HONOURABLE KHAN/BAHADUR EBRAHIM HAROON JAFFER:
- (a) Will the Government be pleased to state what rate was prevalent last year for the passage to Jeddah and back during the last Haj season?
 - (b) Is it a fact that, owing to keen competition amongst the steamship companies, the rate went down from Rs. 150 to Rs. 35 only?
 - (c) Will the Government be pleased to state how many return-ticket holders lost their return-tickets last year by theft, loot and other causes?
 - (d) Is it a fact that many Muhammadan steamship companies bring back the stranded pilgrims to India free of charge? If so, will the Government be pleased to state how many such pilgrims were so brought during the last three years?

The HONOURABLE MR. M. S. D. BUTLER: (a) and (b). Owing to competition the rates varied considerably. Return tickets varied from Rs. 165 to Rs. 100. Single tickets for the outward journey varied between Rs. 100 and Rs. 5 and for the return journey between Rs. 65 and Rs. 10.

(c) The information is not available.

(d) So far as the Government of India are aware the number of stranded pilgrims brought back to India free of charge by Muhammadan steamship companies during the last three years has been 321.

SHIPPING BROKERS FOR Hajis.

168. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will the Government be pleased to state if the licensing of shipping brokers for Hajis was prevalent some time back?

(b) Is the Government aware of the fact that these brokers were of immense help to the Hajis, and the system worked quite satisfactorily?

(c) Will the Government be pleased to state why the system has been discontinued or replaced by another system?

The HONOURABLE MR. M. S. D. BUTLER: (a) Yes.

(b) So far as the Government of India are aware the system worked satisfactorily.

(c) The shipping companies refused to pay brokers and engaged their own servants.

RATES FOR CHILDREN PILGRIMS.

169. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Is it a fact that P. & O. and other steamer companies charge half rate for children under 12 years of age?

(b) Is it a fact that pilgrims to Jeddah are compelled to purchase full tickets for children over one year old? If so, will the Government be pleased to state why this peculiar rule is applicable only in case of Haj pilgrimage?

The HONOURABLE MR. M. S. D. BUTLER: (a) The Government of India have no definite information but understand that this is the general practice.

(b) There is no rule or order of Government preventing shipping companies from charging reduced fares for the children of pilgrims, but, so far as the Government of India are aware, such companies carrying pilgrims to Jeddah charge full fares for children of and above the age of one year. This is probably due to the fact that the provisions of the Paris Sanitary Convention of 1912 require that, over and above the space required for the crew, a pilgrim ship must provide a minimum space of 16 square feet for each person irrespective of age.

CLAIMS AGAINST RETIRING OFFICIALS.

170. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: Will Government be pleased to state whether it is a fact that officers proceeding Home on retirement are immune from the liability to adjust monetary claims against them? If so, do Government intend to provide statutory safeguards for the recovery from such officers while in England of debts contracted by them in India?

The HONOURABLE MR. J. CRERAR: Officers proceeding Home on retirement are not immune from suits for claims against them. The difficulty is in the matter of enforcement once they have left India and this question is now being examined.

NAVAL TRAINING OF INDIANS.

171. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state what provision, if any, has been made by Government for imparting Naval training to Indians?

(b) Will the Government be pleased to place on the table the correspondence that may have passed between Sir Muhammad Yusaf, Bombay Government and the Government of India?

(c) Is Government prepared to help the scheme of Sir Muhammad Yusaf, with the necessary concessions so that the work carried on there should be the best possible?

The HONOURABLE MR. D. T. CHADWICK: (a) The Government of India understand that the question of the establishment of training institutions for Indian seamen has been under the consideration of the principal Maritime Local Governments and that their efforts in this direction have not met with much success. The Indian Mercantile Marine Committee, which is at present sitting, will also consider the question of training executive officers and engineers of ships by the establishment of a Nautical College in India, or otherwise.

(b) The Government of India have no correspondence on the subject.

(c) In view of the answer to part (b) this question does not arise.

MUNICIPAL TAXATION ON GOVERNMENT BUILDINGS IN CANTONMENTS.

172. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state what procedure is adopted regarding the incidence of municipal taxation on Government buildings within cantonment limits?

(b) Whether such taxes are collected at Poona?

(c) If not, why not?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Government buildings in cantonments situated in British India are exempt from the payment of any tax.

(b) No.

(c) The question does not arise.

INDIAN EDUCATIONAL SERVICE—MUSLIM ELEMENT.

173. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state the percentage of Muslim element in the Indian Educational Service in the different provinces?

(b) What developments have been made in this connection since my question on this subject put on 17th September 1919?

The HONOURABLE MR. M. S. D. BUTLER: (a) A statement giving the information is laid on the table.

(b) The number of Muhammadans in the Indian Educational Service is now 19 as against 1 in September 1919.

Percentage of Muhammadans in the Indian Educational Service.

Province.	To sanctioned strength.	To total number of officers actually employed.	To total number of Indian Officers.
Madras	1.88	2.27	4.76
Bombay	3.44	4.00	9.09
Bengal	5.88	6.89	14.81
United Provinces	6.25	6.81	21.42
Punjab	8.82	9.67	25.00
Burma	Nil	Nil	Nil
Bihar and Orissa	5.88	6.06	15.38
Central Provinces	8.12	4.34	14.28
Assam	8.33	11.11	50.00
North-West Frontier Province	40.00	66.66	100.00

G. I. P. RAILWAY MANAGEMENT AND ORGANISATION.

174. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state what changes in the management and organization of the Great Indian Peninsula Railway have been recently introduced?

(b) In view of the present financial stringency of Government, has any economy been effected as a result of these changes?

(c) Will Government be pleased to lay on the table an account of actual and anticipated savings made in this connection?

The HONOURABLE MR. D. T. CHADWICK: (a) From the 1st November 1922 the Traffic and Locomotive Departments of the Great Indian Peninsula Railway were replaced by:—

- (i) A Transportation Department which is responsible for the running of all trains and the carriage of traffic of all kinds having under its control all engines except those undergoing heavy repairs.
- (ii) A Commercial Department which is responsible for securing, charging for, loading, despatching, unloading and delivering goods and parcels and securing and charging for passengers.
- (iii) A Mechanical Department which is responsible for the design, construction and heavy repairs of engines, the provision of electricity, and the provision, structural alteration, and heavy repairs of pumping plant.

(b) and (c). The changes referred to have not yet been completely carried out, and it is not possible to give any figures. It is, however, anticipated that the result when complete will be a great gain both in economy and efficiency.

ARRESTS OF INDIAN EMIGRANTS IN BRITISH GUIANA.

175. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to enquire if there have been any arrests and imprisonments of Indian emigrants in British Guiana in connection with strikes due to hard economic conditions during the last six months?

(b) If so, what is the number of such strikes, arrests and imprisonments?

The HONOURABLE MR. B. N. SARMA: An inquiry in regard to the alleged strikes of Indian labourers in British Guiana and the arrest and imprisonment of the strikers has been addressed to the Colonial Government whose reply is awaited.

ACTION ON ESHER COMMITTEE'S REPORT.

176. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: Will Government be pleased to state what distinct steps they have taken to translate into action the Resolutions passed by the Legislature on questions arising out of the Report of the Esher Committee?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: A statement, indicating the action taken by Government on the various Resolutions adopted by the Legislative Assembly on the 28th March 1921 in connection with the Esher Committee's Report, is laid down on the table.

Action taken by Government on the various Resolutions adopted by the Legislative Assembly on the 28th March 1921 in connection with the Esher Committee's Report.

Subject of Resolution.	Action taken by Government.
1. Equipment and organization of the Indian Army.	A copy of the Resolution was communicated to the Secretary of State. Every effort is being made to equip and organise the Indian Army, as far as is practicable, in the same manner as the British Army, but complete assimilation will not take place owing to financial and other reasons.
2. Employment of Army in India for service outside the external frontiers of India.	Resolution was communicated to the Secretary of State. Except in the case of Aden and the Persian Gulf, all Indian troops stationed overseas are paid for by the Imperial Government. The cost of the garrisons at Aden and in the Persian Gulf is defrayed partly by the Imperial and partly by the Indian Government and questions regarding the strength and maintenance of both these garrisons are at present the subject of correspondence between the two Governments.
3. The appointment of a Surveyor-General of Supply.	The matter has been referred to the Secretary of State. No further action has been taken in this matter.
4. The appointment of Commander-in-Chief and Senior Staff Officers in India.	The conditions regulating the appointment of these officers have been approved by the Secretary of State for India.
5. Commander-in-Chief's right to correspond with the Chief of the Imperial General Staff.	This has been approved by the Secretary of State.
6. The admission of Indian subjects to all arms of His Majesty's Military, Naval and Air Forces in India.	The matter is still under reference to the Secretary of State.

Action taken by Government on the various Resolutions adopted by the Legislative Assembly on the 28th March 1921 in connection with the Esher Committee's Report—contd.

Subject of Resolution.	Action taken by Government.
7. The establishment of a military college in India.	The Prince of Wales' Royal Indian Military College, Dehra Dun, for the preliminary training of Indians to fit them to enter the Royal Military College, Sandhurst, was formally opened by His Royal Highness the Prince of Wales on the 13th March 1922. The number of cadets at present in residence is 37. Further entries will take place in the terms commencing in January and April 1923, bringing the total number of cadets up to the present authorised establishment of 70. An <i>ad inte im</i> report by the Commandant of the College on the first terms work has already been published and circulated to the Members of the Legislature.
8. The fixation of pay of all commissioned ranks in all branches of the Army with an overseas allowance.	The rates of rank pay of British officers of the Indian Army have been revised and brought into line with those for British officers of the British Army, but no overseas allowance has been sanctioned.
9. Formation of a territorial force, etc.	The Resolution has been given effect to by Government. The Territorial Force is in process of development and recruitment has made good progress.
10. Grant of the rank of 2nd-Lieutenant, Lieutenant or higher rank to the officers of the Indian Territorial Force.	Officers of the Indian Territorial Force now hold a commission which confers British rank.
11. Interchange of officers between British and Indian Services.	The matter is still under reference to the Secretary of State.
12. Reduction of administrative Staff at Army Headquarters.	A 5 per cent. reduction at Army Headquarters and certain reductions in the staffs of Commands and Districts were effected during the spring of 1922. Further reduction at Army Headquarters are now being effected as a result of the recommendations of the Committee presided over by the Honourable Mr. C. A. Innes, appointed to inquire into the establishments of Army Headquarters, India.
13. Appointment of a committee for the purpose of examining and reporting upon the best method of giving effect to the natural rights and aspirations of the people of India for the attainment of full responsible Government.	All the points in the Resolution were discussed by the Military Requirements Committee.
14. Inclusion of "Anglo-Indians" in the terms of "Indian subjects" or "Indians."	The matter is under consideration.

SUGAR IMPORTATION AND REVENUE.

177. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: Will Government be pleased to state what has been the result of the further 10 per cent. increase in the duty on sugar since April last as regards—

- the quantities imported; and
- the income of Government?

The HONOURABLE MR. D. T. CHADWICK: The quantities of sugar imported and the duty received thereon between April the 1st, and December 31st in 1921 and 1922, respectively, were as follows:—

Quantities:—571,500 tons and 321,000 tons, respectively.

Duties collected:—Rs. 503 lakhs and Rs. 289 lakhs, respectively.

The fall in imports, and therefore in duties, is ascribable primarily to the exceptionally heavy imports of sugar in 1921-22. This is obvious, as in spite of the increase in the duty, the market prices of sugar in Calcutta in 1922 were very appreciably below those in 1921.

DIVISIONAL COMMISSIONERSHIPS.

178. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state if any orders have been issued or instructions given by the Secretary of State to the Government of India or the provincial administrations regarding the retention of any particular posts, such as those of Divisional Commissioners, in the cadres of the Imperial Services?

(b) What is the nature of such instructions or orders?

(c) Are they of the nature of statutory rules or official instructions?

(d) Will Government see their way to lay on the table a copy of such orders or instructions, or give the Council a summary of their contents?

The HONOURABLE MR. J. CRERAR: No orders have been issued.

INDIANS DOMICILED IN THE COLONIES.

179. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: What progress has been made in the negotiations between the Secretary of State for India and the Colonial Secretary on the question of the status of Indians domiciled in the colonies?

The HONOURABLE MR. B. N. SARMA: The Right Honourable Srinivasa Sastri was deputed by the Government of India to visit the Dominions of Australia, New Zealand and Canada in order to assist the respective Governments in giving effect to the Resolution of the Imperial Conference, 1921, regarding the rights of Indians to citizenship. Negotiations are proceeding between the Government of India, the India Office and the Colonial Office regarding the status of Indians domiciled in Fiji, British Guiana, and Kenya, but the Government of India are unable to make any announcement regarding their progress.

RESOLUTION ON THE PRIME MINISTER'S SPEECH.

180. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will the Government be pleased to state if they have communicated to the authorities in England the Resolution, passed by the Assembly on September 8th, 1922, on the Prime Minister's speech in the course of the Civil Service debate?

(b) If so, what reply has been received by the Government of India on the subject?

The HONOURABLE MR. J. CRERAR: (a) Yes.

(b) No reply has been received.

DISTRIBUTION OF I. M. S. APPOINTMENTS.

181. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER:
(a) Will Government state how the 30 new appointments to the Indian Medical Service recently announced by the Secretary of State are to be distributed among the provinces?

(b) Had any communication been received from the provincial administrations for any increase in the strength of their cadre of the Imperial Medical Service?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) and (b). There is no proposal to increase the strength of the cadre of the Indian Medical Service. The Honourable Member is mistaken in thinking that the 30 officers who are to be appointed to fill existing vacancies in the Indian Medical Service, are to be distributed among the Provinces. They are to be employed in the first instance on the military side of the service.

QUALIFICATION OF INDIANS FOR MILITARY SERVICES, ETC.

182. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER:
(a) Regarding the Viceregal speech on the occasion of the opening of the 1921 autumn session of the Indian Legislature, will Government be pleased to state what steps Government have been able to take so far with the object of enabling Indians to qualify for commission in the Artillery and Engineer Services of the British Army?

(b) Have the Government of India come to any definite conclusion on the scheme for assisting Indian lads to qualify themselves by a period of training in England for a commissioned rank in the Royal Indian Marine?

(c) Will Government be pleased to publish the two schemes above referred to?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The attention of the Honourable Member is invited to the reply given on the 13th February to question No. 121 asked by the Honourable Mr. Phiroze Sethna.

DRAFT NOTIFICATION RE EMIGRATION OF UNSKILLED LABOUR TO MAURITIUS.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to lay on the table, in pursuance of the provisions of sub-section (2) of section 10 of the Indian Emigration Act, 1922, a draft notification specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Mauritius.

No.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

EMIGRATION.

Delhi, the March 1923.

NOTIFICATION.

In exercise of the powers conferred by section 10 of the Indian Emigration Act, 1922 (VII of 1922), hereinafter referred to as "the Act", the Governor General in

DRAFT NOTIFICATION RE EMIGRATION TO MAURITIUS.

Council is pleased to issue the following Notification in the form in which it has been approved by both Chambers of the Indian Legislature:—

Emigration to Mauritius for the purpose of unskilled work shall be lawful for a period of one year with effect from a date to be notified in the *Gazette of India* by the Governor General in Council after the matters requiring determination under clause 10 of this notification shall first have been determined subject to the following terms and conditions, namely:—

- (1) The number of adult male labourers which may be recruited within the period shall be limited to 1,500.
- (2) The emigrant shall—
 - (a) have been recruited by a person licensed for that purpose by and responsible to an officer (hereinafter called the Emigration Commissioner) appointed by the Government of Mauritius, or
 - (b) have applied direct to the Emigration Commissioner for an assisted passage and have been accepted by him.
- (3) The emigrant shall not, before leaving British India, have entered into any engagement to labour for a period exceeding one month.
- (4) Engagements to labour entered into by an emigrant in Mauritius for a period exceeding one month shall be void.
- (5) The Government of Mauritius shall, at any time when so desired by the Governor General in Council, admit and give all facilities to an Agent appointed under section 7 of the Act.
- (6) No part of the cost of his recruitment, subsistence during transport or transport, shall be recoverable from any emigrant, and all expenses in this connection shall be defrayed from the fund created by the Government of Mauritius under section 45 of the Labour Ordinance, 1922.
- (7) Any emigrant shall, if he desires to return to India at any time after two years from the date of his introduction to the Colony, be repatriated at the cost of the Government of Mauritius to the place of his recruitment.
- (8) Any emigrant shall, at any time within the period of two years from the date of his introduction to the Colony, be entitled to be repatriated at the cost of the Government of Mauritius to the place of his recruitment if he satisfies the Agent appointed under section 7 of the Act that his return to his home is desirable either on the ground of the state of his health or on the ground that the work which he is required to do is unsuitable to his capacity or that he has been unjustly treated by his employer or for any other sufficient reason.
- (9) If any emigrant at any time within the period of two years from the date of his introduction to the Colony satisfies the Agent appointed under section 7 of the Act that he is unable to obtain a wage which will provide the cost of living for a man with a wife and three children and also a reasonable margin for savings, sickness and old age, he shall be entitled to be repatriated at the cost of the Government of Mauritius to the place of his recruitment.
- (10) The Government of Mauritius, in consultation with the Government of India or the Agent appointed under section 7 of the Act, shall from time to time determine the amount of wage which is sufficient to meet the requirements laid down in clause 9 of this notification.
- (11) If at any time there is no Agent appointed under section 7 of the Act, the Government of Mauritius shall appoint a person to perform the duties of the Agent as set forth in clause 8.
- (12) The Government of Mauritius shall furnish such periodical reports and returns as may be required from time to time by the Government of India in respect of the welfare of the persons emigrating to the Colony in accordance with this notification.

THE INDIAN COTTON CESS BILL.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to move:

"That the Bill to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India, as passed by the Legislative Assembly, be taken into consideration."

[Mr. B. N. Sarma.]

Honourable Members will recollect that last month on my motion for the reference of the Bill to a Select Committee consisting of Members of both Houses this Bill was committed to a Committee of 12. The Committee met, went into the question fully, bearing in mind the remarks of the Honourable Members of this House, and the Government was pressed for a reconsideration of one important feature of the Bill, namely, the rate at which the cess is to be levied. In deference to the wishes of some of the Members of the Committee and the voice of the agricultural section as represented in this House especially, the Government reluctantly agreed to modify the provision of the Bill as originally introduced and contented themselves with the levying of a cess of 2 annas per bale of 400 pounds, subject to the condition that for the first three years, in view of the enormous capital expenditure that has to be incurred, the cess should be at the rate of 4 annas as originally contemplated. The Legislative Assembly has accepted this view and passed it.

The other change of any substance was in favour of an enlargement of the composition of the Committee as originally provided for in clause 4. Doubts were expressed as to whether the rural and agricultural interests were sufficiently represented on the Central Cotton Committee and that if their interests had been properly represented, possibly the recommendation of the Committee would not have taken the particular form in which representation was made to the Government for the levying of the cess. It was pressed upon the Committee that it was desirable to give a larger representation to the cotton growers, the actual producers, and in deference to the wishes of the agricultural population as represented on that Committee, 10 representatives have been provided in lieu of 5 as originally intended, removing the representation given originally to one of the official Members.

The third provision I think is really an improvement in favour of the tax-payer and I think Honourable Members will appreciate it. A provision has been made at the instance of the Government providing an appeal to the Local Government where a mill-owner or an exporter is dissatisfied with a decision as regards assessments made by the Collector. In the case of an exporter the provisions of the Sea Customs Act are to apply, and in the case of the mill-owner and other persons, an appeal is to lie to the Local Government. I think Honourable Members will consider that this is distinctly an improvement upon the Bill as originally introduced.

I have very few other remarks to make. The Assembly considered these questions fully and adopted in substance the recommendations of the Joint Select Committee. I therefore move that the Bill be taken into consideration.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I would like to make a few observations in connection with this Bill, particularly as I was placed on the Joint Select Committee but unfortunately was not able to attend a single meeting of that Committee, and also because I was not present at the time when this Bill was introduced in the Council. Sir, I have since then had an opportunity of perusing the reports and I was a little bit surprised at the cold reception given to this most important Bill. I am afraid my perusal of the debate has led me further to think that there was a great deal of misunderstanding

as to the entire scope of the Bill. The Bill has been received in the Council with a certain amount of apprehension and suspicion. The suspicion, as I understand it, has been of two kinds. It has been thought that this Bill is not really brought forward in the interests of the Indian agriculturist but in the interests of the English manufacturer of Lancashire. It is also thought that the Government have taken the step of imposing a duty for extending a commercial crop like cotton at the cost of other food-crops. I venture to say that both these apprehensions to my mind are unfounded. It is not yet understood, and as one interested to a certain extent in the cotton industry of this country I may be permitted to express my entire approval of this Bill. It is said that India only goes in for the manufacture of lower counts and, as such, does not ordinarily require the long staple cotton; and as the long staple cotton is required by English manufacturers for the purpose of weaving and spinning the higher counts and weaving the finer cloth, this Bill ultimately would be more advantageous to those people than the people of this country. This view is entirely incorrect. In India during the last few years we have been making a very serious attempt to spin the higher counts and also to weave the finer cloth. India is consuming nearly 50 per cent. of the cotton which is grown in the country, and I am looking forward to a day when India will be in a position to utilize the same and consume the entire Indian crop. In this country, with the advent of new machinery, with the advent of the application of more modern appliances, scientific appliances, we are fast progressing in the matter of our spinning and weaving industry, and we must require before long a larger quantity of long staple cotton in this country for local consumption. We have found, practical men have found, that they need both the short and long staple cotton has to be mixed with short that a certain amount of long staple cotton has to be mixed with short staple even in the production of the coarser stuff. The second point on which apprehension has been raised is that an impetus, a wrong impetus, is given to commercial crops at the cost of the food-crops. Now it is a fact which should be borne in mind that the cotton area in this country is, after all, a limited area; cotton cannot be grown in the whole of India; it is only the soil of certain parts of the country that is capable of producing cotton, and if the cotton area is compared with the large tracts that are available for the grains and other foodstuffs, this argument, this contention, will lose all its force. It is only over a limited tract of the country, more particularly on black soil, that cotton is grown and I do not think that there is any justification for the apprehension that the commercial crop is put in a more advantageous position in the interests of the exporter and other outside interests. Then, Sir, I have noticed that more serious objection has been taken to this cess. It is said that this cess, in other words, is a direct tax on the producer and the grower of cotton and as such it is objectionable. It is also contended that the real meaning of a cess is on the poor agriculturists. I am afraid that the real meaning of a cess is misunderstood. Many of my Honourable colleagues have confused a tax with a cess. A tax is distinguishable from a cess inasmuch as a tax is imposed for revenue purposes only; the primary object of a tax, as we understand in ordinary parlance, is that it is imposed for revenue purposes, for collecting a duty which will be generally utilized for carrying on the general administration. A cess is of a more limited character. It is often local; it is distinguishable from a tax in so far that it is raised not for the purpose of deriving revenue but for the purpose of helping any particular industry by the application of that money to that very purpose. In the case of general revenues, the ordinary tax, you appropriate, you

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utilize for any or all purposes of State; in the case of the cess, it is only used and utilized for the purpose for which it is earmarked, as in the present case, and I therefore say that the apprehension in this case is also not well founded. Some remarks have also been made about this cess falling heavily on the producer of cotton. I am afraid I cannot agree with that statement. As one intimately connected with this industry, I welcome this Bill for two reasons. I welcome it in the interests of the agriculturists. The present price of cotton,—I mean, the price of cotton since the war—has risen so high in this country that you cannot purchase an inferior quality of cotton under Rs. 300 a candy and long-staple cotton at less than anything between Rs. 600 and Rs. 650 a candy. The infinitesimal duty of 4 annas per bale, which means for less than 400 lbs. of cotton, is absolutely of an inappreciable character, and we cannot possibly take exception to it. If you examine the ratio between the value of cotton and the duty, I do not for a moment apprehend that the producer will at all feel or even notice it. Moreover, in making purchases of cotton, the exporter as well as the consumer will not take into account this small duty; this small duty does not bear any relation to the actual value of the cotton, the actual purchase price. The consumer will ungrudgingly pay this duty. I do not care whether this duty ultimately falls on the producer or on the exporter or on the manufacturer, but I must say that one thing is clear to my mind, that the duty is extremely small and will not be felt. We have got some precedent for this legislation. It is not a legislation of a new character. A similar Bill in connection with tea cess was previously introduced in the Council. Also for the encouragement and cultivation of lac a similar Bill was in the past introduced, and I am distinctly of opinion that this Bill is really and ultimately for the good of agriculturists. It is admitted that in the matter of cotton scientific research is necessary and essential, but it is said that the Government should meet the cost of this from the general revenues. Now we all know that if we say that the general revenues should be made available for the improvement of cotton, we will never get any redress; we will have to wait for an indefinite period, because general revenues cannot be allocated for this particular purpose; and it is only the special revenues derived from a special cess on the cotton growing industry that alone can be applied for the purpose of improving our staple and to enable India to take its place with other foremost nations. I say India has great possibilities in this matter. Our Indian cotton can be improved with a little bit of enterprise, with a little expenditure of money and with scientific research, and though we may not be able to compete with America or any other Western countries in the matter of staple, I think we can attain some measure of success by studiously nursing our Indian cotton-growing industry, and the Bill has no other object than the nursing of the cotton growing industry; and as such I appeal to all my friends here who are interested in the most important industry of India, namely agriculture, to warmly support this Bill. One word more, Sir, and I have finished. I have also noticed that a great deal has been said about the machinery which we propose to employ in carrying out this work. I have heard it stated that the committee will be too unwieldy and that it would have been much better if the matter had been left to experts in agriculture. I cannot agree with that view at all. Non-official Members largely, people interested in the cotton industry, in the agricultural industry, and scientific and other experts will be associated in this work. The

proposed Committee, after all, will bring to bear upon the solution of the question the united wisdom, knowledge and experience from all parts of the country, and to my mind a versatile committee like this is the only one that will be in a position to effectively deal with this difficult matter. After all, there will be few meetings of this committee every year, and I have not the slightest doubt that the accumulated experience and wisdom of a committee of the sort recommended will be of great service to the country.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan): Sir, in our country there are certain sayings which hold good for all time. "*Roti, kapra*," means food and clothing, and whenever one wants to offer good wishes to another he says *Raj haj*. *Raj* means stomachful and *Kaj* means body cover. These are the two essential things that one requires. India is not the only cotton producing country. Cotton growing has developed in other portions of the world. It is grown in the United States, Egypt, and other places. If we do not produce cotton properly, and other countries in the world show that their production is better, naturally in the market they will win. I am entirely for the Bill. Though there will be some expenditure, there will be a safeguard that we will not go down in the estimation of the world and we would not produce bad cotton. Unfortunately, though we produce cotton, some middlemen come in and they reap the benefit. On the other hand, Sir, rural people when they grow cotton, they generally spin it themselves. They make coarse cloth which is far better in endurance than anything which is made by machinery. But, at the same time, there are other people who have to buy cloth. We produce cotton in this country, then it is purchased, conveyed by means of railway and ship and expensive labour and machinery employed on it in England. How on earth, Sir, can they bring back the stuff after having manufactured it and sell it cheap here? The only thing I have to put to this House, Sir, for the good of the country is that we should take steps so as to manufacture cotton in our own country without having the necessity of sending the goods through railway and steamer and thus have cheap cloth in the country. Sir, I do not know if somebody will get up against me when I speak about Mr. Gandhi. When he tried to get cotton manufactured in India, although goods were said to be Gandhi-made, they were really made in Europe and sold here. These are the few remarks, Sir, that I make as a cotton producer. I hope that Government will do something in this respect to make cotton cloth cheap in India for the benefit of the people of this country.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan): Sir, when this Bill is passed—as I hope it will be passed unanimously—the levy of this cess will give the Central Cotton Committee sufficient funds to enable them to improve both the quality of cotton grown by the agriculturist till now and also to give sufficient information to the agriculturists to enable them to get better prices for the same quality of cotton than what they are doing at present. This Bill is intended to help the agriculturist, and I am glad my Honourable friend Sir Umar Hayat Khan looks at it from that point of view. Yesterday, we heard my Honourable friend Lieutenant Chaudhri Lal Chand waxing eloquent on the needs of the agriculturist. Here is a measure which ought to please him, because it is for the agriculturist that this measure has been brought in, and I am quite sure it will be as welcome to him and other colleagues who represent

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rural constituencies as it is to us who represent urban constituencies. It may be that there is a holy or unholy alliance between the capitalist and the labourer or there is a triple alliance between the capitalist, labourer and the Government, but whatever that alliance may be, the work that is done to-day by this alliance is for the agriculturist and I hope the agriculturist will be pleased with it. With these words, Sir, I support the measure.

The HONOURABLE THE PRESIDENT: The question is that the Bill to . . .

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, I wish to speak.

The HONOURABLE THE PRESIDENT: The Honourable Member should rise if he wishes to speak.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN: Sir, I had the honour of being one of the members of the Select Committee, and I am one of the producers of cotton and also a consumer. What I have found is that, as my Honourable friend Lala Ram Saran Das has just now said, the outturn of the long staple cotton is smaller than the country cotton, but the finer product always gets a good price. It is generally sold in foreign countries, not here in India. But one thing, Sir, is quite essential, namely, that our country and our produce must have a good name. We have already got a very bad name for our productions of wheat, indigo, cotton and other things, because the foreign buyers always say it is not fine produce, and that we always mix something in our produce. That always gives us a bad name. We always ask Government to do something good for the country, and when Government, fortunately or unfortunately, takes a step to do a good thing, a hundred difficulties are always raised. A word has been said by my most learned and Honourable friend Sir Maneckji Dadabhoy, who is a hundred times more able than my humble self, but I feel that I must reply to that, that is in regard to suspicion. Suspicion is always a produce of one's own heart. I will salute my friend and he will smile and be very pleased. I will salute my enemy and he will suspect me and think that I am teasing him. If you think that this Bill is introduced in the Council for the benefit of Lancashire and Manchester, you will have a hundred suspicions in your heart, but not if you think that anyhow, let Lancashire and Manchester get some benefit out of this Bill, we will also have our benefits. Why should we cut our noses to spite other people? Lancashire and Manchester will have good cotton and we will have a good price and we will have a good name too. Besides, as it has been said, it will be a golden day for India when all our cotton will be consumed here, but why should we consume a bad cotton? We must consume a good cotton. Research will not only make our cotton finer, it will give us a greater yield. We have already got research in so many other things. Pusa is there, there has been great research in regard to wheat, and we have a very good outturn of Pusa seeds. Besides there has been a cess for shellac, lac, indigo and other things; why not for cotton? The only thing is that if any body is suspicious we must see how the cess is working. In the Central Committee there are many most able gentlemen, like my Honourable

friend Mr. Lalubhai Samaldas and Mr. Purshotamdas Thakurdas, one of the most expert men, and also all these millowners of Bombay. They must see if the money is correctly spent and not thrown away; they must check it. But why not take this step and try our luck; and if this cess is collected and a good thing is done, let it be done. Besides the original rate was 4 annas a bale and it has been reduced to 2 annas a bale after three years. If the experiment fails, let it fail and let the Council again show that the measure has failed. With these few remarks in my most inferior language for which I apologise, I support the Bill.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I have only one or two observations to make. I think there is hardly any Member here who will seriously oppose the Bill. In the application of the fund it is provided that the other monies received by the Committee shall be applied to meet the expenses of the Committee, and the cost of such measures as it may, with the previous approval of the Governor General in Council, decide to undertake to promote agriculture and research in the interests of the cotton industry in India. In face of this provision I think nobody who is interested in the growing of cotton will oppose the Bill. But one thing I may say clearly and it is this, that we are not prepared to accept the statement that this tax, or cess as it has been called, is not a burden upon the cultivator. It is a burden on the cultivator, the manufacturer and everybody till it reaches the market. Nobody can deny it, but in spite of this fact, all of us ought to support this Bill, and if it proves later on that it does not promote the promotion of agricultural research or is not applied in the promoting of agricultural interests, then we can take measures to have it repealed. I give my full support to the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to detailed consideration of the Bill.

Clauses 1, 2 and 3 were added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 4.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Sir, may I, with your permission, at this stage suggest a verbal alteration if the Member in charge has no objection to it?

In sub-clauses (ix), (x) and (xi) of clause 4 the persons to be nominated have not been defined as they have been defined in other clauses, for instance, in sub-clause (viii). In sub-clause (viii) there are ten persons representing the cotton-growing industry. The three persons in sub-clause (ix) may mean anybody. So what I wish to point out is that these three persons in sub-clause (ix), one person in sub-clause (x) and "such additional persons" in sub-clause (xi) be named as representing certain industries, otherwise the representatives of the cotton-growing industries will be always in a minority. There are already 9 representatives of the Chambers of Commerce in sub-clause (iv), four representatives in sub-clause (v) and there are other officers of the different Departments. So, Sir, if you will allow it and the Honourable Mover has no objection, the following addition may be made in all these sub-clauses (ix), (x) and (xi), that after the word "persons" the words "representing the cotton-growing industry" may be added.

The HONOURABLE THE PRESIDENT: As usual I ask the Government whether they stand on notice.

The HONOURABLE MR. B. N. SARMA: I regret, Sir, that I cannot treat this as merely a verbal amendment. It is a matter of substance and I cannot therefore agree to its being moved at this stage.

The HONOURABLE THE PRESIDENT: I should like to understand whether the Honourable Member objects to the amendment being considered on the ground of notice.

The HONOURABLE MR. B. N. SARMA: Certainly, Sir.

The HONOURABLE THE PRESIDENT: Then I rule it out of order.

The HONOURABLE LIEUTENANT CHAUDHRI LAL CHAND: Sir, I will be satisfied if the Honourable Member of the Government gives an undertaking that the interests of the representatives of the cotton-growing industry in this clause will be duly considered when they are nominating persons under this clause.

The HONOURABLE MR. B. N. SARMA: Sir, I think the Government cannot bind themselves by an undertaking such as has been asked for by the Honourable Lieutenant Lal Chand. He will see on further examination of these clauses that clauses (ix) and (x) deal with Indian Darbars and States. It is for those States to nominate their representatives and the nominations are ordinarily accepted by the Government of India. It would not be desirable to fetter the discretion of the Chiefs of those States in the manner suggested by the Honourable Member. It is very probable that those States will send only representatives of the cotton growers, but if they do choose to nominate persons representing the manufacturing interests, I do not think that the Government of India can take any exception thereto.

As regards clause (xi), Government has taken power to nominate other persons with a view to redress inequalities. It is not possible therefore for them to say how the inequality has to be redressed or where it is likely to arise. I would also point out that his observation that the manufacturers have a majority, or nearly a majority, is not accurate. He seems to regard the Government representatives coming from the various provinces and nominated by the Government of India as in a way representatives of the manufacturing or mill-owning industry. I take strong exception to that. I think these officials will usually be connected with the Agricultural Department, representing the cotton-growing industry, and will only be indirectly interested in cotton manufactures. The Local Governments are primarily interested in agriculture and consequently would nominate where they have the power such persons as would represent the agricultural interests. Therefore, if anything, I should think the agricultural interests form a vast majority of this body. I do not think therefore that his apprehensions are real, and for the reasons which I have given, no such undertaking can be given. But if Government finds that at any particular time it is desirable to nominate persons representative of the cotton-growing industry for any special purposes, I daresay the Government will take particular care to see that such persons alone are nominated. But Government cannot give an undertaking of the kind desired, nor do I think is there any necessity for it.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I rise to support Lieutenant Lal Chand. There is a very great danger that great difficulties will arise if the cotton growers are not properly represented and the others who deal with the cotton afterwards have a preponderating voice in the Committee. I have to-day heard, Sir, that the long staple cotton actually gives a less produce than the country cotton. I cannot understand

The HONOURABLE THE PRESIDENT: I do not think the question whether long staple cotton or short staple cotton gives the biggest crop arises on this clause.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: The whole question is, Sir, that the cotton growers are the people chiefly concerned and they should be given the largest representation. The others really do not know anything about the matter and think that country cotton gives a bigger crop. In reality the long staple cotton gives three or four times the produce of the country cotton. I therefore want to put it to the House that when they are appointing a Committee they should see to it that the actual producers have the largest representation on it.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I would like to add one word only to this debate. My Honourable friend behind me is not aware that the State of Hyderabad, the State of Baroda and the Gwalior State produce nearly 50 per cent. of the aggregate quantity of cotton which is grown in India, and this section only rightly gives those States power to send their representatives on this Board. It is only right and proper that their hands should be absolutely unfettered in a matter like this. They are the best judges of the people on whom they should rely. It is idle for us to waste the time of this Council by observations of that nature.

Clause 4 was added to the Bill.

Clauses 5 to 17 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. B. N. SARMA: Sir, I now beg to move:

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

In making this motion let me thank the Members of this House for the cordial reception and hearty co-operation they have given to this measure both now and on the previous occasion and in assisting the Assembly in placing on the Statute Book a most beneficent measure of legislation. Honourable Members have last month placed another Bill connected with the cotton industry—the Cotton Transport Bill—on the Statute Book, and I think the Central Legislature may well be congratulated upon having during this session passed two important Bills of constructive legislation—two measures which had been recommended for adoption by the Indian Cotton Committee which was appointed by the Government in 1917 to recommend measures for the purpose of improving the cotton industry generally. Honourable Members will thus see that Committees appointed by the Government do not always end in nothing. In accordance with the recommendations of that Committee, the strength of the agricultural staff has been considerably increased both in the Departments administered by the Government of India and the Provincial Governments; and if more has not been done, it is because the Government has recently been confronted with a financial stress which they could not overcome both here as well as

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in the provinces, and that is the reason why they have been obliged to accept this recommendation of the Central Cotton Committee which they have appointed in pursuance of one of the recommendations of the Indian Cotton Committee to impose a cess, and brought forward this measure for the benefit of the industry. I may say, Sir, that this is a genuine piece of Swadeshi legislation. It has been initiated and promoted by the representatives of the people. It took some time for them to convince the Government of the expediency of acceding to their request, and they are glad to find that the Central Legislature heartily appreciate and approve the recommendations of the Central Cotton Committee and have unanimously passed this measure. It is therefore legislation by consent; all that has been asked for is the assistance of the Government machinery in placing before the Central Legislature a Bill for adoption and giving it their sanction in order that the industry may be placed on a sound and satisfactory basis, and it would have been churlish on the part of the Government to have refused the assistance which was sought by the representatives of the industry. When I was a non-official Member and especially during the war, my attention was drawn to the very great hardship that was endured by the people of this country owing to the enormous increase in the cost of cotton-cloth; there was a cloth famine; and its price went up so high that there were complaints from Bengal, from Bihar, from all over the country, the poor people did not know how to find the money for the purpose of buying even the minimum amount of clothing. Government adopted various expedients and it was forced upon the Government's attention that something must be done to improve cotton growing, marketing and the manufacture thereof. This measure has nothing to do with the manufacturing side. As has been pointed out, it is primarily and wholly intended for the purpose of assisting the grower to grow more cotton and longer staple cotton, a better type of cotton which would give a larger yield and bring him greater profit. Technological research has been proposed to be undertaken only for the purpose of ascertaining the possibilities of the cotton that is to be grown under such conditions as may be recommended by the Research Committee. It is in order to help the cotton grower to obtain a fair price, that he may be informed of the possibilities of the cotton that he is growing under improved conditions; it is thus not for the benefit of the manufacturer except indirectly. Honourable Members will therefore see that this jealousy—natural, in the circumstances—of the manufacturer is unnecessary, especially while taking this Bill into consideration. I am not prepared to accept the contention which was put forward by some manufacturers that it is in a very remote way that they would be benefited. I think they would be more directly benefited than they imagine if the cotton grower would place at their disposal cotton of a better variety than is at present grown in this country without driving them to the necessity of importing the article from outside, which must be necessarily at a higher cost. To that extent he would be benefited, but that is not to be grudged. Nor is there any room for any conflict of interest arising as between the food producer and the cotton producer. We have on the average 20 million acres roughly—the area is fluctuating from year to year according to the season, according to the demand, and so on, and the cultivation of cotton,—the average, as has already been pointed out to this House, is roughly about 67 or 65 lbs. against 250 in America. But the fluctuations in the yield are so enormous that it is possible by proper research to assist the grower to considerably increase it; and if we can only improve the cotton

to the extent of 10 per cent.—not more—the benefit to the cotton grower will be no less than 10 crores of rupees. Honourable gentlemen will see that they are dealing with an industry of very great economic importance. Approximately 100 crores of rupees worth of cotton is grown in this country, and if, as I have said, only ten per cent. more can be realised either in the shape of yield or better quality, there will be an addition to the wealth of the country to the extent of ten crores. And I think the possibilities are very much greater, especially when we see that the contrast between the average here and the average in other countries where research has been undertaken is so great; and I think it will be a thousand pities having regard to the enormous possibilities of further extension in irrigation which are contemplated both in Sind, in Punjab and elsewhere, if something be not done to ascertain the requirements of water in the growth of the cotton crop, to place the whole position on a satisfactory footing, so that when the canals are actually built, the cotton producer may be in a position to know where he stands. The Indian Cotton Committee has recommended that a vast area in Sind and a considerable area in the Punjab should be set apart for the growing of cotton, and smaller areas in other provinces, and it is therefore absolutely necessary that this research should be undertaken at a very early date in order to give sufficient materials for the cultivator to proceed upon when these facilities are given to him. I said, Sir, a little while ago that there is no conflict whatsoever between the food production requirements and the cotton crop. Assuming for a moment that the country does not require a larger production, if you can increase the yield by say 50 per cent. on that assumption you can reduce the area under cotton and give it for food production. Therefore, this measure which would enable a larger crop to be gathered is necessarily beneficial from the food production point of view also, and I, therefore, think that it ought to be welcomed by the food producer—and no one is more interested in the food producer than the Agricultural Department, which knows what a small margin there is between scarcity and plenty in this country. If this measure were adopted . . .

The HONOURABLE THE PRESIDENT: I do not wish to interrupt the Honourable Member, but I would point out that if he makes a second reading speech in moving that the Bill be passed, I cannot prevent a second reading debate.

The HONOURABLE MR. B. N. SARMA: Sir, the Government does not take any exception whatsoever to any remarks made which are calculated to put pressure upon them to improve the lot of the agriculturist. I rejoiced, my heart was gladdened, when I listened yesterday to the remarks from various Members as to what little was being done for the agriculturist. You may rest assured that such remarks would be always welcome to the Government and particularly to the Department over which I preside. It is not because we are unwilling, but because we find that owing to peculiar conditions we are unable to do more that more has not been done, we regret we are unable to do more and we seek the assistance of the Legislature in other directions. Similar recommendations would be always useful and would be always welcome. This is likely to give considerable assistance to the Government in starting the Central India Institute, which they hope to be able to start especially for the benefit of cotton, somewhere in Central India, at Indore or another place which would be determined later on. I therefore welcome this measure as assisting in the promotion of research. I need hardly, Sir, at this stage dilate upon the need for research. Research.

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co-operation and propaganda are the things that are wanted and the interest which has been aroused in the House by the introduction of this measure, as has been exhibited both on this as well as on a previous occasion, is a very healthy sign that the people are awakening to a consciousness as to where their interests do really lie. I once more thank the House for the patience with which they have listened to me and for helping me in placing this Bill upon the Statute Book.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I am one who has been benefited by the Research Department. I think that this Bill will be very useful because the Irrigation Department, the Executive Department and the cotton growers will meet together to give effect to the measure. I have to make a few observations. Firstly, some of the people who get into the Irrigation Department do not know how cotton is grown and when they should give water for growing cotton. The difficulty is that they give water at the wrong time of the year and therefore cotton does not grow. That is the first point. The second thing is that if one does not co-operate with the research department, it is a bad thing. If Indian cotton is mixed with long staple cotton, naturally the product is such that both get mixed and the result is that the stuff does not bring in sufficient money. Then, again, Sir, those who do not know how to grow it, place the long staple in such a way that it overgrows and the results are bad. Even if it overgrows, it should be cut at once. People do not like that beautiful crop should be cut down. When cotton was grown and all these various shrubs began

The HONOURABLE SIR MANECKJI DADABHOY: Are we going to get a lecture on cotton growing?

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I want to show that people who do not know how to grow cotton are mistaken in their views. They do not know the operation. So, I just want to put before the House how useful this Bill is. Then, again, Sir, one has to water the cotton at the right time and that too

The HONOURABLE MR. LALUBHAI SAMALDAS: I rise to a point of order. Is the Honourable gentleman going to tell us how to water the cotton?

The HONOURABLE THE PRESIDENT: We are now concerned with the third reading of the Bill. The speeches, possibly with the exception of the lecture on cotton growing, have been relevant to the speech of the Mover of the motion. I trust the Honourable Member will cut short his lecture.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Unfortunately my friend says certain things with which we do not agree. All that I want to say is that while this Bill is so useful that we all will be able to combine and do something towards the improvement of cotton, I think perhaps those who are very angry with me for not knowing things will compromise with me.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, at this stage I do not want to say anything more than merely to thank the Honourable Member in charge for having piloted the Bill so successfully through both

the Houses and through the Joint Committee. I do not want to turn this House into a mutual adulation society. However it is not formal thanks that I am giving. The Honourable Mr. Sarma has held the balance even between the whole-hoggers who wanted a four-anna cess and the half-way-housers who wanted a two-anna cess. He found out a way which was acceptable to all, and that was to have 2 annas for all time and 4 annas only for the first three years. It was due to his tact that this Bill has reached this stage, and I would be failing in my duty as a member of the Central Cotton Committee if I did not express my hearty thanks to him for having piloted this Bill through the Council.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Sir, with your permission, I should like to thank the Honourable Mr. Sarma for the safeguards he has provided for agriculturists. I accept them. Of course, up to this time the research activities of the Government of India were confined to cinchona only, and that, as was explained, was due to want of funds. Now funds have been placed at the disposal of this Committee and we may now hope that the Government of India will extend their activities to cotton also and will not confine themselves to cinchona.

The HONOURABLE KHAN BAHADUR AMIN-UL-ISLAM (Bengal: Nominated Official): Sir I wish to say one word. It is always said that this Bill is intended to make the quality of long staple cotton more favourable. It is not so. The research is in regard to all sorts of cotton, to grow more cotton, make a finer yield and to produce a long staple cotton also. That comes in, but it is not only for long staple cotton.

The motion was adopted.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I beg to move:

"That the Bill to amend the Indian Income-tax Act, 1922, as passed by the Legislative Assembly, be taken into consideration."

The object of this small Bill is to improve the drafting of the present Income-tax Act, 1922, in two respects. It has been found during the course of the past year that the Act, as it stands at present, does not give effect to the intentions of the Legislature, as clearly and as unambiguously as is desirable, in respect of those two matters. Fortunately there can be no doubt as to what the intention of the Legislature was. We have the Report of the all-India Income Tax Committee; we have the very long Statement of Objects and Reasons and the notes on the clauses of the Bill; and we have the Report of the Joint Select Committee, on which several Members of this Council sat. The first matter refers to section 7 (1) of the present Act. It was undoubtedly the intention of the Legislature, and can be proved by reference to the reports I have mentioned, that the perquisite enjoyed by persons in the shape of rent-free residences should be assessed to income-tax. Unfortunately section 7 (1) of the present Act was drawn in such a way that it is probable that a rent-free residence cannot be taxed. Clause 2 of this Bill remedies that.

The second matter is even more definitely a purely drafting amendment. Honourable Members will remember that, in the Act as passed, the adjustment system was kept alive in respect of assessments made in

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1921-22. Unfortunately, when the present Act was drafted, this particular section (section 68) was so framed that, on a strict interpretation of it, such as no doubt a court of law would give, the adjustment system was only continued in respect of income-tax assessments, though of course the intention was, as every one knows, to continue it in respect of super-tax assessments also. Clause 3 of the Bill remedies that drafting defect. I beg to move.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan) Sir, I merely want the Honourable Finance Secretary to explain to me whether the adjustment system will now prevail or will it vanish after the introduction of this amendment?

The HONOURABLE MR. E. M. COOK: The adjustment system has already expired; that is to say, we are now making adjustments in respect of the year 1921-22, and beyond that there is no intention of continuing adjustments.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to a detailed consideration of the Bill.

Clauses 1, 2 and 3 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. E. M. COOK: I beg to move:

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

The motion was adopted.

THE GOVERNMENT SAVINGS BANKS (AMENDMENT) BILL.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to move:

"That the Bill further to amend the Government Savings Banks Act, 1873, as passed by the Legislative Assembly, be taken into consideration."

This is a very simple and non-controversial measure. The object thereof is two-fold, the primary one being to facilitate the return of a deposit to the heirs of the depositor where the amount is very small and does not exceed Rs. 100 without a great inconvenience to the heirs of the depositor and within a very short period if no probate, letters of administration or Succession certificate be produced. That would dispose of claims by the heirs as rapidly as possible, and it is intended that power should be taken that this speedy disposal should be effected by the Head Post Master and others who may be specially empowered under this Bill, subject to such rules as may be made by the Postmaster General. The system of delegation and decentralization has worked very well with regard to the Post Office Cash Certificates and the Government do not think that any risk would be involved by this measure. The Bill is therefore meant for the convenience of the public and to prevent unnecessary centralization in the Post Office. I therefore commend it to the acceptance of the House.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed with the detailed consideration of the Bill.

Clauses 1 to 4 and the Preamble were added to the Bill.

The HONOURABLE MR. B. N. SARMA: Sir, I move:

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

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Government Savings Banks Act, 1873, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE OFFICIAL SECRETS BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill to consolidate and amend the law in British India relating to official secrets, as passed by the Legislative Assembly, be taken into consideration."

The House will observe that this is a Bill to consolidate and amend. It is, however, very much more of a consolidating Bill than an amending Bill. The present law on the subject is most inconveniently distributed over several English and Indian enactments. There is, firstly, the Indian Official Secrets Act of 1889, which followed an English enactment of about the same date; there is the Indian Amending Act of 1904; and there is the English Official Secrets Act of 1911. That Act applies to India subject to the following provision:

"If by any law made before or after the passing of this Act by the Legislature of any British Possession provisions are made which appear to His Majesty to be of the like effect as those contained in this Act, His Majesty may by Order in Council suspend the operation within that British Possession of this Act or any part thereof, so long as the law continues in force there and no longer."

The inconvenient distribution of the existing law on the subject in India through these various enactments has in itself been a matter of very considerable embarrassment. The present Bill therefore consolidates the provisions of these enactments. In particular, the English Act of 1911 presents some practical difficulties of interpretation owing to differences of nomenclature, differences arising from variations in procedure and in the designations of the various authorities administering the Act and in the practice in England and the practice in India. The substance of that Act is valuable and has been retained, but it requires a certain amount of translation into terms of Indian forms and terminology and that has been effected in the Bill which I now lay before the House.

In addition to the enactments which I have mentioned, an Act was passed in England in 1920 in order to give effect to the experience, the very bitter practical experience, which has been gained in the great war. The principal provisions of that Act which it is proposed to embody in this Bill will be found in section 4 of the Bill, which provides for certain rules of evidence and, as I say, those rules of evidence have been passed in England in the light of the experience gained during the war. It is not necessary for me to remind the House how dangerous to the interests of the State and the public is the nefarious trade of espionage, which resorts to every device of disguise, deceit and corruption. More than one disaster during the course of the war, disasters which either delayed or might

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have seriously imperilled our cause, which did in fact result in vast losses of material and even more disastrous losses of life, were directly due to the machinations of foreign spies and their treacherous confederates in the United Kingdom. In the light of experience of that nature, it would be an act of great temerity, grave dereliction of duty, if Government did not ask from the Legislature such additional powers as are necessary to ward off from the State that great and that insidious danger. The powers which we propose to take are not however of a kind which are likely to be prejudicial to anyone but those concerned in the practice of espionage and the abetment or assistance of spies. They are for the most part mere rules of evidence which render it somewhat more practicable to the prosecution to bring home to persons guilty of offences of that kind their guilt. It may be said that in instituting a special rule of law to cover cases of that kind we ought to beware of doing anything which might be prejudicial to innocent persons who by negligence, accident or imprudence find themselves in a compromising position. But I think if the House will carefully consider the provisions of the Bill, it will agree that adequate safeguards to meet cases of that kind have been set up. I merely instance that no complaint of any offence under this Bill can be made except upon the authority of the Governor General in Council, the Local Government or of some officer specially empowered by the Governor General in Council in that behalf. That is sufficient to ensure that no prosecution will be launched except under the orders of a responsible authority, and after careful consideration of the evidence against the accused. But there is an additional safeguard. If any accused person desire to be tried not by a Magistrate but by a superior judicial authority, it will be open to him to apply to be tried by the Court of Session.

I have said enough, I think, to indicate to the House the general scope of this measure and the bearing of some of the more important of its provisions, and I venture to commend it to the best consideration of the House. I make the motion standing in my name.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR (Madras: Non-Muhammadan): Sir, while agreeing with the principle that severe steps should be taken against spies and against their prying into official secrets and communicating them to foreign agents, I wish to observe that there are one or two provisions in this Bill that are considered to be very drastic and that are considered to bring into the clutches of the law not only people who are not actually connected with prying into the secrets and communicating them but innocent people. Sir, in clause 3 of the Bill, which is the operative clause of the Bill, it is said in sub-clause (1):

"If any person approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy."

Sir, I quite see the point in clause (c), but under clauses (a) and (b) I think some innocent people also will be mulcted, and will be penalized if unknowingly they approach or inspect or pass over or is in the vicinity of or enter any prohibited place; as for example, there is a temple in the fort at Allahabad, and if some pilgrim or say some man who has a known

character, as is stated in sub-section (2), enters the fort, he will be penalized for this according to the provisions of this Bill. What I want is that instead of 'or' at the end of clause (a) and at the end of clause (b), the word 'and' should be substituted.

The HONOURABLE THE PRESIDENT: The Honourable Member must not move an amendment before the Bill has been taken into consideration.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: It is not an amendment; it is a suggestion, it is a verbal criticism of the existing Bill.

The HONOURABLE THE PRESIDENT: Actual verbal criticisms are of course reserved for the detailed consideration stage. The Honourable Member is quite in order in pointing out that in his view the Bill is too broad, but he had better reserve his actual verbal criticisms for the clauses stage.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: And then I want that clause (2) of section 3 should not be in its present form. "Known character" is too dangerous a doctrine to be introduced into the Criminal Code. It is not as is alleged there is an unfounded suspicion against this Bill, but on the other hand the Bill introduces a principle that a person may be convicted on suspicion, and as to "known character" I may say many people can be penalized for "known character". I have seen in some of the portions of Manu a doctrine where a woman is to be penalized for talking to a man of 'known character,' a person with a notoriety and I may say the same crude principle is introduced here, the principle of convicting on a man's 'known character,' i.e., of penalizing a man on suspicion, and it should not go as it is. Then in clause (4) there is introduced the relevancy of evidence in proving one's guilt if in his possession is found an address of a foreign agent. The relevancy of the evidence I do not object to, but that evidence alone should not go to penalize him. Then I do not know whether 'foreign agent' will mean foreign Consuls also. Foreign Consuls are sent to India by responsible foreign countries and people moving with them should not be penalised. In clause 5 (d) it is stated that if any official "fails to take reasonable care of"

The HONOURABLE THE PRESIDENT: It is not fair to ask the Council to go into details on a 'consideration' motion.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I welcome this Bill. If we repose trust in someone and he does not come up to the mark, I think we ought to have no sympathy for him. Sir, when I went away from this Council to Somaliland, I found that a spy was caught, and he was summarily ordered to be shot. I was awfully sorry and angry because he was so shot, but when next time I went to Flanders, we found that place also had spies. At Pertham a shell hurled all the wall over on my bed but fortunately I was not there. After that we left the place and went to four or five other places. Wherever we went, the place was immediately bombarded. We wanted to find out how that came about and we found that an old woman, frail and absolutely unable to walk, was sleeping and we thought she was absolutely helpless but when we tried to see the bedding

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there was a telephone, and by that telephone everything was being communicated. She was probably shot. It is no ordinary thing, Sir; when a Government servant in whom we believe, and who gets the pay of the Government, does some mischief, we should have no sympathy at all for him. In the same way a man who lives in the country, must live for the safety of the country, and I am absolutely for the Bill; and any such person who does not behave well in this matter should be very severely dealt with. With these remarks, Sir, I support the Bill.

THE HONOURABLE SIR MALCOLM HAILEY (Home Member): Although I have no desire to make remarks at this stage which might more appropriately be made during the detailed consideration of the different clauses, yet I think it may be useful if I attempt to disabuse Mr. Ayyangar's mind of certain misgivings he has voiced on the subject of clause 3 of the Bill. The matter is not altogether one of detail; it almost amounts to a question of principle, and perhaps it might save some further discussion on the clauses if I put to him the view which we have advanced elsewhere as justifying the provisions of this clause. He stated that the purport of clause 3 was dangerous (and since this is the main operative clause, the purport of the whole Bill might be taken to be dangerous) in that it opened the way to the prosecution of persons who might be perfectly innocent. That we should prosecute spies and prosecute them with the utmost rigour of the law I think he agrees; his fear is that we might, by the wide extension which he notes that we have given to the terms of the law, make it possible for innocent persons to be involved in prosecution. Now, I must point out to Mr. Ayyangar that he has not given due weight to the opening words of this operative clause. It is not sufficient that a man should merely approach a certain place or that he should make a sketch or obtain or collect information. The prosecution has to prove that he does so for a purpose prejudicial to the safety or the interests of the State. That requirement governs the whole of the following circumstances. Mr. Ayyangar's friend who was visiting the temple within the Fort of Allahabad could not be prosecuted save under the following conditions. First, the Fort of Allahabad would have to be proclaimed a prohibited place and it would be also necessary that full notice should be given that the place was prohibited. Secondly, he must be arrested there in circumstances which would enable the prosecution to prove that his purpose was prejudicial to the safety or the interests of the State. Now, it is perfectly true that we do provide subsequently certain clauses which somewhat facilitate the task of the prosecution in proving this aspect of their case. I refer of course to clause 4 and the presumptions which arise under that clause. I shall be prepared to deal with those presumptions if the question is raised when the time comes. But for the present it is sufficient to say that in all these discussions on our Official Secrets Bill, I think that there has been a tendency to forget that there is one antecedent circumstance which the prosecution must put and prove to the Court, namely, the dangerous motive of the person who is found taking the action described in clause 3. When this Act was under discussion at Home, I think it was Lord Haldane who then put to the House of Lords the difficulty that occurred in proving dangerous motive; he cited the case of a man being found at midnight in the middle of a fortified place. He might plead that his purpose was perfectly innocent. Indeed one person who was so caught did actually plead that he had come to hear the birds sing. It is the extreme difficulty of proving the real intention of the accused which

has induced the Legislature to allow certain presumptions to be taken by the Court as relevant evidence of such motive. This is not unreasonable; when we prosecute people whom ordinary reason and ordinary common-sense would lead us to suppose were engaged in espionage, we cannot place on the prosecution the full burden of proving their intention, for they do not declare their intentions, nor can the character of their intention be assumed, as it so often can in ordinary criminal cases, from the nature of their action. In the subsequent clauses of this Bill, all we have sought to do is this, that taking the primary fact that first a man is found in circumstances which are exceedingly suspicious, and secondly, that the prosecution has to prove that his purpose was prejudicial to the State, we have given a certain amount of latitude to the prosecution by allowing them to take advantage of certain presumptions regarding the circumstances in which the man was found, his antecedent character as proved to the Court and similar considerations. That procedure was accepted as reasonable in the other House. It has, I think, also been generally accepted in the press that our law as framed does not add any new terrors to the existing law and does not involve the innocent person in chances of prosecuting. I have only one remark more to make on the question of principle raised by Mr. Ayyangar, in connection with clause 3. He must not charge us with adding anything to the law in this respect. He must not think that we for the first time have framed the clause to which he has drawn attention. The fact is, that clause 3, sub-clause (1), merely repeats the provisions of the Law of 1911. That law has been in force in British India for 11 years, and I do not think that India has had any cause to complain of its undue severity nor of its misuse to involve innocent persons in prosecution.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to consolidate and amend the law in British India relating to official secrets, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill.

Clauses 1 and 2 were added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 3.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR (Madras: Non-Muhammadan): Sir, the Bill will be greatly improved if instead of the word "and" at the end of sub-sections (a) and (b) the word "or" is substituted and sub-section (2) is deleted, so that it may be open to the Court to find out for itself whether the man prosecuted is really culpable or not. It is quite unnecessary to give these hints of "known character" and penalising him only on suspicion. The Court may be better able to judge for itself without sub-section (2). These are my remarks, Sir.

The HONOURABLE SIR MALCOLM HAILEY: We could not accept the suggestion put forward by Mr. Ayyangar to substitute "and" for "or" at the end of sub-clause (a) and sub-clause (b). He will see that by doing so we should insist on a concatenation of circumstances against the individual, which will be almost impossible to imagine, that is to say, for instance, he would not only have to enter or approach a prohibited place, but he would have also to be found making a sketch useful to the enemy. Many people might enter a prohibited place and be definitely

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guilty of espionage without at the same time making a plan or sketch or model. To force us to combine these two points would be to rule out many cases in which espionage undoubtedly has occurred.

Then he wants the omission of sub-clause (2). Before I answer him on that point, may I correct a statement I made just now, namely, that clause 3, sub-clause (1), had been part of the law since 1911? That statement was inaccurate, but it was inaccurate to my own disadvantage. I might have added with justice that whereas the original law provided for 14 years' imprisonment, we have reduced in some cases the imprisonment to 3 years. So far from enacting a more severe provision we have even mitigated the rigour of the old. So much as regards sub-clause (2). As I said, section 3 makes it necessary for the prosecution to prove, when a person is found in these suspicious circumstances described in (a) or (b), or is guilty of the highly suspicious acts described in (c), that such action has been taken by the person for a purpose prejudicial to the safety or interests of the State. Now, the spy is not one of your open-hearted men who go about proclaiming to the public the purpose of his occupation; he is one of the most secretive and most elusive of individuals. Let us assume that he is found in these highly suspicious circumstances doing these highly suspicious acts, that he is found for instance at midnight peering over the plans of a new submarine that has just been designed for our own exclusive use. Let us suppose again that he is found at midnight in a fortification. How are we to prove his purpose? Of course, if he can prove that he was indulging in an aeroplane excursion and happened to drop out of the aeroplane into the middle of these fortifications, then I would assume that the prosecution would not be able to proceed further against him. But, supposing that he can give no such explanations? It is still difficult, perhaps impossible, for the prosecution to explain his exact purpose in being there. It might be that he does intend to sell the plans to the enemy. It might be that he proposes to blackmail our own Government. There is little doubt, however, that, if he really does intend to copy the plans or use them for purposes other than those for which they are authorised, then his action would be detrimental to the State. But, so far the prosecution can only rely on suggestions or suppositions. But if at the same time, this man is known to have been convicted previously for espionage, or if he is proved to be in the pay of foreign agents, or if he has been proved to be continuously consorting with foreign agents, or if you find in his pockets written evidence that he was in constant communication with foreign agents—then, we say that it is not unreasonable that the prosecution should be able to prove these circumstances in order that they may be used as a presumption relevant against him. Ordinarily, of course, they could not be used, under the law of evidence, as such presumption. We simply propose so far to waive the ordinary law of evidence as to allow a Court to use these circumstances for assuming that his purpose in indulging in a highly suspicious conduct, such as visiting fortifications or taking plans, was prejudicial to the State. That is as far as the Bill goes, and no further. It is not the case that a man can be arrested because of his known character, as Mr. Ayyangar suggested. It is not the case that he can be convicted on account of his highly suspicious communications with suspicious persons. It is certainly not the case as he suggested I think that a woman can be penalised for talking to a man of unknown character any more than it can be the case that a man can be penalised for talking to a woman of unknown character,—a case which perhaps more frequently arises. First, the prosecution has to

prove the highly suspicious actions. Then it has to prove that the motive is prejudicial to the State. In order to prove that, we allow the Court to take into consideration the previous circumstances of the man's life and his known communication with foreign agents. And that is as far as the Bill goes.

Clause 3 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 4.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: As I have already said, the mere possession of the address of a foreign agent I don't think will constitute an offence under this section. I have no objection to its being produced as evidence and to relevancy of the evidence in proving one's character. It may be an evidence along with other evidences to prove one's guilt for the purpose of clause 3 but that itself will not, I hope, constitute an offence. And this foreign agent is not clearly defined in sub-section (b). It may be an agent sent by an enemy country, it may be a foreign Consul, it may be some other person. How one is to know whether he is employed by the foreign agent for the purpose or collecting official secrets in our land is incomprehensible. It should be definitely stated whether it is an enemy's agent, or an agent of a country who is at war with the British Government. Or a list of foreign agents who are so employed may be prepared and notified in the "Gazette of India" as they are proposing to notify the places which are proscribed, the places that are not to be photographed or seen or inspected; in the same way a list of foreign agents may be registered and circulated. Some people who return from foreign countries may possess with them the addresses of many friends there who were of immense use to them on their foreign tours. If they are to be penalised for possessing the addresses of these foreign people who are styled as foreign agents, then that will be an unjust thing. I leave it to the Council whether it should accept this.

The HONOURABLE SIR MALCOLM HAILEY: Mr. Ayyangar has expressed a hope that the mere possession of communications with a foreign agent would not in itself involve prosecution. He had no objection to its being used as relevant for the purpose of proving an offence under section 3. What I have to say on that point is very short; it is that his hope is already realised in the Act. The possession of correspondence does not in itself constitute an offence. Mr. Ayyangar may, if he wishes—I don't suppose he will—but, if he wishes he may go about with the most inflammatory communications in his pocket, but that fact cannot be used against him under this law, as I have already explained, unless he first comes within the scope of clause 3. If he has such inflammatory stuff in his pocket, I would advise him not to be found in a prohibited place copying secret plans. If he is so found, then of course the possession of such correspondence can be used as relevant evidence against him. That is as far as the Bill goes. Foreign agent, he thinks, is insufficiently defined. But I doubt if we can go nearer to a definition than they have succeeded in framing in England. After all, they had a very considerable experience of the foreign agent and of his dangers during the war, and this is their definition. It must, of course, be sufficiently wide to allow the Court to investigate the facts and see if there is any reasonable ground for suspecting him of having been employed by a foreign power for the definite purposes described in sub-clause (b) of (2) of clause

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4. That is, that there is reason to suspect that he has been employed by a foreign power for a definite purpose prejudicial to the safety of the State. We can go no further than that. We can lay down no hard-and-fast rule as regards foreign agents. We certainly cannot attempt to register foreign agents and notify them. If I may say so, that suggestion almost betrays a certain lack of humour. I ask the Council to imagine what would be the result of elaborately notifying to the world at large all foreign agents of whose existence we have any suspicion. Nor of course can Mr. Ayyangar and his friends who visit foreign countries be punished for possessing the address of foreign correspondents. It will be merely sufficient once again to repeat that they must be first of all found in circumstances which allow the Court to assume that they are guilty of an offence under clause 3. If they are found in such circumstances, then the possession of an address—not an ordinary address of a foreign correspondent but an address of the class described in sub-clause (c) of (2) of clause 4—may then be proved in evidence against them. This amounts only to making the possession of such an address, a suspicious address in itself, relevant evidence in the case.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That in part (c) of sub-clause (1) of clause 6 of the Bill, between the word 'or' and the word 'uses' the word 'knowingly' be inserted."

This is an amendment designed to bring the language of that part of the sub-section into consonance with the preceding parts of the sub-section. I do not think it requires any further explanation.

The HONOURABLE THE PRESIDENT: To the clause under consideration, amendment moved:

"In part (c) of sub-clause (1) of the clause between the word 'or' and the word 'uses' the word 'knowingly' be inserted."

That amendment is now open to debate.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, I find in this part (c) there are two places in which the amendment would apply, two places in which the word "or" and the word "uses" are juxtaposed. I presume the amendment refers to the last only, but in strictness it would refer to both. I presume that it refers to the last, because there the word "or" precedes the word "uses", and in the first place the word "uses" precedes the word "or". But in both cases the word "knowingly" can be interposed between the word "uses" and the word "or". I should like to know whether the Honourable Member intended his amendment to refer to the first or the last place or to both.

The HONOURABLE SIR HENRY MONCRIEFF SMITH (Secretary: Legislative Department): Sir, if there is any difficulty, might I move an amendment to the Honourable Mr. Crerar's amendment, namely:

"To substitute the following for his amendment:

'That for the words 'or uses' the words 'or knowingly uses' be substituted'."

The HONOURABLE THE PRESIDENT: Does the Government object on the ground of want of notice? (Laughter.)

The HONOURABLE SIR MALCOLM HAILEY: No, Sir. That carries out our intention.

The HONOURABLE THE PRESIDENT: I think that clears the point.

The HONOURABLE SIR LESLIE MILLER: Yes.

The HONOURABLE THE PRESIDENT: The question is:

"That in the clause under consideration, in part (c) of sub-clause (1), for the words 'or uses' the words 'or knowingly uses' be substituted."

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That in part (b) of sub-clause (2) of clause 6 of the Bill, for the words 'neglect or' the word 'wilfully' be substituted."

The desirability of that amendment arose for the following circumstances. In the original draft of the Bill the words standing at the head of the sub-clause, the words "If any person for any purpose prejudicial to the safety of the State" were included in part (a) and therefore ruled that part only. They were moved by the Select Committee to the place which they now occupy and in view of that, it is desirable that for the words "neglects or" the word "wilfully" should be substituted. This amendment, like the preceding amendment, is of course favourable to the defence.

The HONOURABLE THE PRESIDENT: To the clause under consideration, further amendment moved:

"In part (b) of sub-clause (2) of the clause, for the words 'neglects or' the word 'wilfully' be substituted."

That amendment is now open to debate.

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 7 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 8.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: Sir, every one is in duty bound to give information and to attend a court as a witness but if the person does not know the information, I do not know how he can be expected to give the information to the police or attend as a witness, or how it is to be presumed that he has got knowledge of the information. I want an explanation about that point.

The HONOURABLE MR. J. CRERAR: I would ask my Honourable friend to read the clause to which he refers. He will then find that it refers to "any information in his power". I think that answers the point raised by my Honourable friend.

Clause 8 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 9.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: Sir, the person who abets the commission of an offence under this clause may be penalised, but I do not know how you can define an attempt to

[Mr. K. V. Rangaswamy Ayyangar.]

commit it. An attempt to commit suicide or an attempt to commit burglary can be detected, but an attempt to communicate with a person cannot be defined very easily and properly. I think "abets" may be retained and "attempts to commit" may be omitted.

The HONOURABLE SIR MALCOLM HAILEY: There is a very short explanation. If you cannot prove an attempt, then you cannot prosecute the offender. If you can prove it you can prosecute the offender. We may leave that question to the Courts.

Clause 9 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 10.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: If a person knowingly harbours any person—that is the wording of it, this applies also to British subjects in foreign countries according to the application clause of this Act. If a person in a foreign country entertains, or is entertained by, or puts up with a foreign agent, I do not know whether he should be penalised, and harbouring may only refer to British Indian subjects residing in India and knowingly harbouring a foreign agent or a foreign spy, and as I said before, we do not know that he is a foreign agent or a foreign spy.

The HONOURABLE THE PRESIDENT: I cannot let the Honourable Member to argue that point again. The Council has already considered it.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: If there should be an American tourist or any one else who is the guest of an Indian gentleman, is he to be penalised for harbouring or putting him up in his house, for extending his hospitality to him? I think that is indefinite.

The HONOURABLE MR. J. CRERAR: Sir, as far as I understood the Honourable Member, his point is this: if any person to whom this Act extends—any British subject to whom this Act extends, in Berlin or in Moscow, is guilty of an offence set out in this section, why should he be prosecuted? If a person commits that offence and we can catch him, I fail to see any reason why we should not prosecute him and, if we can prove the offence, why he should not be convicted.

Clause 10 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 11.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: At the end of sub-section (3) the police officer may also be asked to certify that he had to take that action very emergently when he sends up a report to the Presidency Magistrate or outside such town to the District Magistrate or the Sub-divisional Magistrate. This certificate may be necessary to show that he acted *bona fide* in taking emergent action. He may certify that he took that action of arresting the person in the interests of order and owing to the emergency of the case. This certificate also may accompany his report informing the District Magistrate that he had to take action as emergency wanted him to do so.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): I only want to know why my Honourable friend has taken up an attitude to back up the traitors to the country.

The HONOURABLE MR. J. CRERAR: I had some difficulty in following my Honourable friend, but I understood his point is this. If a police officer takes action under sub-section (2) of clause 11 and thereupon reports his action to the Chief Presidency Magistrate or to the Sub-divisional Magistrate, he should accompany that report by a certificate. I may point out to my Honourable friend that a police officer making a report under sub-section (3) must necessarily do so with reference to sub-section (2) in order to explain what action he has taken and in pursuance of what authority. A reference to sub-section (2) makes it quite clear that the report must itself indicate that the action taken by the police officer was taken in a case of great emergency. That, as far as I can see, answers my Honourable friend's difficulty.

Clause 11 was added to the Bill.

Clauses 12, 13 and 14 were added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 15.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: I think this clause is very drastic. A foreign agent may take a partner in India and the company may be going on, and if an innocent person should be penalised for the action of others I think that is very unjust. Let the company alone be penalised but not each and every member or officer of the Company or Corporation. By the action of one individual we cannot judge whether the whole corporation was intended specifically to fish out the secrets of the defence of India and divulge it to foreign countries. There may be any company in which an innocent man may be taken as a partner in India, and I think it is not proper that he should be penalised for the action of the company.

The HONOURABLE MR. J. CRERAR: Sir, I can only again with the utmost deference recommend my Honourable friend to read the clause to which he refers. He will see that the clause expressly says, "where the person guilty of an offence under this Act is a company or corporation". It does not refer to the case of any individual who is a member of a company or corporation committing an offence under this Act, but it says that the person committing that offence is a company or corporation. It is not a question therefore of the independent action of a particular individual who happens to be a member of a company involving that company in criminal liability. The clause refers to cases in which a company or corporation in their capacity as a company or corporation has committed an offence.

Clause 15 was added to the Bill.

Clause 16 was added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That the Bill, as passed by the Legislative Assembly and amended by this Council, be passed."

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to consolidate and amend the law in British India relating to official secrets, as passed by the Legislative Assembly and amended by this House, be passed."

The motion was adopted.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, there is a Message.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL: A Message has been received from the Legislative Assembly:

" Sir, I am directed to inform you that the Legislative Assembly have, at their meeting of the 8th March 1923, agreed without any amendments to the Bill to amend section 29 of the Prisoners Act, 1900, which was passed by the Council of State on the 27th February 1923."

STATEMENT OF BUSINESS.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): The next meeting of this Council for official business will be on Tuesday, the 13th March, when it is proposed to take into consideration the amendments made by the Legislative Assembly in the Bill further to amend the Code of Criminal Procedure, 1898, and the Court Fees Act, 1870.

The Council then adjourned till Eleven of the Clock on Monday, the 12th March, 1923.

COUNCIL OF STATE.

Monday, the 12th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

CLOSING OF RAILWAY WORKSHOPS ON SATURDAYS.

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

- (a) if it is a fact that of late several Railway workshops have been closed for the whole day on Saturdays instead of half days as usual although there has been enough work to do;
- (b) if the answer to (a) is in the affirmative, the reason therefor?

The HONOURABLE MR. D. T. CHADWICK: (a) Short time has been introduced in several railway workshops.

- (b) This step has been taken for financial reasons.

PURCHASE OF NEW RAILWAY WAGONS.

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

- (a) if it is a fact that large orders for new Railway wagons (which are paid for from capital account) have recently been placed although there are some thousands of wagons in the country which can be repaired and used;
- (b) are the repairs not taken in hand because the cost of same has to be met from revenue account and there is not enough to spare for the purpose from revenue account;
- (c) do Government recognise that the importation of new wagons when existing wagons can be satisfactorily repaired and used involves a serious loss of money;
- (d) will steps be taken to provide funds for the repairs being carried out at an early date so that such repaired wagons be used and thereby a reduction be effected in the number of new wagons to be imported hereafter?

The HONOURABLE MR. D. T. CHADWICK: (a) New wagons paid for out of capital are additions to the existing stock to meet the growing requirements of the Railways to transport the traffic offering. The number of wagons out of traffic awaiting repairs is not abnormal.

(b) No.

(c) No. The new wagons are necessary quite apart from those which are under repairs.

(d) This is covered by the replies to (a) and (b) above.

(1217)

CLOSING DOWN OF PRIVATE WHARVES AT ADEN.

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

- (a) if any representations have been sent by the Aden Chamber of Commerce to the First Assistant Resident at Aden complaining that the proposal of closing down private wharves will seriously inconvenience the commercial community;
- (b) what action Government have taken in the matter?

The HONOURABLE MR. D. T. CHADWICK: The Government have received no representation on the subject from the Aden Chamber of Commerce. But they understand that it is proposed to close down private wharves and that the proposal has excited some protests from those interested at Aden, and they propose to ask the Government of Bombay for a report on the subject.

PURCHASE OF STORES BY COMPANY-MANAGED RAILWAYS.

186. The HONOURABLE MR. PHIROZE SETHNA: Will Government be pleased to state if in the contracts made with Company-managed Railways there is any provision whereby Government can compel such companies to purchase their stores through any agency or agencies recommended by Government?

The HONOURABLE MR. D. T. CHADWICK: The answer is in the negative.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL:

" Sir,

In accordance with rule 36(1) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the Bill further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings were taken into consideration by the Legislative Assembly at their meeting to-day, the 9th March, 1923, and that the Legislative Assembly have agreed to the amendments."

BILL LAID ON THE TABLE.

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 give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children, which was passed by the Legislative Assembly at its meeting held on the 9th March, 1923.

RESOLUTION RE AMENDMENT OF ELECTORAL RULES.

The HONOURABLE SAIVID RAZA ALI (United Provinces East: Muhammadan): Sir, I beg to move the following Resolution:

" This Council recommends to the Governor General in Council that early steps be taken to so amend the electoral rules as to enable a Member of this Council to seek election to other Legislative bodies constituted under the Government of India Act, 1919."

Sir, the legislative bodies constituted under the Government of India Act, 1919, are the Council of State, the Legislative Assembly and the Provincial Councils. According to the rules made under the Act, if a person is a member of any of the preceding three bodies, he is not eligible for election to any of the remaining legislative bodies, unless he resigns his membership. Honourable Members will remember that, under the Morley-Minto scheme of reforms, not only was it open to a member of a provincial Council to seek election to the Indian Legislative Council, but there was no bar against a person being a member of a provincial Legislative Council as well as of the Indian Legislative Council. In fact, some gentlemen availed themselves of this splendid opportunity and I know at least one gentleman who adorned the benches of both Councils. The arrangement, it must be admitted, was not satisfactory. The sittings of the Provincial Councils generally and of the Indian Legislative Council being almost simultaneous, it was very difficult for a member to be present in both places. Work naturally, therefore, suffered. This system, which I think I am right in saying was somewhat odd, has now been abolished. But, Sir, the present scheme which is embodied in the rules framed under the Government of India Act, 1919, errs on the other side. The scheme which was in existence before 1919 allowed a person to be a member of two Councils, namely, the Provincial and the Imperial Councils; whereas the rules made under the present Act not only put a ban against a man belonging to two legislative bodies simultaneously but do not allow a person who is a member of any of the Councils that I have named to seek election to any of the remaining two. This, Sir, I submit, is a great hardship and the arrangement does not seem to be justified by the force of logic or the peculiar circumstances that obtain in India.

Sir, the proposition in the Government of India Act that a person shall not be a member of more than one legislative body has the support of the experience of those countries that have evolved a democratic constitution. Whether a bicameral system of Government will best suit the requirements of India and the genius of her people is more than one can say to-day. But assuming, Sir, that India in future will decide to have a second Chamber, it seems very necessary that all possible care should be taken that the second Chamber shall be a powerful, efficient and influential body. Most of the countries that have a democratic constitution have a bicameral parliamentary system, and it is clear that the utility of the second Chamber is not uniform in those countries which have introduced this system. The point raised in the Resolution that I have ventured to move before this Honourable House is that if we are to have a second Chamber we must see that it is built somewhat on the model of the American Senate, whose great influence and power are known throughout the world. On the other hand, Sir, if our second Chamber of the future is to degenerate to the level occupied by the French Senate, it is extremely doubtful whether the time and energy that will be spent in keeping up this second Chamber will be worth the trouble involved. Sir, in all those countries where a second

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Chamber is founded on the principle of heredity there is a great chance of the second Chamber being representative of the classes whose opinions in the administration of the country do or should count; whereas in the case of countries where the second Chamber is built on the elective basis, care should be taken that the constitution does not lead to stagnation. The important thing is to allow a free flow between the Council of State and other legislative bodies, namely, the Legislative Assembly and the Provincial Councils. Honourable Members will see that the question that has been raised directly in the Resolution which is before the House aims at allowing members of the Council of State to seek election to the Legislative Assembly or the Provincial Councils as the case may be; but I do not conceal from myself the importance of the principle of reciprocity. If Honourable Members of this Council are to be allowed to seek election to other legislative bodies; it would be but just and fair to extend a similar privilege to members of the Provincial Councils or the Legislative Assembly.

THE HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, may I rise to a point of order—whether this question of constitution has any reference to the particular Resolution before us?

THE HONOURABLE THE PRESIDENT: I think the Honourable Member's point is this, that if you make a modification in the electoral rules of this Chamber you must accept the general principle for all legislative bodies.

THE HONOURABLE SAIYID RAZA ALI: Sir, I do not propose to ask the Honourable Members of this House to give their vote on the general question. I have laid before them one phase of the general principle that is involved in the consideration of this Resolution. All the same I must point out that it would be impossible to deal with this phase of the question unless you discuss the general question without expressing your opinion in the form of a vote. Now, as I submitted, Sir, the ideal arrangement would be to allow members of any legislative body constituted under the Government of India Act to seek election to the remaining bodies. Whether the Government are prepared to accept that position or not is very difficult, I believe, to say at this stage. But I want to make a small beginning and I want the Government to bring about a change in the rules in such a manner as to allow Members of this Council to seek election to other bodies. If that, Sir, is accepted by Government it follows that the other rules will have to be changed in course of time so as to give the benefit of this proceeding to members of other councils. Now, Sir, I for one am at a loss to understand why the rules that were made under the Government of India Act should have placed a ban on a Member of this Council seeking election to other bodies. The rules that have been made are quite emphatic and explicit. In fact, rule 5 of the Rules for the election of members to the Indian Legislature clearly says, :

"A person shall not be eligible for election as a Member of the Legislative Assembly or the Council of State as the case may be if such person is already a Member of any legislative body constituted under the Act."

The clear meaning of this, Sir, is that not only you do not allow a Member of this Council to go to a provincial Council, but you also stand in the way of his trying to go over to the Legislative Assembly. As to what was in the mind of the framers of the Rules is more than I can say, but it seems to me, Sir, that section 63E (2) of the Government of India Act,

1919, did not, at that time at least, contemplate that the rules would be made in the spirit in which they ultimately came to be made. Section 63E (2) says:

"If an elected Member of either Chamber of the Indian Legislature becomes a Member of the other Chamber, his seat in such first-mentioned Chamber shall thereupon become vacant."

This, Sir, clearly means that at the time when this Act was passed, viz., towards the end of 1919, the British Parliament and the Government clearly intended that there should be a free flow between this Council and the Legislative Assembly and they made a clear provision to that effect in this sub-section. But it seems that the rules that were made have in fact gone not only much further than the present sub-section, but they contravene not only the spirit but, I would venture to say, also the letter of the law as embodied in section 63E. Sir, I am most anxious that this House should be respected and should deserve to be respected, if it is to continue to form an integral part of our constitution. A second Chamber that ceases to exercise or is unwilling to exercise its revisional functions is a misnomer. Rather than countenance a second Chamber of this character I would not hesitate to propose its discontinuance. If we are to have a second Chamber, it should perform its legitimate and proper functions; otherwise instead of being a help to the steady growth of our constitution it will retard its growth and be a positive danger. The only way to strengthen this Chamber from time to time is to admit fresh and vigorous element to it. On the other hand, it will be a great advantage if Honourable Members of this Council who have considerable experience of the serene dignity and dispassionate consideration of the measures that come up before it from time to time are allowed to impart, though in a small measure, their own serene dignity and dispassionate judgment to the members of less fortunate Houses. I have not the slightest doubt, Sir, that it is of the utmost importance, in order to enable this House to perform its duties efficiently, that fresh recruits to this House and also from this House to other Houses should be admitted from time to time. If this arrangement is not encouraged I am greatly apprehensive, Sir, that this will lead to our vision becoming in course of time cramped and narrow and that touch of sympathy which must always exist between this Chamber and the more democratic bodies would be weakened and ultimately lost. It is in this spirit, Sir, that I move my Resolution.

One word more, Sir, and I have done. It might be contended on behalf of Government that there is no country which allows a man to be a member of the Upper as also of the Lower House. That, Sir, in the beginning of my speech I have already conceded. But that is not the point. There are several countries in which a member is not required to vacate his seat before he offers himself for election for other bodies. Several such cases in fact occur in Australia. The list is a long one and I do not think it would serve any useful purpose to go into the whole list in detail. I will support my point by citing the cases of the Legislative Councils of South Australia and Tasmania under whose constitutions the members of the Legislative Councils are allowed to seek election to the Commonwealth Parliament. It is true that as soon as they are declared elected their seats in the Legislative Councils are considered as having been vacated. My plea is a similar one. What I submit is this. Let the Government allow Members of this House to seek election without resigning their seats here to the other Legislative bodies. If they are elected, then their

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seats in this Council would be automatically vacated. In the same manner, —this is the general principle and not a specific portion of my Resolution, —let not the Government put any obstacles in the way of the Members of the Legislative Assembly and of the Provincial Councils seeking election to this Council. This becomes very necessary, Sir, when it is remembered that it will not be till the year 1935 that simultaneous elections will take place for this Council, the Legislative Assembly and the Provincial Councils. The law as it stands allows a man at the time of the general election to seek election to all the Councils for which he is qualified, so that in the year 1935 it will be open to any qualified candidate to seek election to the Council of State, the Legislative Assembly and the Provincial Councils. But, Sir, the year 1935 is a long way off. As a matter of fact, we find that that contingency will not arise till after the visit of the Statutory Commission to India. I think, therefore, Sir, it is very necessary that Government should so amend the rules as to allow a free flow of Members between the various Legislative bodies, especially as the elections are to be held towards the end of this year. It may be that some Honourable Members would like to go elsewhere. It may be again that when the elections for this Council are held in 1925, some Members of the Legislative Assembly or of the Provincial Councils would like to come over here. I commend this Resolution, Sir, to the Honourable Members of this House.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I am glad that the Honourable Member has brought forward this Resolution for discussion. My Honourable friend in proposing this Resolution has, however, unfortunately travelled beyond the scope of his Resolution in some ways. I do not propose to go into that question at all. I propose to lay my point of view before this Council in a nutshell. My Honourable friend has rightly drawn the attention of this House to the existing rule which prevents a Member of the Council of State from standing for a seat in the Legislative Assembly without first vacating his office. That rule likewise applies also in the case of a Member of the Legislative Assembly standing for the Council of State. This rule has been in existence ever since the Government of India Act came into force. To my mind, this rule, which was framed by the Joint Committee, has no legal force or legal validity. The rule is *ultra vires* in virtue of the express provisions contained in the Government of India Act. Unfortunately no election up to date has taken place of this kind, that is to say, no Member of the Council of State has stood, during the operation of this Act, for a seat in the Legislative Assembly, and, therefore, this rule has not been legally tested. I would draw the attention of the Council to section 22 of the Government of India Act, clause 2. That section makes the position perfectly clear. The first part of this section runs as follows:

“An official shall not be qualified for election as a Member of either Chamber of the Indian Legislature.”

The HONOURABLE THE PRESIDENT: What does the Honourable Member cite from?

The HONOURABLE SIR MANECKJI DADABHOY: I am citing from the Government of India (Amending) Act, 1919.

The HONOURABLE THE PRESIDENT: It will be more convenient if the Honourable Member cites the Act.

The HONOURABLE SIR MANECKJI DADABHOY: I am quoting the clause, Sir:

“If an elected Member of either Chamber of the Indian Legislature becomes a Member of the other Chamber, his seat in such first-mentioned Chamber shall thereupon become vacant.”

As the section stands, to my mind, there is no question; it is not necessary to vacate the seat. As the Government of India Act stands at present, a Member of the Assembly can stand for election to the Council of State without vacating his seat and *vice versa*. The section by implication clearly denotes that it is only on an election taking place his seat in the first mentioned Chamber shall become vacant. The very wording that “his seat in the first mentioned Chamber shall thereupon become vacant” means on the result of the election happening.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Suppose he is only nominated by Government to the other Chamber?

The HONOURABLE SIR MANECKJI DADABHOY: I am now referring to the Resolution. It is perfectly clear, to my mind, that the law as it exists at present, does not debar a Member, at least of the Council of State or of the Legislative Assembly, standing for either place without vacating his seat. Unfortunately, the rule framed by the Joint Committee makes a departure from this, and the framers of the rule apparently overlooked this provision. I submit with great respect that the rule framed by the Joint Committee is *ultra vires*, and if an election is contested in a Court of law it is perfectly clear that it would be held that the rule is *ultra vires*. So far as this point is concerned, there is at present no statutory disability in the matter of contesting elections. There is a legal provision under which a Member of this Council can stand for the Assembly without vacating his office, but this right is only limited to the two Houses of the Indian Legislature and not to the Provincial Councils. Therefore, what we require at present is, we want to bring to the attention of His Majesty's Government the anomalous nature of the rule framed under the Act, because as long as this rule stands, it is a bar, and the earlier the invalidity of this rule is brought to the attention of Parliament the better, and I submit it is quite necessary under the circumstances to amend this rule as soon as possible. The rule as it stands is not in consonance with the law which is enacted, and you cannot frame, under the general power to frame rules, any rules contrary to the spirit and letter of the law. Therefore, this rule is partly *ultra vires*. There is no statutory provision debarring a Member of either Chamber from standing for election to the other Chamber without vacating his office. But, as I have pointed out, this does not apply to the Provincial Councils.

Now, Sir, while sympathising to a certain extent with the proposal of my Honourable friend the Mover, and having pointed out the anomalous nature of the rule as it stands at present, I am of opinion that there is another aspect of the question which this Council should not ignore. It is all right in the case of a candidate who holds a seat in the Assembly to stand and contest a seat for the Council of State when it becomes vacant without vacating his office. If he is defeated he can without any loss of prestige or dignity go and resume his seat in the Assembly, but unfortunately it would not be a graceful position in the case of a Member of this House. If a Member of the Council of State contests for a seat in the Assembly maintaining his own seat on this Council till the actual election takes place, or

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until the result of the election is known, and if he is defeated in the Assembly, I say, to come back and take his seat in the Council of State would not be quite compatible with the sense of dignity of this Chamber. Personally, I am of opinion that those who are anxious to join the Assembly should have all the facilities of doing so. As a matter of fact, during the last two years I have sometimes thought of resigning my seat here and contesting a seat in the Assembly because I have often felt that I could be of a little more use in the Assembly. I have now and then thought of doing this myself; but I have always felt that it would be compatible both with the dignity and prestige of this House and with the traditions of the Mother of Parliaments from which we receive both guidance and inspiration that it would be more graceful to resign our seats in the Council of State before contesting elections for the Legislative Assembly. It is not advisable to keep a sort of prescriptive right on your existing seat and at the same time contest an election for the Legislative Assembly. It is this aspect of the question which, to my mind, takes away from the traditional dignity and prestige of the Upper Chamber and it is for this reason that I feel myself unable to subscribe to the proposition which has been put forward with such lucidity by my Honourable friend.

As regards the Provincial Legislative Councils, the problem gets more complicated when you come to consider it. Assume, for instance, the case of a Member of the Council of State standing for the Assembly as well as for the Provincial Council in his own province. Apart from the political position that he may take up in connection with the elections, I think it will cause a great deal of confusion in the sense that the voters will not know in what Chamber a particular candidate's presence would be more useful, and I think, therefore, the Provincial Councils should be left as they are. I quite concede that there is some force in the argument of my Honourable friend Saiyid Raza Ali, but on the whole, if the Provincial Councils are left studiously alone and if we ask for a repeal of the rule framed so as to bring it into consonance with the present Act, it will meet the requirements of my Honourable friend as well as the general desire, if there be any such desire, for Members of either Chamber of the Indian Legislature to contest seats in the other House without vacating their seats.

For these reasons, I submit that the rule, which is *ultra vires* at present, ought to be abrogated or modified as early as possible, and that no further action is necessary.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, a very brief statement from me will, I think, suffice to make clear the attitude of Government as regards the various propositions which are implied in the Honourable Member's Resolution. It will be within the recollection of the House that in September last year Government appointed a Committee consisting of Members of both Chambers of the Indian Legislature to consider generally the question of the electoral rules. The report of that Committee has for some time past been engaging the attention of Government and, although the report of the Committee does not touch upon the questions raised in the present Resolution, incidentally occasion has been taken to consider certain other amendments which appear desirable or necessary. One of those arises out of the circumstances which has already been adverted to by my Honourable friend the Mover and by my Honourable friend Sir Maneckji Dadabhoy, that is to say, that rule 5 of the Electoral Rules is to a certain extent inconsistent with the

statutory provisions of section 63-E (2) of the Government of India Act. It is not quite correct to say, as I think one of the speakers who preceded me did say, that the rule was *ultra vires in toto*; it is only in one respect that it is inconsistent with the statutory provisions, and, therefore, presumably is so far *ultra vires*. It is also not quite true to say that no case has actually arisen in which this question has been involved. As a matter of fact, a case did arise in regard to a recent election to this Council and that matter has already been referred to by my Honourable friend on my left in another place, and it is on that ground alone that some revision of the rule is desirable and indeed necessary.

My Honourable friend's Resolution seems substantially to raise three cases of importance, the case of the candidature of a Member of either Chamber of the Indian Legislature for the other Chamber, the case of the candidature of a member of a local Council for either Chamber of this Legislature, and the third case, the case of the candidature of a Member of either Chamber of the Indian Legislature for a local Legislative Council.

With regard to the first of these cases, Government, as at present advised, are disposed favourably to consider an amendment of the rule which will have the effect of curing the invalidity of the existing rule and of specifically permitting the candidature of a Member of this Council for the Legislative Assembly and also the candidature of a Member of a local Legislative Council for either Chamber of the Indian Legislature.

The third case, however, raises other and, I think, very important considerations, considerations which very closely concern this House. I think it can be said without the slightest disparagement to the vital and the fundamental functions which are exercised by the local Legislative Councils and to the dignity and importance of those Councils that the constitution has assigned wider and more comprehensive functions to both Chambers of the Indian Legislature and that it would not be unreasonable to infer from that that the status of the two Chambers of the Indian Legislature must be regarded as in a certain sense superior to that of Provincial Councils. I think I may say that, Sir, without the slightest disparagement to the local Councils. It is merely a constitutional fact which we are bound to recognise. Nor, Sir, do I deny that Honourable Members either of this Council or of the Legislative Assembly might have very legitimate, very proper and very laudable reasons for seeking election to a local Council. It might conduce more to the Honourable Member's own convenience; he might consider that his qualifications and capacities could be applied with greater advantage to the public good in a local Legislative Council. These are matters into which we need not go but we must look at it from another point of view, from the point of view of this Council. My Honourable friend said that, if we are to have a bicameral system, and if we are to have an Upper Chamber in a bicameral system, it is absolutely essential that that second Chamber should be powerful, efficient and influential, that it should do nothing so far as in it lies to derogate from its own status and dignity. What I venture to put to the House is this. Supposing an Honourable Member of this Council for very proper and very laudable reasons considered that it would be more conducive to the public good that he should seek election for a local Legislative Council; he would consider that not only from the point of view of the individual Member, but from the point of view of the House. Presumably the Honourable Member would not seek election to the local Legislative Council unless it was his definite purpose or desire to sit in that Council; and *ex hypothesi* to sever his connection with this Council, because the Honourable Mover did not for a

[Mr. J. Crerar.]

moment suggest that the rule which forbids dual membership should be abrogated. Well, Sir, the Honourable Member, who still retains his seat in this Council, seeks the suffrages of a constituency of the local Legislative Council. If he meets with success, and if he has definitely made up his mind to seek election to a local Legislative Council, he is under no disability if he is asked to terminate his membership of this Council before he does so. But if he seeks those suffrages and he fails, what will the consequence be? The fact, it appears to me, that the Honourable Member who has sought the suffrages of a Provincial Council constituency does not succeed in gaining their confidence would cause very considerable embarrassment to himself and very serious embarrassment to this Council if he were to continue to retain his seat here. It is for that reason, though, as I have explained, the Government are prepared to go a great way in the direction indicated by my Honourable friend, we are not prepared to accept that third proposition. I venture to think this House also ought not to accept it. It is no doubt proper for this House to take into consideration, so far as it is reasonable, the private convenience of its Members; but when it comes to a question in which the dignity and status of the House as a whole is affected, I venture to think that any consideration of the private convenience of Honourable Members ought not to be given preference to the general consideration of the status and dignity of the House as a whole. Such cases, as are contemplated by that third proposition, would hardly arise save in very exceptional circumstances, and I do not think the House should commit itself to a proposition which could only arise in very exceptional circumstances, but which would nevertheless have the consequence of effecting a very great measure of derogation in the status and dignity of the House. Therefore, I hope, Sir, in view of the explanation I have made, that my Honourable friend will be prepared to withdraw his Resolution. If he is not prepared to withdraw it, I must, in respect of the third proposition, oppose it, and I trust the House will support me in that opposition.

THE HONOURABLE SAIYID RAZA ALI: Sir, it was not in any dogmatic spirit that I brought forward this Resolution before this House to-day. I did it, Sir, in the spirit of a seeker after truth, and I just desired to draw the serious attention of Government to some of the extraordinary aspects of the rules made under the Government of India Act. I do not think, Sir, it will be useful to dwell on the question as to how far section 63E, sub-section (2), which was quoted under another name by my friend the Honourable Sir Maneckji Dadabhoy, is in conflict with Rule 5 of the Electoral Rules. In view of the statement made by the Honourable Mr. Crerar, I think we might leave matters at that. I am glad that the Government of India have discovered after all, after the expiry of about 22 months, that the rule is not in harmony with the letter of section 63E. While congratulating the Government, not grudgingly, Sir, on that discovery, I propose to deal briefly with the speech of the Honourable the Home Secretary.

He has clearly stated before the House that the general principle that really underlies my Resolution can be divided into three categories. He has stated those three categories, and he has dealt with each one of them. I think, Sir, we may be permitted to congratulate my Honourable friend and the Government of India that after all they are prepared to allow members of Provincial Councils to stand as candidates for election to either Chamber of the Indian Legislature. I do not think, Sir, that that

pronouncement would be in conformity with the notions of dignity of this House entertained by my Honourable friend Sir Maneckji Dadabhoy. All the same, Sir, I must acknowledge that it is a considerable advance that the Government propose to make, and as such the announcement made by the Honourable Mr. Crerar, though by no means full in measure, will receive general approval in this country.

Then we come to the second question, viz., the election of a Member of one Chamber of the Indian Legislature to the other. On this question I thought the law itself was clear. I am glad the Government propose to bring about the necessary change in the wording of Rule 5 and to make it consistent with section 63E of the Government of India Act. Then, Sir, we come to the last question which, after all, is the question that has been raised directly in the terms of the Resolution, namely, how far it is right to allow Members of this Council or Members of the Legislative Assembly to stand as candidates for election to the Provincial Councils. Now this being a very vital point, I listened very carefully and attentively to the lucid exposition of the question given by my Honourable friend on behalf of Government. Sir, it is very difficult, in fact, to put a weak case strongly before a critical audience unless the man who undertakes that task is a skilful advocate, and I must acknowledge that my friend the Honourable Mr. Crerar is a skilful advocate. The position

12 Noon. taken up by Government is far from strong as Honourable Members of this Council will realise for themselves. Yet he has tried to introduce a certain amount, if he will excuse my saying so, of plausibility on behalf of Government into it. The main contention that he has raised, shorn of all extraneous matter, is this. If you allow a Member of the Council of State or a Member of the Legislative Assembly to seek election to a Provincial Legislative Council and if he is elected it will be open to him to take his seat in the Provincial Council. But my Honourable friend says, let us look at the other side of the picture. What will happen if the unfortunate candidate is not elected and meets with failure in his electioneering campaign? My Honourable friend went on to say that that would show that a particular candidate failed to get elected to the Provincial Council and it would be most embarrassing—I believe he used that word—to allow him to retain his seat in either Chamber of the Indian Legislature. Now, Sir, my Honourable friend forgets that the qualifications of the electors, in other words, the franchise, which is fixed in the case of the Provincial Councils is as different from the franchise fixed for this Council as the North Pole is from the South Pole almost. My Honourable friend is perhaps aware that the voters in Provincial Councils, even in a very small constituency, are numbered by thousands, in some cases by tens of thousands; whereas the franchise in the case of this august Council is so high that, generally, the number of electors runs into a few hundreds and never more than a couple of thousands; and when I say a couple of thousands I am putting the figure almost at its maximum. Sir, the way in which I would reply to my Honourable friend, Mr. Crerar, would be this. If you change your rule and allow a Member of the Indian Legislature to try his luck, if I may say so, for the Provincial Council, if he gets elected, it shows that the man is acceptable not only to the aristocratic class but also to the masses that make up the people; he is acceptable to the classes as also to the masses, and therefore there should be no objection taken on behalf of the Government. On the other hand, if the unfortunate man is defeated that shows that he is not acceptable to the masses and therefore, Sir, I think he would be very much acceptable to

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[Saiyid Raza Ali.]

the classes. (*The Honourable Mr. Lalubhai Samaldas*: "Not necessarily.") I am very glad, Sir, to hear that from the Honourable Mr. Lalubhai Samaldas; I hope he not only says that, but also means it. (*Honourable Mr. Lalubhai Samaldas*: "Entirely.") The qualifications being essentially different in the cases of these two Councils, the defeat of a man where thousands of electors are involved does not by any means show that he forfeits the confidence of those highly-placed men, one of whom just interrupted me, who are the voters for election to the Council of State, and therefore the position should not in any way be embarrassing to anybody. The position would have been quite different if the franchise had been the same in both cases; that no doubt would have brought about an anomalous position; that would have gone to show that whereas a man was acceptable two or three years back to the same class of people, he was no more acceptable to them at a later period, namely, when he sought election to the Provincial Legislative Council. That, Sir, as I have pointed out by no means follows. The two matters are as different and distinct as any two matters can be, and therefore I do not think that my Honourable friend can claim that he has tried to support his proposition by any strong argument. I hope, Sir, I am not doing injustice to my Honourable friend, when I say that that was the only argument he adduced quite apart from the question of dignity and status. I do not propose to deal with that question now. After all I do not think that many Honourable Members of this Council will agree that if an Honourable Member of this Council is allowed to stand as a candidate to a Provincial Legislative Council he thereby casts, intentionally or unintentionally, any reflection on the great position, dignity and status of this House. The choice is a question of taste and let a man do according to his taste and I assure the House that no question of dignity is involved.

That being the position, Sir, I for one am highly thankful to Government for their readiness to amend the rules in an important matter like this. I am sorry that the necessary corollary of the principle that has found acceptance at the hands of Government does not appeal to them. Sir, I thought that if you allowed Members of Provincial Councils to come up to these two Chambers, there was absolutely no point in denying reciprocity to us. As a matter of fact, my Honourable friend's proposition subjects Members of this Council and of the Assembly to considerable disadvantage, namely, it gives a concession to the Provincial Councils and at the same time it denies that very concession to Members of the two Chambers of the Indian Legislature. As I submitted, I entirely fail to see any element of reciprocity in that; and if it were to be judged as a legal proposition I would have no hesitation in saying that as a proposition of law my Honourable friend's contention was a thoroughly bad one. But, Sir, we are not dealing only with questions of law; we cannot afford to shut our eyes to questions of expediency. If Government are prepared to go to a certain length and no further, I for one am prepared to meet Government even at the point up to which they are prepared to advance. Therefore, Sir, while absolutely convinced that the Government's position is illogical and that it should have gone much further, I would not be prepared to press my Resolution to vote. As I have said, perhaps on another occasion

The HONOURABLE THE PRESIDENT: If the Honourable Member does not propose to press his Resolution to a vote, I think he might conclude his speech as he has largely exceeded his time limit.

The HONOURABLE SAIYID RAZA ALI: Therefore, Sir, in view of the pronouncement made by the Honourable Mr. Crerar which is satisfactory so far as it goes though it does not go far enough, I would crave leave of this Council to withdraw my Resolution.

The HONOURABLE MR. J. CRERAR: Sir, in view of the fact that my Honourable friend desires to withdraw his Resolution, assuming that that receives the assent of the House, I have no further remarks to offer.

The HONOURABLE THE PRESIDENT: Before I put the question that leave be given to withdraw this Resolution, I should just like to draw the attention of Government, since they are dealing with this matter, to rule 20 (c). I do not propose to make any remarks; I merely draw their attention to it.

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

THE MALKHARODA AND GAONTIA VILLAGES LAWS BILL

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce:

"A Bill to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces."

Sir, the necessity for this legislation illustrates the inconvenience of faulty draftsmanship, and I shall briefly explain how it has arisen. In the year 1905, as the House is aware, certain important territorial adjustments were made commonly known as the Partition of Bengal. In connection with those territorial adjustments, the district of Sambalpur was attached to the re-constituted Province of Bengal. Later in the years 1911 and 1912, further territorial adjustments including the creation of the province of Bihar and Orissa were made and the district of Sambalpur, which had been transferred to the province of Bengal, was now incorporated in the new province of Bihar and Orissa. A notification was issued in 1905 by which certain exclusions were made from the transfer to Bengal of the district of Sambalpur, on the ground of administrative convenience. From that district were excepted the territories specified as the Chandarpur-district, Padampur Zemindari and the Phuljhar Zemindari. Now it happened that, at that time, the estate known as the Malkharoda Jaghir was held by the Zemindar of Phuljhar and it was wrongly assumed that the Malkharoda Jaghir formed part of the Zemindari. It did not. Another assumption was made. In the territories of Chandarpur-Padampur Zemindari there were a certain number of what are known as Gaontia villages, a term which corresponds roughly to Khalsa or Rayati. Though these villages were included geographically within the boundary of the Zemindari, they did not legally constitute a part of it. The consequence has been that, although these territories have since 1905 been *de facto* administered by the authorities of the Central Provinces, their legal status has been something more than doubtful, and recently the question in a Court of Law, and it is therefore desirable to set these doubts at rest and to pass the necessary validating legislation. I will not say anything further at this stage, Mr. President, because the Bill, though

[Mr. J. Crerar.]

a small measure, is somewhat complicated, and probably it will be more convenient if I make any further explanation that may be necessary after Honourable Members have had an opportunity of reading through the Bill at their leisure. I will therefore at this stage simply move for leave to introduce the Bill.

The motion was adopted.

The HONOURABLE SAIYID RAZA ALI: May I know, Sir, whether this Bill is likely to be taken up for consideration in the current Session?

The HONOURABLE MR. J. CRERAR: Yes, Sir.

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

The HONOURABLE THE PRESIDENT: Before I adjourn the Council, I would ask non-official Members, if convenient to them, to meet me in five minutes' time in the large Committee Room here.

The Council then adjourned till Eleven of the Clock on Tuesday, the 13th March, 1923.

COUNCIL OF STATE.

Tuesday, the 13th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

ANNOUNCEMENT OF SUMMER SESSION IN JULY, 1923.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, with your permission, I beg to announce that His Excellency the Viceroy has decided that he will have a summer session of this Council and accordingly the Council of State will meet at Simla about the 12th of July next.

The HONOURABLE KHAN BAHADUR E. H. JAFFER (Bombay Presidency: Muhammadan): Sir, before the business of the day commences I would like to say a word of explanation about my absence on Thursday last. Owing to the after effects of influenza of which I was suffering I was compelled to break journey on the way from Bombay to Delhi and therefore could not reach here on Thursday morning as I had intended. I am sorry I could not send an intimation to the Legislative Department in time. I beg to apologise to the House and His Excellency the Commander-in-Chief for the inconvenience caused on that day.

The HONOURABLE THE PRESIDENT: The Honourable Member has adopted a very proper course.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the consideration of the amendments made by the Legislative Assembly in the Code of Criminal Procedure. I propose to deal with these amendments as if they were clauses of a Bill, that is to say, I shall call the amendment by its number and the House will understand that the question before the House is whether they do or do not concur in the amendment made by the Legislative Assembly. In fact, the usual procedure we always follow in dealing with the clauses of a Bill.

Amendments* Nos. 1 to 9 were concurred in.

- *1. In clause 2 sub-clause (ii)—
 - (a) for the figures '192' and '528' the figures and words '192, sub-section (1)' and '528, sub-sections (2) and (3)' respectively were substituted;
 - (b) the figures '436' were omitted.
2. For clause 5 the following was substituted, namely:—

"5. In sub-section (2) of section 29 of the said Code, after the words 'High Court or' the words 'subject as aforesaid' shall be inserted."
3. In clause 6—
 - (a) for the words and figures "after section 29" the words and figures "before section 30" were substituted;
 - (b) for the figures and letter "29A" the figures and letter "29B" were substituted;

Amendments* Nos. 10, 11, 12, 13, 14 and 15 were concurred in.

- (c) in the proposed new section 29B, as so renumbered, the words "Notwithstanding anything in the last two preceding sections" were omitted.
4. In clause 10 (now clause 9)—
 (1) in sub-clause (i) (a)—
 (a) the following words were inserted at the beginning :—
 "after the word 'occupier,' where it occurs for the second time, the words 'in charge of the management of that land' shall be inserted, and";
 (b) the words 'or obtain' were omitted;
 (2) in sub-clause (ii), after the word 'inserted' the following words were inserted :—"after the word 'persons' the words 'with his or their consent' shall be inserted."
5. In clause 11 (now clause 10)—
 (1) in sub-clause (1)—
 (a) for the words and figures "To sub-section (1) of section 54 of the said Code" the following words and figures were substituted :—
 "In sub-section (1) of section 54 of the said Code, in clause *fourthly*, for the word 'or' the word 'and' shall be substituted, and to the same sub-section";
 (b) for the words 'that officer' the words 'the officer who issued the requisition' were substituted;
 (2) sub-clause (2) was omitted.
6. To clause 12 (now clause 11) after the word 'inserted' the following was added :—
 "and to the same sub-section the following shall be added, namely :—
 'The officer so required shall before making the arrest notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order'."
7. In clause 14 (now clause 13)—
 (a) sub-clause (a) of the proviso to proposed sub-section (6A) was omitted;
 (b) the following new sub-section was added to section 88 of the Code :—
 "(6E) If the proclaimed person appears within the time specified in the proclamation, the Courts shall make an order releasing the property from the attachment";
 (c) the clause was re-numbered as clause 13 (1) and the following new sub-clause was inserted after it :—
 "(2) In sub-section (7) of the same section, after the words 'date of attachment' the words 'and until any claim preferred or objection made under sub-section (6A) has been disposed of under that section' shall be inserted."
8. In clause 16 (i) [now clause 15 (i)], for the words and figures "section 153A" the words and figures "section 143, section 149, section 153A or section 154" were substituted.
9. (1) Clause 17 was renumbered as 16 (2) and before sub-clause (2) as so renumbered, the following sub-clause was inserted :—
 "(1) In sub-section (1) of section 107 of the said Code, after the words 'the Magistrate,' where they first occur, the words 'if in his opinion there is sufficient ground for proceeding' shall be inserted."
- Amendment of section 107, Code of Criminal Procedure, 1898.
- (2) In sub-clause 16 (2), as so re-numbered, for the words "section 107 of the said Code" the words "the same section" were substituted.
- *10. In clause 18 (now clause 17)—
 (1) after the word "manner" the word "intentionally" was inserted;

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I would like to make a request. I suggest that the discussion of my amendment may be taken up a little bit later, after Sir Henry Moncrieff Smith's amendment is disposed of.

The HONOURABLE THE PRESIDENT: What amendment does the Honourable Member refer to? I have no amendment here.

- (b) after the word "inserted," where it occurs for the first time, the following words were inserted :—
 "after the words 'such Magistrate' the words 'if in his opinion there is sufficient ground for proceeding' shall be inserted."
11. In clause 19 (now clause 18), in sub-clause (ii), between the words "kidnaping" and "extortion" the word "abduction" was inserted.
12. In clause 21 (now clause 20), in the proposed section 122—
 (a) in sub-section (1) the words "as being" and clauses (a), (b) and (c) were omitted;
 (b) for sub-section (2) the following was substituted :—
 "(2) Such Magistrate shall before holding the inquiry give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him."
13. In clause 23 (now clause 22), sub-clause (iii), in the proposed sub-section (6)—
 (a) for the second paragraph, the following was substituted :—
 "Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release) the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion";
 (b) in the third paragraph, for the word "may" the words "shall, subject to the provisions of section 122" were substituted, and after the words "original order" the words "for the unexpired portion aforesaid" were inserted.
14. To clause 26 (now clause 27), sub-clause (i), the following words were added :—
 "and after the words 'under this section' the words 'there is sufficient ground for proceeding under this section and' shall be inserted."
15. In clause 28 (now clause 29)—
 (1) in sub-clause (1) in the proposed proviso to section 146 (1), after the words "District Magistrate," the words "or the Magistrate who has attached the subject of dispute" were inserted;
 (2) in sub-clause (2)—
 (a) for the words "To sub-section (2) of the same section" the following was substituted, namely :—
 "In sub-section (2) of the same section, after the words 'thinks fit' the words 'and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court' shall be inserted, and to the same sub-section";
 (b) in the proposed proviso, for the words "subject-matter in dispute" the words "subject of dispute" were substituted.

[Sir Henry Moncrieff Smith.]

There was one case in my own experience when I was a Magistrate in which a person was brought before me to make a statement and for four solid working days I was recording that person's statement. That was a statement which could equally well have been recorded by a police officer. It dealt with something like 27 or 28 separate offences and I certainly could not have separated the evidence in all these cases and recorded 27 or 28 separate statements which should have been confined in each case to one particular offence.

Another point, Sir, is that allowing inspection of the whole statement would in many cases involve the giving away of the name of the informer. Now, the House will remember that our law has something to say on that subject. There is a section in the Indian Evidence Act which lays down that no Magistrate and no police officer shall be bound to disclose the sources of his information. Now, that section of the Evidence Act does not safeguard us in this case because this will not be a case of a Magistrate giving away his own sources of information. There is nothing to guide him there. It is the case of a Magistrate giving away the sources of information to the police and therefore the Indian Evidence Act does not help us. Therefore, Sir, I submit, and I think the House will be with me, that to allow inspection of the whole statement, to make it obligatory to give inspection of the whole statement as a witness steps into the witness box is a most dangerous thing.

If that is conceded, then it follows as a necessary corollary that there cannot be any inspection of the original at all. And the reason is very simple, because it is a physical impossibility in most cases to allow inspection of a portion of a document. The only way of doing it satisfactorily would be to take a brush and a bottle of very thick and very black ink and blot out everything that the defence is not to see. The obvious result of that would be that the statement is gone for ever. That statement which might be useful in other cases—might possibly be very valuable to the defence in other cases—has gone, and will not be available again; and when a subsequent case is prosecuted the Court will not be able to comply with the requirements of the law. Therefore, Sir, inspection goes altogether. If inspection goes, what we have left in the Bill is an obligation on the Court to give a copy of the whole statement. Well, Sir, the arguments against giving a copy of the whole statement are exactly the same as the arguments against giving an inspection of the original document and I need not repeat them. It comes down to this that we must provide that in certain cases the Court is to have discretion to withhold or to exclude from the copy given portions of the statement and the only question before the House really for consideration is what ought to be the grounds that should justify the Court in excluding portions of a statement from the copy given to the defence.

The first obvious ground is that of relevancy. I think it will be generally admitted that if portions of a statement are irrelevant to the case for the time being before the Court, copies of those portions should not be given. They will not be of any assistance to the accused but they might be of assistance to other people who are not before the Court, and after all, all that we seek to secure for the moment is that justice is done to the accused who is before the Court. Therefore, Sir, in the first place, we provide for the exclusion of irrelevant matter. The second point and the more difficult point is the question of expediency. As the House is aware,

under section 162 as it stands the Court gives the accused a copy of the statement if the Court is of opinion that it is expedient in the interests of justice. That has been entirely turned round now. There is no discretion in the Court. The Court has got to give a copy to the accused. The House will see what the Government's original intention was with regard to this from the amendment on the paper which stands in the name of my Honourable friend the Home Secretary. Government intended to move an amendment which would have the effect of enabling the Court to exclude a portion of a statement from the copy if it was of opinion that the disclosure of that portion would be inexpedient in the public interests; and that, Sir, is just the point where the Government on the one side and those Members of both Chambers who have taken a great interest in this matter on the other could not agree. It was thought that Government was going too far and that where it is a case of doing justice to an individual before the Court questions of public expediency should not come in. It formed the subject of discussion between the Government and the non-official Members which my Honourable friend opposite contemplated when we adjourned the debate, and I think I may say that the amendment which stands in my name reasonably represents the decision which was arrived at at a round table discussion we had on Saturday evening. That, Sir, is my reason and my apology to the House for the lateness of the notice given of my amendments. The amendments had to be drafted and then they had to be printed and I was unable till yesterday to have my amendments circulated through the Secretary. The compromise, if I may say so, at which we have arrived, lays down that expediency in the public interests shall not be the only test, but that the Court, before excluding a portion of a statement from the copy given must also be of opinion that it is not essential in the interests of justice in that particular case to give a copy of that particular portion. Therefore, Sir, if a portion of the statement is relevant and if the Court is of opinion that it is essential in the interests of justice to let the accused have a copy of that statement the Court has got to give that copy. It cannot be withheld on the ground that it will be inexpedient in the public interests. With these remarks I move the amendment. I think I omitted, when I rose, to move the amendment which stands in my name. It is in two parts. I propose with your permission to move them both together as they hang together and cannot be discussed separately. I move, Sir, that in clause 34 of the Bill:

"(a) In the proviso to the proposed sub-section (1) of section 162, the words 'allow inspection to the accused and' be omitted; and

(b) after the same proviso the following proviso be added, namely:—

'Provided further that, if the Court is of opinion that any part of any such statement is not relevant to the subject matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.'

Before I sit down, I might perhaps just refer to the words "but not the reasons therefor." I think it must be obvious to the House that if the Court is excluding matter on the ground that it is not essential in the interests of justice and also that it is inexpedient in the public interests the Court cannot very well give its reasons for excluding the matter. It states the ground on which it refuses a copy but not the reasons for arriving at that decision, because in doing so it would necessarily have

[Sir Henry Moncrieff Smith.]

to give away the very matter which the law is laying down that it shall not.

The HONOURABLE THE PRESIDENT: The question is that in place of the amendment No. 16 made by the Legislative Assembly this House do propose the following amendment, namely:

"(a) In the proviso to the proposed sub-section (1) of section 162, the words 'allow inspection to the accused and' be omitted; and

(b) after the same proviso the following proviso shall be added, namely:—

'Provided further that, if the Court is of opinion that any part of any such statement is not relevant to the subject matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.'

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I rise to support the amendment. I am thankful to the Government and also to this Council for having extended their indulgence to me last time and having accepted my proposal for the postponement of the detailed consideration of this Bill. The time that was thus given has been very well utilised, as my Honourable friend Sir Henry Moncrieff Smith said, in having a round table conference with the leaders of the opposition as he said, who are as anxious as the Government to see that justice is done to the accused. They are at one on that point. They met together at a round table conference and have come to a decision which I hope will be acceptable to all, because it gives the accused all chances of defending himself and it does not give him an opportunity or give his friends an opportunity of prying into secrets which may have to be used at some other time against other persons. As regards the difficulty mentioned by my Honourable friend Sir Henry Moncrieff Smith about conspiracies and dacoities where many accused are concerned and only one is brought up, that difficulty disappears under this arrangement and I hope that the House will approve of the arrangement arrived at by the Government and by the leading Members of the other House. I may add that though some of them still think that their position is not so absurd as my Honourable friend Sir Henry Moncrieff Smith considers, yet they are prepared to accept any reasonable proposal that, while removing real difficulties in the way of the Government, satisfies the ends of justice. They are therefore willing to accept this amendment and I have been asked to support it on their behalf.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, if I extend my support to this amendment it is not because I feel that it is an ideal amendment but because I feel that it is the only and practical solution of a controversy which has agitated the professional mind for years together. Sir, section 162 of the Criminal Procedure Code has been as it has been said elsewhere a battleground for many a controversy between the Magistrate, the Judge and the Advocate. As one who has taken some part in some of these controversies in the earlier struggles of my professional life, I feel that I am not in ecstasy over the amendment which is proposed to-day but at the same time I am quite prepared to lend it my support because I find that it would be difficult to come to any other arrangement which will meet with the acceptance of all. Sir, I share the apprehensions to which my learned friend Sir Henry Moncrieff

Smith has graphically given expression regarding the dangers of a wholesale inspection of the statements recorded by police investigating officers. I quite agree and I personally have noticed in the course of my professional experience that often it would be most advisable that this information should be withheld from the accused, though at times the accused might have seen it without prejudicing the trial. Often public interests and the interests of the criminal administration of justice in the country have necessitated the withholding of the information but I must at the same time say that the law as it stood before the introduction of the Bill was not entirely of a satisfactory character. The amendment made by the Assembly was also likewise not of a character that appealed to those impartial minds who are interested in the impartial dispensation of criminal justice in this country. The difficulties are numerous. I quite agree with Sir Henry Moncrieff Smith that it would be wrong, it would be almost dangerous and unworkable to extend an entire freedom of inspection of these statements. I entirely agree that it will be prejudicial not only to public interests, but also at times to the trial itself to make it obligatory on the part of the court to allow inspection in each and every case. It must be remembered also that the statements before investigating police officers are sometimes very loosely and thoughtlessly made and are often most inaccurately recorded by a majority of police officers who are not accustomed to the recording of evidence and who do not realise or who are not aware of the law of relevancy. At times in the statements that are recorded a great deal of irrelevant and unnecessary and objectionable matter is introduced which it would not be safe in the public interest to divulge. Further, another objection to it is that it would not be always safe to treat this piece of rambling evidence substantially and practically as evidence. And, therefore, one can understand the objection to the inspection of these statements. At the same time, while these are substantial reasons for not allowing inspection, I say that very substantial and strong reasons can also be adumbrated to the contrary. It is all right if Magistrates who are called upon to proceed with the trial do their duty carefully and studiously; no serious difficulties will perhaps then arise. In my own experience I have come across Magistrates who have never opened the police diaries and who have never read the statements made before the police officers. The law as it existed in the Act of 1898, requiring the Magistrate to peruse the statement and if necessary to give a portion of that statement to the accused and which power was of a discretionary character, did not always work very happily and it did at times cause a great deal of inconvenience. I can cite various such instances but they would be superfluous for the present purpose. We must therefore really understand and appreciate that there is much to be said for and against this provision. It is impossible to frame a provision of law, and to embody it in a nut-shell, which will work satisfactorily in every imaginable case. It is difficult to do that. However, I give my support to this amendment, as, after all, it will not cause any serious hardship to the accused. If the Magistrate thinks that the matter is not relevant to the inquiry, if the Magistrate thinks that the disclosure to the accused is not essential in the interests of justice, he will refuse this permission; if the Magistrate on the contrary thinks it is in the interests of the accused, he will be called upon to exercise his discretion. Likewise, the Magistrate will have to consider the expediency of the public interest and in this matter, of course, the Magistrate will be the sole judge. There is no other alternative that would meet every imaginable difficulty. It is much better, therefore, to have

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at least a law which goes so far at any rate as to alleviate any gross injustice or any great hardship. I personally think that the amendment thus made will not cause any serious hardship and will work well in practice. I think, therefore, this Council would be well advised to accept this amendment and thus put an end for the time being at least to a controversy which has been raging since 1898. It is no use going back to the old law. We must take things in the present altered condition of affairs and I am firmly of opinion that this amendment which is in the nature of a compromise meets all practical requirements and purposes. It is for this reason, as there is no other satisfactory alternative, that I support this amendment and commend it to the acceptance of this Council.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): It appears, Sir, from the speech of the Honourable Sir Maneckji Dadabhoy, to which the House has just had the pleasure of listening, that he was totally opposed to the retention of clause 34 of the Bill and his view was

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I have not spoken on my amendment at all. I had not the opportunity. I have spoken on Sir Henry Moncrieff Smith's amendment.

The HONOURABLE SAIYID RAZA ALI: His view, Sir, as I gathered from his speech, was that the law should be kept in the state in which we find it enacted in Act V of 1898. Sir, fortunately the Government, though by no means insensible of the impasse created by the position taken up by the Assembly, realise the reasonableness of the demand for a change in law so as not to leave everything in the matter of copies of statements to the discretion of the Magistrate or trying Judge. The result, Sir, is embodied in the amendment which has been moved by the Honourable Sir Henry Moncrieff Smith. We find, Sir, that this amendment has received the hearty support of the Honourable Sir Maneckji Dadabhoy. Is it too much to say, Sir, that, if the Government had found themselves in a position to accept the amendment made by the Assembly, my Honourable friend would have given his support to it even then?

Sir, the question that is involved in the consideration of the present section 162 and various amendments that seek to bring about a change in the law is by no means an unimportant one. Without going into the past history of this very complicated and complex question, I must say that, whatever may have been the experience of the Honourable Sir Maneckji Dadabhoy in the struggles of his professional career, the experience of those who still practise on the criminal side is that the law incorporated in section 162, as it stands, leads more often than not to a failure of justice. It is agreed, I should say almost unanimously agreed, among the Bar, and also it is the opinion of a large number of eminent Judges that the time has come when the law should be amended. I need hardly say that the Bill as it left the Council of State in September last did not practically make any changes in the law and it left section 162 very much in the condition in which it was. Changes of a far-reaching character were inserted in the clause by the Assembly and soon after the present clause 34 (old clause 33) was passed, it became evident that if that amendment were to hold good, some complications, at any rate, would arise in the administration of criminal justice. Sir, I am not prepared to take the view that it would be a dire calamity or utter misfortune to agree to the amendment made by the Assembly. But I am free to confess that cases might

occasionally arise when the free access given to the accused to the prosecution witnesses' statements as recorded in the police diaries and also the furnishing of the accused with copies thereof would lead to difficulties. Some cases have been pointed out by the Honourable Sir Henry Moncrieff Smith, but my Honourable friend, I believe, would be the last man to ignore that those cases—cases of sufficient importance no doubt in themselves—form only a very small percentage of the total number of cases that are tried by criminal courts. It would have been possible, I venture to say, Sir, to provide for such cases as have been mentioned by my Honourable friend by enacting an exception and adding it to clause 34. The way in which the Government have tried to meet the difficulty is one that I hold would commend itself to most of those who have any experience of criminal courts. As the Honourable Sir Henry Moncrieff Smith has pointed out, the Assembly's amendment gives an unfettered discretion to the accused. The real object of legislation on this point should be that while the accused should not have access to statements of a highly confidential nature, yet, when a witness for the prosecution comes in court and makes a statement directly contrary to that he made before the police, the accused should be given a copy of such a statement to enable the Judge to assess at its proper value the evidence of the witness as given in court. That object is aimed to be achieved by the amendment that is before the House. The amendment takes away the right of the accused to have a free access to the statements recorded by the police. That might occasionally lead to failure of justice but on the whole, Sir, I think that the dangers that are involved in accepting this amendment are by no means greater than those which would be there if this amendment were not accepted. On that ground, Sir, I am prepared to support this portion of the amendment.

The next point is as to what are the circumstances in which copies of statements recorded by the police might be given to the accused. The original amendments, Sir, of which notice was given, were of a more sweeping character. I am very glad that as a result of certain negotiations between the Government and those non-official Members—it may be even some official Members—who feel strongly on the subject and who are well qualified to speak on this question, the Government have brought forward this amendment which denies the giving of copies of such statements to the accused in two and only two cases. The first is that if the prosecution witness has made a statement which is irrelevant to the inquiry or trial proceeding in the court, then the accused will have no right to obtain a copy of such statement. I hope, Sir, every one of us will agree with a proposition of that character. Next comes the question of public inexpediency involved in the giving of copies of statements to the accused. That, as it originally stood, raised a very big question. It may be that what one man considers as inexpedient is not taken in the same light by another man and therefore the law did not lay down any definite rule or standard. I am very glad to notice that now that condition has been coupled with another the co-existence of both of which only can justify the withholding of copies of statements from the accused and the two conditions laid down are that if in the opinion of the Magistrate it is not essential in the interests of justice that such copies be given and further that the giving of such copies would be inexpedient in the public interests, then only those documents can be withheld from the accused. I think, Sir, the compromise is one on which both the Government and the non-official Members are entitled to be congratulated. I have not the slightest

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doubt as to its wisdom and I entirely dissociate myself from the remarks made by the Honourable Sir Maneckji Dadabhoy that if we give our acceptance to this amendment, difficulties of a serious character would arise in future. I hope, Sir, that this is an amendment which on the one hand safeguards the interests of the accused and on the other hand places sufficient restrictions on the accused having access to information of a confidential character. I support the amendment.

The HONOURABLE THE PRESIDENT: The question now before the House is that in the place of amendment No. 16 made by the Legislative Assembly, this House do propose the following amendment, namely:

"(a) in the proviso to the proposed sub-section (1) of section 162, the words 'allow inspection to the accused and' be omitted; and

(b) after the same proviso the following proviso shall be added, namely:

'provided further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.'

The motion was adopted.

Amendments* Nos. 17, 18 and 19 were concurred in.

*17. (1) In clause 34 (now clause 35), sub-clause (i), before the words "Any Magistrate" the words "Any Presidency Magistrate" were inserted.

(2) In sub-clause (ii) (a) of the same clause, after the word "that" the words "he is not bound to make a confession and that if he does so" were inserted.

(3) In sub-clause (ii) (b) of the same clause, after the word "that" the words "he is not bound to make a confession and that if he does so" were inserted.

18. In clause 35 (now clause 36)—

(1) in sub-clause (i) in the proposed sub-section (1) of section 165—

(a) for the words "in the diary hereinafter prescribed relating to the case" the words "in writing" were substituted;

(b) after the word "belief" the words "and specifying in such writing, so far as possible, the thing for which search is to be made" were inserted;

(2) in sub-clause (ii), for the words "in the diary relating to the case" the words "in writing" were substituted;

(3) after sub-clause (iii) the following sub-clause was inserted:—

"(iv) after sub-section (4) the following sub-section shall be added, namely:—

"(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost";

19. In clause 36 (now clause 37), in sub-clause (2)—

(a) to the proposed sub-section (4) of section 166 the following was added:—

"and shall also send to the nearest Magistrate empowered to take cognizance of the offence copies of the records referred to in section 165, sub-sections (1) and (3)";

(b) after the proposed sub-section (4) the following sub-section was added:—

"(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

The HONOURABLE THE PRESIDENT: The question is that this Council do agree with the Legislative Assembly in the following amendment:

20. Clause 40 was renumbered as 40 (1) and to the said clause the following sub-clause was added, namely:—

"(2) After sub-section (3) of the same section the following sub-section shall be inserted, namely:—

"(4) A copy of any report forwarded under this section shall on application be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost."

The motion was adopted.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move as an amendment:

"That in sub-clause (5) of clause 47 of the Bill, for the proposed new sub-section* (5), the following be substituted, namely:

"(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and upon receipt thereof by the Court, no further proceedings shall be taken on the complaint."

Sir, it will be observed by the House that the amendment passed by the Legislative Assembly to which my amendment refers has reference to the three parts of sub-section (1) of section 195 of the Code of Criminal Procedure. It may perhaps be of some assistance to the House if I indicate very briefly what the effect of the amendment passed by the Assembly would be. The first sub-section of section 195 relates to three classes of offences—(a) offences committed in contempt of the lawful authority of public servants, (b) certain offences, of which perjury is an example, coming within the cognizance of the Courts, in the course of or in connection with their proceedings and (c) certain other offences similarly coming within the cognizance of the Courts of which forgery is an instance. I will deal in the first instance with the application of the amendment passed by the Assembly to the first class of offences, namely, offences committed in contempt of the lawful authority of public servants. The first inconvenience which would attend the application of the amendment for which my amendment is intended to be a substitute is that it does not provide any regular means for calling upon the accused person to show cause. A second and still graver defect is that it does not give sufficient regard to the anomalies and even absurdities which would arise in view of the very wide extension of the term "public servant". "Public servant" would include among others such officers as a patwari, a bailiff, an assessor, a process server, a police constable, a patel. What advantage would be gained by providing that officers of that status should be called upon to take a principal part in, in fact, to regulate themselves what would be almost in the nature of a judicial proceeding? They would be called upon to consider the application of the law, to appreciate evidence and to come to a decision. I think the House will agree what it would be quite impracticable, quite unreasonable to expect officers of that status to discharge that duty satisfactorily.

Then, there is another consideration. The amendment to which I refer would lay certain restrictions, and I think restrictions of an unreasonable

* "(5) The person against whom proceedings are intended to be taken under this section shall be given an opportunity to show cause against the making of the complaint."

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character upon the legal right of public servants to make a complaint in the same manner as any other member of the public can make a complaint. Any Honourable Member of this House, indeed, any member of the public if he conceives that a criminal offence has been committed against him can, without any further delay, without any intermediate procedure, come to the Court and make his complaint. Now, Sir, if the public servant is the subject of a criminal offence, even though it may be in respect of his public duties, in his public capacity, is there any rational ground for restraining him from taking the same course? Moreover, let us look at it from the point of view of the person accused. I should like to emphasise the fact that the whole result of the particular proceeding which we have now under consideration is that the public servant makes a complaint before a Magistrate. Now, on such a complaint being made, the Magistrate has got various courses open to him under the general criminal law. If he is not satisfied that the complaint is a *prima facie* reasonable and justifiable complaint he can dismiss the complaint. Or if he is still not satisfied that a sufficient *prima facie* case has been shown to justify him in proceeding with the trial of the case he can order a preliminary trial. If, on considering the results of the preliminary inquiry he considers that the case ought not to proceed, he discharges the accused. In the last resort he proceeds according to the ordinary forms of the law to the trial of the accused. I do not think, Sir, that on that statement of the case there need be any reasonable apprehension that a person accused of an offence of this character is not provided with a sufficient safeguard against a miscarriage of justice. However, in order to make assurance doubly sure, it is proposed, in the terms of the amendment standing in my name, that in a case of the kind which I have cited it would be open to the accused person, as soon as a complaint is made, to apply to the authority to which the public servant who has complained is subordinate and it will be open to that superior authority, if it is not satisfied that there was a good cause for making that complaint, to withdraw it. Sir, that procedure provides a series of remedies, one after another, which are quite sufficient to prevent any miscarriage of justice and to secure fair trial to the accused person.

Sir, having explained the precise purpose of my amendment in respect of offences committed in contempt of the lawful authority of public servants I proceed to the other two categories of offences. With regard to these I would invite the attention of the House to clause 128 of the Bill. That clause makes very important changes in the provisions of the existing section 476 of the Code which refers to offences of the nature to which I have previously alluded, coming within the cognisance of the Courts. The word 'Court' it will be observed is interpreted to mean not only criminal Courts, but also Civil and Revenue Courts. Now, so far as the amendment passed by the Assembly refers to offences of this character, I would point out that it is entirely out of place as an amendment to section 195. The procedure to be taken by the courts to whose cognisance offences of this character have come is laid down in section 476, and, if clause 128 becomes law, will be contained in sections 476, 476A and 476B. As a preliminary objection, it is inconvenient at the least to have an amendment of this nature inserted in clause 195. However that is merely a preliminary point. The main question we are concerned with is whether a person accused of these offences is being given a reasonable remedy for all the inconveniences to which he may be subjected in the matter of the making of the complaint and I invite the attention of the House more particularly to the proposed section 476B contained in clause 128 of the

Bill. The relevant and operative words so far as my present purpose is concerned are as follows:

"Any person against whom a complaint has been made may appeal to the court to which such court is subordinate and the superior court may thereupon after notice to the parties concerned direct the withdrawal of the complaint."

In view of that very express provision, I submit that the amendment passed in the Assembly is so far as it applies to offences of the two categories now in point would be superfluous and otiose. It is further provided in section 476 that any court before making a complaint may, after such preliminary inquiry if any as it thinks necessary record a finding. It empowers the court to make a preliminary inquiry and I think that in view of the rulings of the High Courts on the existing section of the Act, the courts proceeding under the new section would probably act on those rulings. In other words they would in any doubtful case hold a preliminary inquiry and if they do not hold a preliminary inquiry it is highly probable that on a reference to the superior court their proceedings would be rectified. I submit, therefore, Sir, that in respect of the offences of the first category, that is to say, offences committed in relation to the authority of a public servant, the amendment which I propose gives a practical application to all that is of substance in the amendment passed by the Assembly and, in the second instance, with reference to the two categories of offences, offences which come to the cognisance of courts in the course of or in connection with their proceedings, the law as it will stand if clause 128 of the Bill is passed into law provides every possible remedy that could be devised in the interests of an accused person who may be innocent. I think in view of the explanation which I have given the House will agree with me that the amendment which I propose to substitute for the amendment passed in the Legislative Assembly provides all that is necessary and gives every reasonable safeguard and remedy.

THE HONOURABLE THE PRESIDENT: The question before the House is that in place of that part of Amendment No. 21, which inserts a new sub-section (5), passed by the Legislative Assembly, this House do propose the following amendment, namely, that the following be substituted:

"(5) Where a complaint has been made under sub-section (1), clause (a) by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint."

THE HONOURABLE SIR MANECKJI DADABHOY: I think it was Lord Bacon who said that it is at times difficult to understand the inscrutable motives of legislatures. I must say that when I perused this Bill I found myself more or less in the same position. I could not understand why it was deemed necessary and essential that clause 5 as drafted and passed by the Council of State should have been so altered and accepted by the Assembly. I do not propose to go into the whole genesis of this section at this stage. It will suffice to say that after the clear and explicit manner in which the Home Secretary has explained the position, it seems to my mind, the more judicious and expedient attitude to adopt is to accept this amendment. If you examine and compare clause 5 as it now stands with the proposed amendment and read it in conjunction with section 476 of the Criminal Procedure Code, it is apparent to one's mind that the clause as it stands at present is both meaningless and useless. This clause gives power to any accused or any person against whom any proceedings have been started a right of demanding further inquiry. It gives

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him an opportunity to show cause against the validity of the complaint. Now all offences under section 195 of the Criminal Procedure Code refer to prosecutions for contempt of lawful authority of public servants, and section 476 expressly provides that before a Magistrate proceeds to take any action in the case he shall make a preliminary inquiry that may be necessary or may send the accused for inquiry or trial to another Magistrate. So it is essentially necessary that some sort of proceeding under the law will have to be started by the Magistrate in whose Court the offence has taken place or by another Magistrate to whom the case is sent. That serves the purpose completely to my mind of an inquiry. It is true that in many cases it is found that the accused stands in a disadvantageous position, particularly if he is able at any stage of the inquiry or trial to produce some further evidence of his innocence. The Magistrate cannot stop the proceeding himself, because he says that the trial was ordered by a public servant and must proceed unless withdrawn by him. He cannot interrupt the trial. It must take its course. There must be some authority or power vested in a public servant to stop the proceedings at any part of the trial and that is all what the amendment now proposed contemplates. In my opinion it is a very reasonable amendment which gives all possible and reasonable opportunities to an accused to approach at any time any authority under whose order the prosecution has been started, and, if that authority is satisfied, he may pass such order withdrawing the complaint and that will terminate the proceedings. So that this proviso is complete in itself and it will meet all the ends of justice. I am, therefore, in favour of accepting this amendment.

The HONOURABLE THE PRESIDENT: The question is that, in place of that part of amendment No. 21 by which a new sub-section (5) would be inserted by the Legislative Assembly, this House do propose the following amendment, namely:

"(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint, and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The further question I have to put to the House is that, subject to the amendment just made, the House do concur in the amendments made by amendment No. 21 of the Legislative Assembly.

The motion was adopted.

Amendment No. 21, as amended,* was concurred in.

*21. In clause 47—

(a) in sub-clause (1), in the proposed sub-section (1) of section 195, in clauses (b) and (c) the words "or on complaint made by order of, or under authority from, the Local Government" were omitted;

(b) in sub-clause (4) in the proposed sub-section (3), for the word "of" after the words "principal Court" the words "having ordinary" were substituted;

(c) after sub-clause (4) the following sub-clause was inserted:—

"(5) after sub-section (4) of the same section as re-numbered the following sub-section shall be inserted, namely:—

"(5) where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint."

Amendments* Nos. 22 to 34 were concurred in.

* 22. In clause 49 (now clause 50)—

(a) in sub-clause (i), in the proposed sub-section (1), for the words "the authority having power to order or, as the case may be, to sanction the removal from his office of such Judge, Magistrate or public servant" the words "the Local Government" were substituted;

(b) in sub-clause (ii), for the words "for the word 'Government' the word 'authority' shall be substituted, and" the following was substituted, namely:—
"after the word 'Judge' the word 'Magistrate' shall be inserted".

23. In clause 54 (now clause 55), for the proviso to the proposed sub-section (1) of section 202, the following was substituted:—

"Provided that no such direction shall be made—

(a) unless the complainant has been examined on oath under the provisions of section 200, or

(b) where the complaint has been made by a Court under the provisions of this Code."

24. In clause 67 (now clause 69)—

(a) in sub-clause (i) in the proposed sub-section (1) of section 250, for the words "call upon the person upon whose complaint or information the accusation was made forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one or may" the following words were substituted:—

"if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or"
and for the word "issue" the words "direct the issue of" were substituted;

(b) to sub-clause (ii) the following words were added:—

"and for the words 'to an accused person' the following shall be substituted, namely:—

'or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees'."

25. In clause 69 (now clause 72), for the words "either forthwith or if the Magistrate thinks fit at the commencement of the next hearing of the case" the following words were substituted:

"at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith".

26. In clause 77 (now clause 79), in the proposed section 292,—

(1) in clause (a), before the word "evidence" the word "oral" was inserted;

(2) in clause (b), for the proviso the following was substituted:—
"or (c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence:

Provided that, in the case referred to in clause (c) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced."

27. Clause 82 was omitted.

28. In clause 85 (now clause 86), in sub-clause (i),—

(a) in the proposed sub-section (1) of section 337, after the words "ten years" the words "or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years" were inserted, and the figures "211" were omitted;

(b) to the proposed sub-section (1A) the following words were added:—

"and shall, on application made by the accused, furnish him with a copy of such record;

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost".

The HONOURABLE SIR HENRY MONCRIEFF SMITH: Sir, I move:

"That for clause 109 of the Bill the following clause be substituted, namely:—

109. For section 406 of the said Code the following section shall be substituted, namely:—
Amendment of section 403, Code of Criminal Procedure, 1898.

'406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(a) if made by a Presidency Magistrate, to the High Court:

(b) if made by any other Magistrate, to the Court of Session:

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session:

Provided further that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123."

The clause of the Bill as originally introduced, Sir,—it was I think at that time clause 106,—made one small amendment in this respect in section 406 of the Code. Under the law as it stands at the present moment, there is an appeal in a very limited class of cases of security proceedings. Persons ordered to give security for good behaviour under section 118 by Magistrates who are subordinate to the District Magistrate may appeal to the District Magistrate, but there are no other appeals at all provided for by the present law. The Bill proposed to extend the provisions of 406

29. In clause 86A (now clause 88), in the proposed section 339A—

(a) in sub-section (1) for the words "to whom a pardon has been tendered" the words "who has accepted a tender of pardon" were substituted;

(b) for sub-section (2) the following sub-section was substituted:

"(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal."

30. In clause 87 (now clause 89), in sub-section (2) of the proposed section 340—

(a) after the words "Court under" the words and figures "section 107, or under" were inserted;

(b) for the words "if he so desires be examined" the words "offer himself" were substituted.

31. In clause 88 (now clause 90)—

(a) in sub-clause (i), after the word "substituted" the following was inserted:—
"and to the table in that sub-section, after the entry relating to criminal intimation, the following entry shall be added, namely:—

Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.
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(b) in sub-clause (ii), after the entry relating to section 357 of the Indian Penal Code, the following entry was made in the table:—
Dishonest misappropriation of property . . . 403 | The owner of the property misappropriated.

32. In clause 93 (now clause 96), in the proposed sub-section (2A) of section 356, after the word "hand" the words "or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence" were inserted.

33. In clause 99 (now clause 102), in the proviso to sub-section (3) of the proposed section 386, the words "in any case in which the court passing sentence upon him as directed his imprisonment in default of payment of the fine" were omitted.

34. In clause 104 (now clause 107), sub-clause (v) was omitted.

to security proceedings in which persons were bound over to keep the peace. The Bill proposed to give an appeal in those proceedings for keeping the peace to exactly the same extent as appeals were allowed in good behaviour proceedings, that is to say, an appeal to the District Magistrate from the Subordinate Magistrates. That proposal, Sir, held the field for at least ten years. It was in the Bill as originally introduced. The Lowndes Committee had examined this clause and they had, except for matters of drafting in the proviso with which we are not concerned to-day, left it unaltered. The Joint Committee on the Bill also considered it and left it unaltered and this House, Sir, passed it in the form in which it was proposed in the Bill as introduced. Recently, Sir, in another place, a very wide extension indeed has been given to the clause. The Legislative Assembly by its amendment would lay down that in all these security cases there shall be an appeal. They have given an appeal against the Presidency Magistrate's order to the High Court. That, Sir, my amendment does not propose to touch. They have given an appeal against the District Magistrate's order to the Sessions Judge, and that again, Sir, my amendment leaves alone. They have given an appeal in all cases in which security has been ordered by Magistrates subordinate to the District Magistrate to the Sessions Court, and that, Sir, is the amendment which my amendment proposes to modify. Government regard the very wide extension of the provisions of section 406 which the Bill as passed by the Legislative Assembly recently would make as in the first place unnecessary and in the second place as extremely undesirable. The amended clause will involve a very large increase in the number of appeals and that will involve taking up far more time of the Sessions Courts. I think Honourable Members of this House who ever have the happiness or misfortune to go anywhere near them (*The Honourable Mr. Lalubhai Samaldas*: "No, never")—those Honourable Members will be aware that the District and Sessions Judges are extremely busy for a greater portion of their time over their criminal work. They have two functions to perform. They are criminal judges and they are civil judges. The criminal work is work which cannot wait. The Judge has to perform it. Justice cannot be kept waiting. Prisoners cannot be kept under trial. Appeals must be heard. But the civil work has to wait. I have known judges who sometimes from year's end to year's end never touch their civil work. This House will be aware in all probability of the many unfavourable comments that have been made on the delays in civil litigation in this country. The Privy Council in the last two or three years have been constantly commenting on it in a manner which with all respect I may say is very uncomplimentary to the civil courts of this country. They have suggested that some means should be devised for speeding up work and Government have measures in contemplation for securing a more speedy disposal of civil litigation. This amendment made by the Legislative Assembly, if left unaltered, will to a considerable extent nullify the measures which Government hopes to be able to take to speed up the civil work. If there is an increase of work, Sir, in the Sessions Courts, it naturally follows as a corollary that there will be a great increase of expense, and I would ask the House to remember that this increase of expense will fall not on the Central Government but on the Provincial Governments. This amendment, which has been introduced into the Code by the Legislative Assembly, is an amendment on which the Local Governments have had no opportunity of expressing an opinion, and I think, Sir, that in this matter it is up to the Government of India to try and put the case fairly from the point of view of the Local Governments.

[Sir Henry Moncrieff Smith.]

I began by saying, Sir, that I regard the amendment as unnecessary—unnecessary because we think that in the case of orders passed by the subordinate Magistrates the District Magistrates are quite capable of disposing of the appeal. The District Magistrates already do a great deal of appellate work. As the House is aware, they have appellate powers under the Code in other respects, and we are not prepared to admit—and I hope this House will not suggest—that District Magistrates are not fit to dispose of the appeals which are laid under section 406. I can contemplate some of my Honourable friends here suggesting, “Yes, the District Magistrate may be fit; but the Sessions Judge is much fitter.” (*The Honourable Saiyid Raza Ali*: “Hear, hear.”) Then, Sir, if the Sessions Judge is fit, the High Court is still fitter. My friend does not say “Hear, hear.” Pursuing it to its logical conclusion, why should we not give an appeal to the High Court straightaway in all these cases? If the machinery that you have got is competent to deal with the matter, why then employ a more expensive machinery? It may be suggested that if these appeals are dealt with properly, it will take up as much time of the District Magistrates as it does of the Sessions Judges. Well, Sir, that may be true. But I have pointed out that what will suffer in the Judge’s court will be the administration of civil justice. What will suffer in the Magistrate’s Court will not be his judicial work at all. It will be the numerous other functions with which the District Magistrate is invested. He will find less time to devote to these numerous other duties that a District Magistrate performs at his headquarters and all over his district, duties which do not fall within the four walls of the Court, and therefore, Sir, in the District Magistrate’s case, it is a very much less serious proposition. However, Sir, the Government, as my amendment shows, does not propose to do away with the appeal which the Assembly contemplates to the Sessions Judge in this case, but the Government of India feel that where a District Magistrate is fit to try these appeals and when he has time to do so, it should be within the power of the Local Government to direct by notification that in that particular district, appeals should not go to the Sessions Judge but should go to the District Magistrate. Government regards this, Sir, as a reasonable compromise. They are not prepared to go as far as the Assembly did in this matter. They even now regard the extension in the law made by this clause 109 even if it is amended in the manner that I am at the moment suggesting as one that will involve a considerable expenditure of valuable time and considerable expenditure of money. I move, Sir, the amendment which stands in my name.

THE HONOURABLE THE PRESIDENT: The question now for the consideration of the Council is:

That in place of the amendment* No. 35 made by the Legislative Assembly this House do propose the following amendment, namely:

“That for clause 109 of the Bill the following clause be substituted, namely:—

* 35. In clause 106 (1)—

(a) after the words “said Code” the following words were inserted, namely:—
“the words ‘other than the District Magistrate or a Presidency Magistrate’ shall be omitted”;

(b) after the word “inserted” the following was added:—
“and for the words ‘District Magistrate,’ where they occur for the second time, the words ‘Sessions Judge or, in the case of an order by a Presidency Magistrate, to the High Court’ shall be substituted”.

109. For section 406 of the said Code the following section shall be substituted, namely:—
Amendment of section 406, Code of Criminal Procedure, 1898.

“406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—
Appeal from order requiring security for keeping the peace or for good behaviour.

(a) if made by a Presidency Magistrate, to the High Court:

(b) if made by any other Magistrate; to the Court of Session:

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session:

Provided further that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123.”

That proposition is now open to debate.

THE HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I thought that the lawyer Members would give us the advantage of their experience, but somehow or other they have not got up to speak. So, I thought I would, as a layman, make a few remarks on this amendment. As the Honourable Sir Henry Moncrieff Smith has tried to show, this is a compromise between the attitude of the Government of India and the attitude of the Legislative Assembly. It is rather difficult to understand why Government have not accepted wholeheartedly the proposals of the Assembly. The reasons given by my Honourable friend are, if I may classify them, first, that the civil work of the Courts of the District Judges will suffer if more criminal appeal work is thrown on them as would be the case under the clause as amended by the Assembly. Can my Honourable friend give me statistics to show what burden will be thrown on the District Judges if appeals of this character lie to the Sessions Judges and not to the District Magistrates? Unless we are satisfied that the work is so heavy that the District Judges will not be able to cope with it or that the civil work will suffer to such an extent that the new machinery which Government want now to create to expedite the speed of civil work will suffer, I do not think that the Honourable Member is justified in giving that as one of the reasons for moving his amendment. The other reason that my Honourable friend gave was that as the District Magistrates will not have any civil work before them, if more work is thrown on them it is not civil work that will suffer but his other work. I think that at least the work of collecting revenue—I am referring to my own presidency—which the District Magistrate has to perform is far more important, or ought to be far more important to the Provincial Government than the work of speeding up the disposal of civil litigation. I realize that though some of us would like to do away with civil litigation altogether, but so long as it continues we must make provision for carrying it out thoroughly. Yet land revenue collection work which is just as important as if not more important than civil litigation will suffer if all this burden is thrown on the District Magistrates. Therefore there is very little force in that argument of the Honourable Sir Moncrieff Smith. The most important point which appeals to me as a layman against this amendment is this. If I understand aright, orders under section 118 are usually made either under instructions from the District Magistrates or after his approval has been obtained. If I am wrong, I

[Mr. Lalubhai Samaldas.]

stand to correction, but I believe the usual procedure is that all these orders are made either under instructions from the District Magistrate or after his approval or sanction has been obtained. If that is so, I think it is not right in the interests of justice that he should be the final authority to decide the appeal. That is the reason why I think Government should have carefully considered the position and accepted the Assembly's recommendation. I am not going to refer to the constitutional crisis because the Assembly will accept this amendment if they are satisfied with the reasons given by the Honourable the Mover of the amendment, but so far as I can judge as a layman, I think there is no necessity for the proviso put forward by my Honourable friend Sir Henry Moncrieff Smith and I think the amendment passed by the Assembly might very well stand.

The HONOURABLE SIR MALCOLM HAILEY: My Honourable friend has joined in this debate as a layman. I occupy the same position, Sir, though I may have in the course of long and laborious days in the Assembly gained a kind of elementary working knowledge of it, I am no expert in the matter, and do not propose to discuss the points of law involved. The legal history of the case has already been explained to the Council with great lucidity by Sir Henry Moncrieff Smith. The Honourable Mr. Lalubhai Samaldas asked us if we could say exactly what additional work would be thrown on the Sessions Judge. Before we could say that, we should have to know how many of the persons who have been the subject of orders under Chapter VIII of the Criminal Procedure Code are likely to appeal, and that is a difficult factor. But it will, I am sure, interest the Council to know how many persons are made the subject of such orders; they can then draw their own deductions as to the number of appeals that are likely to go to the Sessions Judges. I have the figures here. They differ widely from province to province, but the yearly average over the three years from 1919 to 1921 was 43,243 persons. In Madras the average was 2,971, in Bengal 7,684, in the United Provinces 9,221 and in the Punjab—I confess to a slight feeling of hesitation in mentioning this high figure in regard to my own province—it appears it was necessary to issue orders of this nature in regard to no less than 14,715 people. The number is small in Burma, is not considerable in Bihar and Orissa and also in the Central Provinces and Assam. In the North-West Frontier Province it amounts to 3,073. I repeat that the total for India is 43,243. If only a small percentage of these people appeal, there will have to be a very considerable addition to the number of Sessions Judges, that is to say, if a Sessions Judge did nothing else at all it would be impossible for him to hear more than 1,000 appeals of this nature in a year. In the alternative it has been put to us whether, after all, it would not be better to let the Sessions Judges take these appeals and save the time of the District Magistrates. I do not deny that the general executive and administrative work of the District Magistrate is important. But the fact is that at present you have two classes of officers both of whom are fully occupied. Obviously you will not decrease, by anything you are now doing, the number of District Magistrates but if you take the work away from them which they now do and give it to the Sessions Judges you would have to increase the number of the latter. We occupy a somewhat difficult position here. We legislate for criminal justice, but we must be careful lest in so doing we affect vitally the finances of Local Governments. It is quite clear that the Local Governments could not

face such an increase of criminal work of their Sessions Judges as to further delay the course of administration of civil justice. Already, as the Honourable Sir Henry Moncrieff Smith has said, there is a general complaint on this score, and indeed in some cases it amounts to such a degree as to justify the adage that justice delayed is justice denied. I am afraid that lately in our Racial Distinctions Bill we have already put some further burden on Sessions Judges. The Patna High Court with reference to one of the provisions of that Bill said that they feared that to enhance the right of appeal from all sentences of imprisonment, though it was impossible to calculate the nature of the additional staff that would be required, would, they believed, have the result of further reducing the time that the Sessions Judges could give to civil appellate work. It was once hoped, they say, that the District Judges would occasionally take up original civil suits but in the majority of districts this is now impossible of fulfilment and the most that can be expected is that they should in the exercise of their appellate jurisdiction see something of the work of their munsifs and subordinate judges. That is not a very bright picture and we do not wish to darken it. There is a further objection of my Honourable friend. He says that the proceedings in all these cases are taken at the instance of the District Magistrate.

The HONOURABLE MR. LALUBHAI SAMALDAS: 'Almost all' I said.

The HONOURABLE SIR MALCOLM HAILEY: I would demur to his statement that the proceedings are really taken at the instance of the District Magistrate. The District Magistrate does not ordinarily himself investigate these cases and initiate proceedings. Were that the case, there might be some slight ground for saying that the course of trial before a Magistrate of the first class might be prejudiced but the fact that the District Magistrate gives his approval to the prosecution in such cases is in the vast majority of instances nothing more than a mere formality, and you cannot take it that this so far influences the course of the prosecution that it would prejudice the cause of justice. Moreover let me say that these are tried by first class Magistrates and surely our first class magistracy are not going to allow themselves to be deflected from the course of justice by the mere fact that formal orders have been passed sanctioning prosecution in certain cases. I would remind the House that there is still in these cases, even under our new amendment, an appeal to the Sessions Judge. One last argument. It is said that the Sessions Judge is infinitely better qualified to try these appeals than the District Magistrate. I put it on one side that a District Magistrate already tries appeals against sentences from second and third class magistrates. Even if the Sessions Judge may be a better appellate court than the District Magistrate, is there any very great difference after all between the District Magistrate and an Additional Sessions Judge? Is it not frequently the case that the Local Government does constitute a District Magistrate an Additional Sessions Judge for the purpose of hearing this class of appeals? There is not that wide difference between the two classes of courts as the comparison instituted by Mr. Lalubhai Samaldas would suggest.

The HONOURABLE LIEUT. RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): The Honourable Sir Henry Moncrieff Smith and the Honourable the Home Member have already dilated at length upon the expense that would be involved if the appeals were to lie to the

[Lieut. Rao Bahadur Chaudhri Lal Chand.]

Sessions Judge, but they have lost sight of the expense to the litigant public. We have no Sessions Judge in every district. The Sessions Judge of Gurgaon holds his court in Hissar. The Sessions Judge of Rohtak holds his court in Karnal and it is very expensive for a man who has to appeal to the Sessions Judge to take his counsel all the way to Karnal and engage a fresh pleader there. These are not the only two districts that are under that disability. There are any number of districts in other provinces and in the Punjab also. For instance, the District Judge of Montgomery holds his court in Lahore. So from the point of view of those who have to file these appeals, the amendment should be welcomed and supported.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): The history of the question that forms the subject matter of the amendment has been given to the House briefly by the Honourable Sir Henry Moncrieff Smith but I would like to supplement his remarks by giving a few more facts which would enable the House to see what has been the opinion on this question of competent lawyers, both advocates and judges, and of those who are competent to form a judgment. Sir, the Criminal Procedure Code, as the House knows, has been under consideration since the year 1914. The Honourable Member speaking on behalf of Government, I mean the first speaker, referred to the Lowndes Committee which sat in 1916. We find, Sir, that opinions were invited, as is the general practice on such questions, from various representative bodies and the Local Governments. I think it will be useful if I turn for a minute to these opinions and show to the House what was the overwhelming current of thought on the question whether appeals in cases under Chapter VIII should lie to the Sessions Judge or the District Magistrate. A précis of these opinions was prepared by the Government of India and on referring to it I find that influential and representative bodies, bodies which are among the best qualified in the country to express an opinion on legal questions, gave their opinion. The Calcutta Vakils' Association, the Second Additional Judicial Commissioner of Oudh, the Calcutta Bar Library and that influential and aristocratic body, the Bengal Landholders' Association—all declared themselves in favour of these appeals going to the Sessions Judge instead of to the District Magistrate.

The HONOURABLE SIR MALCOLM HAILEY: Did any Judicial Commissioner say that?

The HONOURABLE SAIYID RAZA ALI: Unless I am mistaken, the Second Additional Judicial Commissioner is a judicial officer of high repute. Then, Sir, we come to the two bodies, namely, the Calcutta Vakils' Association and the Calcutta Bar Library. The first represents the indigenous element in the Bar and the second the English bar, composed fortunately both of Englishmen and Indians. Now, Sir, the question at that time was raised in the form of two sub-clauses which were numbered 106 and 106 (a), but, since that question was very much like the one that is before the House, opinions were expressed freely on the suitability of the appeals being allowed to the Sessions Judge or the District Magistrate. Sir, I should not forget that two of the Governments, whose opinions I find are given here, took the view against the appeals being heard by the Sessions Judge. One of them was the Government of the province from which the Honourable the Home Member comes, namely,

the Government of the Punjab. The other Government, Sir, that took a similar view was the Government of the province where the dispute between Brahmans and Non-Brahmans is unfortunately raging at present. Whether that Government was influenced at that stage by the caste struggle is more than I can say. But this much is certain, the Madras Government was of opinion that the appeals should lie to the District Magistrate.

Then, Sir, we come to the next stage, when the Joint Committee, composed of both Houses of the Indian Legislature, considered this question. My Honourable friend, Sir Henry Moncrieff Smith, referred to the opinion of the Committee and, so far as he did so, he was right. But I will place another fact before this House, namely, the view that these appeals should be heard by the Sessions Judges was advocated there, though as appears from the Report of the Committee, it was defeated by a majority.

The HONOURABLE SIR MANECKJI DADABHOY: May I rise to a point of order, Sir? Is the Honourable Member right in bringing before this House what passed in the Joint Committee?

The HONOURABLE THE PRESIDENT: If the Honourable Member is referring to a published Report, he is perfectly right.

The HONOURABLE SAIYID RAZA ALI: This paper was circulated among the Members of the Legislative Assembly and it is a public document. Now, the view there, as I have submitted, was expressed and advocated, but the advocates of this view formed, as appears from the Report, a minority. Then this question came up before this August House in September last year. Now, it is true, Sir, that no amendments were made in this clause by this House. Without meaning any disrespect, Sir, to this House, I should say that, because the measure was laid before the Council towards the end of the session, perhaps most of the Honourable Members found themselves rather busy.—(The Honourable Mr. Lalubhai Samaldas: "No, no." The Honourable Sir Maneckji Dadabhoi: "Speak for yourself: don't speak for others.")—and, on referring to the Report, I find that the Bill was considered, I hope carefully, by this House in the course, if I mistake not, of one day. That Bill, as Honourable Members are aware, has taken the other House a little more than a month to go through. Now, Sir, in the Assembly an amendment was made giving the right of appeal to the Sessions Judge. The Government had their say, they fought on this question and their every argument was put before the House, but at least this much is certain that the Government failed to assure that House that the position which they took up was the right one, and, now, Sir, since the amendments made by the Assembly have come to us, an amendment has been moved by Government nullifying the effect of what the Assembly has done as regards clause 109. (The Honourable Sir Maneckji Dadabhoi: "Not altogether nullify.") The Honourable Sir Henry Moncrieff Smith, Sir, described the various portions of the amendment as they stand. Honourable Members will see that, except the last portion, there is no amendment;—in fact, the remaining clause involved in the consideration of this clause;—in fact, the remaining clause re-enacts the law as it is. The amendment allows appeals to be heard by a District Magistrate and it is to this portion only that objection has been taken by me. I should at once point out, Sir, that, as will appear from an amendment of which I have given notice, I have no objection to the Government carrying this amendment minus the proviso which occurs

[Saiyid Raza Ali.]

between the last proviso and part (b) of the first clause. The words to which I take objection are these:

"Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session":

In other words, Sir, the Government are prepared to accept the reasonableness of the proposition that in all those cases where it is possible it is highly desirable that appeals should be heard by the Sessions Judge and not by the District Magistrate. They want to reserve to themselves the power that in certain exceptional cases it should be open to them to authorise District Magistrates to hear such appeals. Now, various arguments have been brought forward, Sir, by Government, and I have listened attentively to the speeches that have been made in support of the amendment. Sir, I will, if the House allows me, deal with the second speech first, namely, the speech of the Honourable Sir Malcolm Hailey. Now, he brought forward a formidable array of figures to impress this House how difficult it would be to make suitable arrangements for the Sessions Judges hearing appeals. He gave the figures for three years, namely, 1919, 1920, 1921, which amount to 43,243 throughout British India, which gives us an average of a little over 14,000 persons who were

The HONOURABLE MR. LALUBHAI SAMALDAS: No, I think 43,000 is the average for the three years.

The HONOURABLE SAIYID RAZA ALI: May I take 43,000, Sir, as the average for a year, not for three years?

The HONOURABLE SIR MALCOLM HAILEY: That is the yearly average over a course of three years.

The HONOURABLE SAIYID RAZA ALI: Now, the number, Sir, as I pointed out, is a formidable one. But the number of persons against whom action was taken cannot be a sufficient guide as to the amount of additional work that would be involved in making these appeals cognizable by the Sessions Judge. The real question, to which I expected Honourable Members on behalf of Government to give a reply, is this. How many are the cases that are started every year under these security sections? Out of those cases, in how many cases are appeals actually lodged at present? If we have these two figures, then we can have a fairly accurate idea as to what will be the additional work entailed on the Sessions Judges. But, Sir, the number of persons involved is not at all a safe guide inasmuch as Honourable Members are aware that sometimes in a *badmashi* case, there are as many as 10, 15, 20 or even 50 persons involved. Therefore, the number of accused may vary from 10 to 50. His figures, therefore, are illusory and the Honourable Sir Malcolm Hailey himself will realise when he considers it coolly that they do not support his contention. Now, the second question which the Honourable Member addressed himself to is that the cadre of Sessions Judges would have to be strengthened if you are to have this right of appeal, and he said that the District Magistrates were quite competent to hear these appeals. He also did not conceal from himself the fact that the Sessions Judges are more competent to perform a similar function. On my complimenting the Honourable Sir Henry Moncrieff Smith with "Hear, hear" he went on

to say that the High Court was more competent than the Sessions Judge and yet there was no suggestion that such appeals should be heard by the High Court. Now, Sir, I do not think it is necessary to go into a question of that character. The High Court indeed is the most competent court in India to hear these cases. But the question is, can you afford to set up the necessary machinery? Can you strengthen the cadre of the High Court Judges to such an extent that they may, without congestion of work, be in a position to dispose of this class of work? As a matter of fact, a still better court would be His Majesty's Privy Council. Unfortunately, it is impossible to make provision for all these appeals going to the Privy Council. The argument loses sight of a part of the argument which the Honourable Member himself advanced, namely, that we want the best court available, but that court must be within our reach. The District Magistrate and the Sessions Judge are officers who so far as the question of pay is concerned are almost on the same footing. If we take the junior civilians who are drafted on to the judicial line as Additional Judges, we find that the disparity of pay, if you take the average pay, between the two classes of officers is by no means very great. I wonder if the argument of the Government Bench takes into account the very serious confession that is involved in that argument. The argument that appeals should be heard by District Magistrates presupposes either of two things,—either that the District Magistrates have not got sufficient work at present and are therefore people who have got ample leisure at their disposal, or that they dispose of the work in such an expeditious manner that the Government are quite convinced that if this class of work continues to be performed by them, it may not at all be necessary to entertain any additional staff. Now, Sir, if the first argument is correct, namely, that these officers of whose being overworked we have been hearing a good deal have not sufficient work, I am extremely sorry. I can say with certainty that in many districts, in my own province, they have perhaps more than sufficient work. Their hands are full up already and the Government are not at all justified in expecting them to dispose of work of the class now sought to be given to them. I know, Sir, there are some Members in this House who have better means of information than myself, but I know that in Madras and Bengal the District Magistrates are terribly over-worked, so much so that in certain districts of Bengal and in certain districts of Bihar and Orissa, it has been found necessary to appoint Additional District Magistrates. Sir, I ask the Government Members if you insist on creating Additional District Magistrates, if you find it necessary in course of time to do so, where is the difference between this class of cases going to Additional District Magistrates or to Additional Sessions Judges, assuming that you might find it necessary to create one or two posts of Additional Sessions Judges in every province? There is a philosophic suspicion at the back of my mind that the Government in fact are not prepared to relax the control of the Executive and therefore, in spite of the fact that the expenditure will be the same in both cases, they would insist on these cases being heard by the District Magistrates, rather than by the Sessions Judges. Sir, there is just one more question which I will place before this House. Honourable Members of this Council are aware that the definition of "general repute" in section 117 has been considerably widened by the Joint Committee and that definition has been accepted by the Assembly. If hearsay evidence, namely, evidence of general repute, the scope of which has been widened, is now admissible under section 117, I entirely fail to see why the Sessions Judge should not be exactly in the same position and surely better than the District Magistrate would be in disposing of all

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[Saiyid Raza Ali.]

these cases. We have got to deal with principles. On the principle accepted a lot of evidence would be admissible which could not be admitted otherwise. If there is any suspicion in the minds of the occupants of the Government Benches that perhaps it would not be desirable in the interests of administration that Sessions Judges should be given these powers, I submit, Sir, that having regard to the definition of "general repute" it is not a fear that can be justified by anything that finds a place in the four corners of the Bill.

Another point is that this House practically gave its acceptance to a Resolution that was moved early in the first Session of this Council in 1921 by the Honourable Mr. Sastri as he then was. Honourable Members are also aware that action has been taken in various provinces to bring about a separation of the executive and judicial functions. I submit, Sir, that having regard to the trend of public opinion and to the strong views expressed in competent legal circles, it would be highly inadvisable and inexpedient, while bringing about a separation of executive and judicial functions, to keep the District Magistrate, who after all is the head of the police, your appellate court for the purpose of these appeals. The Honourable Mr. Lalubhai Samaldas referred to the fact that the District Magistrate was the head of the police. I would further say, Sir, that in *Badmashi* cases, prosecutions are started either with the sanction of the District Magistrate or with the sanction of some competent Magistrate, generally the Sub-Divisional Officer. That being so, it is highly undesirable to combine the functions of thief catcher and judge, as the expression goes. It is therefore highly undesirable that this power should be given to the District Magistrates. I would only make one more remark and that is that I have had occasion to talk to two Judges of a certain High Court on this question, namely, whether such appeal should lie to the District Magistrate or the Sessions Judge. Both those Judges were Englishmen and further they were members of the Indian Civil Service and their view was that, after all, on the whole it would be more desirable that this class of appeals were heard by Sessions Judges than by District Magistrates. I oppose the proviso contained in the amendment proposed by my Honourable friend Sir Henry Moncrieff Smith.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): I rise to oppose the amendment. The arguments which have been put forward by my Honourable friend Mr. Lalubhai Samaldas have not been well refuted and I at least have not been convinced by the reply. My Honourable friend Chaudhri Lal Chand has supported the amendment on the ground that Sessions Courts do not exist in all the headquarters of the districts. As far as I know, the persons who do appeal in such cases do not generally reside in the headquarters of the district, but they have to come from long distances and it matters little to them whether the distance is a few miles more or less. (The Honourable Lieutenant Rao Bahadur Chaudhri Lal Chand: "Only a few miles?") Yes, a few miles. (The Honourable Lieutenant Rao Bahadur Chaudhri Lal Chand: "They have to come 200 miles.") I have not been able to follow what my Honourable friend Chaudhri Lal Chand aims at, but one of the instances he gave was that there was no Sessions Judge in Gurgaon, nor was there one in Rohtak and that people had to go to Karnal for the purpose of their appeals. But as far as my knowledge

goes, the Sessions Judge at Karnal does sit at Rohtak occasionally to dispose of cases of that particular district and that Gurgaon is equidistant from both places. (The Honourable Lieutenant Rao Bahadur Chaudhri Lal Chand: "Only murder trials.") That does not matter very much. When these people have to pay heavy fees to vakils a rupee or two in railway fare is not a matter of much importance. On the other hand, I can say that the lawyers of the place where there is no Sessions Court do suffer in income in cases where appeals have to go to the Sessions Judge. Since the activities of non-co-operation, Akali and other similar organised movements the work of the District Magistrates has alarmingly increased and they have no time to cope with it. (The Honourable Sir Maneckji Dadabhoy: "Has the Sessions Judge time to spare?") Yes! Besides, the District Magistrates are, after all, human beings and once they accord sanction on the executive side to security being taken under this section, generally they will decide against the appeal when the case comes before them on the judicial side. On these grounds I am sorry that I cannot support the amendment, so I oppose it strongly.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces North-east: Non-Muhammadan): I think I should not dilate much on the point whether the Sessions Judges' Courts are better and more satisfactory than the Courts of District Magistrates, because as a matter of fact it is admitted from every side that the Courts of District Magistrates are not so satisfactory as those of District Judges. In cases of security for keeping the peace or for good behaviour it is often found that the District Magistrates are prejudiced as the police prosecution is generally made at their instance or with their approval or with the approval of the Sub-Divisional Officers. In such cases I think it is more satisfactory, more just and more equitable if the appeals are allowed to go to the Courts of the Sessions Judges than to the Courts of the District Magistrates. I think the plea of the Home Secretary that the work of Sessions Judges will increase does not hold much ground because work is increasing everywhere, not only in the Courts of the Sessions Judges but in the Courts of the District Magistrates also. I find from experience that District Magistrates are over-worked in almost every district. They hardly find time to do any work for the improvement of the district. They are always busy with their Court work, this appeal work, or that work—all routine work. They hardly find time to go about the country. Everywhere work is increasing and therefore we have to find out where justice can be obtained more easily, more quickly and in a better form. It seems to me therefore that if appeals are allowed to lie to the Sessions Judge instead of to the District Magistrate, it will be much better and more satisfactory. On these grounds, Sir, I oppose the amendment.

The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU (Madras: Non-Muhammadan): Inasmuch as the Government has condescended to allow appeals to be preferred in security cases I think it is better and safer that the appeals are made to Sessions Judges. The general impression is that the Sessions Judges possess a better judicial frame of mind than the District Magistrates. The statements made by my Honourable friends Lala Ram Saran Das and Lieutenant Chaudhri Lal Chand are at variance with one another. Moreover, the District Magistrates are over-worked officials. In the interests of justice it is not safe that an appeal should lie from the Divisional Magistrate to the District Magistrate. Moreover, the District Magistrates are hardly inclined

[Diwan Bahadur V. Ramabhadra Naidu.]

to hear appeals. Considering all these facts I think it is safer and wiser to allow appeals to the Sessions Judges.

The HONOURABLE SIR MANECKJI DADABHOY: I am sorry that I have to intervene in this debate at this late stage, but the importance of the subject demands that I should answer as briefly as possible some of the observations that have been made and say a few words as to the real scope of this amendment which has been misconstrued by some of my Honourable Colleagues. I am perfectly aware that there is a widespread feeling in the country among some people and also among a class of lawyers that the District Magistrate is not ordinarily fitted to hear appeals against orders passed under section 118 by First Class Magistrates. I have often tried to find out the real cause of this feeling. My friend the Honourable Mr. Lalubhai Samaldas has told us that the reason that has influenced him is the common impression among a large class of people, that in the generality of cases where criminal cases are instituted the action of the executive is influenced by the District Magistrate. There is another argument which I have often heard and that is that the District Magistrate is always in touch with the District Superintendent of Police and he hears so much of the case that he is not likely to do justice in appeals going up before him. I have never heard of any other reason barring these two advanced against District Magistrates hearing the appeals. May I ask my Honourable colleagues that in coming to a decision on this matter, namely, whether the amendment proposed should be accepted or not, they will confine their attention to the merits of the case only and not be led away by prejudice and passion. Sir, in the first instance what is the import of this amendment. The amendment by no means seeks to take away the right of appeal ordinarily provided in the Sessions Court. Here I am afraid some of my Honourable colleagues have misunderstood the scope of the amendment. Ordinarily, where an order has been passed by a District Magistrate or a First Class Magistrate the appeal will lie to the Sessions Judge. It is only in certain Districts which will have to be notified by the Local Government that the appeals will be heard by the District Magistrates and not by the Sessions Judges. Now is there any hardship in the rule. Ordinarily the appeal will lie to the Sessions Judge. There may be a district in which there may be a highly competent District Magistrate. You are aware that in some districts there are Magistrates of long standing who exercise powers even under section 30. Even the Sub-divisional Magistrates exercise those powers and the District Officers of standing and qualifications could be safely trusted to dispose of these cases, petty appeals which do not involve any questions of law but merely involve pure questions of fact and simple questions of evidence about the general reputation of a man who is arraigned in Court. Can you seriously argue that a District Magistrate who can hear appeals from judgments passed by second class and third class Magistrates should not dispose of a mere question whether in a particular case security for good behaviour should be taken or not? Forgive me for saying so. I say it will be foolish, absolutely puerile to my mind to suggest that a District Magistrate of some standing is not ordinarily capable of dealing with cases of this nature. There may be Districts in which a certain amount of redistribution of work may have to be made. I am not aware of the practice in all the provinces but in some parts I am aware that the Sessions Judge is not always available on the spot. He is far away. It would involve considerable expenditure of time

and money to go to the Sessions Court and engage fresh lawyers in the Sessions Court and the lawyers present here will bear me out that the Sessions Court lawyer as a rule demands a larger fee than those practitioners who generally practise in the Court of the District Magistrate. I say that the position is something like 'Save us from our friends.' If you really and dispassionately consider the matter, it is not so serious as some people seem to really think. I am afraid it is more some sort of prejudice which is at the bottom of this than the merits of the case and I appeal to my Honourable colleagues to decide the question purely and absolutely on the merits. The amendment does not ordinarily take away the right of appeal. Only in certain cases power is given to Local Governments by notification to empower District officers to hear appeals under section 108. Sir, this is one aspect of the case. I have got another point to urge. My Honourable friend Saiyid Raza Ali has stated that probably Government are not prepared to loosen the control of the executive. Now, I have been in touch with many District Officers. Government have not laid any stress on this aspect of the case. I have often come into close touch with these officers and if there is one idea which I have formed, not hastily, not impulsively but after mature consideration, it is this. There is a great deal to be said against the adoption of any policy that will undermine the authority and prestige of the District Officer. The whole fabric, the entire constitution and success of your administration depends upon the character and competence of the District officer. I know that the district officer is now a much maligned man. Charges are indiscriminately made against him. But you must realise that for the good of the district, for the good of the people who live in the district, it is absolutely dangerous to lightly interfere with the powers of the District Magistrate and to emasculate his control, his authority and make him look small in the eyes of the people over whom he presides in the district. For the good of the district, I say that the prestige of the District Magistrate should be maintained and I am against any proposal that reflects on his credit or causes a curtailment of his power or prestige. Then my Honourable friends should also remember from whose orders the District Magistrate hears appeals. It is a reflection upon our own countrymen. He hears appeals against the orders of the first class Magistrate the majority of whom are our own countrymen who are, the majority of them, your own countrymen. (The Honourable Mr. Lalubhai Samaldas: "Our, our.") Yes, they are my own countrymen. They are all Indians. You assume in the first instance that the Magistrate has not done his duty properly and that the District Magistrate is going to support an erroneous judgment or an unsupportable finding of an Indian Magistrate. I say these conclusions are too extravagant, and it is on this that unfortunately your opposition is based. Sir Malcolm Hailey has rightly referred to the expenditure of time. I would say, it would make it in many cases absolutely impossible and in some cases almost a withdrawal of justice. If you make it obligatory that the Sessions Judge alone should hear the appeal, in the majority of cases, you will find that there will be no appeals. People who are not in a position to incur the expense of travelling long distances or engaging counsel will not move at all and you will be doing more injustice to them than saving them. Therefore, I submit that the amendment made by the Legislative Assembly goes very far in enlarging the scope of the section. I think that in all these cases a limited right of appeal should only be given and personally I am of opinion that the original section 406, as it stood, ought not to have been interfered with. I have never heard of

[Sir Maneckji Dadabhoy.]

any serious cases of injustice having happened under the law as it stands at present. I think it was unfortunately a mistake to have interfered with the existing law. But in any case, this Resolution offers to the Council a very fair and a very reasonable compromise. It does not say that in every case the appeal must go to the District Magistrate. It only gives the Government power in a certain class of districts to bring it out of the purview of the ordinary tribunal. And I am sure you are not going to oppose such a reasonable suggestion. I therefore request my Honourable colleagues not to consider a matter of this great importance with passion or any sort of prejudice. And, if you will consider it purely on its merits, I think you will come to the conclusion that the amendment is a reasonable one.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, the form in which the amendment is put suggests that the Government possibly not exactly of their free will accepted the view that the Court of Session is to be preferred as a Court of Appeal rather than the Court of the District Magistrate, because they have prescribed the Court of Session as the Court to which appeals ordinarily lie, and by the proviso they have taken power for Local Governments to provide if necessary that appeals shall lie to the District Magistrate. Now, if the question is simply one of finance, as it seems to me it is from the point of view of the Government Benches, that is a very reasonable and proper way of providing. In fact the Government view is, as I understood the Honourable Sir Malcolm Hailey, "we have no objection to making the Court of Session the Court of Appeal except that we cannot afford it, or at any rate the Local Governments cannot afford it. Well, in places in which the Local Government are unable to afford it, we allow them to leave the matter to the District Magistrate. What we would like, of course, would be that they should have money enough to provide a Court for everybody who wants it. If we have not got it, somebody has got to suffer. We accept the view that the Sessions Judge ought to be made to suffer generally, but, sometimes, if his sufferings are more than he can possibly bear, we put it on the District Magistrate." That sums up the matter. I confess I cannot see what harm it is going to do. I sympathise and agree with the view that the Sessions Court is probably from most points of view a better Appellate Court. Not that there is any difference in capacity, but for the reason, which really actuates the non-official view, that the District Magistrate is, in a sort, a party to the proceedings. It is peculiarly the District Magistrate's business to round up the bad characters in the district. And, therefore, the attitude of the District Magistrate towards proceedings of this kind is likely to be less detached, less impartial on the whole, than that of the Court whose business is only to deal with cases that are put before it. I think there is something in that, especially in these security cases, more than in cases of offences committed. If an offence is committed, and a man is arrested, the case must go to some Court or other. The District Magistrate has nothing to do with it. He is not in any case the complainant. In these cases, there is no doubt that, though he may not be the formal complainant, yet it will probably be, if the case is at all important, in pursuance of the policy enunciated, and in pursuance of instructions, general though they may be, given by him to the police, that certain characters are rounded up and brought before the Court. In so far as these proceedings are in the nature of executive proceedings, then, I see no reason why a District Magistrate

should not be the final authority, and he knows probably better than anybody else what is necessary for securing the peace of the District; and if it were the case that these proceedings ended only in an order to furnish security, ended only in the taking of bonds, I would say—leave it to the District Magistrate, let there be no appeals. Let us not trouble about it at all. In cases where long terms of imprisonment are imposed on persons who are unable to find security, and it is an exceptional thing that a person against whom an order is passed is able to furnish the security required,—in those cases in which long terms of imprisonment are imposed it becomes rather a matter of judicial inquiry whether those imprisonments have been rightly imposed; then if the matter is judicial, I don't suppose that anybody can doubt that the Sessions Court is the better Appellate Court for the reasons that I have stated. There is no question of a difference in capacity, if by capacity is meant the power to construe the Code of Criminal Procedure and the Evidence Act. One man can do that as well as another. It is rather the attitude towards the proceedings as a whole that leads me to join with the non-official Members in saying that if you want a judicial decision on an appeal, you may get a more impartial decision on the whole from the Sessions Court. Then, the only question remaining from my point of view is whether we can afford to have more Sessions Courts. I am not afraid of serious injustice at the hands of the District Magistrates. I don't tremble to think what will happen if this Code is not amended, and the old provision stays as it is. Consequently I think the amendment might well be accepted as leaving it to the Local Governments to decide in what cases it is absolutely necessary to leave the matter to the District Magistrate rather than to give an appeal to the Sessions Court.

The HONOURABLE RAJA SIR RAMPAL SINGH (United Provinces Central: Non-Muhammadan): Sir, the point under discussion before the House is one in which even a layman can take part. It is only a matter of experience from which one can form a judgment. As far as my experience goes, in security cases I think the District Magistrate is in a better position to decide equitably such cases than a District Judge. It is quite possible that in a Sessions Court legal justice might be given out in such cases but simple and pure justice is always given out by the District Magistrate's Court. That is my experience and I cannot go against my experience as far as these cases are concerned. I endorse the point of view of my friend the Honourable Sir Maneckji Dadabhoy that really in *badmashi* cases we can trust and put confidence in the decisions of the District Magistrates. With these words, Sir, I support the amendment that has been put forward by the Government.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): I do not desire to reply to the whole of the debate. The subject has now been threshed out and I think we know each other's points of view. I merely wish to take one or two points on which I must reply to statements made in the House. For instance, the Honourable Saiyid Raza Ali suggested that my figures were not complete as a basis of argument, for I had only given the average number of cases in which persons were ordered to give security under Chapter VIII of the Criminal Procedure Code. They did not provide any material for judging how many of these persons were likely to appeal. I have not given such figures because we have no material. I have attempted to find out, but the only figures we have anywhere is the total number of appeals to District Magistrates and that

[Sir Malcolm Hailey.]

includes all appeals from second and third class Magistrates as well as appeals in security cases. I gave the House the only figures we had, and suggested that the House might draw its own inference as to the number of appeals that were likely to be brought before Sessions Judges. There would have been little additional value, if I had given the number of cases as separate from the number of persons, as the Honourable Saiyid Raza Ali asked. My experience is that you do not as a rule unite a large number of persons in one proceeding.

The HONOURABLE SAIYID RAZA ALI: My experience is to the contrary.

The HONOURABLE SIR MALCOLM HAILEY: I can only appeal to the other Members of this House whether they have known very large numbers of cases in which, as he says, ten persons have been put together in one *badmashi* charge. Then, as regards the opposition which certain Local Governments are said to have offered to the proposal to entrust these appeals to Sessions Judges, Saiyid Raza Ali said that only two Local Governments gave their opinion against the proposal, namely, Madras and the Punjab. He drew some deduction—exactly what it was I was unable to gather—from the fact that the Punjab opposed it and that I had once been connected with the Punjab. I will only content myself with the fact that he somewhat destroyed the value of his previous deduction by saying that Madras had also been opposed to it. In Madras, the problem somehow or other seemed to him to turn on the rivalry between Brahman and Non-Brahman. Well, I can give him something which will prevent his falling into the same error again; this case was not discussed at all by the Local Governments. The Local Governments did not write on the subject of the extension of appeal to the Sessions Judge. The point on which the Local Governments gave their opinion—Saiyid Raza Ali can verify what I say from the papers before him—was the proposal to give an appeal from the refusal to accept a surety,—quite a different matter. Now, Sir, once more, as regards these figures, whether the District Magistrate has so much leisure or not, whether he is overworked or whether the Sessions Judge is overworked, I merely ask the House to realise the fact that our Bill in any case have the effect of allowing appeals to the District Magistrate in section 107 cases, so that his work will be largely increased. We have no experience of what extra appeals would be likely to be brought in section 107 cases. And finally, Saiyid Raza Ali confessed to some philosophic doubts. In the ordinary affairs of life, when somebody begins to insinuate philosophic doubts, we know that he has not his facts safe, or that he cannot rely on argument derived from reason, or that he has some suspicion, often unworthy, but in any case difficult to defend. In the present case there is no doubt that Saiyid Raza Ali had that unworthy suspicion, and that it is the only ground for putting forward his philosophic doubt. He thought that Government's real motive was based on its unwillingness to take away from the District Magistrate his authority in regard to law and order, or to diminish the power of the Executive. If he will again glance at the amendment he will draw very much the same conclusion as Sir Leslie Miller, for it will be seen that all we do is to say that an appeal shall lie to the Sessions Court, but that where the Local Government cannot afford it—that is our main ground—from the first we have stood on that—it shall order that these appeals shall lie to the District Magistrate.

The HONOURABLE SAIYID RAZA ALI: Leave it to the Provincial Legislatures.

The HONOURABLE SIR MALCOLM HAILEY: We leave it to the Executive Government, because the latter is after all in the best position to know exactly what it can afford. If the Local Legislatures desire to influence their Government in this direction they know how to do it, and have only to show their readiness to provide the resources necessary to increase the number of Sessions Judges. As I say, we have from the first taken our stand on financial grounds. I am willing to stand on that ground, here and elsewhere. I will only say this, that we cannot as a Central Government, and I would add we cannot as a Central Legislature, lightly and for any reason—I am not now going into the reason—for any reason lay on the Local Government a burden which their finances are not in a position to bear. It is for this reason that we have to leave it open to them to leave these appeals with the District Magistrates instead of taking them to the Sessions Judges.

The HONOURABLE THE PRESIDENT: As far as I can see the amendment now before the House only differs from the amendment passed by the Legislative Assembly in the addition of the proviso "Provided that the Local Government . . ." If that is so, I shall obtain the opinion of this House more directly by putting the first question in this form that this proviso do stand part of the amendment made by the Legislative Assembly. I will read the proviso.

"Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session."

The question is that those words stand part of the amendment.

The Council divided.

(When the division was on).

The HONOURABLE THE PRESIDENT: A question has been raised as to the vote given by the Honourable Raja Moti Chand. Will he declare Aye or No, or not voting?

The HONOURABLE RAJA MOTI CHAND: Not voting.

AYES—22.

Akbar Khan, Major Nawab.
Amin-ul-Islam, Mr.
Baker, Mr. C. M.
Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. E. M.
Crerar, Mr. J.
Dadabhoy, Sir Maneckji.
Forrest, Mr. H. T. S.
Jha, Dr. G. N.

Lal Chand, Lieut.
Miller, Sir Leslie.
Moncrieff Smith, Sir Henry.
Muzammil-ullah Khan, Nawab.
Rampal Singh, Raja Sir.
Sarma, Mr. B. N.
Shafi, Dr. Mian Sir Muhammad.
Tek Chand, Mr.
Thompson, Mr. J. P.
Vasudeva Raja, Raja.
Zahir-ud-din, Mr.

NOES—9.

Chettiyar, Mr. S. M. A.
Lalubhai Samaldas, Mr.
Muhammad Hussain, Mr. Ali Baksh.
Naidu, Mr. V. R.
Ram Saran Das, Mr.

Raza Ali, Mr.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.
Zulfiqar Ali Khan, Sir.

The motion was adopted.

The HONOURABLE THE PRESIDENT: I put the further question that in place of the amendment made by the Legislative Assembly this House do propose the following amendment:

"That for clause 109 of the Bill the following clause be substituted, namely:—

'109. For section 406 of the said Code the following section shall be substituted, Amendment of section 406, Code of Criminal Procedure, namely:—
1898.

406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(a) if made by a Presidency Magistrate, to the High Court:

(b) if made by any other Magistrate, to the Court of Session:

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session:

Provided further that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123."

The motion was adopted.

Amendments* Nos. 36 to 43 were concurred in.

*36. In clause 109 (now clause 112), in sub-clause (iii) [now (ii)], for the word "sentenced" the word "convicted" was substituted.

37. In clause 111 (now clause 114), in the proposed section 415A—

(a) for the words "any of such persons in respect of whom an appealable judgment or order has been passed appeals" the words "an appealable judgment or order has been passed in respect of any such persons" were substituted;

(b) the words "and notwithstanding anything contained in the Indian Limitation Act, 1908, the period of limitation therein prescribed for the appeal shall run from the date on which the right to appeal accrued" were omitted.

38. For sub-clause (iii) of clause 114 (now clause 116), the following sub-clause was substituted:—

"(iii) sub-section (3) shall be omitted."

39. To clause 117A (now clause 119) the following was added:—

"and after sub-section (5) of the same section the following sub-section shall be added, namely:—

'(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction."

40. In clause 126 (now clause 128), in sub-section (1) of proposed section 476—

(a) for the words "order the offence to be inquired into" the words "record a finding to that effect" were substituted;

(b) for the words "and may, if the alleged offence is non-bailable, send the accused in custody to or, in any other case, may take sufficient security for his appearance before such Magistrate" the words "and may take sufficient security for the appearance of the accused before such Magistrate or, if the alleged offence is non-bailable, may, if it thinks necessary so to do, send the accused in custody to such Magistrate" were substituted.

41. For clause 127A (now clause 132) the following clause was substituted:—

"132. (1) Section 489 of the said Code shall be re-numbered as sub-section (1) of section 489, and, in that sub-section as re-numbered, for the word 'fifty' the words 'one hundred' shall be substituted.

Amendment of section 439, Code of Criminal Procedure, 1898.

(2) To the same section the following sub-section shall be added, namely:—

'(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly."

The HONOURABLE MR. LALUBHAI SAMALDAS: I beg to move:

"That in clause 145 of the Bill in the proposed sub-section (8) of section 526 the words 'prior to the accused entering on his defence' be omitted."

The Bill as passed by us and sent to the other place was altered there. The section as it stood was altered in the following manner. I refer to 44 (b):

"In the same clause in sub-clause (iii) in the proposed sub-section (8), for the words 'trial or inquiry' the words 'inquiry or trial prior to the accused entering on his defence' were substituted."

Before the Bill was amended in the Legislative Assembly the accused had the right of asking for a transfer of his case even after the case had been begun and had continued for some time. Under the amendment as finally carried in the Assembly the words "trial or inquiry" were changed to "inquiry or trial prior to the accused entering on his defence." If I understand aright, this amendment was made when many Members of the House had gone away to attend some other function and it was in a thin House that the amendment was pressed by Government and carried. (Cries of "No.") That is my information, and I hope I am correctly informed. If the House had been full this amendment would not probably have been carried. As it is it takes away from the accused the power of asking for a transfer at any stage which the Bill as it stood then did give. It is only right that if the accused finds after he has entered on his defence that the attitude of the Magistrate or the trying Judge is against him he should have a chance of asking for a transfer of that case from that Magistrate or trying Judge. It is only in the interests of justice that I ask Government to accept my amendment, because by accepting my amendment no public interests will suffer and I believe it will be acceptable to the Assembly also. I hope the Government will see their way to accept it.

The HONOURABLE SIR HENRY MONCRIEFF SMITH: Sir, Government is supporting the amendment moved by my Honourable friend, but not because Government thinks that the amendment of my Honourable friend is going to improve the Bill very materially. The matter is a small one and, as the Honourable the Mover said, it was carried in a thin House in the other place. He was wrong in saying that it was pressed by Government. It was an amendment put forward by a non-official Member to which Government lent its support but it appears that there was some feeling on the part of non-official Members, that the amendment was one which ought not to be made. There is an advantage in curtailing the

42. In clause 132 (now clause 136), in sub-clause (iii)—

(a) for the words "following sub-section" the words "following sub-sections" were substituted;

(b) after the proposed sub-section (3) the following sub-section was added:—

"(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered; and";

(c) in sub-clause (iv), the proposed sub-section (4) was re-numbered (5).

43. In clause 136 (now clause 140), in the proposed section 514A, for the words "becomes under this Code" the words "under this Code becomes" were substituted.

[Sir Henry Moncrieff Smith.]

time up to which applications for transfer should be made. It was suggested in the other House as an argument in favour of the amendment just now before us that it was only when a charge was framed that the accused came to know that he had the Magistrate up against him and it was from that time onwards that the justification for an application for transfer arose. I merely mention this to make it clear that this is not the idea of Government in supporting this amendment and I am quite sure it is not the idea of my Honourable friend.

The HONOURABLE SAIYID RAZA ALI: The words mentioned in the amendment were inserted in this clause on the motion of a non-official member in the other House and the attitude of the Government was that they did not oppose the amendment and as such it was carried. There is no need to make a long speech on the question at all. In fact we are all very glad that after all we have got an opportunity of justifying our existence as a revising Chamber. I have not the least doubt that the other House made a mistake and it is for us to set that mistake right and I am very glad that my Honourable friend Mr. Lalubhai Samaldas has availed himself of this opportunity. The other House sat for a month and more and yet their labours were not complete and we had to set their mistake right. I support the amendment.

The HONOURABLE THE PRESIDENT: The question is that in the amendment put forward by the Legislative Assembly this House do propose the following amendment

The HONOURABLE SIR HENRY MONCRIEFF SMITH: May I suggest that the motion may be put in the form that this House do concur, so that we may give a negative vote. What we are really doing is dissenting from the amendment that the Assembly made.

The HONOURABLE THE PRESIDENT: How does the Honourable Member suggest that the motion should be made?

The HONOURABLE SIR HENRY MONCRIEFF SMITH: The motion is that the House do concur in this particular amendment. If the House expresses its dissent, our desire is achieved.

The HONOURABLE THE PRESIDENT: We are making an amendment to a particular clause. I understand that 44 (a) stands. I should like the Honourable Member to explain his point further. It is doubtless owing to transfer that I have not appreciated it.

The HONOURABLE SIR HENRY MONCRIEFF SMITH: My suggestion was that 44 (a) and 44 (b) should be put separately. 44 (a) we concur in. 44 (b) we do not concur in. Then we leave the Bill as it stood in this respect before the Assembly amended it. That I think is the effect of my Honourable friend Mr. Lalubhai Samaldas' amendment.

The HONOURABLE THE PRESIDENT: Then the Honourable Member has not drawn up his amendment in proper form.

The HONOURABLE MR. LALUBHAI SAMALDAS: I am sorry if it is so. I am not a lawyer, Sir.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): I should like to say this, that if we merely say that we do not concur in the amendment made by the Legislative Assembly, that in itself will not restore clause (b) as it stood in the original Bill. Have we not got to do something further in order to restore the original clause as it was?

The HONOURABLE THE PRESIDENT: I will put the question in this form:

"That this House do concur in the amendment 44 (a) made by the Legislative Assembly."

The motion was adopted.

The HONOURABLE THE PRESIDENT: I will put the second amendment in this form:

"That to the amendment 44 (b) made by the Legislative Assembly, this House do propose the following amendment, namely:—

"That in the proposed sub-section (8) of section 526, the words 'prior to the accused entering on his defence' be omitted."

The motion was adopted.

Amendment No. 44, as amended,* was concurred in.

Amendments† Nos. 45 to 49 were concurred in.

*44. (a) In clause 141 (now clause 145), in sub-clause (ia), after the figure "(5)" the words "for the word 'convicted' the words 'so ordered' shall be substituted and" were inserted.

(b) In the same clause, in sub-clause (iii), in the proposed sub-section (8), for the words "trial or inquiry" the words "inquiry or trial" were substituted.

†45. (a) For sub-clause (i) of clause 144 (now clause 148) the following was substituted:—

"(i) Clause (b) shall be omitted".

(b) In sub-clause (ii) of the same clause, after the word "want" the words "where it occurs for the second time" were inserted.

46. In clause 150 (now clause 154), for the words "and not" the words "and the method of recovery of which is not" were substituted.

47. In clause 155 (now clause 159)—

(a) after sub-clause (12) [now sub-clause (10)] the following sub-clause was inserted:

"(11) for the entry in column 6, against section 403, the words 'Compoundable when permission is given by the Court before which the prosecution is pending' shall be substituted";

(b) after sub-clause (14⁽¹⁾) [now sub-clause (17)] the following sub-clause was inserted:—

"(18) for the entry in column 6, against section 508, the word 'Compoundable' shall be substituted."

48. In clause 158 (now clause 162)—

(1) for sub-clause (iv) (b) [now (iii) (c)] the following sub-clause was substituted:—

"(c) the words 'and cannot be recovered by distress of the moveable property of the said (name of complainant)' shall be omitted";

(2) the word "moveable" in sub-clauses (v) (b) and (v) (d) was omitted.

49. After clause 159 (now clause 163) the following clause was inserted:—

"164. This Act shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint."

Commencement.

The HONOURABLE THE PRESIDENT: I shall be very glad to have the assistance of Members of the Government to explain how I should put amendment* 50.

The HONOURABLE SIR HENRY MONCRIEFF SMITH: I think, Sir, the matter is quite a simple one. The 50th clause of this list simply says that among the amendments made by the Legislative Assembly the clauses and sub-clauses of the Bill were re-numbered. What we have done here at this stage does not in any way affect that re-numbering of the clauses and sub-clauses, and therefore we can concur in the amendment made by the Legislative Assembly in that respect.

The HONOURABLE THE PRESIDENT: I am glad to have that assurance, and, on that assurance, I will put the question:

"That this House do concur in the amendment No. 50 as made by the Legislative Assembly."

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 14th March, 1923.

* 50. That clauses and sub-clauses of the Bill were re-numbered in consecutive order.

COUNCIL OF STATE.

Wednesday, the 14th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

STRAITS SETTLEMENTS AND INCOME-TAX.

187. The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR: Will the Government be pleased to state—

(a) whether, since the passing of the Income-tax Act of 1922, they have corresponded with the Government of the Straits Settlements regarding the relief in respect of double income-tax;

(b) if the answer to (a) is in the affirmative, whether they will be pleased to place copies of the correspondence on the table?

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

(b) It is not proposed to lay the correspondence on the table but I will show it to the Honourable Member if he so desires.

APPOINTMENT OF PROTECTORS OF INDIANS IN COLONIES.

188. The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR: Will the Government be pleased to state whether they propose appointing a protector of Indians in each of the colonies as recommended by the Right Honourable V. S. Srinivasa Sastri in his report?

The HONOURABLE MR. B. N. SARMA: Mr. Sastri suggested that a Protector of Indians should be appointed to guard Indian interests in Fiji, New Zealand, and Australia; or that alternatively one officer should combine the duties of Protector and of Trade Commissioner for the two Dominions only. A somewhat similar suggestion has been put to Government by the Fiji deputation. The matter is under consideration and cannot be settled without previous consultation with the Imperial Government and the Dominion and Colonial Governments concerned.

RESOLUTION RE INDIAN STORES DEPARTMENT.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, the Resolution which I have to move runs as follows:

"This Council recommends to the Governor General in Council that effect may be given, at an early date, to the recommendation of the Stores Purchase Committee, 1920, regarding the gradual reduction and reconstitution of the Indian Stores Department in England and the development of the Stores Department in India, with a view to expand the scope of the work of the latter and to render it thoroughly efficient."

[Mr. V. G. Kale.]

Sir, I trust that this Resolution is more or less of a non-controversial character. The Resolution does not recommend the adoption of any new policy, nor does it propose any departure from a policy which has already been accepted by Government. This question of the purchase of stores has been under discussion for a very long time. Even in this House there have been debates on that question. I do not however propose to deal with the question regarding the policy to be pursued in the matter of the purchase of Indian stores and European stores and so forth. I will assume that the Government have accepted the policy of assisting and encouraging Indian industries so far as that is practicable, and in consonance with efficiency and economy, in their purchases of the stores required for different Government Departments and allied departments. That being so, I refer only to a portion of the large subject of stores purchase, and I wish Government only to follow the path which they have chalked out for themselves in relation to the institution of a machinery for carrying out their own accepted policy. Machinery for the purchase of stores has been set up in this country already and the Indian Stores Department has been started. A Chief Controller and Assistant Controller, Directors of Purchase and Intelligence and other officials have been already appointed and a good deal of work is being done in connection with the purchase and inspection of stores. The Stores Purchase Committee, which reported in 1920, made certain recommendations as to the organisation for the purchase of stores in England and in this country. I will only refer to the relevant recommendations of the Committee. The Stores Purchase Committee observed :

"With the establishment of an efficient department in India for the purchase and inspection of stores the time has, we consider, now come when the Secretary of State should delegate to the Government of India full control over the details of the stores used. Complete freedom should be granted to India in this matter and it should be accepted as a policy not only in theory but also in practice that all stores required for the public services should be obtained in India whenever they are procurable in the local market of suitable quality and reasonable price, preference being given to articles of Indian origin."

They go on further to state :

"We anticipate that the work devolving upon the Director General of Stores, India Office, will be reduced and consider that his Department should in due course be re-constituted as the London Branch of the Indian Stores Department, the status of the officer in charge becoming that of a Director immediately subordinate to the Director General of Stores in India."

That is, Sir, the important recommendation of the Stores Purchase Committee with which I am concerned at the present moment. As at present constituted, the Indian Stores Department purchases textile stores for the Army Department. The Government of India do not seem yet to have issued orders to other Departments to purchase their stores only through the Indian Stores Department. I wish to make a point of one important fact, namely, that the Government of India ought to make very full use of the machinery which they have already instituted and that all Government Departments should, as far as practicable, use this machinery for the purpose of purchasing stores so that the country might get the full value of the money that is spent by it upon the organization of the Indian Stores Department. Now, though the Stores Department purchases textiles for the Army Department, the inspection of those stores has not yet been handed over to the Indian Stores Department and inexpert military officers are employed for the

purpose of inspection. Now, this kind of dualism affects the quality and the efficiency of the work that has to be done by the Stores Department. Similarly, there are other stores which can usefully be purchased by the Stores Department; for example, oils and paints. There is thus very wide scope in this regard and the Government of India should see to it that the work of the Stores Department is extended so as to give it sufficient latitude and sufficient work to perform in the interests of national economy. Now, only the other day, certain questions were asked in another place regarding the work of the Indian Stores Department, and in the answers that were given to those questions some four or five facts were prominently brought out. It was quite clear, and it is a fact admitted by Government itself, that the work of the Indian Stores Department, since its establishment, has proved eminently satisfactory. It has been admitted, secondly, that this Department has been able to effect substantial economies in its purchase of stores so far as it has been allowed to do so. Thirdly, the policy to be pursued in the matter of the Indian Stores Department has not yet been finally settled by the Government of India because the answer to one of the questions runs thus :

"No reduction in the establishment of the London Stores Department has yet been possible pending the determination of the policy to be pursued in the matter of the Indian Stores Department."

It seems from this that the Government of India have not yet made up their mind as to how and when they will bring about the reconstitution and reduction of the Stores Department in London and the expansion of the Department in India. If a considerable amount of economy has been admittedly rendered possible by the work that the Indian Stores Department has already performed and if almost all the Departments of Government will benefit in the matter of economy and efficiency if the Stores Department is allowed to make purchases for those Departments, then certainly the time has come when the Government of India should expand the new Department in this country. No one suggests, and I do not for a moment want to suggest, that the policy recommended by the Stores Purchase Committee should be given effect to immediately. Reorganization will take some time and even the Stores Purchase Committee did not contemplate that the reorganization recommended by it could be effected in the course of a very short time. However, the Government of India, which, it is clear, has not yet made up its mind on the question, must now decide as to when and along what lines effect will be given to the policy recommended by the Stores Purchase Committee; and if the Government of India once decides what it will do, I think that in the course of a few years it will be possible to entrust the Indian Department with the very important work of purchasing and inspecting all the stores required by different Departments in India. The scope for the work of this Department is bound to increase as time goes on. Already something like 15 crores of rupees are spent upon stores. The expenditure is bound to increase and many more Departments are likely to make their purchases through this Stores Department; and though it may appear that the expenses of this Stores Department will slightly increase owing to the expansion of its activities, in the long run it is bound to prove economical, because a few lakhs spent upon this Department in India will ultimately mean so much reduction in expenditure upon stores purchased by it for various Government Departments, so that this expenditure is essentially economical. From this point of view, I think Government should have no

[Mr. V. G. Kale.]

objection in carrying into effect the recommendations made by the Stores Purchase Committee. As I said at the outset, I do not propose to discuss the principles underlying the policy which has already been accepted by Government. I only want to emphasise the necessity of efficiently organizing the Indian Stores Department. No further expenses are likely to be involved in the matter, because the Stores Department in London is already spending lakhs, and when the work of that Department is transferred to the Indian Stores Department, naturally there will be no increase in expenditure taken as a whole. It will only mean the transfer of work and therefore transfer of expenditure to this country. But this transfer of work and transfer of expenditure will lead to efficiency, efficiency of working and, as I have already said, to economy in the general expenses incurred for the Stores required by various Departments. I do believe, Sir, that the Government will see its way to appreciate the spirit in which this Resolution has been moved, and will see their way to accord their support to the Resolution. With these words, Sir, I commend the Resolution to the acceptance of the House.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I can assure my Honourable friend Professor Kale that we do appreciate very much the spirit in which this Resolution has been moved, and from the Government Benches we thank him for the interest that he is taking in the Stores Department. As he truly said, this Resolution aroused and has aroused great interest in India and, generally speaking, its tenour is in consonance with the policy which has been on former occasions adumbrated by the Government of India. It certainly emphasises one or two points, which have not perhaps been so strongly emphasised from these Benches, as for instance the need for action at an early date, and the reorganization of the Stores Department in London; but to that no exception can be taken. It follows, as I said, the lines upon which the Department with which I am concerned to some slight extent has been working, and it is really conceived, I think, in the spirit of encouragement—a spirit of 'go on and do better'. However, Sir, there are many other considerations which arise, and in the first place I must apologize for the absence of the Honourable Member for Commerce and Industry, as he, as all the House knows, takes the liveliest interest in all these matters affecting the development of industry in India. As the House knows, he is more in touch, and has been more in touch, with the details of such movements than I have been. But, also as the House knows, he is at present in another place struggling with the Demands for Grants on the Railway Budget, so that, Sir, I trust the House will excuse him. He asked me specially to present his regrets. Now, Sir, Professor Kale has referred to many points in connection with the development of the Stores Department in India, and I think on the whole they can be classified under two heads—one, the stores purchase rules, for which he asks that an early revision should be made, and the other was a general and strong plea for an expansion of the activities of the Department. Well, as Professor Kale probably knows, the stores purchase rules have been and are being subjected to very close scrutiny by a combined Committee of officials and non-officials in connection with the Railways Industries Committee; its report I believe is almost ready. As regards the other portion, Sir, Professor Kale's speech is a justification for our spending more money on developing the Stores Department. We have already started a Stores Department, and considerable progress has been made with the scheme for its organization. At a

meeting of the Standing Finance Committee, my Honourable friend (Mr Chatterjee), who now holds the exalted position of a Member of Council, then appearing before the Standing Finance Committee in a more humble capacity, as Secretary, gave an assurance on behalf of the Industries Department that its policy is to develop the Stores Department in India on efficient lines so as to enable it to deal fully with the requirements of manufacturers and suppliers in the country, and correspondingly to effect reductions in the Stores Branch of the High Commissioner's Office, as Indian manufacturers and resources prove increasingly capable of meeting the requirements of Government on reasonable terms. That, Sir, was a statement of the general policy of Government. It of course was subject, as the Standing Finance Committee said, to scrutiny into the expenses of the Department by that terrible inquisition which has been sitting upon us all, namely, the Inchcape Committee. The Stores Department, like every other Department, came within the purview of that Committee: and the House knows that that Committee has recommended, on financial grounds, that the expansion of the Indian Stores Department be postponed for three years, and a reduction of Rs. 83,000 be effected in the present year's Budget—Rs. 1,41,000, I stand corrected, Sir, by our watch-dog of finance. Now, Sir, a recommendation such as that cuts straight across the policy which this Department was pursuing. Further, the House will agree that a recommendation from a Committee such as the Inchcape Committee cannot be exactly ignored. It obviously raises issues which require very careful thought. As the House knows, the Government has, in the statement of the revised Demands for Grants which was presented in another place, accepted the vast majority of the Inchcape Committee's recommendations. On a few points, the Honourable Finance Minister stated, the decisions have been reserved. Sir Basil Blackett said that although credit had been taken in the Budget for the cuts recommended by the Inchcape Committee, yet some three or four points might ultimately be decided in the other way. One of those points which was reserved is the provision of the money needed for the expansion and development of the Stores Department. Government has necessarily to watch the financial cost of its activities and policies, and I hope the House will realize that the Department for which I am to-day speaking, even with the best will in the world, is not able to-day to announce exactly what the policy of the Government in this matter will be. It is only a matter of about a fortnight since we have received this recommendation, which, as is clear, cuts straight across the lines upon which we were working, and on a point of policy of a magnitude of that nature, a little further time is I think reasonably required before a decision can be arrived at. Then, Sir, instead of being in the happy position, as I hoped when I saw this Resolution tabled, of being able to define what Government proposed to do, I find myself in the thoroughly unhappy position of asking the House to allow some further time for consideration, and I must say that if this debate is to proceed, the House I think will see that it will be impossible for us on the Government side to take any part in it on its merits. It would perhaps suit—I suggest it to the House—it would perhaps suit the convenience of the House and be better if, on a subject in which they are so greatly interested, they would kindly postpone this matter and adjourn the debate so that it could be discussed with fuller knowledge at a later date. If the House could kindly let us recover from the bomb shell which fell from the Inchcape Committee's Report only a short time ago, I should be very grateful to them.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, I welcome the speech of my Honourable friend Mr. Chadwick, in so far as it goes in support of the Resolution moved by my Honourable friend Mr. Kale. As regards the giving of more time, I do not think the House will object to it, but I hope that, when the matter comes up again before us, the Honourable Commerce Secretary will place us in possession of the full facts,—of all the facts that throw a light on the subject to enable us to come to a right decision on the subject. If I understood him aright, the remarks made by my Honourable friend Mr. Chatterjee before the Standing Finance Committee, which the Honourable Mr. Chadwick read to the House, referred to the purchase of stores in India and not outside India. Am I right?

The HONOURABLE MR. D. T. CHADWICK : May I explain, Sir? It was raised on the question of a portion of the Budget of the High Commissioner's Office, and I think it referred generally to purchases in connection with stores. It reads thus—an assurance was given on behalf of the Industries Department that its policy is to develop the Stores Department in India on efficient lines so as to enable it to deal fully with the requirements of manufacturers and suppliers in the country, and correspondingly to effect reductions in the Stores Branch of the High Commissioner's Office, as Indian manufacturers and resources prove increasingly capable of meeting the requirements of Government.

The HONOURABLE MR. LALUBHAI SAMALDAS : It comes to this, Sir, that the Department only wants to take up the work of placing orders in India. Whether orders outside India are to be placed through the Stores Purchase Department or not is not made quite clear. And that is a point on which we lay very great stress. Not only do we want the Department to be organised for purchase of stores in India but we also want that all orders outside India should be placed through the same Department working under the Commerce and Industries Department. For this purpose the Stores Department should be so organised that all the work which is now being done by the High Commissioner should, gradually, as far as possible, (any words that you like) be transferred to India. We do not want that the Government of India should have to go to England to place its orders through the High Commissioner. Let the Commerce Department organise the Stores Purchase Department in such a way that they may be able to carry on the policy of purchasing all stores through that Department. By all means let the Commerce Department take as much time over the matter as it really requires for the purpose of carrying out the organization of this Department which has begun well. I know as a matter of fact that the present Stores Purchase Officer is very anxious to encourage Indian industries as far as it lies in his power. He has, if I understood him aright, placed orders for khaki cloth in India which till now was placed outside India. He is trying to develop Electrical Engineering, and I saw an advertisement asking for applications from men capable of doing cement analysing work. He is trying his best. What we want Government to do is to help him and to give him all the assistance that he needs, so that later on all orders for Indian stores whether manufactured in India or outside should be placed through that Department. My Honourable friend Mr. Chadwick referred to the recommendations of the Inchcape Committee. I know Government will have to consider very carefully how far they can accept the recommendations. But they need not be afraid of rejecting

this recommendation. We all know that even the Finance Department has stated that they are not going to accept all the Committee's recommendations. There was one matter in which His Excellency the Commander-in-Chief said that he was going to accept our recommendation against the recommendation of the Inchcape Committee. In the same way I want the Honourable Mr. Chadwick to realise that the feeling of the country is that we want this work to be done in India through the Commerce Department. We do not want orders to be placed by any officer outside India. That is the point that I want Government to consider carefully; and if after doing so Government will go before the Standing Finance Committee with the support of this House at a later stage, I am quite sure that the Standing Finance Committee will give all the necessary financial assistance, even if in doing so they have to go against the wishes of the Inchcape Committee. It will only be then that the Department will be out in a very strong position. As regards postponement of the consideration of this question, I do not object to it.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, in view of what has fallen from the Honourable Mr. Chadwick, I think it will not serve any useful purpose to prolong this debate. However, I am not inclined to agree that an adjournment would be the proper course. I would request my Honourable friend Mr. Kale to consider whether it would not be more expedient to withdraw this Resolution at this stage with liberty to bring forward a fresh Resolution enlarging the scope of his Resolution at a later date. We do not know what action the Government of India is going to take in connection with the recommendations of the Inchcape Committee, and if the debate proceeds now it will be confined to the narrow scope of the Honourable Mr. Kale's Resolution, while, on the other hand, it will give ample opportunity for debating if this Resolution is brought forward again at the next session altered in such a way as to have full discussion on the subject.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces North-ern : Non-Muhammadan) : Sir, in view of the statement made by the Honourable Mr. Chadwick, I think adjournment of the consideration of this Resolution would be better than its withdrawal as suggested by the Honourable Sir Maneckji Dadabhoy, because, I think, the Resolution is of great importance and if it is withdrawn at the present time, then the mover will not be able to move it again for one year; and, therefore, adjournment of the discussion will be better than its withdrawal.

As regards the Resolution itself, I thought that the Government would be able to accept it as it stands, but I find that the Honourable Mr. Chadwick has accepted the spirit of the Resolution only and not the Resolution itself. He has stated that Government wants more time to consider the whole question and he suggests that the consideration of this question may be postponed. Therefore, without saying anything more at this time on the subject, I am for the adjournment.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support my Honourable friend Mr. Kale and the Honourable Mr. Lalubhai Samaldas. The opinion of this House ought to be before the Government when they are considering the report of the Inchcape Committee. It is in every way desirable that the Government

[Lala Ram Saran Das.]

should have the view of this House before they come to a definite decision. The Resolution, as far as India is concerned, is a very important one so far as the industrial welfare of the country is concerned, and I strongly urge that the interests of the Indian industries ought to be well safeguarded. During the war a number of small industries were started, but for want of encouragement on behalf of Government, many of them had to shut up. The activities of the Indian Stores Department will greatly help the local industries and will thereby add to the wealth of the country. We find that certain industries cannot compete with the foreign markets, but it will be, I presume, the duty of the Indian Stores Department to find ways and means to let those industries which are in danger to successfully tide over their difficulties. With these few remarks, Sir, I commend this Resolution to the favourable consideration of the House.

The HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-Official) : Sir, while I welcome the Resolution of the Honourable Mr. Kale, I do not see any reason for postponing it as suggested by our friend Sir Maneckji Dadabhoy. Let Government take its own time to complete the re-organization of the Stores Department, but that is no reason why a Member should be asked to withdraw or postpone the Resolution. As a matter of fact, my own experience is that our Government is always a procrastinating Government. "Procrastination is the thief of time" of which Government know the value, and it is always the case, so far as the Stores Department and other Departments are concerned. We can never know when the Government is going to complete this affair at all. For the last 40 years this question has been hanging on. It was Lord Ripon who first published in 1862 the Resolution about buying stores in India, and after that date series and series of Resolutions have been issued; and what is the result after all? Nothing. Postpone, postpone and postpone, just like Royal Commissions which are simply put into motion to postpone problems awaiting solution and gain time; nothing comes out of the Resolutions of this character. Throughout all these years I have seen one matter or another in the settlement of which we are treated like children. We are persuaded and told, "Grow, grow up and you will have liberty". We are growing up. Indeed we have overgrown ourselves, and still nothing has been done to satisfy us. That will not do, Sir. We want this Stores Department to be centralised. It should be centralised in such a way that we may be able really to economise expenditure. The Stores Department is the most extravagant department in the whole of India, and no stores department is so extravagant as that which is a branch of the India Office where there is a Director of Stores. Besides there is that Deputy, Assistant deputy, brokers, etc. These do nothing but pocket their fat salaries. And another thing is this. There are so many lobbyists shadowing Members of Parliament; so many wish to promote their interests and urge Members to use their influence with the Secretary of State for India. The Secretary of State for India puts the screw on the Viceroy here, and, of course the poor Viceroy is helpless. All this has gone on and still goes on, and therefore, of course, it often happens that we get sadly disappointed in gaining the end in view. Look, for instance, at the question of the purchase of ordnance. The War Office first requisition for larger and larger supplies of ordnance which India should provide, and when indents arrive the War Office have got their own friends the manufacturers and other suppliers whom they patronise.

These manufacturers and others in turn assiduously ply the Stores Department in England. Then there are the Railways. The Railway magnates want to patronise their own friends. They want their friends to have the orders sent from India, and so *ad infinitum*, from large to small orders. This is the state of things. If you look into the inwardness of the thing it won't bear examination. I say, I condemn *in toto* the entire Stores Department at the India Office. It is the most wasting department and it is the department in which a lot of iniquities have prevailed for 60 years and more. Did not we find even in the Munitions Department here four or five years ago what an amount of extravagance and waste went on? There were scandals here on the subject, as there were scandals in England where, to give an instance, one astute supplier brought in a bill for a million and the department people paid it, but did not know they had already paid the bill for the million! That is the sort of irregularity that had gone on in England and what do you expect in India? India is darker than England in point of stores supplies. In England there is well informed and critical public opinion. In India there is nothing approaching it. Of course we speak here in this Chamber stuff their ears with cotton and these gentlemen opposite on the Front Bench there is an end to our protests. The sooner the Stores Department is efficiently and honestly centralised and an immaculate organisation established the better. Of course we will give Government ample time to do so. But what is the use of saying to Mr. Kale that he should withdraw his Resolution? Sir, I entirely condemn this sort of stifling public opinion brought forward here. We are now and again asked to withdraw this, that and the other Resolution brought forward in public interests. The cry is, "Withdraw, withdraw". Why? You may laugh. But I should like to know the reason from Sir Maneckji Dadabhoy himself why he wants Mr. Kale to withdraw this excellent Resolution and why do some of my other friends want us to withdraw, when we see before our very eyes extravagance going on, rivers and rivers of extravagance flowing onward and onward like the Ganges. What are you going to do? Are you going to readjust and economise your expenditure on stores, or are you going to be further burdened with taxation which such extravagant expenditure demands? I do not believe the Inchcape Committee's cuts will last long. Three years hence you will find that expenditure will be exactly the same as before. You will find that out for yourselves. Therefore, I do believe that the centralization of the Stores Department and its overhauling in the India Office is urgent. Let Government take breathing time; but let Government go forward and set about the reform in earnest. We are sick of "sympathy" for every Resolution. Mr. Kale's Resolution is a practical Resolution of the first importance. As I said the other day, there is no use talking about sympathy. Oh yes, "sympathy" is very good but it never materialises, and I am very strong on this now because my patience is exhausted of hearing this word—"sympathy". "Sympathy" is ringing in our ears ever so long. My ears have grown deaf of hearing this word. If we wish to go forward and make an advance in our industries, the Stores Department, which is now the most wasteful department, should be the first to be reorganised. Therefore, Sir, I warmly support Mr. Kale's Resolution, and hope that those who think he should withdraw will withdraw their own words.

The HONOURABLE SIR MANECKJI DADABHOY : Sir, may I offer a personal explanation?

The HONOURABLE THE PRESIDENT: The Honourable Member may make a personal explanation but may not make another speech.

The HONOURABLE SIR MANECKJI DADABHOY: I think my Honourable friend on the other side of the House has entirely misunderstood me. I did not speak on the merits of the Resolution; I merely suggested that the Resolution should be withdrawn and be brought up at the next Simla Session three and a half months hence, with the permission of the House. I never said anything about a total or indefinite adjournment.

The HONOURABLE MR. A. C. CHATTERJEE (Education Member): Sir, I had no intention of taking part in this debate in view of the terms of Mr. Kale's speech which was entirely friendly towards the Government and towards the policy which has hitherto been followed by Government, but I cannot let pass some of the remarks which have been made by my revered and respected friend opposite with regard to the *laches* of Government in the matter of stores purchase. My Honourable friend does not seem to have realised that 40 years have really passed since the days of Lord Ripon when the stores policy was first adumbrated by the Government of India, and that a great many things have happened during the last 40 years.

The HONOURABLE SIR DINSHAW WACHA: I don't deny that.

The HONOURABLE MR. A. C. CHATTERJEE: I think, Sir, it is entirely unjust to say that Government have always professed to adopt a progressive policy in the matter of stores purchase in India and have really done nothing

The HONOURABLE SIR DINSHAW WACHA: I emphatically deny that proposition.

The HONOURABLE MR. A. C. CHATTERJEE: I understood the Honourable Member to make that statement.

The HONOURABLE SIR DINSHAW WACHA: I do make it; I deny that the Government has done anything.

The HONOURABLE MR. A. C. CHATTERJEE: If the Honourable Member will allow me to proceed with my remarks, he will find that he is entirely mistaken. The whole question has been discussed many times during the last 40 years and many progressive steps have been taken, not only in Lord Ripon's time but during the early years of this century. I do not wish to tire the patience of this House just now by a detailed statement of the various steps that have been taken, but I just wish to remind the House that this particular question was one of those which were discussed in the report of the Indian Industrial Commission of 1917-18. The Indian Industrial Commission recommended that this method of giving encouragement to Indian industries should be specially examined by a Committee. The Government of India lost no time in appointing a suitable Committee. That Committee worked during the year 1920 and submitted its report early the following year. The Government of India again lost no time in addressing Local Governments on the policy to be pursued on the recommendations of that Committee and the Government of India also lost no time whatsoever in giving effect, so far as possible, to the recommendations of the Stores Purchase Committee, and as my Honourable friend will admit, and as the

Honourable Mr. Kale has very generously admitted, the Government of India appointed the Chief Controller of Stores and started an organisation for the Indian Stores Department. I repeat again, Sir, that it is extraordinarily unjust on the part of my Honourable friend opposite to say that the Government of India have been entirely negligent of the matter and have done nothing

The HONOURABLE SIR DINSHAW WACHA: I repeat, the progress has been there, but the progress has been the progress of the snail and the tortoise.

The HONOURABLE THE PRESIDENT: The Honourable Member will do well to allow the Member addressing the House on behalf of the Government to speak without interrupting him.

The HONOURABLE MR. A. C. CHATTERJEE: I think the Government of India have done everything in their power to give effect not only to the recommendations of the Indian Industrial Commission, but also to the recommendations of the Stores Purchase Committee. Another statement, Sir, which the Honourable Member made was that the Government of India always say they will adopt a progressive stores policy in order to give encouragement to Indian industries, but the Secretary of State in England is always putting pressure on the Government of India, and whatever the Government of India's own inclinations may be, the Secretary of State prevents the Government of India from giving encouragement to Indian industries in the interests of British manufacturers. I wish, Sir, to enter an emphatic protest against that statement.

The HONOURABLE SIR DINSHAW WACHA: You may.

The HONOURABLE MR. A. C. CHATTERJEE: In another place, Sir, this matter has been discussed on various occasions and in reply to a certain Resolution brought forward by our late lamented friend Sir Vithaldas Thackersey in the Legislative Assembly it was my privilege to give an emphatic denial to any imputations of that sort. The Stores Department in London is now under the High Commissioner for India and the High Commissioner for India is a servant of the Government of India, and the Secretary of State has publicly stated more than once and the Government of India have also publicly stated more than once that the Secretary of State has no part or lot in connection with the purchase of stores in England.

The HONOURABLE SIR DINSHAW WACHA: Still there are fights going on between the High Commissioner and the Secretary of State.

The HONOURABLE MR. A. C. CHATTERJEE: There are no fights at all. I think, Sir, if the Honourable gentleman would give me the privilege of addressing the House without these constant interruptions

The HONOURABLE SIR DINSHAW WACHA: If the gentleman can make unjust statements which cannot be verified I have the right to interrupt him and

The HONOURABLE THE PRESIDENT: Order, order. The Honourable Member will at any rate remember that when I rise he should resume his seat. I will make this remark. The Honourable Member makes a speech in the House without interruption, and he must not interrupt during other

[The President.]

Members' speeches. Unless they give way he cannot speak at all. The rule is well known and I am surprised that the Honourable Sir Dinshaw Wacha should require to be referred to the rule.

The HONOURABLE MR. A. C. CHATTERJEE : I am making categorical statements, Sir, and I defy the Honourable gentleman to prove that I am speaking an untruth. It has been stated over and over again, Sir, both by the Government of India and by the Secretary of State that the High Commissioner is under the Government of India and the stores purchase policy, whether in India or in England, is entirely in the discretion of the Government of India. The Secretary of State does not exercise any influence whatever over the High Commissioner. The Secretary of State, it is quite true, has the constitutional power of superintending the Government of India, but the Secretary of State cannot issue any orders to the High Commissioner with regard to the purchase of stores in England. I wish to repeat that statement. (*Honourable Sir Dinshaw Wacha* : "You can do so.") And I again say, Sir, that I defy the Honourable gentleman to prove me wrong by any statement of fact.

Then, Sir, the Honourable gentleman went on to speak about the scandals in the Munitions Board and subjects like that. I really do not understand what relevancy those facts have with regard to the present Resolution. I wish again, Sir, to thank the Honourable Mr. Kale on behalf of the Government for having brought forward this Resolution. The Government of India, as I have said, Sir, is greatly interested in this question. They have done everything in their power to further this policy. As the Honourable Mr. Chadwick has stated, a few months ago on behalf of the Department of Industries I gave an assurance to the Standing Finance Committee that it was the policy of the Government of India, at least it was the policy of the Department of Industries, to expand the machinery which the Government have already established in this country. That is to say, the policy of the Department of Industries was to expand the Indian Stores Department. That Department is only in a chrysalis stage at the present moment. We want it to become bigger ; we want it to do the various things which the Honourable Mr. Kale has said that it should do ; we want it to take up inspection ; we want it to purchase not only textiles but other articles ; not only on behalf of the Military Departments but on behalf of all Departments of the Government of India. We also want the Indian Stores Department, if orders are placed with it by Local Governments and by Indian States and by local authorities in India, to execute those orders. That was the policy of the Government of India, Sir. But as the Honourable Mr. Chadwick has stated, we have since had the report of the Retrenchment Committee. It is a most important and weighty report. Government cannot neglect the recommendations in that report. As the Honourable Mr. Chadwick said, the Honourable the Finance Member has already stated in another place that this matter is at present engaging the attention of the Government of India. It is impossible therefore, Sir, for Government to give any definite answer or make any definite statement on the present Resolution. It has, therefore, been suggested that it would be better if the consideration of this Resolution is adjourned to a later date by when Government hope that their attitude will be defined. I think, Sir, the other Honourable Members of this House have generally agreed that this course would be preferable and I commend that course to the House.

The HONOURABLE MR. E. M. COOK (Finance Secretary) : Sir, I beg to move that the debate be now adjourned.

The HONOURABLE THE PRESIDENT : I would suggest that if it is the intention of a member to move to adjourn a debate, leave to move should be asked for as early as possible. I have allowed this discussion to proceed in the present case for the purpose of emphasising that the only way of bringing a question before this House is by a motion or by an amendment. It is no use wasting time in discursive conversational suggestions. If the motion which the Honourable Mr. Cook now makes had been made earlier I could have restrained the debate within reasonable limits. As it is, the House has now more or less discussed the Resolution in a desultory and unsatisfactory way.

The HONOURABLE MR. D. T. CHADWICK : I apologize, Sir, for my omission.

The HONOURABLE THE PRESIDENT : The procedure is well known. The Mover has moved his Resolution. There is now an amendment that the discussion be adjourned.

The HONOURABLE MR. V. G. KALE : Sir, so far as the proposal for adjourning the debate is concerned, personally I would have no objection to it. But I look at the proposal from the point of view that the Government have stated that they have not yet decided what they will do with regard to the recommendations of the Retrenchment Committee bearing upon the expenditure on the Stores Department. I thought that the expression of the opinion of this House might be of some use to the Government, so that they might know exactly what the country wants with reference to the development of the Stores Department. I do not think that the Government of India would be in any way embarrassed if the House came to a certain decision in the matter of this Resolution ; because the Resolution, after all, asks the Government of India to take certain steps at an early date for the gradual development of the Indian Stores Department, so that they are not being asked to do anything immediately. And even if they cannot undertake to do this next year, they might do so, say, in the year 1924-25. I do not see, therefore, any point in might do so, say, in the year 1924-25. I do not see, therefore, any point in the Government of India rejecting or opposing this Resolution or suggesting a postponement of the debate. I do not think that anything will be lost if we carry this motion to a certain decision. I do not believe that that will come in the way of the Government of India arriving at a decision on the question. I should therefore like the debate to proceed.

The HONOURABLE THE PRESIDENT : The only question before the House now is that the debate be adjourned. Honourable Members who have not spoken on that point may speak on that again.

The HONOURABLE SIR DINSHAW WACHA : Sir, I do not see any reason for adjourning the debate after what has fallen from the Honourable Mr. Kale. Mr. Kale's proposition is a very innocuous one which cannot interfere in any way with the action of Government. I consider it is very wrong on the part of Government officers always to say whenever they do not like a thing, "adjourn, adjourn".

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member) : Sir, with all deference to my venerable and respected friend Sir Dinshaw

[Dr. Mian Sir Muhammad Shafi.]

Wacha, it is I submit not right for him to say that whenever the Government want to avoid a decision on any question they come forward to ask for an adjournment. The ground upon which this request for adjournment is based, I submit, is perfectly reasonable. In so far as the opinions expressed by the Honourable Professor Kale in moving his Resolution are concerned, the Honourable Mr. Chadwick as well as the Honourable Mr. Chatterjee have already expressed the attitude of Government towards those opinions in language which I thought would have produced a certain measure of satisfaction in non-official circles. But, as has been pointed out, the Retrenchment Committee have made definite recommendations with regard to the expenditure in this Department and these recommendations are now under consideration. The Government of India have not yet arrived at a definite decision with regard to those recommendations. It is in these circumstances, and in these circumstances alone, that this request for adjournment is put forward from this side, not because the Government wish to avoid or wish to evade a satisfactory decision on the question involved. I submit that in those circumstances it was not right for my Honourable and venerable friend to make an unfounded charge against the Government of this character.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab : Muhammadan) : Sir, I stand to support the sentiments expressed by the Honourable Sir Muhammad Shafi and also by the Honourable Mr. Chadwick and I think that the adjournment of this debate may be sanctioned by this Council. Sir, although the Honourable Sir Dinshaw Wacha may have insisted on our continuing the debate, I think by insisting on the conclusion of this debate, we might be walking into a blind lane and might come back to the point we started from, and in those circumstances I think we might give the Government somewhat more time in order to frame their policy and consult the Secretary of State in this matter and then announce to the House what their final decision on this matter would be. Therefore, Sir, in those circumstances, I support the idea of adjournment.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I rise to support the Resolution. What I wish, Sir, is that while the Government of India is considering this question, the view of this House ought to be before them.

The HONOURABLE THE PRESIDENT : The Honourable Member has expressed that view before.

The HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Speaking to the amendment, Sir, I recall to my mind the advice that was given to me in the September Session of 1921 by my Honourable and revered friend Sir Dinshaw Wacha. Speaking on a Resolution of mine, addressing me, he said, 'rest, impatient spirit, rest'. Sir, the impatient spirit of 1921 has learnt to rest, but the very much patient spirit of 1921 has grown rather impatient.

The HONOURABLE SIR ZULFIQAR ALI KHAN : May I correct the Honourable Member? What Sir Dinshaw Wacha said was 'perturbed spirits'.

The HONOURABLE SAIYID RAZA ALI : I accept my Honourable friend's amendment with great pleasure.

The HONOURABLE THE PRESIDENT : I must draw the attention of the House to the fact that there ought not to be a long debate on a dilatory motion.

The HONOURABLE SAIYID RAZA ALI : That is not my idea. I think, Sir, for the reasons that have been assigned on behalf of the Government, it would be just in the fitness of things if we allow the discussion to be adjourned.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces : Nominated Non-Official) : Sir, I will just quote a Persian verse, that is that "Banazdike mun sulhe behtar ze jung" which means that 'In my opinion, peace is better than to fight'; so if we can make peace and adjourn this for the present, it would be much better.

The HONOURABLE THE PRESIDENT : The question is that the discussion of this Resolution be adjourned.

The motion was adopted.

RESOLUTION *RE* ELIGIBILITY OF POLITICAL PRISONERS FOR ELECTION TO LEGISLATURE.

The HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Sir, I move the following Resolution :

"This Council recommends to the Governor General in Council that the electoral rules should be modified in such a manner as to make a person convicted of a political offence involving a sentence of imprisonment for more than six months, eligible for election to any legislative body constituted under the Government of India Act, 1919."

Sir, under sections 64 and 129A of the Government of India Act, 1919, the Electoral Rules are made by the Governor General in Council with the sanction of the Secretary of State in Council and approved by both Houses of Parliament. Certain rules were made in the exercise of this power that disqualify certain persons for being elected as Members of the Indian Legislature or of the Provincial Councils. Sub-rule (2) of rule 6 of the Electoral Rules reads thus :

"A person against whom a conviction by a Criminal Court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence."

Sub-rule (3) of the same rule provides :

"If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months, such person shall not be eligible for election for five years from the date of such conviction."

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : 'From the date of the expiration of the sentence.'

The HONOURABLE SAIYID RAZA ALI : I hope those, Sir, who interrupt in order to correct me will take care to have a copy of the Rules in front of them.

The HONOURABLE SIR MANECKJI DADABHOY : I am speaking of the law.

The HONOURABLE SAIYID RAZA ALI: There is power given to the Governor General in Council, and in the case of a Provincial Council to the Governor in Council, to order the removal of certain disqualifications. Honourable Members will remember that the disqualifications were removed in 1920 in the case of those persons who had been convicted of various offences in connection with the trouble that followed the passing of the Rowlatt Bill. Unfortunately, however, Government's action was so belated that it deprived the action of all grace. Action to remove the disqualifications was not taken

The HONOURABLE THE PRESIDENT: What is the Honourable Member discussing, what has been done in the past, or what should be done in the future? I would suggest he should discuss what should be done in the future. His Resolution relates to the future.

The HONOURABLE SAIYID RAZA ALI: I just wanted to refer to the past to show that there is ample precedent for such action having been taken by Government in the past. Now, the important point is this, Sir, that if action in this direction is to be taken, that action should be taken as early as possible. As the saying goes, 'there is no use shutting the stable door after the horse is gone'. In the past, the Government's action was so belated that people could not take full advantage of that, and therefore it is high time, in view of the forthcoming elections, that the Government should give a careful consideration to the plea that is raised, in my conclusion, at an early date. What is going to be the attitude of the Government of India during the coming elections is a question to which great importance naturally is attached. With a view to ascertain that attitude, Sir, I gave notice of a Resolution in the beginning of January advocating the removal of the disqualifications mentioned in the Rules which I have already made reference to. In reply, Sir, I received a letter from the Secretary to the Legislative Department in these terms:—

"I am directed to inform you that His Excellency the Governor General has under Rule 22 (1) of the Indian Legislative Rules disallowed your Resolution relating to the removal of disqualifications imposed on certain persons convicted of political offences so that they may stand for election, on the ground that it is not primarily the concern of the Governor General in Council to recommend to the Governor General the use of his prerogative of pardon by which alone the disqualification under the electoral rules can be removed."

There was no other alternative then left to me, Sir, but to raise the question in the form of a Resolution that would not be open to technical objections and notice of the present Resolution was given by me immediately after that. Sir, the Resolution raises two main questions. One is the question of law and the other is, if I may term it so, the question of fact. The question of law arises because we find that in framing rules under the Government of India Act a very serious departure on questions of principle has been made from the rules that govern the elections to the House of Commons. I know, Sir, that it has almost become a fashion in certain quarters to say that it would be extremely improper to follow British practice slavishly. Now, Sir, I think a charge of this kind can hardly be brought in a case in which we have to inquire into the practice and the rules that govern elections to the Mother of Parliaments, I mean the British House of Commons. We should not, it is true, follow slavishly everything that pertains to England, but when conditions are such that we can follow English practice with considerable advantage, I think it would be the height of folly to shut our

eyes to that practice. I, Sir, certainly have no prejudice against borrowing all that is best in England; her literature, her science, her Art, her ennobling conceptions of political liberty, all these things are sources of the greatest inspiration to us, Indians. As a well-known writer has said, 'Light no more comes from the East'. Shall we, Sir, deny to ourselves such light as peeps through to this country from far off England? The law we find governing such questions in the House of Commons is:

"Conviction for felony is a disqualification until the sentence has been served or free pardon under the Great Seal has been granted."

Our rules have departed from the salutary principle that obtains in England in that they insist that even after the expiration of the sentence of imprisonment, it shall not be open to a person to seek candidature if he has been sentenced to imprisonment exceeding six months till five years have rolled by or a pardon has been granted. Sir, it is of no use discussing the question of pardon which is the prerogative of His Excellency the Viceroy as the representative of His Majesty the King Emperor. We must, therefore, confine ourselves to the effect of the imprisonment as taken from the date of the expiration. I ask, Sir, is there any reason why the law governing our elections should be so vastly different from what it is in England? In England if a man has undergone a sentence of imprisonment, he is at once eligible to Membership of the House of Commons. We find here he must wait for 5 years. I ask, is there any reason that can be adduced in support of the Indian rules? Then, again, Sir, it should not be forgotten that the English rule confines itself to felonies which correspond to serious offences in India, whereas in India no distinction is made between major and minor, serious and ordinary, offences. Here taking the word of the law as it is, Sir, even if a man is sentenced to fine and in default of payment of such fine he is sentenced, we will say, to 7 months' simple imprisonment and he chooses not to pay the fine but to undergo the sentence of imprisonment, he is debarred from seeking election. That I submit, Sir, is a state of law which cannot be supported by any convincing or strong argument. So, on the question of law, Sir I hope I have made it clear to Honourable Members that our rules are very unsatisfactory. I believe it was impliedly conceded during Monday's debate in this House that at times our Indian rules do not seem to have been made quite consistently with the law as it is or, I should say, as it ought to be. I hope it will be conceded so far as legal considerations are concerned that everything strongly suggests that our rules be amended and brought in conformity with the English law.

Now, Sir, coming to the question of fact, let us see what the situation is to-day as compared with the situation as it existed last year.

Sir, I should not be surprised if Government make a reference to the political creed of the non-co operators, who are, after all, the people who will be mainly affected by the acceptance or the non-acceptance of this Resolution. I should also mention that there are other people who will also benefit if this Resolution is accepted—I mean the Akalis and certain Khilafat workers. Sir, last year recruits were being raised from end to end of the country with the declared object of embarking on a campaign of intensive and aggressive passive resistance. Huge sums of money were being collected with a view to supporting the families of those who in the course of the trouble were sent to jail. Mass meetings were held in almost every place and wild talk was

[Saiyid Raza Ali.]

indulged in. The atmosphere, one might say, was altogether full of excitement. What is the situation to-day, Sir, as compared with the situation 12 months back? We find fortunately things have been restored to normal conditions. No excitement is going on and in fact we find that better counsels have, after all, prevailed in a large section of the non-co-operation camp. (*An Honourable Member*: "Question.") If my learned friend the Honourable questioner had followed even the proceedings of the last National Congress as they came out from day to day in the press, I am sure he would have spared himself the trouble of putting this question. Again, Sir, the Indian National Congress is not the only body that tried to pass Resolutions in favour of Council entry. We find that the campaign has been taken up by a large number of zealous and sincere workers. They have been going round the country and explaining to their followers and the masses, that after all the best thing would be to exercise their influence inside instead of outside the Councils. I should not forget that they also say that they want to enter these Councils in order to wreck them; but that, Sir, is a statement the proper value of which Honourable Members can assess for themselves. I have always taken the view, and I do take the view that the best thing would be for our friends to come over here and try to wreck the Councils. After a month's experience, I have too much faith in the honesty of purpose of Government and the sincerity of my own countrymen to doubt that they will be very much changed men, if they are not already so. Sir, a very large section of the people having declared it as their policy to enter these Council Chambers, I say, is it not for Government now to make a response? Sir, it is open to Government to say that these men only last year, or say 18 months back, declared that they were the enemies of Government. I would point out at once that nobody would be able to find out anything uttered by any non-co-operation leader which savoured of treason to the King, to the Sovereign. What they urged was a change in the system of Government, and they have consistently adhered to that. You will not be able to find in the utterances of any responsible non-co-operation leader anything that goes against His Majesty the King or against India's connection with England. As a matter of fact, it will be within the memory of Honourable Members that the first man who opposed the so-called independence Resolution at the Ahmedabad Congress was no less a man than Mr. Gandhi himself. But, Sir, even assuming that they were enemies, or that they claimed to be enemies, is it not a fact that the enemies of to-day are often the friends of to-morrow? There have been many cases, Sir, in which people who were not on the best of terms with Government have after all been converted into friends and entered the charming circle. We know that the leader of the anti-partition agitation in Bengal, who was even reported to have been crowned in Calcutta, has fortunately been spared to us to hold the portfolio of one of the Ministers in the Bengal Government. Need I refer to that Punjab rebel who was sentenced to transportation for life with confiscation of property, I mean Lala Harkishan Lal, who to-day holds the responsible post of His Excellency the Governor's Minister in the Punjab. It will not be out of place to refer to the cases—they are long time were engaged in carrying on actual warfare with England and her friends. Sir, according to my reading, the non-co-operation party in India closely corresponds to the Labour Party in England. We were reading only

the other day that at the Countess Astor's place His Majesty the King-Emperor of India dined with the leaders of the Labour Party. We further hear that His Majesty

The HONOURABLE THE PRESIDENT: Order, order; the Honourable Member must refrain from referring to His Majesty's conduct for the purpose of influencing the Council on any occasion whatsoever.

The HONOURABLE SAIYID RAZA ALI: I was referring, Sir, to the growing cordiality between the Government

The HONOURABLE THE PRESIDENT: My ruling is quite distinct. The Honourable Member must refrain from referring to His Majesty the King's conduct in this Chamber.

The HONOURABLE SAIYID RAZA ALI: Since you have given your ruling, I will not refer to the conduct of His Majesty. My submission is this, that the relations between the governing classes in England and the Labour Party have been growing more and more cordial. We must also hope that the party here which corresponds to Labour, I mean the non-co-operators, should also be welcomed by the Government if they have decided to work with Government.

Sir, I must acknowledge that one of the difficulties, if my Resolution is accepted, would be as to what class of persons can be placed in the category of political prisoners. There will be some no doubt who may claim to be political prisoners but who upon inquiry will be found to have been sentenced to imprisonment for committing some offence involving violence or some offence against property. For myself, I would leave the determination of that question to the Local Governments and I would give the power to those Governments to select the persons who, having regard to the circumstances in which they were sent to prison, can safely be considered as purely political prisoners, I mean, the unadulterated article.

Sir, I have said almost all that I wanted to say. The only plea that I would urge before this House is, could any Legislative Assembly claim to be the representative of India from which men like Lala Lajpat Rai, Dr. Jotendra Nath Banerji, Mr. Rajagopalachariar were to be excluded, to mention only a few names out of many that would readily suggest themselves to Honourable Members. Sir, I am convinced that there is ample scope for India to work out her destiny in partnership with England on terms of absolute equality. Such partnership, Sir, would redound to the glory of England; it would redound to the glory of India; what is more, Sir, such partnership would redound to the greater glory of what I might call the Indo-British Commonwealth. Sir, it is after all a friend and not a foe that is giving a gentle knock at the door of the Government of India through this House. We shall all eagerly await the response.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I propose to speak on this Resolution with a certain amount of restraint, particularly as I do not desire that the position of Government should be embarrassed in any way or that the position of many of the candidates who are going to stand for election should in any way be prejudiced. I have heard the speech of the Honourable Mover of this Resolution and I must unhesitatingly say that I am as unconvinced as regards the desirability of this Resolution now as I was

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before coming to this Council. I feel that it is not possible for any Member of this Council if he carefully and without prejudice considers this question to give his support to the Resolution. My Honourable friend has justified his Resolution from two points of view. The first is a point of law as he has termed it. He has stated that the law in England is that a man who has undergone the sentence and has thus purged his offence can stand for election, and he has asked why an Indian should be debarred from enjoying the same privilege under the Indian electoral rules. In other words, the essence of his argument is that the law both in India and in England should be of a uniform character. Now, I do not understand this part of his argument, and I say that with great respect to him. My Honourable friend knows, as a lawyer, that this is not the only matter in which the law in England is divergent from the law in India. Our criminal law in many respects differs from the English criminal law; the penal code in many respects differs from the English code, which makes very fine distinctions between offences called felonies and offences known as misdemeanours. Our civil law too is also widely different in many respects from the English civil law. In India, for instance, adultery is a criminal offence; in England it is only a civil offence for which damages may be awarded. Similarly, with regard to the law relating to seduction. So, I say we cannot attain a uniformity between England and India in all matters, both civil and criminal. So this argument of uniformity does not help us much and can be dispensed with. Each country, as my Honourable friend knows, makes its laws to suit its particular requirements and the laws and rules made in one country may be wholly unsuitable in another.

As regards the merits of the case, I am afraid my Honourable friend, though he attempted it very hard, has hardly made out a case. He himself has acknowledged the great difficulty that confronts us in the matter, and as a lawyer he also knows the great difficulty of drawing a line of demarcation as to what exactly are political offences. My Honourable friend has said that the matter may be left to the determination and decision of the Local Government, but the Government would be placed in a very invidious position in determining what particular class of offences come within a particular category and what fall in a different category. However, assuming that any such power of determination was left to Local Governments, I cannot understand how the decision of the Local Government would be unquestioned in a civil court, unless there were some rule or law framed debarring a reference to a civil court. This is a very grave difficulty. I quite sympathise with many things which my Honourable friend has said, but at the same time I do not consider, and I honestly do not consider, that any serious hardship is involved by the retention of the present rule. It is true that the law makes it clear that a person awarded a certain sentence is ineligible to stand, but the law does not debar permanently a man who has been imprisoned for more than six months provided he asks for a pardon; if the pardon is granted, and it would be granted in nine cases out of ten, he can stand for election. If a man is seriously disposed to enter a Provincial Council and help in the administration of the country, he must certainly go there with a clean record. He cannot keep up an attitude of hostility and opposition to all Government measures and at the same time try to seek his entrance into the Legislature. He must show that there has been some repentance, some action on his part

showing a sort of penitence over the matter which will entitle him to readmission. After all, if the man is really and seriously inclined to obtain a seat in the Council, there is nothing to prevent him from doing so by applying for a pardon. That is one aspect of the case. Then pray tell me for what classes of people is the Honourable Member fighting? I have never seen in any newspapers or even at public meetings heard it said that there is any insistent demand of this nature. On the whole, from what I have seen in newspapers, I find that there is an absolute abhorrence of the Councils. These people have been arraigned for various offences; what action have they taken when they were taken to the Courts of law? They have refused to undergo trial, they have shown their contempt for Courts of Justice, they have stood silent, they have non-co-operated with the Courts, they have refused to lead the evidence and enter on their defence, and they have refused all professional aid and co-operation. This class of people do not want to join Councils. If this concession is not demanded by these very people, why is it necessary for my Honourable friend to plead their cause? Why is it necessary that this Council should go out of its way and stretch out its arms to these people and say, 'well, despite these convictions against you, we are going to make it easy for you to come into the Council'? These people do not want to come into the Councils, as I understand; and the few people who are inclined to enter the Councils have definitely stated that, if they do at all enter there they will be there with the avowed object of wrecking the Councils. Is this the class of people to whom I say this Council should extend its sympathy and support, and alter rules making their elections permissible? I say we are the Upper House, we are called the Council of State, we constitute, as it is, a Council of elder and level headed statesmen in the country. Should we be so foolish as to entertain such a proposition? Are we going to be so blind to the public interests, are we going to be oblivious of the past and pass and support a Resolution of this character, which I say will not reflect any credit on this Council? My Honourable friend has not appreciated a particular difficulty in the matter. I will just cite a single illustration. Rules were framed and notifications issued, about two years ago under a particular Act and unlawful associations of volunteers were prohibited. In spite of that, there were found large numbers of people who defied the rules and deliberately acted as volunteers and impressed upon the public the advisability of breaking the rules and holding public meetings against the rules. These very people were arraigned and convicted and some of them received more than six months' imprisonment. There was another class of people who, when *hartals* were proclaimed in the country, went about and compelled, forced, and threatened innocent shopkeepers against their wish to close their shops. These people were put on their trial and convicted and some of them got more than six months' imprisonment. Can you really with any show of justice with any show of reason, with any show of reasonable clemency, extend your generosity to this class of people and say, "we will welcome you to this Council, though you will not express your regret for your offence"? I know many of these people got unfortunately involved in these events, many of them were respectable citizens; I quite admit that many of them went there with good motives and subsequently got dragged in in the heat of the moment, and thus unwittingly exceeded the standard of moderation in many ways. I am in full sympathy with them, but I say, let there be some change in their mental attitude, let there be some expression of regret before we say, "come and sit with us and help us in framing rules and regulations for the administration of the

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country". And just reflect on the position you are about to create: you are asking them to come and assist us in the maintenance of peace and order in the country.—the very men who violated and defied laws and broke peace and caused breaches of the peace and who are not prepared to express the smallest repentance. Is it right for us to accept this Resolution? I say, whatever may be the motives that may have induced my Honourable friend to bring forward the Resolution before this House, it will not reflect any credit on the Council of State to give support to a Resolution of this nature.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, in spite of the persuasive and conciliatory eloquence of my Honourable friend the Mover, I also must oppose the Resolution. In doing so I wish to make one preliminary observation. There is, I believe, a doctrine known to Scots law, the doctrine of "vicious intromission": and that doctrine prescribes that if any person, without the authority of the parties principally concerned, intervenes in a cause of action, he thereby incurs certain liabilities. I would point out that to the transaction which the Honourable Member proposes to invite the House there are several parties. There is the Honourable Member himself, there is this House, there is the Government of India, and there is His Majesty's High Court of Parliament; and there are also the convicted persons to whom my Honourable friend refers. Now, Sir, I do not invoke that doctrine of Scots law in order to deter my Honourable friend in any way from moving any constitutional issue which is within the lawful cognizance of this House, but I am seriously concerned about my Honourable friend's position. It would distress me extremely that he should put himself in the invidious position of the patron who embarrasses his beneficiaries with uninvited and unwelcome assistance.

Now, on the questions of general policy which have been dealt with by the Honourable Mover, a great deal of the answer which I propose to give has been given by the Honourable Member who preceded me, and it is my purpose to deal not so much with general questions as with the prosaic but by no means easy question of the practical application of what my Honourable friend proposes. When you propose to frame statutory rules, it is above all things necessary not only to have a clear apprehension of your policy but also a very precise specification of your facts and of the manner in which you propose to apply them. My Honourable and learned friend has, perhaps wisely, not attempted to offer any solution whatsoever of the practical problem. He has paid the Local Governments the very high compliment of transferring to them the onus of solving this exceedingly difficult problem, and in doing so he pays a compliment to their acumen, to their wisdom and to their legal subtlety, the highest, I think, I have ever heard. But after all, the rules contemplated by my Honourable friend would have to be interpreted and applied by some body, by the Returning Officer, by the Commissioners, or by some other authority, and how would they proceed to do it? What is a 'political offence'? Now I can conceive of questions of this kind coming before an electoral Court, and of their having to search the Statutes to find out whether such an expression as 'political offence' or 'political offender' or 'offence of a political nature' has been used. They would find them only in one series of enactments—the enactments relating to the law of Extradition. Now, Sir, I think it will be interesting to the House to gain some idea as to what the results of an appeal to the law of Extradition

might be. I will quote a few words from an eminent authority on the subject. This is the interpretation placed by the English Courts on the phrase "offence of a political character" so far as the law of Extradition is concerned:

"An offence is of a political character if it is one which is incidental to, or forms part of, political disturbances. [In *re Castioni* (1891) 1 Q.B., 149.]"

"In this case there was a general rising against the authorities of the Canton of Ticino and in the course of the disturbances Castioni who had taken a prominent part in organizing them shot one Reni, a Member of the State Council. It was held that the offence was of a political character."

It might also interest the House to know that from the point of view of Extradition law, anarchists are not political offenders.

"Anarchists, however, are not political offenders, for to constitute an offence of a political character, there must be two parties in the State, each seeking to impose the Government of their own choice on the other, whereas anarchists are the enemies of all Governments."

Now, Sir, what would be the application to our present purposes of that law? Let us take only one instance. The principal offenders in the Mopla rebellion, men guilty of murder, arson and the most atrocious crimes, would probably, for the purposes of Extradition Law, be held, to have committed offences of a political character. Is that the kind of offence which my Honourable friend proposes to include in his category of political offences? I leave it to him to answer that. As a matter of fact it must be obvious to the House that the law of Extradition could not possibly be a sound basis for regulating the internal criminal jurisprudence of India or any State. It is substantially a matter of international law, and as a matter of fact it is observed by the authority which I have just quoted that "most continental nations regard the fugitive offender as a purely political matter in which the Courts have no concern". We shall, therefore, have no assistance from the law of Extradition with regard to the interpretation of the phrase 'political offences' of 'political offender' for the purpose we have now in contemplation. Other attempts have been made to solve this question in another way. It has been suggested that offences which do not involve moral turpitude should be excluded. But from the point of view of the practical lawyer that phrase presents difficulties almost equally insurmountable. I shall merely quote from the remarks of a very learned jurist, Sir Erle Richards. In another connection but dealing with the same question of principle he observes:

"Is there any precedent for the phrase moral turpitude? I know of none."

Then after reciting some instances he adds:

"Do these involve moral turpitude? They may afford interesting problems for divines but, as a mere lawyer, I give them up though they would provide employment to the honourable and meritorious profession to which I belong." (*That point of view might perhaps commend itself to my Honourable and learned friend.*) "Any other point of view seems to me difficult to defend."

As a matter of fact, Sir, we shall find that ultimately we come to a consideration of what is really a fundamental principle of criminal jurisprudence, and that is the distinction between motive and intention. I will illustrate my point by a concrete instance. A man who has a starving family may steal a loaf. Well, what is uppermost in his mind is not to cause wrongful loss to the baker but he undoubtedly intends to steal. His motive is to relieve the

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sufferings of his family. The law deals with it in a reasonable and just manner. It enjoins upon the Magistrate, if evidence of the offence of theft is made out, that the accused shall be convicted of the offence of theft. But it leaves to the Magistrate a certain discretion as to the penalties he shall inflict, and in the exercise of that discretion the Magistrate would no doubt take the motive of the offender into consideration. But, Sir, what I particularly want to emphasise is this, that the law does not take into consideration motive as distinct intention as an ingredient in the strict definition of the offence which is necessary for the due processes of law. My Honourable friend has adverted to the English law on the subject and stated that there ought to be complete uniformity in our electoral law to the electoral law of England. That question has to a large extent been answered by the Honourable gentleman who preceded me. There are very important distinctions between the conditions in which the English electoral law operates and the conditions in which the Indian electoral law operates. In England there is a very old and stable Parliamentary tradition. In India there is yet not an ancient and stable tradition. There is another important distinction. There is no political party in England whose avowed policy is the destruction or the extirpation of the constitution. There is another important distinction. Even if the English precedent were adopted and acted upon, I venture to point out that the English law gives no precedent whatsoever for a distinction drawn in favour of political offences, however they may be defined; and yet that is the radical, indeed the fundamental, feature of the Honourable Mover's proposition. I do not think he is well advised in invoking the English precedent in his case. Is there anything really unjust or inequitable in the present provision of the electoral rules? I must frankly say, Sir, to my mind there is nothing really unjust or inequitable. It appears to me that franchise disqualification is a reasonable and proper penalty to attach to offences which are imagined and committed against the State and the Constitution. I do not think it unreasonable that any person, who has been found guilty of such offences by the formal process of a judicial tribunal, for some period at least should be left to reflect upon his political views before he is again admitted to constitutional political life. My Honourable friend did not deal with that matter at length. I am not surprised at it, because my Honourable and learned friend is a lawyer and he has that subtle consciousness of the lawyer when he is coming to the weakest part of his case. But we cannot get over the obvious fact that among the gentlemen of whom the Honourable Mover spoke there are two distinct schools. One of these schools treats with the utmost contempt all forms of the legislature as at present constituted. They are not merely against the 'bureaucracy,' whatever that may be, but they are against the whole constitution and in particular the Legislative bodies. The second party would, I understand, be willing to enter the Legislatures, but for one sole purpose, to paralyse them, to render them impotent. Sir, would it be really rational, politic and sensible if we deliberately advised the Government of India to take steps to introduce gentlemen into the Legislature whose declared purposes are now of that nature? I think it would be advisable that some interval should interpose itself between expressions of that nature and the admission of those gentlemen to the Legislatures. I do not deny and I sympathise very deeply with much that was said by my Honourable friend on that point. He regretted the loss to the constitutional life and the political progress of India of very great

talents. I deplore that no less than my Honourable friend the Mover, but I do not think he has taken the wisest course to deal with that deplorable circumstance. I do not intend to detain the House any longer because my main purpose has been to point out the very serious practical difficulties which are attendant upon my Honourable friend's proposal. The Government of India have, I think, given every proof of their desire to encourage all reasonable means of reconciliation and appeasement, to take every possible step for the amelioration of the unhappy political developments that have taken place in recent years in India. I think that state of affairs has to a great extent been ameliorated and we may look forward to very great improvement in that direction in the future. But I do not think that we shall be doing a wise and sensible or politic thing if we endeavour to stimulate a movement, which, I think, rapidly gaining momentum by a measure which has very little prospect of success and does not proceed on a sound practical basis.

The HONOURABLE LIUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I welcome the desire that is contained in the Resolution. I would request every Non-Official Member of this House to work for the creation of that healthy atmosphere when these hopes may be realised, but my idea is that the Resolution is a little too premature. Some of the responsible leaders have expressed their desire to come to the Councils, but for what purpose? To make them a success or to make the Reforms a success? No, to wreck these Councils and to make the Reforms a failure. I think, under the circumstances, it is hardly advisable for us to approach Government or to bring pressure to bear upon Government to forget the past. Let the other party at least give an undertaking that they are realising their mistakes, that they are repenting and that they are prepared to co-operate with the Government to bring about a very healthy atmosphere for the general progress of the country. Unless that is done, my sincere view is that such Resolutions are premature. They will neither be welcomed by Government, nor are they likely to be welcomed by the other party, and I request the Honourable Mover to withdraw his Resolution.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): The Resolution under discussion now has far-reaching effects. One has to look at it from different points of view, from the point of view of political expediency and also from the point of view of the constitution. The constitution, Sir, is clear enough and it is easy to prevent these people from coming to the Councils. But the consideration of political expediency is another point of view which this Council might consider. These people who have expressed any desire to come to the Council with the sole purpose of wrecking these Councils, or paralysing the action of Government, are certainly there, and it is problematical whether, when they actually come to this Chamber, they will be able to paralyse the Council or the Government. One of the ex-Members of His Excellency the Viceroy's Council, I mean Sir Tej Bahadur Sapru, immediately after his retirement from his sphere of action in the Government, pronounced a weighty opinion. He challenged these non-co-operators to come to the Councils and try to wreck them. Well, if an authority of the calibre of Dr. Tej Bahadur Sapru is able to pronounce the impotence of these people to wreck the Councils, then I think every one of us here present would endorse his view. I am not in the inner counsels of the

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Government, but there is one who has just pronounced his opinion. Then, Sir, with regard to the political expediency of the step, I being an Oriental and guided by the traditions of historical importance, have studied Indian history very carefully, and I think there are numerous instances in the past where people have tried to revolt against authority and rebelled against it. Well, some of the past Emperors and Kings have earned an imperishable reputation and have lived in history by not only condoning the acts of hostility of these people, but by embracing them and winning them over as friends to the Government, and in many instances we have seen that these very people were the staunchest supporters of those rulers. I do not know whether human nature has become more perverse now than it was then. But I think if Government shows a generous attitude on their part there is a great probability that these people may be won over to the cause of Government. Sir, these people are, some of them, the most intellectual assets of this country. They have great respect and popularity with the masses and any generosity or leniency shown to them will be appreciated by the masses. If they are won over to the side of Government I think they will provide an atmosphere of friendliness and co-operation with Government. We have seen, Sir, in these last few years that even the most blatant nationalist when he enters a Council has a spell cast on him; he is at once converted to the side of Government. My friend the Honourable Mover has mentioned certain instances and I may mention a few more. Sir Surendra Nath Banerjee who was supposed to be a very dangerous nationalist..... (A Voice: "He has been mentioned already.") He is one of those instances in which Government have won a loyal friend. Well, Sir, if such an atmosphere exists in the Councils as to make friends of foes, then I ask Honourable Members why they should vote against the entry of these people into the Councils? With these few remarks, Sir, I support the motion put before this House.

The HONOURABLE RAJA PRAMADA NATH RAY OF DIGHAPATIA (East Bengal: Non-Muhammadan): Sir, I do not quite understand why any distinction is made between political offences involving a sentence of six months' imprisonment and those which involve a sentence of even one more day's imprisonment. This sort of time limit does not necessarily mean always that in one case the offence is any the less or any the more serious than in the other, especially when Judges and Magistrates in many cases have the power to exercise discretion regarding the period of imprisonment for the same kind of offence. Besides, a political offence as a rule does not involve any moral turpitude. It is possible to find instance even in this country, as the Honourable Mover has just mentioned, where political prisoners of yesterday have been raised to the dignity of Ministers to-day. And as time goes on such instances would, I dare say, go on multiplying. The present constitution of Ireland will, I believe, supply many such instances as have been quoted by the Honourable Mover. If the Government had debarred all persons convicted of political offences from seeking election, it would have been quite another matter. But that not being so, I fail entirely to see the policy underlying this time limit of six months and would, therefore, advocate its removal. I have, however, no intention of saying anything here either in favour or against the policy of the Government with regard to the rights and privileges of ex-political prisoners in general so far as their eligibility to stand

for election is concerned. But I do, Sir, say that this distinction is invidious and as such should be removed. If I may venture to say so, Sir, I think it would have been a sounder policy to do away with all such restrictions in the matter of election, so that men of all shades of opinion might have been able to come into the Councils, and who knows that by doing so the Government would not convert a non-co-operator of to-day into a staunch co-operator to-morrow! I have every reason to believe that when they do come into the Councils they will sing a very different song to that which they are singing now.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to oppose the Resolution. The distinguished non-co-operators and others who want to co-operate with Government by entering the Councils can be pardoned by the Government in case they prove their change in policy. If their entrance to the Councils is unconditional as the Honourable Mover advocates, I think an element will come into the Councils which will make the working of the Councils difficult and perhaps may tend to wreck their work. Under these circumstances it will be unwise to take such a risky and rash step.

The HONOURABLE KHAN BAHADUR NAWAB MUHAMMAD MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, there is only one thing which I wish to point out. My Honourable friend Nawab Sir Zulfiqar Ali Khan has just quoted the authority of one of our retired Ministers who is preaching to the non-co-operators to come to the Councils. But I fail to see in that quotation a single mention of the people who are convicted. To deal with the non-co-operators is one thing, and to deal with the convicts is another thing. As has been said in many speeches about these non-co-operators, there is no question of non-co-operators in this Resolution. The question relates only to whether political offenders will be allowed to enter. So I enlist myself on the side of those who oppose this Resolution.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I should have liked this Resolution to have been made more comprehensive than it is, and at one time I contemplated giving notice of an amendment to that effect. But unfortunately I could not do so. What I wished to bring out was that the law in India so far as qualifications of candidates who want to contest seats in the Legislative Councils are concerned, should be placed upon the same footing as the corresponding law in England. So much has been said to-day regarding the distinction that exists between the English and the Indian law, but I desire to point out that now that India is progressing along constitutional lines, we in this country should try to follow the lead, particularly, of a country like England, and I would like to remove all disqualifications which have been imposed in this country which do not exist in England. But my difficulty with reference to this Resolution is that, as was pointed out by the Honourable Mr. Cramer, it will not be easy to make a distinction between political offences and other offences.

I am not myself afraid of any non-co-operators coming into the Councils at all. A plea was put forward in favour of those non-co-operators who are anxious to come into the Councils. I do not think that any large number of those who have been convicted by Indian Courts are likely to stand as candidates. I do not myself believe that any large number of non-co-operators are likely to come into the Councils at all. While so many have been

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convicted, only a very few from among them may stand as candidates, so that I do not see any point in removing the disqualification from political offenders as such as a whole, unless we try to amend our electoral law so as to bring it into line with the English law. A great deal has been said in this connection about the non-co-operators being made co-operators. I know that the logic of facts itself has already brought about that transformation in some cases, and that those who, for example, opposed us while we were last contesting seats in the Legislature, are themselves coming forward now as candidates for the next elections. However, I do not see that the political atmosphere is yet clear in India. There is at present a truce of two months between two sections of non-co-operators. Nobody knows whether civil disobedience will be set on foot after the expiry of the truce. I do not want, therefore, to lay any stress upon the political situation in this connection; I do not want that we should emphasise in any way the entry into the Councils of this party or that party, of this section or that section of non-co-operators. If the Council wants to do anything by way of constitutional reform, the only thing to my mind which will be reasonable and justifiable will be that the whole law should be reformed, so that it might be brought into line with the English law. But I do not find that this object is likely to be gained by this kind of Resolution and I would have liked that the Resolution should have been of a more comprehensive character which would have met with the approval of all reasonable people.

(The Honourable Saiyid Raza Ali rose.)

The HONOURABLE THE PRESIDENT: Is the Honourable Member likely to be long?

The HONOURABLE SAIYID RAZA ALI: I will take some time, at least.

The HONOURABLE THE PRESIDENT: The Council will now adjourn.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock. The Honourable the President was in the Chair.

The HONOURABLE SAIYID RAZA ALI: Sir, I think it was the late Mr. Gokhale who pointed out that greatly gifted though the English race was and had special aptitude for the art of administration, it was lacking in the gift of what is known as the power of imagination. I find, Sir, this morning not only has there been a display of want of that spirit from Government Benches, but some of my own countrymen have joined to aggravate the position and to justify the remark that at times not only Englishmen, but Indians also are sadly lacking in that gift. Sir, the position ought not to have offered any very great difficulty to Government and I had no doubt that Government might not be in a position to make a clear and definite pronouncement on this subject to-day, but I thought they would express their willingness to consider the whole question carefully in the light of events that may happen hereafter. I am sorry, Sir, that I fail to discover any signs of this sympathetic attitude in the speech of my Honourable friend the Home Secretary. With his usual skill and ability he raised a number of questions which unfortunately have a tendency to cloud the issue but which are not calculated to strengthen the hands of Government. My Honourable friend

charged me with meddling with a cause of action with which I was not concerned. Sir, my Honourable friend is greatly mistaken if he takes that view. From time to time we find that in the beginning of the new year a letter appears in the daily newspapers headed "missing heirs". Sir, so far as political issues are concerned, I can say that I, no less than any other Member of this Council, am a residuary legatee, with this difference that the residuary legatee comes into the legacy after the death of the testator, whereas we get the legacy, say the gift, in the life time of such testator. Sir, my point of view is vastly different from that of my Honourable friend. I say that every public issue which is of importance either to the people of this great Continent or to the Government is an issue which gives me no less than to any other public-man a direct cause of action. My interest in that cause of action is supreme, and it is in no way less important than the interest of the man who is personally concerned with a question.

Sir, I took pains to point out that it is not in any spirit of hostility or antagonism that I brought forward this motion. I was in fact trying to help the Government in laying down a sound policy on a question which has been exciting very considerable attention. Sir, the position is by no means an obscure one. The present position is that Government have got one party on their side and can claim and rely on the support of that party. I do not propose to go into the numerical strength of that party, but surely, Sir, there is a party much more influential, much larger in numbers between whom and the Government unfortunately to-day there is a gulf. I was trying to bridge that vast gulf if possible. Government have got their friends no doubt, but I want the number of the Government's friends to be much larger than it is to-day. It was, Sir, in this spirit that I brought this motion to-day. It is open to Government to so conduct their policy and to so change the rules as to rally on their side a party which, I believe I am justified in saying, is in the majority in this country, a party which can count among its numbers some of the most respected and influential leaders of Indian thought. Is there any reason why earnest and serious efforts should not be made to compose the present differences between Government and that party? My Honourable friend the Home Secretary asked what would be the definition of a political prisoner according to me. Now the House will remember that that is a question to which I addressed myself in my opening speech, and I confess that there are certain difficulties in classifying prisoners and picking out from among them what are generally known as political prisoners. But, Sir, the difficulty is by no means an insurmountable one. On the whole we have a general idea as to what is meant by a political prisoner. It is a very difficult task to define as to what a political prisoner is

The HONOURABLE MR. J. CRERAR (Home Secretary): Hear, hear!

The HONOURABLE SAIYID RAZA ALI: I hope I will hear that "hear, hear" again later on. Here is an authority that has defined what a political prisoner is. In a case reported in Queen's Bench, page 415, in 1894, it was said:

"Anarchists are not political offenders, for to constitute an offence of a political character there must be two parties in the State, each seeking to impose the Government of their own choice on the other, whereas anarchists are the enemies of all Government."

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General): That is what the Home Secretary quoted.

The HONOURABLE SAIYID RAZA ALI: I am told that this is what the Home Secretary quoted. That is not my recollection. The Home Secretary quoted to the best of my recollection another passage and not this. The case quoted by the Home Secretary is reported in 1 Q. B. 149. Now, Sir, I hope in my humble way to lay down the definition of a political prisoner. Sir, according to me a political prisoner is a man who courts going to jail in order to accomplish his object on a political issue between him and the State, provided such offence stops short of being an offence against person or property. This is, Sir, my definition of a political prisoner. If a man breaks the law, knowing he is going to jail and is prepared to suffer the consequences, he can be called a political prisoner, provided that in doing so, he does not commit a theft, he does not commit a robbery, he does not break another's head. If this definition is acceptable to Government, let them have it and let them take away the ban from this class of prisoners. But, Sir, it is unnecessary for me to formulate any definition at all. Fortunately for us there is a Provincial Government which I think has been able to lay down the definition of a political prisoner. It was only the other day, Sir, that, to the great relief and joy of the people of the United Provinces, a large number of political prisoners was released by the Government of the United Provinces. Let me say, Sir, that the people of that Province stand to a man behind the Government of that Province. Let it be remembered that the people here released were political prisoners. If my Honourable friend will put himself in communication with the United Provinces Government, he will find, I am sure, what was the definition that commended itself to that Government. Sir, where there is a will, there is a way, and I am sure that if the Government are serious in this matter and want really to come to a solution, there is not the slightest doubt that they will be able to do so. Whereas if the will is wanting, all sorts of arguments can be adduced, and I can be taken to task for not having attempted this or that. Sir, it was pointed out by my Honourable friend Mr. Kale, and reference was made to the subject by the Honourable Mr. Crerar also, that it would be extremely difficult to introduce the distinction between political and non-political prisoners. Sir, I limited my Resolution to its present terms because I was under the impression that if I made any attempt to bring our law into conformity with the law as it exists in England, I would be charged with entertaining revolutionary views; but nobody would be more happy than I if Government would be prepared to accept the English electoral law. Let the Government accept that law for all classes of prisoners, namely

The HONOURABLE THE PRESIDENT: I must remind the Honourable Member that the time for reply is limited to 15 minutes and he has already exceeded that time.

The HONOURABLE SAIYID RAZA ALI: I am sorry, Sir, for having exceeded the time limit. I say, Sir, let the Government make that law applicable; and if that is the attitude of Government I am prepared to withdraw my Resolution.

Sir, the last thing that I would say is that I am not pleading for leniency or generosity towards these unfortunate men who have served out long sentences of imprisonment, as was pleaded by my Honourable friend Sir Zulfiqar Ali Khan. My plea is for justice; let Government be just to co-operators; but let Government be no less just to non-co-operators. The

India of the future will be the India not only of co-operators, but also of non-co-operators, of Englishmen and Hindus, of Muhammadans and Sikhs and of every man who has made his home in this country.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I regret that my Honourable and learned friend should have supposed that I did not give him sufficient credit for his good intentions in moving this Resolution. I thought I had done so, but if I was in any respect deficient in that regard, I should now desire to give him the amplest acknowledgment of his good intentions. But I supposed, Sir, that an Honourable and learned gentleman moving a Resolution of this nature would hardly be content that credit should be done to his good intentions, without regard to the practical implication of the policy he advocated. It is to that, that I took particular exception. My Honourable and learned friend accused me of want of imagination. I think, Sir, that that is a charge which is most frequently employed by the advocate of a measure who feels very serious hesitation as to the practical validity of his own case, and that appears to be my Honourable friend's position. He did admit that the question of the definition of a political offence presented practical difficulties. I think it would have been more convenient to the House—it would certainly have been much more convenient to me—if he had propounded his definition of a political offence at an earlier stage in the debate: at a stage when we could have examined it at our leisure and seen whether it had any real practical bearing upon his proposition. However, late as it is and brief as is the time at my disposal, I shall endeavour in one or two words to deal with the equally few words which my Honourable friend devoted to that exceedingly important aspect of the question. He quoted, Sir, as an illustration of the manner in which a political offence might be defined a leading case in Extradition Law, *In Re Meunier*, which I had already alluded to. I thought I had made it fairly clear to the House that that case was a case arising out of the law of extradition. I thought I further made it clear to the House that the law of extradition is a law which cannot really be compared to the municipal law, the internal criminal law of a State. Its purposes, its objects, the ratio decidendi of the rulings made under that law, are of a totally different character from, and could not possibly be made the basis for, an electoral rule or statute or a provision of the specific criminal law of a State. Well, my Honourable friend then abandoned the definition based on the extradition law. I understood him to say that the main ingredient in his definition of political offence would be, to specify offences which were not offences against person or property. The offences, I take it therefore, which he specially has in contemplation are offences directed against the State and against society. Why in any rational system of jurisprudence offences of that kind should receive particularly favourable notice passes my wit to understand. Apart from the intrinsic quality of such offences, I must point out that if they do not in the first instance contain in themselves the elements of an offence of violence against person and property, we have only too bitter reason to remember that the proximate results of such offences very frequently have been to an appalling degree disastrous to the life, to the property and to the liberty of His Majesty's subjects. I cannot therefore regard my Honourable friend's somewhat belated attempt to define a political offence as in any degree satisfactory or in any degree throwing light on his main thesis.

Another Honourable gentleman referred to the action taken by the Royal Governments in India in times past: measures of clemency exercised by great

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kings after the suppression of a rebellion: measures, in short, of the nature of an amnesty. That again is entirely irrelevant to the question now before this House. We are not dealing with amnesties which are special measures of the sovereign power designed to meet special and extraordinary conditions. We are concerned with the consideration of a statutory rule which is to have permanent validity: not to deal with extraordinary or abnormal situations, but to constitute a part of our permanent electoral system; and I venture to say that any basis following measures of that extraordinary character would not be a satisfactory basis to take for a permanent provision of our electoral law.

An important point was raised by my Honourable friend Professor Kale which was also adverted to briefly by my Honourable friend the Mover in his reply. My Honourable friend Professor Kale inquired whether it would not be possible to take into consideration the rules regulating disqualifications arising from criminal convictions on a more comprehensive basis. Well, Sir, I wish to make it quite clear that that is a question which does not arise on the Resolution proposed by my Honourable friend; but if I may be permitted, I should like to inform my Honourable friend opposite that the question of making more elastic the rules relating to the removal of disqualification arising out of criminal convictions on a comprehensive basis without any reference to particular categories of offences is a matter which is already engaging the serious attention of the Government of India. I must repeat once more that I make that statement, though I admit it is irrelevant to the discussion, because the question was adverted to by my Honourable friend opposite and also by my Honourable and learned friend the Mover.

I have little further to add except this. The issue before the House is really a very simple one. My Honourable friend accused me of lack of imagination. Well, Sir, I thought the issue before the House was a practical issue. I thought it was one in which we should not contribute very greatly to promote a practical solution if we spent our time in giving rein to our imagination. I endeavoured to point out the practical difficulties of the question and to deal with the matter in a practical way.

My final conclusion is—I admit it does not emulate the flight of my Honourable and learned friend's poetic eloquence—that the question is mainly a question of common sense. Should we be acting wisely, should we be consulting the interests of the State and our own dignity if, in this gratuitous manner, we impose on unwilling persons a privilege which they do not desire and which indeed they emphatically repudiate?

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

“This Council recommends to the Governor General in Council that the electoral rules should be modified in such a manner as to make a person convicted of a political offence involving a sentence of imprisonment for more than six months, eligible for election to any Legislative body constituted under the Government of India Act, 1919.”

The Resolution was negatived.

THE HONOURABLE THE PRESIDENT: That concludes the business for the day.

The Council then adjourned till Eleven of the Clock on Thursday, the 15th March, 1923.

COUNCIL OF STATE.

Thursday, the 15th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

THE MALKHARODA AND GAONTIA VILLAGES LAWS BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

“That the Bill to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces, be taken into consideration.”

In moving for leave to introduce this Bill I gave a very brief outline to the House of its objects. I shall now briefly recapitulate them. In connection with the territorial reorganisations which were undertaken in the year 1905, the district of Sambalpur, which had till that time formed part of the Central Provinces, was transferred to the reconstituted province of Bengal. That transfer was, however, subject to certain exceptions. The exceptions were the territories known as the Chandarpur Estate and the Phuljhar Jagir. At the time that that proclamation was issued there were two circumstances which had not been fully realised. The first was that the Malkharoda Jagir, which, at that time, was held by the Zamindar of Phuljhar, was not, as a matter of fact, an integral part of the Phuljhar Zamindari. The second point which escaped due notice was that in the territory known as the Chandarpur-Padampur Estate there were nine Gaontia villages. These villages were held not on the *malguzari* tenure, which is the tenure of the Chandarpur-Padampur Estate, but on the ordinary *Khalsa* tenure, which is prevalent in the rest of the district of Sambalpur. The consequence of that omission was that doubts arose as to whether retention of these territories within the jurisdiction of the Central Provinces was valid. Since 1905, the administration of these territories has been carried on *de facto* by the Government and by the officers of the Government of the Central Provinces; but the question of the precise legal status of these territories was raised in the Court of the Sub-Judge of Manbhum in 1919. The Sub-Judge claimed that he had civil jurisdiction over these territories. The case went on appeal to the High Court at Patna. The High Court did not, however, find it necessary to go into the question of jurisdiction; so far as the appeal to the High Court is concerned, this question of the legal status of these territories was not dealt with. The object of this Bill is now to validate the situation which was intended to be created in 1905 and to declare *de jure* the administration which has been carried on *de facto* in the manner which I have already explained. Those are briefly the legal facts of the situation.

Coming to the question of its administrative significance, I should inform the Council that the areas with which we are now concerned amount to about 35 square miles of country. They are cut off from that portion of the Sambalpur district which is now under the jurisdiction of the Government of Bihar and Orissa by a wide tract of country occupied by the

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Rajgarh Estate and the Chandarpur-Padampur Estate which are under the control and jurisdiction of the Government of the Central Provinces. It will be a matter of very serious administrative inconvenience, a matter of very serious inconvenience and annoyance to the inhabitants of these areas if the jurisdiction over them should now be formally transferred to the Province of Bihar and Orissa—if, in short, the *de facto* state of affairs is not now duly validated. As an instance, I may mention that the distance between Malkharoda and the nearest police station in the Sambalpur district is 60 miles. I do not think I need add very much to that statement of the case.

But there is one important question on which I would touch, and that is, the wishes of the inhabitants of these tracts. With regard to that I have before me a report which shows that careful and sympathetic inquiry has been made of the wishes of the inhabitants of these tracts in connection with another inquiry but one in which precisely the same issue rises. *Malguzars* and tenants, educated and illiterate, have all been consulted. The Zamindar of Malkharoda emphatically protested against the suggestion of amalgamating the tract with the Province of Bihar and Orissa. He stated that the social conditions obtaining in Malkharoda are similar to those in the rest of the Bilaspur district. I may mention that Bilaspur is the district of the Central Provinces to which these areas are now attached. He emphasised the comparative proximity of Nagpur, as against Sambalpur and Patna. It appears that the people generally support this protest and declare their preference for the Bilaspur district and the Central Provinces. With regard to the Chandarpur area the feeling is the same, and preference for the present arrangement is unanimous. In Padampur there is indeed a considerable body of opinion in favour of the re-transfer of the tract to the Sambalpur district. That is accompanied by the impracticable proviso that Sambalpur should be re-transferred to the Central Provinces.

I think therefore we may safely conclude that there is a substantial unanimity—certainly a very strong preponderance of opinion—among the inhabitants of these tracts in favour of the maintenance of the *status quo* and the validation of the *status quo* is the object of the Bill which I now move should be taken into consideration.

The motion was adopted.

Clauses 1, 2, 3, 4 and 5 were added to the Bill.

The Schedule and the Preamble were also added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move that the Bill be passed.

The motion was adopted.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children, as passed by the Legislative Assembly, be taken into consideration."

The matters dealt with in this Bill have already come within the cognizance of the House. It will be within the recollection of Honourable

Members that on the 31st January 1922, my predecessor moved in this Council, on behalf of the Government of India, a Resolution in the following terms:

"This Council recommends to the Governor General in Council that India do sign the International Convention for the Suppression of the Traffic in Women and Children accepted by the Assembly of the League of Nations at its second session, subject to a reservation that, in applying Article 5 of the Convention, India will consider that 16 completed years of age is substituted for 21 completed years of age."

That Resolution was adopted. I will now briefly recall that, in consequence of a Resolution of the Council of the League of Nations, an International Conference was called early in the year 1921. That Conference proceeded to draft a Convention one of the objects of which was to give effect to the terms of the previous International Convention of the year 1910. The operative parts of the latter Convention, so far as our present purposes are concerned, and with the reservation that the Convention of 1921 raised the age from twenty to twenty-one years, are contained in Articles 1, 2 and 3:

"Article 1.—Whoever, in order to gratify the passions of another person, has procured, enticed, or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.

"Article 2.—Whoever, in order to gratify the passions of another person, has, by fraud, or by means of violence, threats, abuse of authority, or any other method of compulsion, procured, enticed, or led away a woman or girl over age, for immoral purposes, shall also be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.

"Article 3.—The contracting parties whose legislation may not at present be sufficient to deal with the offences contemplated by the two preceding Articles, engage to take or to propose to their respective Legislatures the necessary steps to punish these offences according to their gravity."

The object of this Bill, Sir, is therefore to carry out the undertaking embodied in Article 3 of that Convention. In so far as the criminal law of India as it stands at present is concerned, that obligation entails upon the Government of India to propose to its Legislature the following two main provisions: (a) to make it penal to procure a minor girl for illicit intercourse by any means whatsoever, and (b) to make it penal to procure a woman of any age by force, compulsion, intimidation or abuse of authority. It will be apparent to the House that effect is given to these provisions by clauses 2 and 3 of the Bill. The question was referred in a general form to Local Governments for opinion and advice. At this stage it is perhaps as well for me to point out that the terms in which the Local Governments were consulted were very general terms and related mainly to the question of the expediency of India adhering to the terms of the Convention. I do not think at the present stage it is necessary for me to say more. If any further explanation is required it might perhaps be more conveniently given when the Bill is taken into detailed consideration. I now move that the Bill be taken into consideration.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General): Sir, this Bill is the result of a Resolution passed in this House as well as in the Assembly on the Convention of what is called the White Slave Traffic.

The HONOURABLE MR. J. CRERAR: Might I intervene, Sir, and suggest that it would be well to adhere to the precise terms by which that

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Convention is now denominated, the Suppression of the Traffic in Women and Children?

THE HONOURABLE SIR MANECKJI DADABHOY: I beg the Honourable Member's pardon; he is quite right; I made a mistake. The obligation which the Convention really imposed upon India's representative who was present at the Convention and which ultimately fell on the country was of a two-fold character. In the first instance, our obligation was to make it penal to procure a minor girl for illicit intercourse by any means whatsoever, not merely by force or compulsion; and secondly, we agreed to make it penal to procure for illicit intercourse a woman of any age by force, compulsion, intimidation or abuse of authority. I beg to point out that at the Convention the question of what constitutes minority was left entirely open. In this House when the Resolution was passed supporting the Convention or giving our adherence to the Convention, as well as in the Assembly when the Resolution was passed, it was distinctly stipulated that the age of 16 shall be substituted for the age of 21. The Legislative Assembly by a snatch vote of three Members passed Mr. Joshi's amendment raising the age from 16 to 18. I do not propose in this House to-day—indeed I have not the slightest desire to wreck this Bill here, but I must point out one or two facts to the House that in supporting this Bill, which the Legislative Assembly has passed, we shall be acting in an illogical and absurd manner; there is no getting over it. There are in the Indian Penal Code various sections, important sections, dealing with offences against minor girls, offences of a very heinous and serious character in which the age limit is kept at 16, while in this particular Act which refers to section 366A, which only relates to procuration of a girl, the age-limit is fixed at 18, and the Bill is passed. I beg also to point out that this question was never placed before the Local Governments for consideration, or before the general public of India for consideration. The matter on which the Local Governments' opinion was asked was relating to the procuration section, and it was pointed out in the reference that was made that it was desirable to fix the age-limit of 16. I am never opposed to any social legislation. I for one look forward to the day in India when young girls will receive that measure of protection and security against their person which the other civilised countries in the world have accorded. I am one of those who are sincerely anxious for the reformation of the country in this direction. But I have only to express this patent fact that in this country, inhabited by various races and by different classes of people, in this country where hundreds and thousands of castes and sub-divisions of castes exist, where the personal laws of the country are so divergent in many ways, in a matter of social legislation of this kind it is necessary that we should first proceed with a great deal of caution and in consonance with public opinion. I would also suggest that the Government should not make their penal laws ridiculous, illogical and absurd. If public opinion had given its support to the substitution of 18 for 16 I for one would have said nothing in this Council. I cannot do better on this point than read a passage from the Honourable Sir Malcolm Hailey's speech which correctly represents my views on this subject and which, I have no doubt, is the opinion of every Hindu Member in this Council.

THE HONOURABLE MR. LALUBHAI SAMALDAS: No.

THE HONOURABLE SIR MANECKJI DADABHOY:

"They obviously felt that the country is not yet ripe for an advance so great as that, and that is my own opinion. I put it that in all social legislation you must make your beginning, but your beginning should be a modest one, because, if legislation is to be effective, you must carry the common feeling of the country with you. Your legislature is nugatory unless you can do so. Your social laws must always be a little in advance of retrograde or uninformed opinion, but do not go so far in advance of it that public opinion generally will not follow you in giving effect to your Code. If you do that, you are legislating in vain. Make your beginning; when you have established that beginning, build upon it as the public conscience increases and the public demand grows. That is the true path of social legislation, the one we have followed in Europe, and the one which I commend to this House."

THE RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): When was that speech made?

THE HONOURABLE SIR MANECKJI DADABHOY: In the Assembly the other day. I say I have not come across a more eloquent, a more significant and a more important utterance than this which gives expression to our feeling on this subject. I do not, therefore, propose to dilate on the subject any more. I give my consent to this Bill reluctantly. As I said I do not want to wreck the Bill, and I would not have given my consent to this Bill to-day but for the amendment which will follow and on which I shall speak again to-day. I ask Government to adopt a policy of consistency in their legislation. When for more serious and heinous offences which are in the Penal Code you have kept the age-limit at 16, you cannot with any consistency, with any show of reasoning, you cannot logically raise the age in section 366A from 16 to 18. I request Government at an early date to bring in a Bill for the revision of the Penal Code, and let the country pronounce its opinion, and as I understand the object of the amendment, which is to follow, is not to pass this Bill till the opinion of the whole country is ascertained, I give my conditional support to it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I give my hearty welcome to this Bill. Anything that is done to save the honour of womankind of India is a subject of the greatest importance to us. I have not been able to follow the arguments of my Honourable friend Sir Maneckji Dadabhoi in opposing the Bill

THE HONOURABLE SIR MANECKJI DADABHOY: I am afraid perhaps I was incoherent.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Because his voice is not generally audible to back benches. But I must say that the provision for raising the age-limit from 16 to 18 should be welcomed by all.

THE HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, I welcome this Bill as it comes from the Legislative Assembly. I do not know whether I would be in order in referring to the division lists in that House, but I want to do so because my friend Sir Maneckji said that it was a snatch division. The division was 43 to 40, and the whole question was fully debated upon, and no less than 6 or 7 Hindu Members took part in it. It is therefore a calumny to say, Sir, that no Hindu approves of this Bill. If you look at the voting list, you will find that while 22 or 23 non-official Hindus voted for Mr. Joshi's

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amendment, about 12 non-official Hindus only voted against it. So the majority of non-official Hindus were in favour of Mr. Joshi's amendment. There was a time, Sir, when Government were bold enough to give their lead to social reform movements and take up the movement in right earnest. Those days are gone. We now find Government is too cautious, too circumspect, as regards social reform movements. So long as we had not the constitutional reforms and so long as the old Imperial Council was not supposed to represent the voice of the country, Government might have been justified in being overcautious, but since the Assembly, which, we take it, is a democratic body and which represents the public opinion of India, and since a majority of the Members of that body have after hearing arguments on both sides come to a final decision, we expected Government to accept their decision as final. I am not going to speak on the amendment, because I propose to speak on it later on. But I want to make it quite clear that Hindus as a class—I am talking of those Hindus who hold advanced views in these matters,—Hindus welcome this Bill, and I quite agree with my Honourable friend Rai Bahadur Ram Saran Das that when the question of the honour of Indian womanhood is concerned, we are all at one to support any measure that protects that honour.

The HONOURABLE SIR MANECKJI DADABHOY: Nobody questions it.

The HONOURABLE MR. LALUBHAI SAMALDAS: I am glad that my friend Sir Maneckji Dadabhoy has given his personal explanation. I expected that belonging to a community which is far in advance of us in matters of social reform, he would give us a lead. My friend says that the Bill is an illogical one. Let Government make it logical if that is so. I am not a lawyer, so I cannot say whether it is logical or illogical. What I want to say is that the Bill as passed by the Assembly represents the view of the majority of Hindus as was shown at the time of voting in the other House.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I think that in the mind of my friend the Honourable Sir Maneckji Dadabhoy there has been a tussle between the lawyer and the social reformer, and I see that the lawyer has dominated over the social reformer. We may all agree that the law as it would stand, if the Bill is passed as it is, might give rise to some inconsistencies in the law of the land. But I do not want that social reform should be impeded simply because of certain legal subtleties and inconsistencies. Social reform and social adjustment always proceed on these lines. We cannot be always consistent in matters of social reform, and if by means of these inconsistencies we can take one step in advance in social evolution and social adjustment, I think that inconsistency is to be preferred to the present state of stagnation. It will be possible for Government to get over the inconsistency later; and I would rather have the inconsistency when we can secure social advance such as is proposed in the Bill than have consistency without it. I therefore support the Bill.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, I had thought that as the Honourable the Home Secretary had of design put off discussion on this aspect of the matter,

Honourable Members who followed him might have observed the same restraint, but apparently we are going at this stage to discuss the question of age as well.

The HONOURABLE MR. LALUBHAI SAMALDAS: I did not, Sir.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Here I have a word of personal explanation to offer. It fell to me in 1921 when representing this country at the Assembly of the League of Nations to signify my assent, but with reservation as to age, to this Convention. At the time that the Convention was brought up for our consent, the age of 16 ordinarily remained as the majority age in our Code except for the statutory requirements which brought in 18. I thought it would not be right of me, as representing India, at that time to give my consent to the age of 21 without, in the first place, knowing how far Indian public opinion would support it and, in the second place, without Government taking measures to bring the general penal law on the subject into conformity with the new requirement. I therefore made a reservation as to age and, when I made that reservation, I found other eastern countries, Japan, Siam and China, doing the same. We, therefore, stood in that position at that time, but, personally, Sir, I have no objection whatever to raising the age from 16 to 21. I have explained that, notwithstanding that personal opinion of mine, as the representative of India I did make the reservation, but since I am talking in a legislative body in India, where the subject is opened up, I am at perfect liberty, I think, to support the present measure which does not still conform to the world requirement and falls short of it by three years, for we propose only to raise it to 18 and not to 21. I know, Sir, as well as the Honourable Sir Maneckji Dadabhoy, what a tremendous opposition was raised in this country to raising the age of consent before. I remember being myself a party in my younger days to the breaking up of a public meeting which sought to resist the raising of the age of consent. I know too that it is impossible for us to legislate on these matters much in advance of public opinion, but the Assembly has taken a deliberate judgment in the matter. I do not think, Sir, it was a snatch vote upon which the Government have come to us with this new proposal. It was a fully discussed matter and I am glad for one to give my consent to this Bill. I am not the less glad for the reason that the Government have not been quite as enthusiastic as the majority of the Assembly. The Government naturally felt a little hesitation in legislating on the matter piecemeal. It was pointed out, and I think with great cogency, that the general penal law must be brought into conformity with the new requirement before this law could be brought into force and, in order to gain time, therefore, for that purpose, we have got this amendment which postpones the commencement of this Act. I think the Honourable Sir Maneckji Dadabhoy may rest assured that that is a sufficient safeguard and that, when we put the other things before the country, the country will have abundant opportunities of telling the Legislature what exactly it would wish and what exactly it would tolerate. No harm, therefore, is done by our giving our consent to this Bill at this stage, as every effort will be made to put the legislative system of the country on a proper footing in exact conformity with public opinion.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I am one of those who think that social reforms are better accomplished from within rather than from without, and that legislation is the last thing which should go to stimulate social reform. This

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is a very gruesome topic to talk upon in public, and I have my own opinion on the subject. I will say one thing only and it is this, that no doubt the intentions of the Government and of the Assembly are very good and that they mean well. But what this Council should see is what may be the effect of this legislation eventually on morality amongst the population of India. That is the crucial test. Sir, two or three years ago there was a good deal of discussion in the Bombay press on this subject. Happening to be in Simla in 1920 my old friend Mr. Booth-Tucker, of the Salvation Army, had a long conversation with me about it; in fact he particularly invited me to hear my opinion on the subject. His organisation, as you know, is a very widespread one and I think that Mr. Tucker was in possession of very excellent information of a more authentic character from his Intelligence Department in many respects than anybody else. I have always respected his views on Indian social matters because they are very authentic and minutely investigated before being put forward. Well, the opinions I then expressed to Mr. Booth-Tucker are the opinions I still hold. The question is whether amongst the larger portion of the Hindu and Muhammadan population the age of 18, if adopted, will do any good. My belief is that it will prove of doubtful utility, at least so far as I can anticipate. I do not want to be dogmatic on the subject, but I am of opinion that it is of very doubtful utility, for the reason that, as Mr. Booth-Tucker himself told me, clandestine prostitution will be greatly encouraged rather than discouraged. Taking into consideration the standard of morality amongst the large population it is a question whether this Bill will have the beneficent effect which its authors and the Government expect. I do not want to oppose the Bill, neither am I going to vote against it. I shall rather remain neutral; but I myself have grave doubts as to the utility of this legislation. In the last instance the Council should remember that in every age moral standards rise and fall and the morality of the age is the reflection of the moral condition of its society. Therefore, if a society has a certain low moral standard, it signifies that the morals of society themselves are low. To go into the question of the moral standard and morals of the society in India at the present time is a very large and complicated question, which we must be very careful to enter upon. Whatever that may be, it is doubtless a physiological, sociological and philosophical question into which I do not want to enter. My own belief is that this measure may prove of very doubtful utility but I shall be only too glad if my present views are falsified and if eventually the legislation that may be passed to-day proves successful. That, Sir, is my opinion.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, I cordially and strongly support this Bill. The question of age is one that very little concerns women in India. The state of women in India is poor and deplorable in the matter of education and they are all hidden in *pardah* so that they cannot understand what is good for them. So, the more protection they have the better. Therefore, I strongly support this Bill and I think the age of 18 is quite right.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I give my hearty support to this Bill and, so far as my information goes, it will be welcomed throughout the whole country. There was a time when people were very conservative in the

matter of social reforms; but what we find to-day is that everywhere there is a cry for social reforms. I quite endorse the opinion that has been expressed by the Right Honourable Srinivasa Sastri that, when the Age of Consent Bill was under consideration, a good deal of opposition was raised to it, but, since that time, the angle of vision has changed and everywhere I find that people are going to raise the age in marriages and the age relating to offences against women in the Penal Code. I therefore think the proposal to increase the age from 16 to 18 is a very good one and I heartily support the measure.

The HONOURABLE MR. J. CRERAR: Sir, I do not at this stage propose to answer in detail all the arguments that have been brought forward on my immediate motion. Those with which I am directly concerned are really more relevant to the amendment which I shall shortly move. I desire only to make one observation with regard to what fell from my Honourable friend Mr. Lalubhai Samaldas, who accused Government, I think, of lack of enthusiasm.

The HONOURABLE MR. LALUBHAI SAMALDAS: Over-cautiousness.

The HONOURABLE MR. J. CRERAR: Lack of enthusiasm, I think, was the expression. If I misunderstood the Honourable Member, I accept his correction; but he certainly imputed to Government something in the nature of a luke warm attitude towards social legislation, and deplored the absence of an attitude of boldness and audacity with which he credited previous Governments. Well, with regard to that, I have only two observations to make. The first is that after all this Bill did come before the Legislature on the motion of the Executive Government; and in the second instance, if Government have deemed it desirable to adopt a more deliberate and more cautious attitude with regard to so serious a measure, they have received a very considerable measure of support both in the Assembly and in this House to-day. I do not propose to say anything further at this stage and I commend my immediate motion to the House.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I move as an amendment:

"That clause 1 be re-numbered sub-clause (1) of clause 1 and that to that clause the following sub-clause be added, namely:
(2) It shall come into force on such date as the Governor General may, by notification in the Gazette of India, appoint."

The HONOURABLE THE PRESIDENT: Did I hear the Honourable Member correctly? Is it the Governor General or the Governor General in Council?

The HONOURABLE MR. J. CRERAR: The Governor General, Sir.

In the few words which I have to say on this amendment I am afraid I may incur once more the charge of my Honourable friend Mr. Lalubhai Samaldas of undue caution, because as a matter of fact I propose to restrict myself almost entirely to one issue, the issue which is the principal object of my amendment, and that is, that Local Governments and the country

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at large should be given a further opportunity to consider the provisions of the Bill. In my opening speech I adverted to the fact that the terms in which Local Governments were consulted were very general terms, relating more particularly to the desirability of India's adhesion to the Convention being given. The very important question of the age at which consent becomes a material fact was considered as a rather subsidiary matter. Moreover the Local Governments were not then in possession of the precise form of the legislation which we proposed to enact. They had not the Bill before them, either the Bill as it went before the Select Committee or the Bill as it was laid before or as it has been amended by the Assembly.

Now, Sir, I think the House will agree with me that it is highly important when considered opinions in this matter are to be given they should be based on an informed estimate of the precise effect upon our penal legislation of this Bill and its very large implications. I do not propose to go over the whole of that ground. Nor do I propose to express any opinions, either personally or on behalf of Government, on the merits of the question as to whether the age of 16 or the age of 18 is the more appropriate. I deliberately refrain from doing so, Sir, because I think Honourable gentlemen will agree with me that on the eve of our consulting Local Governments it would be highly improper for me to make any express statement of opinion on that point. Nor do I desire to recapitulate certain obvious but nevertheless very important considerations, at too great a length. They were stated by the Honourable the Home Member in the Assembly, and his words have been quoted by my friend the Honourable Sir Maneckji Dadabhoy. However desirable an enactment designed to forward the cause of social progress may be, however convincing the case for such a measure, the Legislature will nevertheless be taking a rash course if it precedes by too large an interval the general volume of public opinion on which, above all in questions of this nature, both the Legislature and the Executive Government must rely if they are to be in a position to put their law effectively into operation. Well, Sir, I think that is a consideration which in itself makes it desirable that some further consultation of opinion with regard to the question in the more express form in which it now arises should be undertaken. We cannot overlook the fact that in a general measure of legislation of this kind, we are legislating for communities in almost every stage of civilisation—from the highest, certainly, I will not say to the lowest but certainly to almost the lowest stages of civilisation. You must in equity and fairness consider the effect which penal legislation of this kind will have on those communities whose customs and whose public opinion have not kept pace with average public opinion, still less with the public opinion of the most advanced communities. It was pointed out in another place that it was by no means an uncommon thing to find in primitive tribes like the Gonds, the Khonds and others that sexual relations take place between young men and young women below the age of 18 which are not reprobated by the public opinion of those communities, but which nevertheless, if this Bill in its present form is passed into law, would set up penal offences, the punishment for which may extend to ten years' imprisonment. Well, Sir, I am not saying this either as deprecating the ultimate adoption of this age or as a reason for not moving further in the path of progress. But it is a reason for considering the matter in all its various aspects. It is mainly on considerations of that kind that Government propose to undertake a

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further consultation of public opinion. I should also like to point out to Honourable gentlemen another consideration of great importance. There are at least two alternatives involved in the further disposal of this measure; there is the question whether the age-limit adopted by the Assembly should be confirmed or not; there is another question, and that is the question whether the age prescribed for cognate offences in the other sections of the Penal Code should be modified in order to bring it into conformity with the provisions of the present Bill. Both those questions will be questions on which opinion will be required.

Now, Sir, my Honourable friend Mr. Lalubhai Samaldas and I think other Honourable gentlemen also have very strongly affirmed that the decision in this matter of the Legislative Assembly does represent the public opinion outside the Legislature. I am not here concerned to question whether that is so or not; I merely say that if, on a further consultation with the Local Governments and a further exploration of non-official opinion, that opinion is confirmed we could then proceed with a much greater degree of confidence to put this measure on the Statute Book. I am not urging this in any spirit of antagonism to the measure before the House; I am merely wishing to impress upon the House the desirability of some deliberation before we place a penal enactment of this kind on the Statute Book, the desirability of obtaining that confirmation and corroboration which Honourable gentlemen who support the Bill as passed by the Legislative Assembly are so confident will be obtained from the country. That would be a most valuable asset to possess and by all means let us obtain it.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Sir, the last speech of the Honourable the Home Secretary has left me in some doubt as to how I should vote on this motion. I had hoped that Government had overcome their hesitation in the matter and were going to accept the vote of the Assembly. But apparently there is still some reservation in the mind of Government and they intend in addressing Local Governments to open up this question again along with the references to other sections of the Penal Code. I think, Sir, that I cannot approve of that course, and it is because I think I cannot approve of that course that I proceed to put a question—what would be the effect of this Council throwing out the proposed amendment? I am not a lawyer, and have no clear opinion on the subject. I suppose if no reference was made to the time when an Act should take effect the implication would be that it would take effect on the Governor General's assent being given to it. If the intention of this Government is to go behind the vote of the Assembly and to find out by a reference to the public and the Local Governments whether they approve of the age of 18 in this Bill, then I should think I would rather vote against the amendment.

The HONOURABLE SIR HENRY MONCRIEFF SMITH (Secretary: Legislative Department): Sir, when my Honourable friend moved his amendment, you yourself drew attention to the fact that the amendment proposed to vest the Governor General, as distinct from the Governor General in Council, with the power to appoint a date on which this Act should come into force. It was no doubt in your mind, Sir, that powers of this nature to appoint a date for commencement of legislation are as a matter of practice and for obvious reasons vested in the Government and not in the Governor General. At the time, since I had nothing to do with the drafting of the Bill or of the amendment, I was not aware whether there

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expressed by any public bodies in India, or of any Hindu Associations or Hindu gentlemen of experience who are in a position to express their opinion? Of course, I admit that one or two people have expressed their views, but that is not enough. We want the general opinion of the country as a whole, and I say if the public opinion wants it, let us certainly change the law, and I shall willingly support any alteration in that law. At the same time I would suggest that Government should remove the inconsistency which prevails in other sections and make the whole Penal Code logical and sensible and one that will be acceptable to reasonable judgment. That is my position. I do not object, in fact nobody really objects in this Council the enhancement of age-limit. Nothing is lost by accepting this amendment. What I say is, if the volume of public opinion is in favour of it, then Government will be in a much stronger position to enforce this Bill than they would otherwise be. But if the Government has not got at their back the volume of public support, what will be the result? The Bill will be rendered nugatory, and it will have no force. Offences will be committed, and there will be no detection of those offences, because discovery of those offences will be difficult as there will be no support or co-operation from the large body of public opinion in this matter. I say therefore the demand put forward by Government is exceedingly proper and I hope the Council will accept it.

The HONOURABLE MR. LALUBHAI SAMALDAS: May I rise to make a short personal explanation, Sir? I merely want to draw the attention to the fact that the reply of the Bombay Government says that public opinion was elicited.

The HONOURABLE SIR MANECKJI DADABHOY: Very doubtful.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I am a layman, and so I have not been able to quite follow the aim which the Honourable the Home Secretary has in moving this amendment. As far as I can gather, it means that the Bill which has been passed by the Legislative Assembly and which is about to be passed by this House should not come into force until the opinions of the Local Governments are received. As far as I know, the Local Governments are in favour of fixing the age at 16, and if the Government thinks it necessary to ask their opinions for increasing the age to 18, I think it would be much better if the consideration of this Bill be postponed until such time as all the opinions of the Local Governments are received. I think it does not look well for Government to get this Bill through the Assembly and here and then to evade its enforcement by a new and novel method. As far as India is concerned, morality is its greatest asset, and anything which we can do to maintain its supremacy would be welcomed by all classes of people, so there should be no delay in taking steps in this direction. In case I am in order I would suggest that the consideration of this Bill should be postponed

The HONOURABLE THE PRESIDENT: The Honourable Member is distinctly out of order in making his motion when we are on the detailed consideration of the Bill. He should have moved it on the motion that the Bill be taken into consideration.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Then, Sir, I oppose the amendment.

The HONOURABLE MR. V. G. KALE: Sir, so far as the merits of this amendment are concerned, I do not think that I should support it. I do not see why the Government should move this amendment when it should be their object to give effect to the public opinion such as has been expressed in another place and as may be expressed in this House. If we are asked to state what our opinion is as representing the opinion of the large community outside, on this matter, I think the country at large will support us if we consent to the raising of the age from 16 to 18. What is it that the Government seeks to attain? Do they want that the judgment of the Assembly and also of this House should be revised? If that is the object, then I certainly oppose the amendment. I do not see what Government is going to gain by proposing this amendment. If the law as it will be made if this Bill is passed is found unsatisfactory, or if there are any inconsistencies which have got to be rectified, it will be open to the Government to take such steps as may be found necessary for the purpose but confining ourselves to the question which has been raised by this amendment, namely, postponing the reform which has been already approved of by the other House, I think we should not support the amendment.

The HONOURABLE SIR DINSHAW WACHA: Sir, I think I will support the amendment. It is simply a question of the Government in a matter of this kind moving very cautiously, and I think the Government are doing the right thing in further eliciting a larger body of reliable and respectable opinion than they have done hitherto. Whether that opinion will go against the Government or whether it will be in favour of it is a different question. Let the Government first of all elicit a larger body of respectable opinion than it has done hitherto. That is the right thing to do.

Another thing which I fail to understand is why we should all try to follow the command, or whatever you may call it, of the League of Nations. What are these Conventions? Why should the League of Nations always try to goad India. The conditions of India are vastly different to the conditions of Europe and of the far western countries, and why should we have to apply the terms of Conventions drawn up by the League of Nations to Indian labour and Indian social conditions? I have referred to this before and I refer to it to-day again. I think the Government of India ought not to be guided or blindly carried away by whatever the League of Nations says. India is only a single nation in the League of Nations; and arrayed against her there are perhaps 21 other nations. Why should we follow like sheep the lead given by the League of Nations? I condemn that League because it knows nothing of India and those who represent India on that League know nothing about India. They give their own personal opinions.

Then the Right Honourable Srinivasa Sastri spoke about the constitutional question. That is a different matter, whether the Assembly will agree to our amendment and whether they will take further steps, I do not know. I am not going into the constitutional question at this stage at all; but I do believe that the Government are doing the right thing in trying to get a larger body of public opinion than they have done hitherto. My own view, practically speaking, is to keep the age at 16 and try to make severer your Penal Code. Let the punishments for the social offence be so deterrent as to effectually discourage this disgusting girl

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traffic. Mr. Tucker told me of things that are being done with impunity and in defiance of legislation now prevailing. I am afraid to tell the House exactly what he said. It is so shocking that I will not repeat them to the House. But he was very emphatic on this subject. What he wanted was a severer and more drastic punishment for the rascals who seduce and traffic in poor helpless girls under 16. Make the punishment so severe and deterrent as to greatly encourage morality than lower it; that will be far better than this sort of humbug.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I will support the amendment on the ground that the state of civilisation in every province is not the same and some provinces may object to this; so it would be much better that the opinion of the Local Governments should be ascertained before any action is taken, because there may be some provinces and some people who may not agree to it. It is much better that their opinion should be taken and it should be definitely known what they think of this Bill. We are legislating for the whole of India and not for certain provinces. My Honourable friend Mr. Lalubhai Samaldas quoted the opinion of Bombay. Well, I do not think that the opinion of Bombay will have any great weight in the North-West Frontier Province. We should like that inquiries be made of all Local Governments and, after those inquiries, if any action is taken, my province will have no objection. But what we want is that these inquiries should take place and that people should be able to give expression to their opinions.

The HONOURABLE MR. V. G. KALE: Your province has supported it.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: I am supporting the amendment of the Home Secretary and opposing yours. The opinion expressed by my province was in connection with the Bill for the suppression of the traffic in women and children and not on the present Bill.

The HONOURABLE THE PRESIDENT: The Honourable Member must address his remarks to the Chair.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras: Non-Muhammadan): Sir, I shall only read the opinion from the North-West Frontier Province. It runs as follows:

"The majority of Indian opinion consulted in this province would appear to favour an age limit of 18 years, but in most cases the suggestion is offered with diffidence, and I am satisfied that a higher age limit would receive support. I consider that in this matter conformity with the practice of other countries is desirable for many reasons, and I recommend, therefore, that the limit be fixed at 21 years."

The HONOURABLE LALA SUKHBIR SINHA: Sir, when I first looked at this amendment, I thought it was a minor amendment because it sought to provide that the Governor General in Council may appoint a date on which this Act should come into force; but the speech made by the Honourable the Home Secretary is quite different. He has said that the Government of India is still doubtful as to whether the Bill, if passed into law, should be brought into force and that the Government of India will consult Local Governments and local bodies again about this age limit. If some Local Governments or some local bodies differ from this, what will be the position of the Government of India or what action the

Governor General in Council will then take is a question. The amendment only seeks to provide that the Governor General in Council will appoint a date on which this Act will come into operation, but, if the Local Governments differ, then what will be done by the Government of India? That is a question to which I should like an answer from the Home Secretary. If he means that by this amendment all that is intended is that the Governor General in Council will fix a date on which this Act will come into force, then I have no objection, and I will give my support to it; but, if he means to say that the Government of India will again take opinions from the Local Governments, who will in turn consult local bodies, and then the Government of India will take action, I strongly oppose the amendment and differ from his opinion.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN: Sir, I should like to ask the Council whether a similar provision is not to be found in some other cases. In many Acts I have seen a similar provision to the effect that the Act shall come in force when the Governor General in Council will declare it to be so.

The HONOURABLE THE PRESIDENT: The Honourable Member must not conduct conversations with other Members. He must address his remarks to the Chair.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN: Anyhow, I do not see any harm in making this provision and it does not mean that the Governor General in Council will stop this measure altogether. It will give some time before this law is declared by the Governor General in Council to come into force. All that I understand from the Honourable the Home Secretary's speech is that Government wants to make more certain that this measure is wanted by the country. They are not ignoring this measure; they are not throwing it into the waste paper basket. After they ascertain the public view fully they will declare when it shall come into force. All that they want is more information.

With these remarks I support the amendment.

The HONOURABLE MR. J. CRERAR: Sir, I shall first reply to the questions put to me by my Honourable friend Lala Sukhbir Sinha. He asked me what the intentions of Government were in proposing a further reference to Local Governments and what they intended to do when they received those opinions. I think I have already made clear what the purpose of the reference to Local Governments was; but I will elaborate that a little, especially in view of what fell from my Honourable friend Mr. Lalubhai Samaldas. He indicated that the first reference that was made to the Government of India was in my allusion to the fact they had replied on the matter of the age of consent. What I really intended to convey was this, that although the age of consent was undoubtedly an important item in the question we laid before Local Governments on the first occasion, what we particularly desire now is that Local Governments should have the Bill before them, giving the precise effect of the penal measures proposed and showing incidentally its effects on and its relation to the existing criminal law. In other words, the case will now be put in a much more complete and concrete form, and the opinions to be obtained are therefore

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likely to be more relevant and useful to the Government of India and the Legislature in their further proceedings. That is the object of the reference.

As to what the Government of India will do on receipt of those opinions, well, naturally a very great deal will depend upon the nature and purport of those opinions; but if, as many Honourable gentlemen so confidently anticipate, and I daresay with reason, if public opinion elicited on this subject is preponderantly in favour of the measure in its present form, then I have no doubt the decision of the Government of India will be very materially influenced by that consideration.

My Right Honourable friend opposite (Mr. Sastri) said that he felt some hesitation in voting for my amendment having heard the reasons I adduced in support of it. In particular I understood him to urge the objection that a conclusion of the Legislative Assembly should not be further subjected to the consideration of public opinion. Sir, I have the utmost respect for the authority and the dignity of the Legislative Assembly but I cannot go quite so far as to say that the conclusions of that Chamber are so sacrosanct that they are not even to be submitted to the public opinion from which the dignity and authority of that Chamber are themselves derived.

The HONOURABLE SIR MANECKJI DADABHOY: Or this Council.

The HONOURABLE MR. J. CRERAR: I was about to add, Sir, that if these decisions of the Legislative Assembly are to this degree sacrosanct, what of the functions that are vested in the Council of State? If these decisions are not to be subjected to review at all, not even by this Council, why, are we here? I go further and ask, if the decisions of the Legislative Assembly and the Council of State are in no circumstances to be subjected to the touchstone of public opinion outside the Legislature, what becomes of the democratic basis on which both these Houses have been constituted? Indeed, Sir, I think my Right Honourable friend and those who have supported him show a rather unnecessary solicitude for the sacrosanctity of the decisions of the Legislative Assembly and for the susceptibilities of that body. I desire to point out that the Honourable the Home Member; speaking on this matter in the Legislative Assembly, made perfectly clear to that Chamber the course which Government proposed to take in regard to this measure and in particular with regard to the amendment which I have now moved. That question was considered by the Legislative Assembly, and so far from showing any reluctance to that course being taken, so far from showing a reluctance, which I confess would have been a little strange, to having their opinion corroborated by the overwhelming weight of public opinion outside; so far from showing any reluctance of that kind, the motion moved by the Honourable the Home Member was adopted without a division and with hardly a dissenting voice. If that is so, Sir, if I have shown that we are not really trenching upon the legitimate prerogatives of the Legislative Assembly in employing our own prerogatives, if I have made out a reasoned case for the further exploration of public opinion on this important question, then I venture to say there is very little that can be urged against the amendment which I now commend to the House.

The HONOURABLE THE PRESIDENT: The question is:

"That the clause under consideration be re-numbered sub-clause (1) of clause 1 and that to that clause the following sub-clause be added, namely:

'(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint'."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Clauses 2 and 3 were added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move as an amendment that the following clause be added after clause 3:

"In the Second Schedule to the Code of Criminal Procedure, 1898, after the entry Amendment of Schedule II, Code relating to section 366 of the Indian Penal Code the following entries shall be inserted, namely:

366A	Procreation of minor girl.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session."

This, Sir, is an amendment which is necessary in order to make good an inadvertent omission in the passage of the Bill in the Legislative Assembly. Certain new offences have been created by the Bill and it is necessary to make provision in the second Schedule of the Code of Criminal Procedure with regard to the consequential proceedings. This has been done entirely in accordance with the treatment of the cognate offences already appearing in that Schedule and I do not think it is necessary for me to give any further reasons.

The motion was adopted.

The Preamble was added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That the Bill, as passed by the Legislative Assembly and amended by the Council of State, be passed."

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Sir, at the outset I will say that I am going to vote in favour of this motion; but having voted against the amendment which is a very important part of this Bill, it is incumbent on me to say why I vote in favour of this Bill. My objection is certainly not drastic; it does not go to the root of the Bill. But I must take exception to the course which the Executive Government propose to adopt in respect of this measure. After the vote of the Assembly it is not, it certainly seems to me, regular for the executive Government to try in an indirect manner to resubmit it to public opinion. Some constitutional importance does attach to that procedure. I do not say that the decisions of the Legislative Assembly or of the Council of State or of the Assembly and the Council put together even when they completely agree, are sacrosanct at any time from public opinion. They

[Right Honourable V. S. Srinivasa Sastri.]

are always liable to the play of public opinion. Nothing is final; but it is a question whether, after the executive Government had tried to oppose this Bill in a House and the House had recorded its judgment in a piece of legislation against the executive Government, it is correct for the executive Government from a constitutional point of view to seek to take the opinion of the public upon this subject. Sir, I can understand such procedure, such hesitation, such delay in a matter where a House passed a Resolution which is not binding on the executive. This is a piece of legislation and it appears to me that the regular course for the executive Government is, if they are still hesitant as to the wisdom of the measure, to try and influence the action of the Governor General when the time comes for his giving assent to the Bill. It is for him to say whether it is in accord with the soundest principles of legislation and whether this legislation has satisfied the sound principle of conformity to public opinion. The executive Government in this particular matter took a view adverse to the vote of the Assembly; they were beaten on it; they now come to the Council and ask the Council's judgment upon it; but they ask it in a very peculiar way; they ask the Council to confirm the judgment of the Assembly, because they do not propose to change 18 to 16; they do not propose to put the age back where it was before the Assembly voted upon it; but they ask the Council to confirm the judgment of the Assembly and at the same time inform the Council that it is their intention to resubmit the vote of the Assembly, confirmed by the vote of the Council, to public opinion. That, Sir, it seems to me to be a course the irregularity of which requires more justification than the Honourable Home Secretary has shown. It is from that point of view that I objected to that amendment and still object to it; nevertheless I allow the Bill to go forward because I am of opinion that when Government consults the Local Governments and public opinion as to the desirability of bringing the other sections of the Penal Code into conformity with this, they will anyhow be indirectly raising the issue, and it does not matter one whit from the point of view of the substance of the matter whether they do it one way or the other; but I must protest against the way in which the executive Government, having taken the vote of the Assembly and requested the Council of State to confirm that vote, still have a mental reservation and wish to go to the country and to the Local Governments on the subject matter of that vote.

The HONOURABLE DEWAN BAHADUR V. RAMABHADRA NAIDU (Madras Non-Muhammadan): Sir, it also appears to me that the procedure that is going to be adopted by the Government so far as the amendment is concerned is a novel one and I quite endorse the opinion of my Right Honourable friend Mr. Srinivasa Sastri.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I fear that the Right Honourable Mr. Sastri was led to make the remarks that he has made because he has not quite followed the procedure that was adopted in another House. The Government very carefully considered their position with regard to this Bill when the Legislative Assembly adopted the age limit of which there was some reason for the Government of India to entertain—I will not say a doubt—but an apprehension as to whether that correctly represented the views of the Local Governments who have to put the law into force and the views of the public who would have to submit to the Bill as passed by the Legislative

Assembly. It was perfectly open to the Government and to the Honourable Member in charge of the Bill not to have moved any motion whatever for the passing of that measure, but the Government did not want to adopt that attitude. There was no question of a mental reservation such as has been suggested. They had distinctly stated through the Honourable Home Member to the Assembly that it was subject to this condition laid down in the amendment now proposed in this House that they were making that motion. The Government might not have made that motion asking that the Bill should be passed into law; they might have dropped it, if there was any reasonable ground for the Assembly to have said "No." It was distinctly intimated to the Assembly that it was on that understanding and that understanding alone that the motion for the passing of the Bill was made. There were certain remarks made, but the Assembly agreed or at any rate did not demur to the passage of the Bill on that condition which was laid down by the Home Member . . .

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Had the Assembly an opportunity of stating its opinion on that condition?

The HONOURABLE MR. B. N. SARMA: The Members of the Assembly, Sir, did make their remarks after the Honourable the Home Member gave the House the views of the Government and it was after a discussion on the subject that the Bill was passed unanimously—I take it—by the Assembly. Therefore, there was no question of any unconstitutional or irregular method having been adopted by the Government. The only proper course would have been either to have dropped the Bill or to have promised further consideration in the manner suggested by the Honourable the Home Member. Sir, having been attached to the social reform movement for a large number of years, I can readily understand and appreciate the force of the feeling exhibited both in the Assembly and in the Council of State. The Government appreciate the enlightened opinion of India and is in hearty sympathy with what they themselves conceive to be the right method for adoption. But I hope Honourable Members will not be impatient if the Government which has to maintain law and order, which has to take the Local Governments with them, which has to do nothing which is likely to be construed as a serious departure from the social customs of the country, if in a matter of that description Government are anxious; I think they would be doing wrong if in matters of social legislation, whatever may be the enthusiasm exhibited here or elsewhere or outside, they do not proceed cautiously. There can be no manner of doubt whatsoever that, composed as the Government of India is, has been and will be, there will always be a desire on their part to promote the cause of social reform in so far as it may be possible consistently with the peace and orderly government of this country. But Honourable Members will sympathise with the Government when they demand that they should be assured that no reasonable objection would be taken by the country at large on a measure on which they feel there has not been sufficient consultation. That is the reason why the Government have chosen to adopt the attitude which they have in this respect. If Honourable Members have considered the other provisions of the Penal Code which are cognate to the sections which have been amended, they will realise that they have a considerable bearing upon the amendments which are now suggested, and it will be desirable that the whole Code should be brought into conformity with the views as expressed in this House as well as in the other House without there being anything glaring or incongruous inconsistencies between one section and another. It was for

[Mr. B. N. Sarma.]

that reason also that Government felt that this Bill should be brought into operation at a future date which may be fixed by the Government.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: That point of view has our entire approbation.

The HONOURABLE MR. B. N. SARMA: That is the effect of this clause. This Bill will come into force on such date as the Government may fix. That clause has no further operation, and I think Honourable Members may rest assured that the Government after proceeding in the manner suggested by the Honourable Mr. Crerar will give effect to this and if possible to the other clauses of the Penal Code so as to bring the whole Code into conformity with the wishes of the country as may be expressed.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, I welcome the Bill even with the amendment. I think that there has been some misunderstanding as regards the attitude adopted by the Government in the final stages of the Bill. I do not think that Government ever wanted either to flout the opinion of the Assembly or do anything unconstitutional. The Honourable the Home Member said at first 'I do not at present make a further motion, Sir,' and there the matter had ended. Thereafter he laid all his cards on the table, and in moving the third Reading of the Bill, he said that he was going to move an amendment so that the Government of India may have time to make inquiries. He made no secret of it; the Assembly knew it, and as my Honourable friend Mr. Sarma said, the Assembly did not demur to it. The Leader of the Democratic Party told me that although he did not quite approve of the action proposed to be taken by Government, yet he was prepared to accept it. It will thus be seen that the Government of India have not done anything unconstitutional. Now that the Government of India are asking for the opinion of Local Governments we trust that when they are in possession of the views of the Local Governments and of the Indian general public they will be as ready as we are to take action and give us the lead. I think my Right Honourable friend, after he has heard the speech of the Honourable Mr. Sarma, is satisfied that there was no desire on the part of the Government to take any unconstitutional action. If he is satisfied then there is nothing more to be said. Sir, I welcome the Bill.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children, as passed by the Legislative Assembly, and as amended in this House, be passed."

The motion was adopted.

STATEMENT OF BUSINESS.

The HONOURABLE SIR HENRY MONCRIEFF SMITH (Secretary, Legislative Department): Sir, I understand that you have fixed Wednesday the 21st for the next meeting of this Council. That will be a day for the disposal of Government Business, Sir, and on that day on behalf of Government a Resolution will be brought forward dealing with Emigration to Mauritius. A Bill will also be introduced or leave will be asked to

introduce a Bill somewhat of a private nature dealing with the estate of one Mahendra Partab. If the annual Finance Bill is passed by that time in another place, it will be laid on the table here on that day, and the question of a date for its consideration in this House can then be mentioned.

The HONOURABLE THE PRESIDENT: I have only one remark to make in addition to what the Honourable the Representative of the Leader of the House has said, and it is this. There was a meeting of this Council fixed for Monday, but there was only one item of business on the paper, and that has fallen through. Therefore, it seems unnecessary to hold a meeting on Monday, and in this view the House will doubtless concur. The House therefore now stands adjourned till Wednesday, the 21st March, 1923.

The Council then adjourned till Eleven of the Clock on Wednesday, the 21st March, 1923.

COUNCIL OF STATE.

Wednesday, the 21st March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

MEMBER SWORN:

The Honourable Major-General Robert Charles MacWatt, C.I.E.,
M.B., F.R.C.S., K.H.S. (Director-General, Indian Medical Service).

QUESTIONS AND ANSWERS.

AGRICULTURISTS ON IMPERIAL BANK.

189. The HONOURABLE SARDAR JOGENDRA SINGH: Will the Government be pleased to say if on the governing body of the Imperial Bank there is any representative of agriculturists?

The HONOURABLE MR. E. M. COOK: There is no direct representative of agriculturists on the Central Board of the Bank.

ISLAMIA SCHOOL, BELGAUM.

190. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER:
(a) Is it a fact that the lease of land granted for the building of Islamia School, Belgaum, has been recently cancelled by the cantonment authority?

(b) Has the Muslim community of Belgaum prayed for the postponement of the cancellation orders?

(c) Do Government intend conceding to their prayers?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Government are informed that the lease of the land for the building of the Islamia School, Belgaum, was terminated on the 1st June 1921, as the terms of the lease were not complied with.

(b) Government understand that a petition on the subject was presented by the Islamia School Committee.

(c) Government do not propose, on the information at present before them, to interfere with the orders passed by the local military authorities.

The HONOURABLE THE PRESIDENT: I think on the last occasion the Honourable Member had to express his regret to the House for not attending.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: On this occasion, Sir, he did give us notice.

The HONOURABLE THE PRESIDENT: I am glad to hear it.

WIRELESS TELEGRAPHY AND TELEPHONY IN INDIA.

191. The HONOURABLE SIR ZULFIQAR ALI KHAN: (a) Has the attention of the Government been drawn to bulletin No. 1 entitled "Notes on the development of wireless telegraphy and telephony with special reference to its progress in India," published some days ago by Khan Bahadur Habibur Rahman Khan?

(b) Is the Government aware that the Khan Bahadur is the first Mussalman British subject and also the first Indian to enter into the practical field of wireless research work?

(c) Is the Government aware that the Khan Bahadur is conducting the wireless research work at his own expense?

(d) Will the Government be pleased to state whether in view of this pioneer work in India by an Indian British subject, they intend to extend their patronage to the Khan Bahadur's independent efforts?

The HONOURABLE MR. B. N. SARMA: (a) Yes.

(b) Government have no information on this point.

(c) Government understands that this is the case.

(d) The Director-General of Posts and Telegraphs has requested the Khan Bahadur to afford him a practical demonstration of his discoveries. In this connection, I place on the table extracts from the correspondence which has passed between the Director of Wireless and the Khan Bahadur on the subject, as also an extract from a note by the Wireless Research Officer on the Khan Bahadur's recent Bulletin.

Extracts from the correspondence between the Director of Wireless and Khan Bahadur Habibur Rahman Khan.

2. On the 7th March the Director of Wireless replied to the Khan Bahadur's letter of 6th (enclosed with the Khan Bahadur's letter to Secretary, Public Works Department) in the course of which the Director of Wireless wrote:—

"I now confirm in writing the statement made to you in conversation on the 19th, that if you can show me by practical demonstration that your discoveries have either arrived at a stage at which they would be of value to Government or to the development of radio generally or even show signs of reasonable promise that such a stage is within reach, I am perfectly prepared to consider any application you may make for further facilities."

3. On the 8th March in a very lengthy letter the Khan Bahadur wrote:—

"I respectfully beg to observe that your offer, contained in the extracts from your letter quoted above amounts to this:—That practical demonstration (which means how the whole thing is done by me) to be given in your presence is the *only basis* to provide you with the Technical data on which you will study the possibilities of my Researches from a commercial, strategic or purely scientific point of view and then consider whether the Research deserves any encouragement in the shape of finance or otherwise. It is remarkable that the Government are hesitating to consider my claim to encouragement on no other alternative except that of a practical demonstration. This condition is very ungenerous and unscientific because such a demonstration involves possibilities of serious risks to me as a discoverer. I have already made considerable personal sacrifices for Wireless and I am now prepared to take further risks for the sake of Science and all what scientific Research means to humanity and to India and therefore I now beg to inform you that:

"I am prepared to give before the Government the practical demonstration, which they insist upon, subject to the following three conditions which, I feel sure your goodself will readily agree, are perfectly reasonable.

(a) That the practical demonstration will be given before your goodself only. The Director-General of Posts and Telegraphs will be perfectly welcome."

(b) That if after this practical demonstration, during which I will also explain to you what are other possibilities in my Water Wireless system, your goodself come to the conclusion that my water Wireless Researches possess possibilities in all or in any of the directions you have indicated in the extract of your letter noted above, the Government shall afford me encouragement in the shape of finance and provision of apparatus for about *three* years of an annual value which shall be clearly defined and fixed before the said practical demonstration takes place, and also guarantee that for a period of 30 (thirty) years no one except myself and the Government will have the right to utilize the waters and waterways of India for *water wireless communication without masts and aerials*. If the Government utilize it a reasonable proportion of the profit shall be given to me."

(c) That if after this practical demonstration your goodself come to the decision that the Water Wireless Telegraphy and Telephony are not capable of commercial development, I shall have no claim on the Government for any financial help or loan of apparatus but that the Government shall grant me a License giving me sole rights in India, say for a period of 30 years, to utilize the waters and waterways of India for *water wireless communications, without masts and aerial*, for commercial purposes. A reasonable Royalty will of course be paid to the Government when the profits accrue."

4. To which the Director of Wireless replied on the 12th as follows:—

"I have the honour to acknowledge your No. W. W./B-1, dated the 8th March 1923, and do not propose to deal with its contents beyond that portion commencing at the foot of your page 3 where you state that my offer amounts to this:— "That practical demonstration (which means how the whole thing is done by me) to be given in your presence, is the *only basis*, etc." Practical demonstration means that you should satisfy a competent authority that you can communicate between two points by means of your system. Secondly, as I understand you claim to have read European stations by means of special method of your own, practical demonstration in this case would amount to permitting a similar competent authority to read those stations by means of your apparatus. The methods you apply and the details of the apparatus are not necessarily divulged by you provided you can show us results upon which we can judge the possibility or otherwise of your system. Having cleared the ground to this extent, I may now add that your condition (a) is not acceptable and your condition (b) is impracticable; similarly your condition (c)."

5. The following extract from a note by the Wireless Research Officer on the K. B. Bulletin may be of interest:

"There appear to be two technical claims made in this paper:

1. At Bareilly communication was effected over 7 miles with a Ford ignition coil.

There is no evidence that radio frequencies were employed and similar results can be obtained with earth wires by well known methods:—Compare Service power buzzer.

2. A method of radio reception without masts which renders possible the complete elimination of atmospherics.

The first part can be done by several well known methods, e.g., frames or ground aerials. The latter method appears to be that employed by the author. It has been very fully described by several well known authors several years ago and the scanty details afforded by the present author indicate nothing novel. As regards atmospherics the fact that European stations are received indicates nothing. This department has established and carried out regularly a press reception service from England utilising frames. It is well known that in certain special cases some degree of immunity from atmospherics is afforded by ground aerials and cables in water. To test this claim (re atmospherics) it is not necessary to divulge the method employed. It will be sufficient to give a demonstration of signals "and comparison with simultaneous reception at a departmental station. There will be no difficulty in demonstrating whether the proposed methods have any special value."

The HONOURABLE SAYYID RAZA ALI: Are Government aware that Khan Bahadur Habibur Rahman Khan claims to have discovered a system

whereby he can intercept messages passing between say Moscow and Berlin?

The HONOURABLE MR. B. N. SARMA: The Khan Bahadur is laying claim to having made various discoveries and the Director of Wireless has been in communication with him on the subject. The Director is very anxious to ascertain how far the claims which have been put forward are justified and as to whether he could reasonably recommend to the Government any assistance for the further pursuit of these scientific inquiries. The matter is under correspondence between the two officers and I hope that a suitable arrangement will be arrived at, but, unless the Government are satisfied by the report of their scientific officers that they would be justified in expending money on this subject, Honourable Members will realise it would not be possible for them to extend any help.

The HONOURABLE SAIYID RAZA ALI: Are Government in a position to state as to when the report of the Director on the success or otherwise of the experiments made by the Khan Bahadur is likely to reach the Government of India?

The HONOURABLE MR. B. N. SARMA: It will depend upon the Khan Bahadur as to when he will give the facilities that have been asked for by the Director of Wireless and Research.

I. M. S. OFFICERS IN N.-W. F. PROVINCE.

192. The HONOURABLE MR. LALUBHAI SAMALDAS: Will the Government be pleased to state the number of I. M. S. officers in military employ, who served in the North-West Frontier Province during the year 1921-22 and how many of them were Indians?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: A statement giving the information asked for by the Honourable Member is laid on the table.

Statement showing the number of I. M. S. officers, permanent and temporary, who served on the North-West Frontier during the course of the years 1921 and 1922.

	Permanent.			Temporary.			
	No.	Europeans.	Indians.	No.	Europeans.	Indians.	
1921.							
N. W. F. Province.	Waziristan.	37	25	12	151	7	144
	Kohat	25	13	12	34	3	31
	Peshawar	32	21	11	49	2	47
Total		94	59	35	234	12	222
1922.							
N. W. F. Province.	Waziristan.	30	20	10	63	2	61
	Kohat	46	24	22	49	2	47
	Peshawar	25	17	8	30	2	28
Total		101	61	40	142	6	136

EUROPEAN AND INDIAN I. M. S. OFFICERS IN N.-W. F. PROVINCE.

193. The HONOURABLE MR. LALUBHAI SAMALDAS: What is the total number of I. M. S. officers serving at present in the North-West Frontier Province, and what is the proportion of Indians to Europeans?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The total number of I. M. S. officers in military employ serving at present in the North-West Frontier Province is 128, of whom 94 are Indians.

RAILWAY PASSES.

194. The HONOURABLE MR. ALLI BUKSH MOHAMMAD HUSSAIN: (a) Will the Government be pleased to state the total number of free Railway passes issued in 1922 by Railway authorities to railway officials including the clerical staff of the Railway Board and the office of the Accountant General, Railways?

(b) Will the Government be pleased to state the total cost of the free passes issued in the year 1922?

The HONOURABLE MR. D. T. CHADWICK: Government have not got the information and see no object in attempting to collect it.

The HONOURABLE SAIYID RAZA ALI: Do Government propose to make inquiries and let the Honourable Member and this House know?

The HONOURABLE MR. D. T. CHADWICK: It is impossible to get the information in the time. It requires a reference to every single Railway Company throughout the length and breadth of India.

The HONOURABLE SAIYID RAZA ALI: Will Government be pleased to take into consideration the question of referring to the various Railways concerned and ascertaining the information as accurately as may be practicable?

The HONOURABLE MR. D. T. CHADWICK: That will be taken into consideration, Sir, with due reference to the reduction of staff necessary on account of retrenchment.

RAILWAY PRIVILEGE TICKET ORDERS.

195. The HONOURABLE MR. ALLI BUKSH MOHAMMAD HUSSAIN: (a) Will the Government be pleased to state the total number of Privilege Ticket Orders issued in 1922 by Railway authorities to the said officials?

(b) Will the Government be pleased to state the total cost of Privilege Ticket Orders issued in 1922?

The HONOURABLE MR. D. T. CHADWICK: The Honourable Member is referred to my reply to No. 194.

RAILWAY FREIGHTS.

196. The HONOURABLE MR. LALUBHAI SAMALDAS: Will the Government be pleased to state the rate of freight paid by them to the P. & O. Company for small parcels of general cargo from January to June 1922?

The HONOURABLE MR. D. T. CHADWICK: The Government of India do not ship goods to England to any extent. Shipments from England

are arranged by the High Commissioner and the cost of freight debited against the Department or Local Government ordering the goods. Consequently the Government of India have no information what rates of freight on small parcels of general cargo have been paid in the period mentioned. The information could only be obtained by a searching of back records in the High Commissioner's office which the Government of India think is hardly called for.

MILITARY MEDICAL SERVICES.

197. The HONOURABLE MR. LALUBHAI SAMALDAS: Will the Government be pleased to state the number of staff appointments in military medical services in India? How many of these appointments are held by Indians?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: There are altogether 56 administrative appointments in the Medical Services in India. Of these appointments, 20 are at present held by officers of the I. M. S., one of whom is an Indian holding the appointment of Assistant Director, Medical Services.

INDIANISATION OF I. M. S.

198. The HONOURABLE MR. LALUBHAI SAMALDAS: What steps have been taken up to now to train and appoint Indians to staff appointments with a view to Indianisation of the Indian Medical Service?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Indian officers of the I. M. S. receive exactly the same training as British officers of that Service and are equally eligible, subject to their possessing the necessary seniority and qualifications, for appointments to administrative posts.

(The Honourable the President then called upon Dewan Bahadur Annamalai Chettiyar, in whose name stood Question No. 199.

The Honourable Member was absent.)

The HONOURABLE THE PRESIDENT: Has the Honourable Member had notice?

The HONOURABLE MR. D. T. CHADWICK: Yes.

INDIA-BURMA RAILWAY.

199. The HONOURABLE DIWAN BAHADUR ANNAMALAI CHETTIYAR: Will the Government be pleased to state:

(a) whether the land giving direct Railway facilities between India and Burma has been surveyed and, if so, the total distance of the line;

(b) what the approximate cost of the construction of the Railway is;

(c) if the answer to (a) is in the negative, whether they contemplate giving direct access by Railway into Burma from India?

The HONOURABLE MR. D. T. CHADWICK: (a) and (b): Two routes between India and Burma have been surveyed, the Southern or Sea Coast Route from Chittagong *via* Akyab to Minhla, a length of 450 miles, estimated to cost Rs. 1,050 lakhs at present prices; and the Northern or Mukong Valley route from Ledo to Sahman, a distance of 268 miles, estimated to cost Rs. 700 lakhs.

(c) Does not arise.

ARCHITECTURE OF NEW CAPITAL, INDIA.

200. The HONOURABLE DIWAN BAHADUR RAMABHADRA NAIDU: Has the attention of the Government been drawn to an article in the "Daily Express," dated the 4th March 1923, about the paucity of Indian art and architecture in the construction of the New Capital, Delhi?

The HONOURABLE MR. B. N. SARMA: Yes.

The HONOURABLE SAIYID RAZA ALI: Do Government propose to take any action in this matter?

The HONOURABLE MR. B. N. SARMA: We have been very anxious to promote Indian art which is the subject matter of this interpellation, but with the limited funds and with the critical manner in which the Delhi expenditure has been scrutinised by the public I cannot hold out any very great hopes of our being able to do very much just at present.

The HONOURABLE MR. LALUBHAI SAMALDAS: Has the attention of Government been drawn to the complaint made by the School of Arts in Bombay that the Bombay art is not represented and no facilities are given for the students to come and work here?

The HONOURABLE MR. B. N. SARMA: The attention of the Government has been drawn to it.

The HONOURABLE MR. LALUBHAI SAMALDAS: Is any action likely to be taken upon it, Sir?

The HONOURABLE MR. B. N. SARMA: If funds permit.

The HONOURABLE SAIYID RAZA ALI: With reference to the reply given by the Honourable Member, may I ask whether the Government's position is that the Indian style of art and architecture is more costly than the Western one?

The HONOURABLE MR. B. N. SARMA: In so far as the buildings are concerned, the designs have been settled, the plans have been settled and the structures are being raised and I do not think there will be any alteration in the plans and the designs. With regard to decorations, furniture and so on, we are trying to do our level best to encourage Indian art. There is the question as to whether mural decorations, such as are special items as would encourage Indian art can be permitted and students be encouraged and brought up to Delhi and trained under the guidance of special officers. We have gone into the question but we have been confronted again and again with this problem of expenditure and that is the reason why we have unfortunately been obliged to give a somewhat pessimistic reply. But if our finances improve, certainly it will be the anxious desire and care of the Government to promote Indian art and to do all that they can to embellish new Delhi with artistic designs and mural decorations of the kind that people have at heart.

The HONOURABLE LALA SUKHBIR SINHA: May I ask who made these designs and plans and who passed them finally?

The HONOURABLE MR. B. N. SARMA: The architects have been employed after careful consideration of the whole subject.

BILL LAID ON THE TABLE.

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 fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax, which was passed by the Legislative Assembly at its meeting held on the 20th March, 1923.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, in connection with the Bill of which a copy has just been placed on the table by the Secretary, I have to hand over to you a recommendation made by the Governor General under section 67-B of the Government of India Act.

(The recommendation was then handed over to the Honourable the President).

The HONOURABLE THE PRESIDENT: Let the recommendation be read.

The SECRETARY OF THE COUNCIL: "In pursuance of the provisions of sub-section (1) of section 67-B of the Government of India Act, 1, Rufus Daniel, Earl of Reading, do recommend to the Council of State that it do pass the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax in the form in which it was passed by the Legislative Assembly with the following amendments, namely:—

(1) That in sub-clause (1) of clause 2, after the words 'construed as if' the words 'with effect from the first day of March, 1923' be inserted and that for the words 'one rupee and four annas' the words 'two rupees and eight annas' be substituted;

(2) That at the beginning of sub-clause (2) of clause 2, the following words be inserted, namely:—

'With effect from the first day of March, 1923.'

(3) That sub-clause (3) of clause 2 be omitted.

(4) That to clause 3 a new sub-clause be added, namely:

(3) The amendments made in the Indian Tariff Act, 1894, by this section shall have effect from the first day of March 1923."

The HONOURABLE THE PRESIDENT: Let the recommendation of His Excellency the Governor General be endorsed on the back of the Bill.

THE INDIAN FINANCE BILL.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I have two notices to hand in with regard to the Finance Bill. It may be convenient to Honourable Members if I indicate what they are. The first is a notice of my intention to move that the Finance Bill, as passed by the Legislative Assembly, be taken into consideration. The second notice is of my intention to move certain amendments in the Finance Bill as so passed. The effect of these amendments would be to bring the Bill as passed by the Legislative Assembly into line with the recommendation which we have just heard. In connection with the first notice I would suggest, Sir, that, if it is in accord with the opinion of the House and you yourself see no objection, the Bill might be taken up for consideration on Friday, that is, earlier than with the usual three days' notice.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): We were under the impression that this Bill was to be taken up for consideration on Saturday, at least that is what the Leader of the House told us at the last meeting. Some of our Members have decided to come back on Friday evening and I therefore wish that the original arrangement should be stuck to and that the Bill should be taken up for consideration on Saturday instead of on Friday.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): It appears from the announcement that has been made by the Leader of the House that His Excellency the Governor General has made a certain recommendation in the Bill as passed by the Legislative Assembly. We take it that the discussion on the measure may likely take a longer time than one day. Therefore I think that it would be a good thing if the discussion of the Finance Bill is started on Friday so that if we are not in a position to complete our deliberations on that day we might finish the discussion on Saturday. I am very sorry that it would be inconvenient to some of the Members to be present on Friday, or rather they would not be present on Friday, but I believe looking to the convenience of those who are present here at Delhi it would be as well to start the discussion on Friday.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): I support the recommendation of my Honourable friend Saiyid Raza Ali. It is likely that this discussion might take more than one day and it would be advisable that the debate should begin on Friday instead of on Saturday. I quite see the difficulty that has been pointed out by my Honourable friend Mr. Lalubhai Samaldas, but I think that Honourable Members are all aware that this is the budget week and if they really wanted to be present they ought to be here in time. There is another point on which I wish to seek some information from you, Sir.

The HONOURABLE THE PRESIDENT: Let us first of all decide the point when the Bill is to be taken up for consideration. I will call upon the Honourable Member again.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): I should like to say one word with reference to an observation which fell from my Honourable friend Mr. Lalubhai Samaldas. I have no recollection of ever having made a statement in this House that this Bill will

[Dr. Mian Sir Muhammad Shafi.]

be taken up for discussion on Saturday. I do not know where my Honourable friend has got this from.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I support the motion that the Bill be taken up for consideration on Friday next.

The HONOURABLE THE PRESIDENT: It appears to be the general view of the House and it will be convenient for the disposal of public business that the Bill should be taken up for consideration at as early a date as possible. I know most Honourable Members have been attending the debate in another place. I see no reason whatever why the Bill should not be taken up for consideration on Friday. The Bill will therefore be taken up on Friday.

The HONOURABLE SIR MANECKJI DADABHOY: I presume that Honourable Members will have the same right of moving amendments to this Bill as if the Bill had not been recommended and introduced in this Council. I should like to have your ruling on this subject.

The HONOURABLE THE PRESIDENT: The procedure on a recommended Bill is the procedure of this Council on any other Bill. It will be open to the Council to deal with it in the same way, subject to our rules and procedure as it would do with any other Bill.

THE MAHENDRA PARTAB SINGH ESTATES BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce:

"A Bill to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions."

I do not at this stage propose to add materially to the brief recital of the purpose of the Bill which is contained in the Statement of Objects and Reasons. I merely emphasise that the principal purpose of this Bill is to enable measures to be taken for the proper administration of the estate in the interests of the minor son, and of the tenantry and other dependants of this estate. The estate is at present under administration in pursuance of powers conferred by Regulation III of 1818, but the powers of administration which appear to be contemplated by that Regulation are not really adequate for the efficient, economic and beneficent administration of the estate under modern conditions. The intention, therefore, is to transfer the right and title in the estate of the present proprietor to Government and then that Government should transfer it to the minor son. This will enable the estate to be taken under administration under the Court of Wards Act and it is anticipated that great benefit will accrue to the estate itself and to those who are concerned in it. The transfer proposed to be made under section 3 will be under the terms of a *sanad* and in view of the circumstances of the case I think I may say that it will be a proper condition to attach to the grant under that *sanad* a condition of loyalty and also it will be necessary to provide for obvious reasons, that the revenues of the estate are not placed at the disposal of the present proprietor so long as he is a fugitive from justice.

If the House is prepared to grant me the leave for which I now move I shall be prepared at a later stage of the Bill to give a fuller account of the circumstances in which this legislation is necessary and the manner in which it is proposed to apply the powers which the Bill will vest in Government.

The HONOURABLE SAIYID RAZA ALI: To careful observers it will appear that three main principles arise out of the Bill that has been introduced, or rather leave for the

The HONOURABLE THE PRESIDENT: I would remind the Honourable Member that this is a motion for leave to introduce.

The HONOURABLE SAIYID RAZA ALI: As I was saying, leave for the introduction of which is sought by the Honourable Member. Sir, those three principles which can in conformity with our Rules and Regulations be discussed at

The HONOURABLE THE PRESIDENT: If the Honourable Member is opposing the Bill he had better say so. If he desires to discuss the principles of the Bill the proper time to discuss is on a motion for consideration.

The HONOURABLE SAIYID RAZA ALI: I believe—I speak subject to correction by you, Sir—so far as the principles of the Bill are concerned they can be discussed even on a motion for leave to introduce.

The HONOURABLE THE PRESIDENT: They can be discussed, but unless the Honourable Member is going to oppose the Bill I am not going to allow him to do so.

The HONOURABLE SAIYID RAZA ALI: A very important point which I want to place before the House

The HONOURABLE THE PRESIDENT: Will the Honourable Member tell me whether he is going to oppose the motion for leave to introduce or not?

The HONOURABLE SAIYID RAZA ALI: I am not going to oppose the motion. But I want Government to amplify the last clause of the Bill and make it more satisfactory than it is now.

The HONOURABLE THE PRESIDENT: Then the Honourable Member must reserve it for the motion for consideration.

The HONOURABLE SAIYID RAZA ALI: May I submit that by that time there will be no time left for Government to improve the scope of the Bill. That is my difficulty and that is the reason why I propose to make certain suggestions to Government so that they may be in a position to amend its scope if so advised.

The HONOURABLE THE PRESIDENT: If the principles are outside the scope of the Bill, then the Bill must be withdrawn and another Bill brought in. The scope of the Bill can be amended neither on the motion for introduction nor at any other stage of the Bill.

The HONOURABLE SAIYID RAZA ALI: In that case I reserve my remarks till a later stage.

The HONOURABLE THE PRESIDENT: The question is that leave be given to introduce:

"A Bill to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son subject to certain conditions."

The motion was adopted.

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

REPORT OF SELECT COMMITTEE ON AMENDMENTS TO STANDING ORDERS.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I beg to present the Report of the Select Committee appointed to consider and report on the proposed amendments in the Council of State Standing Orders.

BILLS ASSENTED TO BY HIS EXCELLENCY THE GOVERNOR GENERAL.

The SECRETARY OF THE COUNCIL: Sir, under the provisions of sub-section (1) of section 68 of the Government of India Act, the following Bills which were passed by both Chambers of the Indian Legislature have been assented to by His Excellency the Governor General:

1. The Indian Cotton Cess Act, 1923.
2. The Indian Income-tax (Amendment) Act, 1923.
3. The Government Savings Banks (Amendment) Act, 1923.
4. The Married Women's Property (Amendment) Act, 1923.
5. The Prisoners (Amendment) Act, 1923.
6. The Criminal Law Amendment Act, 1923.

RESOLUTION RE EMIGRATION OF UNSKILLED LABOUR TO MAURITIUS.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): I beg to move the following Resolution:

"This Council approves the draft notification, which has been laid in draft before the Chamber, specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Mauritius, and recommends to the Governor General in Council that the notification be published in the Gazette of India."

Honourable Members have had a note prepared by the Department of Revenue and Agriculture on Indian emigration to Mauritius in their hands for some time and I think therefore it would be needless for me to explain to the House at any very great length the reasons which have induced the Government to lay this notification before the House and ask their approval for permitting a limited number of Indian labourers to go to Mauritius under certain conditions which have been laid down in the notification before them. Mauritius is a very small island in the Indian Ocean about 720 square miles in extent not much larger than many of the taluqas in one of the districts of this Empire and has a population of only 378,000 of which 70 per cent. are Indians. The history of this island is very interesting. It seems to have been discovered by the Portuguese

in the 16th Century, passed into the hands of the Dutch, then into the hands of the French and finally into the hands of the British in 1814. Slavery was abolished in 1835 and Indian emigration to Mauritius commenced about the year 1840 and went on almost uninterruptedly till the year 1910. The question of further emigration was considered at that time and the Sanderson Committee recommended that in view of the largeness and the density of the population relatively to the area of land, it might be desirable to stop further emigration and acting on the recommendations of that committee, further indentured emigration was stopped in or about that year. The Government of Mauritius have been representing to the Government of India and the Secretary of State ever since that the recommendations of the Sanderson Committee should be further examined and considered and that there is justification and necessity for a further employment of Indians in the Colony but the Government of India have not until recently been able to see eye to eye with the Mauritius Government, although the Secretary to State and to a certain extent the Government of India felt that it might be desirable to send a limited number of Indian labourers for Governmental works. In the year 1921 the Mauritius Government approached the Government of India and pressed very hard upon the Government the need for assistance from this country, especially in view of the prosperous state of the sugar industry, the danger which threatened it as a result of inadequate labour supply and the imperative necessity for the construction and improvement of Governmental works for which large sums of money were available. The Government of India took into consideration the desirability of assisting if possible the construction of public works which would be not only helpful to the general prosperity but would be directly beneficial to the Indian population resident in that colony but they informed the Mauritius Government that they could do nothing without the assistance of the Legislature especially in view of the Emigration Act, which was at that time under consideration and later on passed into law. The Government of India anticipating the desire of the two Houses in certain directions have pressed upon the Mauritius Government to effect certain reforms in their labour legislation and as a result of their representations the Mauritius Government acquiesced in the views of the Government of India and have readily responded to the call in removing all the penal provisions and promised not to take on re-indenture the coolies at that time under indenture contracts with the planters in Mauritius. The Government of Mauritius have thus readily and cheerfully complied with the conditions which were suggested by the Government of India and they further sent a deputation headed by a Government officer to meet the Emigration Committee and explain to them the imperative need for more labour in that colony. Mr. Walter who headed the commission and the other members have frankly laid their cards on the table and I must pay here a tribute to Mr. Walter for the frank and open manner in which he discussed the whole question before the committee and they convinced the committee that there would be no harmful effect on the existing state of the labour market in Mauritius if a small number of labourers were allowed to go there from here. The points that were pressed upon us were that 140 lakhs were available mainly derived as contributions from the planters out of the profits which they derived from thriving sugar industry for the development of irrigation works, sanitary and other public works of which the colony was so sorely in need. The economic conditions of the country seem to be extremely satisfactory and it is a happy feature to note that agricultural labour there

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get a larger wage—at any rate a very adequate wage as compared with the wage that is prevailing here or in any other Colony. The Indians who have been settled there, mainly the descendants of those who have migrated under indenture have prospered and are at present in possession of about 80,000 acres out of 180,000 acres. They are peasant proprietors. The island also has made remarkable progress in agricultural industry, sugar-cane industry being the principal feature, the area at present being about 130,000 acres a growth of about 26,000 acres more, I think, compared with the figures of 1911. The revenue of this small island is about 2 crores. The exports are about 18 crores, especially sugar and Honourable Members will realise that the country is really in a very prosperous condition. The main point that was subjected to close scrutiny by the Committee and which gave considerable anxiety to the members was as to whether this additional labour force which would be employed in the island is not likely to depress the condition of the agricultural labourers in Mauritius. The question was examined at great length and what impressed the Committee was this that for 10 years to come, at any rate, the Public Works would employ all the men that we propose to send there, 1,500 labourers and even more, so that they would not compete in the same labour market with existing labour and consequently, as far as we can see at present, there is no reason as to why they should depress the existing conditions of the labour market in that island. Furthermore, it has been pointed out to us that the effective labour strength has fallen really by about 9,000 labourers or about 13 per cent. while the area under cultivation has increased by about 20 per cent. And those who are employed in agriculture have pointed out how dangerous it would be to reduce the labour that is needed because the sugar-cane industry requires very careful tending and any unscientific or loose methods of tillage or improper tending would result in a smaller yield of sugar and would threaten really this thriving industry upon which the Colony is at present wholly dependent. We were told that there should be at least 3 men employed on an acre of sugar-cane and yet judged by that standard the labour force now available in that island is very much smaller than is really necessary. So the points that were put to us were briefly that the planting industry itself could absorb the whole of the additional labour, at present available there and which might be sent there, and, apart from that question the new men that would be sent could all be utilised on Government works and therefore, even assuming that there was a doubt on the former question, there was no need whatsoever for these men to take the bread out of the mouths of the people who are already there. That is, Sir, the reason why the Committee and the Government have, after considerable—I won't say hesitation—thought, given to the subject arrived at the conclusion that it would be perfectly safe for us to send a small number. The number of labourers who were asked for by the Mauritius Government and the planters was rather large, and the Committee resolved that emigration should be permitted only for one year, that it should be only 1,500 adult labourers, that we should employ an agent, if possible, that the condition of the labour market by reason of the importation of this labour should be watched carefully from time to time so as to see as to whether it is likely really to depress the existing condition of the labourers there. Furthermore, they have asked for two effectual safeguards, namely, that any labourer who can satisfy the Emigration Commissioner or other officer who might be employed during

the absence of the Emigration Commissioner, or the non-employment of that agency, should have it in his power to compel the Mauritius Government to repatriate at their expense for adequate reasons any labourer, and certainly, if the labourer cannot earn in that island a living wage, which would be adequate to furnish the necessaries of life for a family consisting of himself, his wife, whether he is married or not, and 3 children, whether he has children or not, with a small margin for saving and a provision for old age and sickness. Furthermore, Sir, without any condition whatsoever, without showing any reason whatsoever the labourer is entitled to be repatriated at the end of two years at the expense of the Colony. I think these are effectual safeguards for preventing any undesirable effects by reason of this decision, and the Assembly has gone into the question thoroughly and, though a few hesitated as to whether further inquiry should not be made before we permitted emigration, that objection was withdrawn on a promise that the question would be carefully considered. I would suggest to the House, Sir, that the Government have provided all the necessary safeguards, are taking all due precautions and that it would be wrong on our part to refuse assistance, especially when such assistance is needed for the benefit of our own countrymen resident in that Colony. It is true that we ought to approach the question cautiously so that we may not unnecessarily add to the density of the population in that island but what impressed me and the Members of the Committee was this: Shall we not be taking wrong view of things by really jeopardising the future of that Colony by an unnecessary timidity in this respect in refusing the aid which seems to be really necessary? Can these public works be undertaken with the existing labour population there? If they cannot be undertaken, would it not be really prejudicial to the interests of the Indian population itself if the health of the island, which specially in some parts including the capital seems to be unsatisfactory, is not improved? 50,000 acres of waste land could be brought under cultivation and a most profitable industry further added if irrigation works can be constructed and we are told that these irrigation works can be constructed only with the aid of additional labour. Therefore, I think in allowing a small force to go there we are really consulting not merely the interests of the labourer who may wish to improve his prospects by going from here, but also the prospects of the Indian population resident there. I have, therefore, no hesitation in asking this Council to accept the view which was taken by the Assembly and I commend this Resolution to the acceptance of the House.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): Sir, I support the Honourable Mr. Sarma in all that he has said and ask the House to accept the Resolution as proposed by him. There is a feeling in the country amongst a certain class of people and even amongst some Members of the Legislature that the Emigration Committee are playing into the hands of the planters either of Ceylon or of Malay States or of Mauritius. The feeling against Mauritius is stronger because of the indentured system that prevailed there. I do not doubt the sincerity of that feeling but I want to assure the House that the Emigration Committee considered the whole question in all its bearings and it was only when we were satisfied that by allowing emigration of 1,500 men we will not in any way be helping to reduce the wages of the Indians who are in the Island or be taking any liberties with the health and the prospects of the men we are sending out, that we agreed to send 1,500 men as an experimental measure. Sir, some of us thought that it

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would be better to have a definite undertaking given to us that over and above the rations, clothing, free nursing, free medical relief, etc., given by the employees, the emigrants should have a sufficient margin to enable them to return whenever they like. To meet this difficulty provision has been made that if at any time India's agent who is in Mauritius is satisfied that any labourer does not get sufficient wages to maintain himself and save something he will be entitled to ask that agent to repatriate him at the expense of the Colony. That is one point gained. The other point yielded by the Mauritius Government is that after two years without showing any cause, the man has a right to ask for repatriation. As regards the extra margin for saving purposes there was a difference of opinion amongst the Members of the Council. Some of us thought that instead of the margin being left to the discretion of the agent, it should be fixed here by the Council. But the majority thought—and I think thought rightly—that it would be much better to leave it to the discretion of our representative in that colony, and it is because we all feel that we are not in way going against the interests of our brethren in that colony and that we are safeguarding, as far as it lies in our power, the interests of the men whom we are sending out, that we agreed to this experiment being made.

There is also a feeling that even the Government is playing into the hands of the planters in all the colonies. Had Government published the report of Fiji and British Guiana, perhaps this feeling would have disappeared. Some public men are of opinion that the fact that these reports are not published and kept back shows that there is something inherently very wrong in those two colonies, and if it is so they fear that it might be equally bad in Mauritius also. As my Honourable friend Mr. Sarma has said the deputation that came here headed by Mr. Walter told us all that we required to know about the labour condition in the Colony. They helped us to get all the information that we wanted. They did not conceal anything and because we were satisfied that the men we send out there will be treated as their brethren that we allowed this emigration to be carried on as an experimental measure. I am quite sure, Sir, that not only will the Government there benefit but that the condition of our labourers who go out there will be much better than what it is here. We have had evidence of a few men whose fathers or grandfathers went out there under indenture and who are now occupiers, one of 1,400 acres of land, and another of 1,000 acres of land—yet another has got a sugar factory himself; this shows that men who went out there from here got such wages that they were able to save for themselves and were able to build up a fortune. We hope that the men we are now sending out will be equally fortunate and equally lucky in getting not only sufficient wages to maintain themselves and get a much better rate than they do here but they will also be enabled to save and settle there as agriculturists. I support this Resolution.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, as a Member of the Standing Committee on Emigration I do not think I should record a silent vote on this question. I am not prepared to subscribe to the view expressed by the Honourable Mr. Sarma that the taking of so many of our countrymen to Mauritius Island will stimulate the prosperity of those Indians who are already settled there or are working in the Island. All the same I must acknowledge that the deputation from Mauritius tried to meet our wishes fairly. It may be

that they were not in a position to concede all the demands or proposals that were laid before them. Yet, Sir, there is no doubt that the present conditions under which emigration is proposed to be allowed are more favourable than those which obtained in the past, and I do hope, Sir, that in course of time, the Government of the Colony will see to the reasonableness of acceding to all the proposals that were laid before the deputation last month. It is in this view, Sir, that I support the Resolution moved by the Honourable Mr. Sarma.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non Muhammadan): Sir, I do not rise to oppose the Resolution but I give my support. At the same time I want to point out that labour in this country is becoming scarce and a time may soon come when the question of agricultural labour will become very serious and acute, and if our people are led to go out of the country such as Mauritius and other places, then this question ought to be considered by the Government as to what will happen to this country. I think the Zemindars who are present in this Council will support me when I say that agricultural labour in India is becoming very scarce.

The HONOURABLE MR. LALUBHAI SAMALDAS: You pay them more and keep them.

The HONOURABLE LALA SUKHBIR SINHA: There is no question of payment. The wages are going up. But the number is going down.

The HONOURABLE SIR MANECKJI DADABHOY: You do not pay Rs. 50 a month to your labour.

The HONOURABLE LALA SUKHBIR SINHA: I strike this note of warning on this motion that in future Government may take into consideration the case of this country also.

The HONOURABLE MR. B. N. SARMA: Sir, I am glad that there has been unanimous support for the Resolution in this House. The Honourable Mr. Lalubhai Samaldas gave expression to or rather voiced in this House some sentiments and views which are entertained outside this House regarding what is said to be undue haste with which we are sending labourers to outside colonies. I think, Sir, the grave deliberation and the calm . . .

The HONOURABLE MR. LALUBHAI SAMALDAS: May I rise to make a personal explanation, Sir? I never said "with undue haste." I am sorry if I led my Honourable friend to believe so. I never meant it. So far as I remember, I did not say it.

The HONOURABLE MR. B. N. SARMA: I hope I have not said that Mr. Samaldas identifies himself with that view. But I said he gave us an idea of what the public outside, at any rate a section of the public outside, feel on this subject. My answer is that the anxious care which we have bestowed upon the question of emigration to Fiji and British Guiana and the fact that we have not come forward with any proposals for further emigration to these two countries although we are pressed very hard at least by one colony must be proof positive that we are not desirous of promoting emigration to any colony unless we are thoroughly satisfied that the condition of the labourers whom we may send abroad would be much better than what unhappily it is in certain parts

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of India at the present moment. With regard to the publication of the Fiji and British Guiana Deputation Reports we hope to be able to publish them at an early date. (*The Honourable Mr. Lalubhai Samaldas*: "How long?") It all depends upon certain circumstances for which the Government of India cannot hold themselves directly responsible. The question is being considered. (*The Honourable Mr. Lalubhai Samaldas*: "There is some suspicion.") There is no justification for suspicion at all because if we had asked for emigration to be permitted to proceed to Fiji and British Guiana without the publication of the reports, then the Honourable Members might think that there is something in the reports which does not bear publication and that without informing the House and the outside public as to contents we were trying to promote the interests of the colonies to the detriment of the labourers here. I am sure there is nothing really of a substantial character, or of any character regarding the main proposals of the Committee which need be concealed or which will be concealed from the public at all and I hope to be able to publish the reports at as early a date as may be practicable.

The Honourable Saiyid Raza Ali understood me to say that the sending of this force would directly and immediately benefit the labour force now existing in that colony. If he has so understood me, I am sorry. I never said and never meant to say that the sending of these men to Mauritius would improve the wages of the labourers at present in that colony. All that I said and I do say is that the improvement of public works, the construction of irrigation works, the bringing of waste land under cultivation, the improvement of the hygienic conditions of the colony cannot but promote the prosperity of that colony and be conducive to the prosperity of the present resident Indian population there. (*A Voice*: "Let us hope so.") I feel it would be so, and I have not much doubt on that subject if the premises on which we are proceeding are correct and accurate and we have no reason to think that those premises are incorrect or inaccurate.

The Honourable Lala Sukhbir Sinha sounded a note of warning as to whether we are not unduly depleting the Indian labour market, especially the agricultural market, of labourers and asked us to proceed with caution. Whatever may be said with regard to certain parts of India, I feel sure that with regard to the United Provinces at any rate, it cannot be contended that the density is small or that the existing economic conditions seem to favour the prosperity, or at any rate, the growing prosperity of the labouring classes in that province. We hope that with improved agriculture, with the growth and prosperity of industries there would be room for improvement, but the large number of emigrants from the United Provinces to other parts of India and outside justifies us in believing that the pressure in that area is unduly great and I am sure that Mr. Sukhbir Sinha will co-operate with the Government in finding employment for this surplus population existing at present in that province. He may be sure that nothing would be done by Government to render the position of agriculture or industries in this country difficult by reason of any undue emigration of labourers from here. But he would at the same time realise that the freedom must be left to the labourer as to any other person to go where he pleases to earn his living and improve his prospects if he can, so long as no racial distinctions, no racial discriminations are observed which are likely to humiliate the Indian abroad, and so far as Mauritius

is concerned, we are in a happy position because there is no racial discrimination, no communal discrimination and there is a common electoral roll on which Indians have a large number of voters and we hope to have an increasing number and it is for them really to exercise the privileges which they at present enjoy to have a proper share in the Government of that colony. All the various questions suggested have been examined and I think no hesitation need be felt, especially as I am sure we have in the Government of that country and in Mr. Walter, the Labour Commissioner a sympathetic officer who will look to the safety, prosperity and contentment of any labourers that we may send from here.

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

"This Council approves the draft notification, which has been laid in draft before the Chamber, specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Mauritius, and recommends to the Governor General in Council that the notification be published in the Gazette of India."

The motion was adopted.

The HONOURABLE THE PRESIDENT: Before I adjourn the Council there is one little matter which I should like to bring to the notice of Honourable Members. It has been suggested that a photograph should be taken of Honourable Members and the time suggested is 10-30 A.M. on Friday. I do not know whether Honourable Members would like to be photographed or if so, whether they would like to be photographed on Friday. I will leave it to their decision. (No dissent having been expressed) A photograph will be taken at 10-30 A.M. on Friday. I hope as many Honourable Members as possible will attend.

The Council then adjourned till Eleven of the Clock on Friday, the 23rd March, 1923.

COUNCIL OF STATE.

Friday, the 23rd March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: There are Messages, Sir.

The HONOURABLE THE PRESIDENT: Let them be read.

The SECRETARY OF THE COUNCIL: "Sir, I am directed to inform you that the Legislative Assembly have, at their meeting of the 21st March 1923, agreed without any amendments to the Malkharodh and Gaontia Villages Laws Bill which was passed by the Council of State on the 15th March, 1923.

"Sir, in accordance with Rule 36 (1) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the following Bills were taken into consideration by the Legislative Assembly at their meeting on the 21st March, 1923, and that the Assembly have agreed to the amendments:—

- (1) A Bill to consolidate and amend the law in British India relating to Official Secrets.
- (2) A Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children."

"Sir, I am directed to inform you that the further amendments which were made by the Council of State in the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, were taken into consideration by the Legislative Assembly at their meeting of the 21st March, 1923, and that the Legislative Assembly have agreed to the amendments."

"Sir, I am directed to inform you that the Bill to consolidate certain enactments relating to Merchant Shipping, which was passed by the Council of State at their meeting on the 16th March, 1922, was passed by the Legislative Assembly at their meeting on the 21st March, 1923, with the amendments indicated in the attached statement. The Legislative Assembly request the concurrence of the Council of State in the amendments."

BILLS LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules I lay on the table copies of the following Bills which were passed by the Legislative Assembly at its meetings held on the 21st and 22nd March, 1923:—

- (1) A Bill for the removal of doubts regarding the right of women to be enrolled and practise as legal practitioners;

[Secretary of the Council.]

(2) A Bill to make provision for the better management of waqf property and for ensuring the keeping and publication of proper accounts in respect of such properties;

(3) A Bill further to amend the Special Marriage Act, 1872;

and in accordance with Rule 33 of the Indian Legislative Rules, I lay on the table a copy of the Bill to consolidate certain enactments relating to Merchant Shipping, which was passed by the Legislative Assembly at its meeting held on the 21st March, 1923.

THE INDIAN FINANCE BILL.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I beg to move:

"That the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax, as passed by the Legislative Assembly, be taken into consideration."

The Council will remember, from what I said here on March the 1st, that the deficit in our revenues for the coming year, as then estimated, amounted to some Rs. 426 lakhs and that the central problem of the Budget was to find means, not only for covering that deficit, but also to give some assurance that the Central Government would, at a reasonably early date, be able to discharge certain other liabilities which I mentioned. Now, Sir, as the result of the voting on the Demands for Grants in the Assembly, that deficit has been reduced to approximately Rs. 369 lakhs. But the main problem has not thereby been materially affected, and in the Bill which we have before us this morning as passed by the Legislative Assembly, that problem still remains unsolved. It is to provide a solution that I have tabled a certain amendment which will come up for discussion later this morning. I do not propose, Sir, on this motion to enter into the merits or demerits of that particular solution, namely, the enhancement of the salt duty. I think it will be more convenient and at the same time probably more in order if on this motion I confine myself to a few general observations on the nature of that problem as it presents itself to Government. I submit, Sir, that it is vitally necessary to have a clear idea as to what that problem really is. During the last few weeks there have been floating about certain ideas born, I think, of a very natural desire to avoid taxation which falls, however, lightly on the whole of the population, on the rich and the poor alike, but, nevertheless, ideas with which this Council would do well to get to closer grips. First of all, we have had the idea put forward that the Government have exaggerated the gravity of the financial situation. We have been invited to have a better sense of proportion and to think of the enormous deficits of the past few years—deficits of 20 to 30 crores—we have been reminded that those deficits, though no doubt serious and a cause for anxiety, have nevertheless somehow been met without, so far as can be seen, any great catastrophe befalling. Why, then, we are asked, all this pother, why make all this heavy weather, about a comparatively small deficit of under 4 crores? Let us rather congratulate ourselves that our revenue and expenditure, after the efforts of the past three years, have come so close together. Surely, after the enormous gaps of the past five years, another comparatively small deficit cannot do the country very much harm. And above all, some of our friends ask us, why in the name of political wisdom

use extraordinary means to impose on the country taxation in a form to which, rightly or wrongly, popular sentiment is, it is said, so much opposed.

Then, again, concurrently with that idea, and sometimes combined with it, there is another which challenges the very existence of this deficit or contends that at the worst it is only temporary. What about the *deus ex machina* that recently emerged, offering you 19½ crores of rare and refreshing retrenchment, of which you have so far only taken advantage in your budget of between 9 and 10 crores? What are you going to do with the remaining 9 crores? And then we are reminded sometimes what about our revenues. Are our railways never going to give a reasonable return on the capital invested in them? Are our Post and Telegraphs never going to show a profit? Is the trade of the country always going to be so stagnant as in the last year or two? Why make such a fetish of balancing your budget within this arbitrarily chosen period of 12 months ending on the 31st March 1924? Why not take your courage in both hands and let your budget balance itself, which probably it will do, if not this year, then perhaps next year, or the year after, without causing all the strain and stress of risking a deadlock with the Legislature?

Finally, we sometimes hear the idea, rather more intangible, but perhaps on the surface all the more plausible, that, assuming that the deficit must at all costs be covered, then surely it is not beyond the ingenuity of Government's financial advisers to devise some means, some adjustments, or even supposing that taxation is inevitable, some alternative measures, which are likely to meet with less opposition in the Legislature. Conservative finance, those friends of ours tell us, is all very well, but it is carrying financial purism too far to stir up opposition to the extent to which you will by the measures you propose.

Sir, if there are any Honourable Members here who are affected or disturbed by reflections such as these, I would ask them to remember that the Government of this country, if I may say so without impertinence, is not run by financial pedants and that a Government which, as its record for the past three years shows, has strained itself so much to make the reforms a success, ought at least to get the credit for having explored and re-explored every possible alternative and that such a Government is not likely, without grave and sufficient cause, to persevere with measures, which can possibly be avoided, to which at least one branch of the Legislature is opposed.

And can any dispassionate observer contend that the financial position of this country and of its various Governments is such as to justify those comfortable and reassuring views? I would ask the Council just to consider one or two aspects of our present financial position.

First of all, there is the growth of our national indebtedness. I have heard it hinted that we have been overstressing this question of credit and that we should remember that in a country like India there is always the danger of trying to aim too high. It is very difficult to aim too high when a country's credit is concerned. We must always remember that any deterioration, any marked deterioration, in a country's credit must inevitably work its way down, and affects the actual springs of the country's life. What are the facts? The Council, I think, knows that since 1914, leaving aside productive debt incurred on railways, irrigation and so forth, our unproductive debt has grown by no less than 226 crores. (The Honourable Mr. Lalubhai Samaldas: "Grown by or to?") Grown by. At the beginning of the War it was nil. (The Honourable Mr. Lalubhai Samaldas:

[Mr. E. M. Cook.]

"Then grown to. It comes to that.") We know perfectly well that our creditors, especially abroad, have been watching with some anxiety this growth of our unproductive debt, and more particularly, that portion of it which represents the over-spending of the last five years. Here in India too we know that the business community has similarly taken alarm. It will be recollected that last summer a deputation of business men, both European and Indian, waited upon His Excellency the Viceroy in order to impress upon Government the absolute necessity of bringing these continued deficits to an end. Now, Sir, the really important thing about this growth of our indebtedness is that we have next to no sinking fund for it. We have not been able to provide for its amortisation. It is often said that posterity has done nothing for us, therefore, why should we do anything for posterity? I ask the Council what injury has posterity done to us that we should saddle it with this heavy load of interest charges and this very great responsibility for repaying that debt when it matures. It must be remembered that a hundred crores of that unproductive debt represent the deficits of the past 5 years and that thereby we have added a burden of between 6 and 7 crores, in interest charges alone, to posterity. I ask the Council, is it mere financial pedantry if we say that this must come to an end, and that common prudence demands that we must use all means in our power to see that the gap which now exists is covered properly, not by mere shifts and expedients, but properly covered, in order that the country may have confidence that its solvency is reasonably assured?

It is not as if there is anything in the future outlook which would justify us in assuming that our budget will balance itself without the provision of extra resources. Can any businessman say that there is anything in the outlook of trade which justifies in the near future any substantial increase in our ordinary Customs and income-tax revenue? On the contrary, Sir, as an eminent businessman said elsewhere the other day, we must now face the fact that we have reached for the time being something like normality. It may be a generation or more before our European customers can buy from us on the scale they used to; and, as for our internal trade, can it be said that our present revenue, after the two bumper harvests we have had, is going to expand sufficiently in the near future to obtain equilibrium in our finances.

Then, Sir, it has been said, what about our expenditure and the possibilities of further retrenchment? What are the facts about that? Out of the 19½ crores of total retrenchment recommended by Lord Inchcape's Committee as being the amount, if their reductions were accepted, by which we might ultimately reduce our expenditure, the budget for next year, as now revised, takes credit for over 13 crores. But about 2½ crores represents reductions in stocks, that is to say, a non-recurring saving. What does that give us? That gives us a margin of only 3 crores. If every single recommendation of the Inchcape Committee is carried into the fullest possible effect, and if all their estimates of savings prove accurate, that is the only margin for any further saving which possibly in the ultimate future we might hope to achieve. I shall suggest to the Council that that narrow margin is already fully hypothecated. I am not even sure that the full 3 crores exists, for there are some retrenchments proposed, more particularly in railways and the programme of railway expenditure, which I do not think were intended by the Committee to be absolutely permanent.

Finally I come to what I suggest is perhaps the most important fact with which we have to deal to-day. I have so far looked at this matter mainly from the point of view of balancing the budget of the Central Government for next year. I would invite Honourable Members to turn for a moment to the position in the country as a whole. Among the items of the Central Government's revenues there is a figure of 9½ crores which represents the contributions payable to us by the provinces, contributions which not only the Government of India are pledged to remit at as early a date as possible but the remission of which has been pressed upon Government time after time by both Chambers of the Legislature. Now what is the condition of the provinces? The provincial budgets for 1922-23 showed in the aggregate deficits amounting to 4½ crores. Their budgets next year, even after considerable retrenchment and a substantial amount of provincial taxation, show, on the latest information available to us, deficits aggregating over 4 crores. What is the position in almost every province? All those political leaders who took office as Ministers in the Provincial Governments, pledged to work the reforms, have, I think it is no exaggeration to say, found their position one of extreme difficulty. They took office in high hopes and with a determination to prove to their supporters that in the departments entrusted to their administration, departments which so closely touch the nation's progress, representatives of the people would prove their fitness for actual Government. They took office, I say, with high hopes, but nevertheless in many provinces in the face of much obloquy from their opponents and from the enemies of the reforms. What is the position now? There must be many Honourable Members here who have heard it themselves. Government have had first-hand information from three different provinces, from which the Ministers have come to the headquarters of the Central Government with the tale of their difficulties. And there is scarcely one Provincial Government which has not again and again written to us emphasising the hampering effect upon the development and success of the reforms of the financial stringency in the provinces. They are in most provinces feeling severely the reaction of this stringency upon the political situation. Mr. President, this is not a mere debating point, still less is it a bait to induce the Indian Legislature to accept Government's proposals. Those Honourable Members who are in touch with the political life of their provinces will not fail to support me when I say that this state of affairs is, day by day, handicapping the progress of the reforms in the provinces and producing an atmosphere of friction and irritation.

It is clear then what the choice is before us. On the one hand, we can leave this deficit alone; we can say that we do not like the taste of the medicine. "Take it away." We can say, "Let things rip, let us see what happens." Well, Sir, we may be fairly sure what will happen. We shall get the same sort of thing year after year: deficits, deficits, no certainty and no real assurance that this is coming to an end. We shall I think see our credit abroad steadily deteriorating; and I venture to think we shall see that the opponents of the reforms, both here and at Home, though at opposite poles of thought will hasten to say that their prognostications have proved true. On the other hand, Sir, I submit that if we take our courage in our hands, we have a reasonable assurance that our financial barque is nearly, or will be soon, in harbour. We will have a reasonable assurance that this pall which has hitherto been hanging over India's young Parliaments will at last be dissipated. Many Honourable

[Mr. E. M. Cook.]

Members may have doubts about this question; doubts which perhaps carry them back to the old days of the Congress, when it was really a National Congress, and when this particular question was one of the minor battle-cries. Sir, I suggest that the battle-cry of one generation is not necessarily the battle-cry of the next. If any Honourable Members have doubts, I would ask them seriously to consider whether this is not one of those cases in which

"Our doubts are traitors

And make us lose the good we oft might win,

By fearing to attempt."

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, the Bill comes to us with a recommendation by His Excellency the Viceroy, and therefore will have to be considered very carefully and respectfully. And yet we would not be true to ourselves nor true to our country if we did not give full expression to what we feel on this subject. My Honourable friend, Mr. Cook, has laid very great stress on the necessity of balancing the Budget. He told us that it might be said that we should not make a fetish of the necessity of balancing the Budget. Well, I am one of those who had agreed in the beginning that it is necessary as far as possible to have the Budget balanced; but a time comes in the life and history of a nation or the history of Legislatures when a fetish like that has to be brushed aside. Here I want to draw the attention of the Council to one matter. My Honourable friend Mr. Cook said that if you do not balance the Budget, your credit in the country as well as in the world will suffer. May I ask him to look to the results of the past two years' borrowings. In 1921, when our credit was not quite good, we could not raise a loan in England, the sterling loan, at less than 7 per cent. Last year, with a far larger uncovered deficit, we were able to raise our sterling loan at six per cent. This shows credit of the country had not suffered in spite of the larger uncovered deficit. It is not merely on account of the deficit that the credit of a country goes down. There are other factors, Sir, and if those factors are good, merely an uncovered deficit of 4 crores will not materially injure the credit of this country. I hope the Honourable Members here, and the Honourable Finance Member and the Honourable Finance Secretary especially, are keeping their eyes on the rise in the Government paper almost every day. Is that a sign, Sir, that the credit of the country is suffering? The Honourable the Finance Secretary referred pointedly to the accumulated deficit of 100 crores in the five years. I want to make it quite clear, Sir, that for that deficit of 100 crores, the Legislature were not responsible. It was the Government of India that was mainly responsible. If the Legislature for the last two years were responsible, in any sense they were responsible merely because, in order to help the Government to carry on, they were prepared to allow them to keep the expenditure at the high figure at which the Finance Department put it before us, and it is not fair to us for the Finance Secretary now to turn round and hold us responsible for the deficit of 100 crores during the past five years. If any body is responsible, it is the Finance Department of the Government of India that is responsible, and it is not up to them to charge us with having allowed a deficit of 100 crores to grow.

The HONOURABLE MR. E. M. COOK: I made no such charge.

The HONOURABLE MR. LALUBHAI SAMALDAS: I am very glad, Sir, that the Honourable Finance Secretary says that he did not make a charge. I am sorry if I understood him to do so, but the feeling in the minds of myself and of my brethren on this side was that as the 100 crores deficit was thrown at our face, the implication was that we were held responsible for that deficit. If I satisfy the House that the deficits of the past five years have not affected our credit—if the facts are as I have put them and I daresay neither the Honourable Finance Member nor the Honourable Finance Secretary can challenge those facts—then it shows that the credit of a country does not automatically go down because the Budget is a deficit Budget and the deficit is not covered. Theoretically, it is all right to say so, but there are other practical factors which I am quite sure the Honourable the Finance Member and the Honourable the Finance Secretary will take into consideration; and if they are satisfied that the credit of the country is not likely to suffer by the uncovered deficit of 369 lakhs, I hope they will not press this measure before this House. The Finance Secretary said that the Government have taken all possible steps, and explored all possible methods of retrenchment. It may be so, Sir, and we must accept that statement, and yet, when the Assembly in their wisdom cut off more than one crore and 14 lakhs of rupees, it was presumably the Finance Department that recommended to His Excellency the Governor General to restore it. The retrenchment of 1 crore and 14 lakhs was suggested, but that amount has now been restored by His Excellency the Governor General.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): It was not retrenchment; it was transferred to capital.

The HONOURABLE MR. LALUBHAI SAMALDAS: The Honourable the Home Member says that it was transferred to capital. This raises a very large question, Sir. I hope I will not be out of order if I refer to that question again. Years back when the Government of India purchased railways, what did they do? They paid part of the purchase price in cash and they agreed to pay the remaining amount by way of annuities. At that time in the beginning as annuities were small amounts, the Government of India possibly then thought that they could easily pay them out of the revenues. Through some misunderstanding, I believe, of the correct accounting, it was put down that the annuities were to be paid out of revenues and that system holds good now. I ask any Member who knows about accounting, auditing and finance to tell me if this is the correct method. But it is not only that, Sir. A difficulty may arise when we pay off all our annuities. How will the railways then stand in our books? They will stand at the cash price that we paid for them. It may be that a new Finance Member years hence not knowing all the facts may be cajoled by a new company-promoter to give the railways to him at a profit of a hundred per cent. The Finance Member may think that he will be making a very good bargain, and yet the company-promoter will get that railway at less than half its intrinsic price. I make a present of that to the Finance Member. I do not want to say that merely because this is a year of deficit that we should transfer 1,14 lakhs to Capital. It ought to have been done long ago and it ought to be done as soon as the mistake is found out. Even if it is not done now, I hope that before next year, somebody will move a Resolution on the subject in the Council. If nobody is going to do it, I will move a Resolution to have the whole of our system of accounting altered and annuities charged to Capital as it ought to be done. Leaving aside that one item, there is another item to

[Sir Maneckji Dadabhoy.]

in placing this Bill before the Council. Sir, the Finance Bill has come up before this Council under unfortunate and adverse circumstances. I say unfortunate because it has come up with the recommendation of the Governor General. I say adverse because it has come to us with the seal of disapprobation of the Legislative Assembly in no unmeasured and in very emphatic terms. Sir, when a Bill comes up before this House with the recommendation of the Governor General, it is entitled to our dutiful and respectful consideration. I shall therefore approach my task with that reverence which is due to the head of the Administration; but at the same time I feel it my duty to point out that the form in which this Bill has come before the Council is one which will be neither acceptable to this Council nor to the country at large. Sir, the very fact of sending up this Bill with the recommendation under section 67B has virtually led this Council to understand that the Governor General has prepared the way for the exercise of that special prerogative with which the Crown has vested him, the prerogative which he can only exercise if he thinks the passage of the Bill is essential for safety, tranquillity or interests of British India. Sir, if I had felt and if I could honestly feel that this Bill is essential for the safety, the tranquillity and the interests of British India, I would give to it my unqualified support

THE HONOURABLE THE PRESIDENT: The Honourable Member appears to be arguing as to what are the powers of the Governor General to certify. This House is considering whether we should pass the Bill, not, if we pass the Bill, whether the Governor General will be justified in certifying. That is a matter for the Governor General himself.

THE HONOURABLE SIR MANECKJI DADABHOY: I quite appreciate that, Sir. The point is this, the Bill has come with a recommendation, and I think it is open to Honourable Members of this Council to say or at least to argue that the Bill is not of a nature and character as to fall within the class which is essential

THE HONOURABLE THE PRESIDENT: That point does not arise at all. Any Bill can be recommended. Whether a Bill can be certified is not a point which has to be decided by this House.

THE HONOURABLE SIR MANECKJI DADABHOY: I must bow to your decision, Sir. I shall then content myself with stating at this stage that this deficit of 368 lakhs did not justify, or is not of such an enormous and of such a crushing nature as to have necessitated this Bill being sent up with the recommendation of the Governor General. But there are much more serious and weightier reasons for opposing the Finance Bill in the form in which it has been sent up. Sir, the matter of additional taxation was fully discussed by the Legislative Assembly. This is the first constitutional conflict which this Council of State has been called upon to decide with the Assembly in a matter in which the Assembly, in the exercise of its privilege, has withheld assent to certain taxation, and my submission is that, unless there are very serious, very grave, very cogent reasons to differ from the popular Assembly in a matter of taxation which has been rejected by them, this Council could not possibly support it. Sir, this is no doubt a revisional Chamber. We have got the power to sit in judgment upon the decision of the Assembly, even in matters fiscal; but I submit that power is to be exercised with great circumspection and caution, and if we have to supersede the recommendation of the Assembly which primarily deals with the question of finance, there must be some

very powerful and very cogent reason to justify our action. Sir, viewing it from that standpoint, it is difficult for me to concede my support to this measure. There is another aspect of the thing which we should not overlook. I say it would be unfair to the Incheape Committee; it would be unfair to their great work and to their great report that just when they have put forward such well-considered recommendations involving retrenchment of expenditure to an enormous extent, this Council should support and be a party to a measure involving additional taxation. Sir, when this Council asked for the appointment of a Retrenchment Committee, when it asked Government to inquire into the whole question of the expenditure of the administration, it was done avowedly with the object of curtailing the expenditure and making both ends meet, and certainly not with the object of giving Government further facilities for increased taxation. I say, Sir, and I say it with great respect, that the adoption at this juncture of any Bill involving additional taxation will be destructive of all incentive to retrenchment. We expect the Government to carry out in full the retrenchments that have been recommended, we expect the Government to give due consideration and weight to the recommendations of the Incheape Committee and to put into operation bodily, if it is possible, the recommendations made. May I ask, Sir, is it consistent, is it compatible with that idea, that, on the one hand, we ask for retrenchment in the administration and, on the other hand, put it in the power of Government to impose large additional taxation? Sir, it is not any feeling on the part of the Council to evade its duty in the matter of taxation that leads me to give expression to these sentiments. If our *bona fides* is to be judged, it should be judged by our past action. During the last two years, when Government was in difficulty and came before us and asked us for a large measure of increased taxation, we cheerfully and readily supported Government. If the Government only realises that within two years we have sanctioned taxation covering 28 crores of rupees they should realise that, when we are opposing a Bill involving taxation to the extent of Rs. 3.68 crores, we are not doing this from any spirit of hostility, any spirit of opposition, but from a conviction that there is still further room for retrenchment and that the accounts of the Government of India could be adjusted without the necessity of further taxation.

Sir, in this connection my Honourable friend Mr. Cook has said to-day that the growth of national indebtedness and the country's credit are at stake. The Honourable the Finance Minister likewise in his speech on the Budget stated that the country's credit was in jeopardy. With great respect to him, Sir, I decline to subscribe to this doctrine. The foundation for this argument is based on the fact that during the last five years we have financed this deficit of 100 crores out of Capital. My Honourable friend Sir Basil Blackett is a new-comer and he is entitled to all the courtesy that we can extend to him; but the Honourable Mr. Cook has been closely associated with the Finance Department for a number of years and I may remind him that, if this deficit of 100 crores has been financed out of capital, will he enlighten the Council as to what the Government of India did in the years of surpluses? When we had surpluses, the greater portion of our surpluses were appropriated and allocated to Capital. If, therefore, in years of deficit we draw on that capital, it is not that we are ruining or undermining the foundations of sound finance or doing a thing which is not strictly proper. We are just doing the right and proper thing an adjustment of accounts which any commercial

[Sir Maneckji Dadabhoy.]

house would adopt. In the past we had a succession of years of surpluses, and these surpluses, apart from borrowings, have contributed in the past towards our railway programme, our irrigation works, our other productive enterprises.

Then, Sir, as regards our national indebtedness, I shall just only refer to a few figures to show our position, and I do not claim any originality for discovery of these figures; I claim to take them from the very Budget which the Honourable the Finance Minister has presented to us with such lucidity and precision. On the 31st March 1914 our total debt was 411 crores; on the 31st of March of this year our total debt is 781 crores, and out of this 781 crores 557 crores is all productive debt; this represents our national investment of 557 crores. Our unproductive or ordinary debt, as it is always called, is only 224 crores. It must not also be forgotten that that figure includes £100 millions which were given to His Majesty's Government as a gift during the war. If you therefore examine and scrutinise these figures carefully, I say, Sir, and I say it with emphasis, that our national position is much stronger than any other country in the world. We are in a much better position financially even than England. England with its £7,500 million of national debt, with very little productive assets to show, cannot be compared with this country. Sir, on the other hand, if you look to our Government Paper, our securities, we find that our financial position in the matter of Government securities is certainly one which excites the envy of other nations. Our securities, as the Honourable Mr. Lalubhai Samaldas has pointed out, have appreciated. And what is the reason for that appreciation? They have appreciated merely because the Honourable Sir Basil Blackett has been fortunate enough to present a Budget which in all other respects is one which appeals to the sentiment of the country except in the matter of the salt tax. It is the confidence that he has shown in the position of the country that accounts for it. The rapid rise in the premiums on Government securities during the last few days fully testifies to that position and not to the position which the Honourable Mr. Cook has made out in this Council, that our credit is at stake and our financial position is not in a sound condition. Sir, I have therefore no misgivings on this point. I think that the Finance Bill at this stage is inopportune, is unhappily brought at a period when the best policy on the part of Government would have been to carry out retrenchment and then next year the Government could have come to the country and said "We have endeavoured our best to give the fullest scope to all the recommendations made by the Inchcape Committee; we now find ourselves in difficulty; we are unable to make both ends meet and we now want your assistance in raising taxation." That would have been the proper procedure to have adopted; that, Sir, would have been a circumstance in which the Government would have found many supporters in the Council and in the Assembly and in the country. I therefore deprecate the introduction of the Finance Bill at this stage and at this time. I think Government will act in the wider interests of the country and in its own larger interests if it reconsiders the matter and sees the advisability of withdrawing this Bill. I assure the Government with great respect that the country is neither in a mood nor a temper to agree to additional taxation. The highest limit of taxation has been reached. There is no scope for further taxation in this country. At the same time I feel, Sir, that I am not so pessimistic regarding the growth of our revenues as t'

Government seem to be. I think the country is now gradually emerging from the after effects of the war and before long there is sure to be a revival in trade and in the general prosperity of the people; with a bountiful harvest next year and timely rains, I have not the slightest doubt that the position of Government will be stronger and that this deficit is bound to disappear. I say also with great deference to the Finance Department that their estimates of revenue in the matter of railways, in the matter of postal charges, and in other departments are extra careful. I do think and I firmly believe that there will be an excess of revenue this year. The railway revenue did fall last year, but it is perfectly clear that the excess fares were not brought into effect till about the middle of July; the strike on the East Indian Railway also in a great measure intercepted the flow of revenue and I have not the slightest doubt that the result next year in the matter of railways will be infinitely better than what the estimates have put down.

Sir, I do not wish to detain the Council any further at this stage. I do not propose to speak on the economic and political aspects of the Bill at this particular juncture. I think that the Government have not made out a case, a strong enough case, an unanswerable case, for this Council to go and override the expressed and deliberate conclusion arrived at by the Assembly, namely, their refusal to go in for additional taxation at this stage. I hope the Government will reconsider the position in the light of what has been said here and elsewhere and I feel after all that there will not be such a serious catastrophe in the matter of our financial position as is contemplated by Government.

The HONOURABLE SIR ALEXANDER MURRAY (Bengal Chamber of Commerce): Sir, although only two speakers have so far spoken from this side of the House, it appears to me that objection has been taken to this Bill on three grounds: (1) from the constitutional point of view, (2) on the merits of the Bill, and (3) from a sentimental point of view. I do not propose to speak to any extent on the constitutional point of view, except to remark that my Honourable friend Sir Maneckji Dadabhoy appeared to me to quote the wrong section of the Government of India Act when he referred to section 67A. I understood the Honourable Member, Sir, to be quoting from sub-section (8) of that section:

"Notwithstanding anything in this section the Governor General shall have power in cases of emergency to authorise such expenditure as may in his opinion be necessary for the safety or tranquillity of British India or any part thereof."

Now, that particular section which the Honourable Member said His Excellency the Governor General was not entitled to make use of on this occasion refers, if I may say so, to grants, not to a Finance Bill such as this is. I personally in this House recognise that so far as Demands for Grants are concerned we here have no say; that is a matter entirely for the other House. But I do not say that where it is a question of increased taxation, we are at least entitled to have a say, and that is provided for in the Government of India Act and also in the rules. Sir Maneckji objects to the Governor General making recommendations in connection with this Bill. If the Governor General had not made recommendations and if the Honourable Member opposite does not propose to move amendments increasing the salt tax from Rs. 1-4 to Rs. 2-8, I feel, Sir, that we would be at a disadvantage as against the Legislative Assembly. The Legislative Assembly were given an opportunity of discussing a Bill which contained a proposal that the salt tax should be Rs. 2-8 per maund. Had

[Sir Alexander Murray.]
the Governor General in exercise of his prerogative not recommended that an amendment be moved in connection with the Bill, we here would have been given no such opportunity.

The HONOURABLE THE PRESIDENT: An amendment can be moved without a recommendation.

The HONOURABLE SIR ALEXANDER MURRAY: I stand corrected, Sir; I was under the impression that it was not a privilege of any unofficial Member of this House to move amendments that would result in increased taxation.

The HONOURABLE THE PRESIDENT: Not a non-official Member; it could be moved by Government without a recommendation under section 67B.

The HONOURABLE SIR ALEXANDER MURRAY: Quite true; I accept that, Sir. But my point is that no non-official Member in this House would have been given an opportunity of discussing the salt tax on the basis of Rs. 2-8, had it not been for the fact that the Governor General in Council has recommended an amendment that the tax be Rs. 2-8 instead of Rs. 1-4. Therefore, I say that instead of finding fault with His Excellency the Governor General in Council for making this recommendation...

The HONOURABLE SIR MANECKJI DADABHOY: I beg Sir Alexander Murray's pardon. I did not find fault with His Excellency the Governor General in Council. I said that this was not the occasion when the Bill ought to have come up with a recommendation of the Governor General in Council.

The HONOURABLE SIR ALEXANDER MURRAY: I still think, Sir, that we are indebted to His Excellency the Governor General in Council and to the Honourable Member opposite for giving us an opportunity of discussing the question whether, in our opinion, the money necessary for balancing the budget ought to be found from salt tax on the basis of Rs. 2-8-0 instead of Rs. 1-4-0 per maund. Sir Maneckji Dadabhoi also found fault with the Government of India for having used Revenue in the past to pay capital charges. The Honourable Member behind me, Mr. Lalubhai, likewise finds fault with Government for debiting money to revenue which ought not to be debited to revenue.

The HONOURABLE MR. LALUBHAI SAMALDAS: Only for productive capital works.

The HONOURABLE SIR ALEXANDER MURRAY: It seems to me that if Government were to listen to the advice given by the various Members in connection with capital and revenue adjustments, they will get deeper and deeper into the mire.

I personally, Sir, would like to take this opportunity of going into the merits of the case apart from the constitutional aspect. As the Honourable the Finance Member when introducing the Budget stated, India for five years in succession had had a deficit. This is a statement of fact, which, as the Honourable Mr. Lalubhai Samaldas indicated, reflects credit on nobody, certainly not on the Government of India, nor on the Legislature nor on the tax-payer. Those responsible for framing the budget figures of these years cannot of course be blamed for the various unforeseen events, the Afghan War, frontier operations, and the abnormal military

expenditure that have contributed so largely to the deficits of the last five years. But with the best intentions in the world towards them, I cannot but express a feeling that during that period the facts were not at all times fairly faced on the floor of the Council Chamber. The last year in which the country's accounts showed a surplus was 1917-18. During the four following years, the Government continued to frame budgets showing estimated surplus of anything between 1 and 3 crores per annum, although the actual deficit in these years worked out to 6 crores, 24 crores, 26 crores and 29 crores respectively. This time last year an attempt was made to put a real face on the budget, and as we all remember a deficit of 9 crores was shown which ultimately however worked up to 17 crores. Taking the last five years together, we find that the budgets as they left the Legislature showed a net deficit for the 5 years of only 1½ crores, whereas the revised figures made the deficits of these 5 years total up to over 100 crores. The financing of these deficits has added to our annual interest charges making a difference in this year's deficit, according to the Honourable the Finance Member's statement, of at least 5½ crores. The Honourable Mr. Cook makes the figure from 6 to 7 crores, which is more than the amount now required to balance the Budget. It cannot be said that no real attempt was made to raise by increased taxation the amounts required to balance the budgets. In this month's Budget Statement, the Honourable the Finance Member has said, as pointed out by the Honourable Sir Maneckji Dadabhoi, that in the past two budgets additional taxation was imposed which was estimated to bring in about 28 crores during the year now ending. If the increased railway rates are taken into account, I make the amount even more. Going back further to 1917-18, which is the year when the salt tax was raised from Re. 1 to Rs. 1-4-0 per maund, I think it will be found that additional taxation to the extent of about 60 crores has been imposed. If we leave out the excess profits duty which was estimated to amount to 9 or 10 crores and which was in force for a year only, we get about 50 crores of additional taxation imposed since the great war broke out. Of that large addition to our revenue, the increase of 4 annas in the salt tax was estimated to yield less than a crore. On the face of it, therefore, it does not look as if salt has contributed its fair share to the increased cost of India's administration. Before going into that, I would like personally to take this opportunity of congratulating the Honourable the Finance Member on the clear statement of the financial position put into our hands along with the Budget. He has laid all his cards on the table, and so far as I can gather, has not swerved from his original standpoint that the era of deficits is past, that the time has arrived for balancing India's budget, and to that end new taxation must be imposed. Now, Sir, I have heard it suggested more than once that another little deficit won't do India any harm, but the more I think over this insidious suggestion, the less I like it. I cannot accept with equanimity the idea of a deficit for the sixth year running...

The HONOURABLE SIR MANECKJI DADABHOY: Why not recommend a jute tax.

The HONOURABLE SIR ALEXANDER MURRAY: I will come to that. Last year there may have been some justification for leaving the deficit uncovered. Retrenchment was in the air, and the Legislature was determined to ascertain the extent to which expenditure could be cut down before sanctioning additional taxation. But this year we have no such excuse for shrinking from an unpalatable task. I for one am satisfied

[Sir Alexander Murray.]

that Government are boldly tackling the expenditure side of the budget, and that the cuts now offered are all that can be reasonably expected to become effective during the coming year. That being so, is it not up to the tax-payer to do his part, so far as the revenue side of the budget is concerned? Of two things, therefore, I am satisfied, first, that the budget ought to be balanced—and here I am glad to say that the Honourable Mr. Lalubhai Samaldas agrees with me. He incidentally when speaking referred to the rise in the price of Government paper as proof that we need not be afraid of another deficit because the country's credit was quite good. As a matter of fact, I put this rise in Government paper and in other Government securities down to the fact that Government had clearly indicated that they no longer intended to continue deficits but they proposed to balance the budget. As I said, Sir, of two things am I satisfied, that the budget ought to be balanced, and that so far as this year is concerned, this cannot be done by further cuts in expenditure. I therefore turn to the revenue side of the Budget to see where the money can be found with least disturbance to the tax-payer. In this year's budget we find the bulk of the receipts classified under five principal heads, namely, Customs, Taxes on income, Salt, Opium and other heads. Taking the revised estimates for the current year, I find these principal heads total up to 74½ crores. In order to see where the additional taxation has been raised since the war broke out, I have gone back to the year 1913-14, and find that these same revenue heads then yielded 23½ crores only—an increase of 51 crores. Now the Honourable Member for Commerce will probably remind me that 1913-14 was a year of good trade. Of course it was: we all know that. But the fact does not necessarily vitiate comparisons between the figures of that year and this. In any event, I find the increase in taxation was due to an increase in Customs of 31 crores, in Taxes on Income of 16 crores, in Salt of only 2 crores, in Opium of one and a half crores, and other heads half a crore, bringing the total up to 51 crores. Reduced to percentages, taking the two figures in front of me here, the Salt tax has increased 39 per cent. while the taxes on Income for instance have increased 545 per cent. Let us deal first with "Other heads", which, you will see, from Statement A on page 6 of the Budget, consists chiefly of Land Revenue, Excise, Tributes, etc., amounting altogether to 2½ crores only. Honourable Members will agree that there is not much scope for increases here. The same with Opium, where our hands are tied. Take, then, Taxes on Income. The increase here is from less than 3 crores in 1913-14 to 18½ crores in 1922-23, an increase of, as I have said, 545 per cent. I know there are many people who think that Income-tax and Super-tax can be depended on for Revenue purposes. Quite true, if turned to at the proper time,—and that time is when trade is good, prices rising and profits coming in. But there is no use counting on the Income-tax payer in a period of dull trade with falling prices and disappearing profits. As we all know, the bulk of the Income-tax and Super-tax comes from Bengal and Bombay. For two years running now, the jute mills in Bengal have been working 4 days per week only. (The Honourable Mr. Lalubhai Samaldas: "Bengal didn't pay anything last year.") My Honourable friends from Bombay can tell you more about their cotton mills than I can,—but I hazard the opinion that these mills also should be working short time. At any rate, the fact is last year's expected increase in Income-tax and Super-tax have not materialised. On the basis of the increases, estimated to yield 2½ crores, Government

budgeted for over 22 crores, and are likely to get nearly 3½ crores less. In my opinion, the most that can be done here is to mark time and wait for the turn of the tide in trade.

Let us take Customs next. The increase here is from 11 crores to 42 crores, an increase of 279 per cent.—substantial enough in all conscience but only half the percentage increase in Income-tax and Super-tax. Here again, I suggest the time to rely on Customs duties is when trade is good. Export duties I abhor at all times; they ought to be prohibited under the constitution as I believe is the case in the United States of America. Not even in the case of jute or tea or rice can I ever be a willing party to export duties. (The Honourable Mr. Lalubhai Samaldas: "Not even for monopolies?") How can I, seeing I come from Bengal which province alone contributes about 80 per cent. of India's total export duties? Bombay and Nagpur never cease crying about the Excise duty on cotton manufacturers (The Honourable Mr. Lalubhai Samaldas: "Justify them.") The jute trade in Bengal contributes half as much again in the way of export duties and never says anything about it, although the duties on jute were put on solely as a war measure. Export duties in my opinion should be abolished at the first opportunity. They certainly should not be increased now, nor should the Import duties, pending further inquiries as to the actual effect of the existing duties on the various commodities.

Of the principal heads of Revenue, I am now left with only salt to refer to. And here I could say a good deal. At the moment, what I wish to point out is that the revenue from salt has risen during the past ten years from 5 to 7 crores or only 39 per cent. That is after including the increase of 4 annas per maund in 1917. Or to put it another way—whereas in 1913-14 salt contributed 22 per cent. of the principal heads of revenue referred to, it this year contributes only 9 per cent.

Now, I have already expressed the view that the time to catch the Income-tax payer and the Customs Tax-payer is on a firm market when prices are strong and profits good. But with salt the case is different so far at least as the wage-earner, the salaried man and the comparatively poor man is concerned. We all know that in the rising market prices of commodities rise faster than wages or salaries. Hence the strikes of recent years in India as elsewhere. For that reason alone, therefore, I think Government were justified in hastening slowly so far as increasing the salt tax was concerned. But the case is different now. For the very reason that it is economically unsound at the present time to increase Income-tax or Customs duties, Government, in my opinion, are perfectly justified in suggesting that the Salt tax may now be increased so far at least as the wage-earner and the salaried man are concerned. For, as Honourable Members are aware, prices of commodities are falling faster than wages or salaries and the comparatively poor man of two or three years ago is better off now than he was then or than he was even a year ago. Has the cost of rice not fallen, has the price of wheat not tumbled down? I the cost of rice not fallen, has the price of wheat not tumbled down? The Honourable Member in charge of Posts and Telegraphs can ask the Postal and Telegraph operators all over India. The Honourable Member for Commerce can ask the Government printers and the Railway employees all over the country. As I can vouch for Bengal, so also, I have no doubt, can the Honourable Mr. Samaldas for Bombay and Bihar, and the Honourable Mr. Ram Saran Das for the Punjab. And so on all round the House. Does one ever hear of strikes now-a-days or rumours of strikes?

[Sir Alexander Murray.]

It may be said there are many in India who will be affected by a change in the Salt tax who are neither wage-earners nor salary earners. True, but surely these also are better off to-day than they were three years, two years, or even one year ago. For have we not had three good seasons running with correspondingly good crops?

It has been argued that the poor man also contributes a share of the taxation falling under the head of Customs. Quite true, but I would ask any Honourable Member who wishes to use that argument here to go through the list of dutiable articles and the amounts of additional taxation collected therefrom in recent years and he will be surprised at the relatively large amounts collected in respect of articles for which the poor never has had, and, for years to come, is not likely to have, any use.

I take it, most Honourable Members are agreed that no unexplored sources of income are waiting to be tapped this year under other heads of Revenue, such as Railways, Posts and Telegraphs, etc. I further take it none of us wish to press the Honourable the Finance Member to make any more journal entries in connection with the income according to investments in the Paper Currency Reserve or in the Gold Standard Reserve.

That being so, I feel that, if the Budget is to be balanced, the least objectionable method is by means of an increase in the salt tax. Frankly, at first I did not like the idea and I thought—and did not hesitate to say so—that it was too bad of the Honourable the Finance Member expecting our friends in the other House to go electioneering on the strength of doubling the Salt tax. I felt that too little regard was being paid to the feelings of Honourable Members no matter how much these were based only on sentiment. On the other hand, I might have known that newly out from Home as he is, the Honourable the Finance Member must be well aware of the extent to which political expediency and party tactics influence Budgets in other countries and the effect that sometimes sentiment alone has on the course even of these Budgets. He cannot but remember how Lowe's proposed tax on matches was ruled out, not on the merits of the case but purely on sentimental grounds, and later still, how Goschen's proposed "wheel and van" tax caused members to tremble in their seats and had to be withdrawn.

I have no doubt the Honourable Member now realises that it is not only in the West that sentimental feelings get the better of Members, and I am certain he would be only too pleased to make it as easy as possible for Members of the Indian Legislature to meet their constituents with easy consciences and glad hearts. The fact that he hardens his heart and refuses to see anything but a balanced Budget makes it clear to me that the Honourable the Finance Member puts the cause of India, as he sees it, above all other considerations. I say quite frankly I have been converted to the Honourable Member's point of view. I admire the strength of will and the singleness of purpose which place the good of India as he sees it,—and if I may say so as I now see it,—above all other considerations. Therefore, though I sympathise with the very natural feelings of some Members of this House and of Members of the other House amongst whom are many personal friends for whose opinions I have the greatest respect, I intend to support the Finance Bill and the amendments recommended by the Governor General, and I appeal to my fellow-non-official Members of this House not to allow their feelings or their votes to be swayed by sentiment but to squarely face the facts as men of the world and to

vote for the Bill to be amended as recommended in the full knowledge that on the merits of the case we are acting rightly, that in the interests of India we are doing right and so that we can look back on this as a day when we had it in our power to do India a good turn and did it.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, we all say that the Budget should be balanced but we want it to be done by a miracle. We do not want to give any money to balance it. How could that be done? Sir, we in this House consider ourselves that we ought to be the anchor of a ship which has broken off from its moorings. We have had such chances of being so and we have proved such and I hope my colleagues who are here for that purpose would again prove themselves to be the same. Sir, I have been about 16 years in the Legislature and I have heard my very great friend, Mr. Gokhale. At that time all the politicians thought that we should tackle Government somehow or other in season and out of season. The only thing which they could find at that time to attack was the salt duty and say "Oh, everybody requires salt,—even the poor and even the cattle." But I personally think, Sir, that the man who is to look after those animals may give them salt or he may give them anything he likes—something that he generally requires for himself. Take buffaloes in the jungle. Where do they get their salt from?

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Cattle in the forests do not require salt because they have no work to do.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: They have got very much to do. They are harder because they run about the whole forest to obtain their food.

The HONOURABLE THE PRESIDENT: Order, order. The Honourable Member must not enter into a conversation. He must address the Chair.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: It is just the other way. There are lots of men in various places who do not eat salt. I think it is only a vice to give it to the animals. Then, Sir, to become fashionable speaker, one always has to take up the side of abolishing the salt duty. But we do not want such cheap popularity. If we go and make the cloth of the general public dear they suffer. But as regards salt, I come from a part of the country which produces salt. If it gets dear we do not get any benefit, nor when it is cheap, because the whole benefit goes to the middleman who buys and sells salt. The general public are not so much concerned about it. They always have to pay about the same price. Lots of people suggest that we should have such and such duty, and so forth. Why not impose all such duties which they suggest. We have been responsible for bringing about these deficits and adding to the burden of posterity, and we ought to do something for them by using all the money we can get from taxation. Get money by taxes and after spending for your administration, let the balance go towards lessening the burden of the debt. We ought to undo what we have done before. I am sorry that His Excellency the Commander-in-Chief is not here as I wanted particularly to attack him for allowing the reduction in the Army. We all say penny wise and pound foolish. It has been seen over and over again that if a country wants to progress but has not got the means to protect itself it is nowhere. If we do not keep a sufficient army we are liable to get

[Colonel Sir Umar Hayat Khan.]

trouble any day. One of my Honourable friends tried to contradict me the other day, but I will say again that Asia now-a-days is bucking up in a way to unite together. Then we have Afghanistan.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): What has all this to do with salt duty?

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: If we do not get money by the salt duty, and if you have no money how are you going to keep an army to save yourselves? That is one of the sources to get money. (A Voice: "There are other ways of getting money.") Have also those. That is why I have already said that you should have money in order to run efficiently the machinery of State. They say, run your railways very nicely. Make the third class carriages like first class ones. But if you cut down the railway expenditure as in the other House the other day, how are you going to improve the railway service? I am glad those who said that the railway expenditure should be cut down were not heard and the demand granted. If there is a Commission coming here to improve our lot, we say, "No, we do not want it". And it is again gratifying that this proposal met with the same fate. If we have not got money how can we run the ship of State?

The HONOURABLE SIR MANECKJI DADABHOY: Why not tax on land revenue?

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I was just coming to that. I always know that the rope and the chain break at their weakest point. If you get into trouble the first thing would be to raise the land revenue and that simply because we do not murmur. Always men with money escape. All those who want to whittle down the expenditure on various items for the good of the Government and the army are far away from the line of action of the invasion. Some are in Madras, some in Calcutta, some in Bombay, where no conquerer has ever reached. Unfortunately I come from the Western Punjab which is next door to Afghanistan and we have tasted something of the invasions. They used to say, "All you eat is ours, the rest goes to Ahmed Shah". It has been said in another place that this item, i.e., Salt Tax, is the last straw on the camel's back. Who is the camel? The people or the Government? So many retrenchments have been effected and so suddenly that it might break the camel's back also on the side of Government. Everything should be done slowly. If we take away all the pillars of this hall, the roof will fall. We should remove one at a time and see what happens just as the elephant feels the land under his feet before he walks. The poor Zemindars are paying on every pice on land, while the banyas are not paying anything under 2,000 and I would suggest to the Government that the limit should be brought down to 500 or 1,000 so that all may shoulder the burden equally. We have all heard about the Inchcape Committee. Some people are expert in making cuts but they are not expert in other things. They may cut some expenditure which the army or the medical people may not like. Then again we want money very badly and that is why I say that all sources should be tapped because in these days in the lower rungs the pay is less and the expenditure is more as we have not got money. How can we improve their condition if we do not find the money. So I

think, Sir, that we should welcome all these taxes, because there is a proverb that if you see all property going and you can save it by giving half the amount, better do it at once.

The HONOURABLE THE PRESIDENT: I do not want to hurry the Honourable Member, but there are other Honourable Members waiting to speak.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: As I hope I shall catch the eye of the Chair and as I shall have lots of other opportunities later when I may be able to say something more on various other points, I conclude.

The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU (Madras: Non-Muhammadan): Sir, I am sorry I have to oppose the Bill. My duty, as an elected Member, is to express, here in this Council, the view of my constituents and if possible to influence my colleagues to their way of thinking.

The mandate is "Do not increase taxation especially on poor man's salt." I think so too, in spite of my earnest desire to help the Government in any difficulties they may be placed in.

Though the last year's deficit was 10 crores of rupees, salt was not taxed. It was wisely accepted by Government as an article not to be taxed. Salt is the last reserve of Government. It must not be taxed especially in the present hopeful state of finances. This year the deficit is only 3½ crores. Would it be just and proper to impose tax on salt? It would not be. We do everything to support Government in all reasonable proposals. This Council also must show that it can vote the popular view. In spite of the almost unanimous opposition in the country, this Council can ill afford to support enhancement of this tax. Any increase in salt duty will lower the consumption and decrease the vitality in the people.

Lord Curzon, when he was Viceroy, had the good fortune to reduce the duty on salt from Rs. 2-8-0 to Rs. 1-4-0. When we have got the Reforms, when India is making rapid progress in every way, it has fallen to the lot of His Excellency Lord Reading's Government to increase again the salt tax and go against the public opinion. I do not think his Government is bankrupt of Statesmanship and Justice. His watchword is "Justice" when he assumed charge of his high office in India. We cannot see the reason why Government should persist in their attitude to increase this tax. They must take the people by them. It would not be wise to set the Council against the Assembly. Our prayer is that India should not be landed in trouble, political as well as economical.

When Lord Inchcape was appointed, it was thought by most of us that the cuts which his Committee would make would be adopted in toto by the Government in all the Departments. But the Government could not do so all at once. When we consider the large waste on Army, this deficit of 3½ crores is nothing. The expensive Army authorities have paid nearly 30 lakhs on erection of workshop at Chaklala near Rawalpindi and an annual wage Bill of 13 lakhs. The Inchcape Committee consider that there is no justification for the stock of vehicles which the Military authorities require. Vehicles have been used for unnecessary purposes,

1 P.M. half loaded, with an attempt not to regulate the mileage per gallon of petrol. "We examined," say the Committee, "the record maintained by one Motor Transport company and found they were far from

[Diwan Bahadur V. Ramabhadra Naidu.]

satisfactory; the number of vehicles in use was considerably in excess of the requirements, and in many cases the daily loaded mileage run by individual lorries was only 2 to 4 miles with light loads of about 5 maunds." The Military authorities estimate the running cost of a Ford car at Rs. 4,250 per annum, exclusive of personnel, interest on capital or depreciation.

THE HONOURABLE THE PRESIDENT: I cannot quite hear what the Honourable Member is saying, but he appears to be straying off the subject.

THE HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: Those who are familiar with Fords will agree with Inchcape Committee that this running cost is excessive. We can see a further waste of money in the Army by keeping up a large staff of officers at Wellington and a school. When such waste is allowed to run even under the control of His Excellency the Commander-in-Chief, how could the Government hope to balance the Budget?

Many are of opinion that the Gold Standard Reserve must be touched. Why should not the Government have recourse to it? Why should not the Government impose a duty of 6 pies more on Customs? The Railway is sure to bring better revenue this year. If the Government would economise faithfully and in accordance with the suggestions of the Inchcape Committee, then the expenditure this year will adjust itself along with the revenue. There would be no need for more taxation. This is my honest opinion.

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, I am sure all the Members of the Council were very thankful when my Honourable friend Sir Alexander Murray rose to speak in his usual optimistic manner and also equally thankful when my Honourable friend Sir Umar Hayat Khan, followed and gave utterance to his cheery speech because after listening to my Honourable friend Sir Maneckji Dadabhoi such a gloom of depression came over the House that if he had continued very much longer, I think I should almost have had to retire. I do not see there is any occasion for this depressing gloom. The Bill is perfectly straightforward. It certainly comes to us with a recommendation from the Viceroy and Governor General, but this does not restrict a discussion on the amendments before us in connection with the Bill. It is entirely open to the Honourable Members of this Council to vote according to their honest convictions. If they disapprove of the amendments, presumably they will vote against them, and if they approve of them, presumably they will vote for them.

In my opinion, Sir, the budget should be balanced, and I think that is the opinion of most Members of this Council. You cannot expect Government to go on with an unbalanced budget year after year, year after year. They must stop some time; and I cannot help thinking that this is the time when the deficit should be stopped, for the reason that Government have this year cut very deeply into their expenditure. The retrenchments as recommended by the Retrenchment Committee have been followed very fully with a promise of being pursued still further; and it is possible it will be found in some cases that the cuts have been too deep. Is it not necessary that we should avoid a revenue deficit when we have been cutting so deeply into the expenditure side? We may be faced with a possibility that in some

Department of Government the cut has been too deep, and if continued for say one, two or three years then in the fourth year it would be very much more costly to restore the Departments than if they had been kept up annually during the period I have referred to. That is an obvious recognition in business. If, say, you do not keep up your mills, if you allow the upkeep of your mills to slide over a certain number of years, at the end of those years you will find it will cost you very much more to restore the mills into proper working order than if you had kept them up annually to their best working condition. Therefore with these deep cuts I contend that we must have a full revenue and we must balance our budget.

My friend the Honourable Mr. Lalubhai Samaldas expressed some resentment at what he thought was a suggestion from the Finance Secretary that the Legislature were responsible for the hundred crores of deficit extending over the past five years. The Finance Secretary apparently made no such suggestion, but my friend the Honourable Mr. Lalubhai resented any such implication, and in doing so, he immediately revealed his innermost feeling that he did not like a deficit (*Honourable Mr. Lalubhai Samaldas*: "I said if we could help it"), although he went on to say he thought there was no reason why there should be a deficit this year.

I thoroughly agree with the remarks made by the Honourable Sir Alexander Murray as regards the rather remarkable rise in Government securities during the past few days. We were both thinking alike. I jotted down the same thing in my notes that he did. I am of opinion that the rise was due to the anticipation that the Government this year would balance its budget.

One word more, Sir. We have heard one or two Members utter words of warning to the Government on this question of salt. Now I have spoken to many Indian friends,—and I have a number of Indian friends,—I have invited argument with them; I have invited it in order that I should be convinced that this salt tax is oppressive to the poor man, and the majority of my Indian friends have said, "No, it is not an oppressive tax, but sentiment is against it." I have mentioned that before. I think my Honourable friend on my right told me it was felt to be oppressive a number of years ago. But a number of years ago the poor man was in very different circumstances to what he is in now. His income was very much smaller. I appeal to the Honourable Members who really feel that this salt tax is not going to be oppressive, I appeal to them, not merely to give utterances of warning to Government, and if there were some little trouble not to stand aside and say "I told you so." Would it not be a better action to try and put their constituencies right, to point out to them that this salt tax is not an oppressive tax, and to educate the people to realise that they are asked to subscribe their mite, a very small mite, to the upkeep of this great country in which they live.

THE HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, critics of Government will feel thankful to the Honourable Mr. Cook for the very strong case that he made out against the policy of Government, as representing the views of its opponents, and I am glad to feel that he was not able, in the course of his remarks, to rebut the arguments which have been advanced by Government's critics. I do contend, Sir, that the deficit in the budget is an unreal deficit. It is only an apparent deficit. It is not a normal deficit, and we cannot say that we are not able to balance our normal expenditure and normal

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revenue. Can it be said, Sir, that expenditure in Waziristan, amounting to a crore and a half, is normal expenditure? If it is not, there is no point in taking it into account in making out a deficit. Similarly, much has been said with regard to the faking of accounts; but, if we are to arrive at a correct understanding of the financial position, we shall have to find out whether the present method of accounting is a correct method. I do realise that the Government want what we call in connection with investments "new money," but does the present financial position justify the demand of the Government for additional taxation? Even though it may not be possible for Government to carry out in full the recommendations of the Retrenchment Committee in the course of this year, next year it is just probable that the Government will find itself in the happy position of being able to do more than balance its Budget. The Honourable the Finance Member in the course of his Budget speech has himself said that "if this reduction and the others which have been agreed upon could have been fully and effectively put in operation by the 1st of April 1923, the net military budget for 1923-24 would be 57.75 crores; but a sum of 4.25 crores has to be allowed for special expenditure in Waziristan and for the fact that the reductions cannot be in full force throughout the year." So that this expenditure of 4½ crores is abnormal expenditure. Similarly, the lag and the terminal charges are not items of normal expenditure; they are admittedly abnormal. We have, therefore, no justification for saying that the financial position of India is so bad to-day that we must levy additional taxation. In fact, the Budget is a self-balanced Budget even to-day. (*The Honourable Mr. E. M. Cook*: "How?") If we were to look at it from the proper point of view of what is normal revenue and what is normal expenditure, which can be put down to revenue, the expenditure and the income are balanced. Government have, therefore, no very strong ground to stand upon when they say that for bringing about an equilibrium between the normal revenue and expenditure they want this additional taxation. What in effect they will secure if addition to the salt duty is approved, will be a surplus. If things go on as they expect them to do during the course of the next year,—though it is very difficult to make a prophecy,—I think by the end of the year they will find themselves in the fortunate position of having a considerable surplus. As a matter of fact, these 4½ crores will be a surplus, and the question for us to consider is whether we are going to allow Government to have this surplus through the salt tax. I would certainly not grudge Government a surplus provided it was not to take it out of the salt duty. Some of my friends have tried to make out that the salt duty is not an oppressive tax, but the position has not been made convincing even though my friend the Honourable Sir Umar Hayat Khan has given to us a number of jokes about it. I am afraid he spoke as if he thought the salt duty had something to do with the duty that the Members of this Council have to perform towards Government. The salt duty is certainly not expected to be a duty of the Members of this Council to support Government in their proposal for additional taxation on salt. An addition to the existing salt duty may be a negligible increase from the point of view of the cost per head of the population. The real question is whether the salt duty is not an emergency tax, to be resorted to only to meet emergencies. I do not wish Government to regard the salt duty in India as something of the

nature of income-tax in England. Whenever the Finance Member there finds himself in a difficulty he raises the income-tax, say, by a few pence or by a shilling. The Government in this country cannot look upon the salt tax as an ordinary tax which, on account of the ease with which it can be assessed and collected, ought, from time to time, to be raised. Really speaking, the salt duty should have been reduced by this time to Re. 1 per maund to the pre-war level. It was tolerated only as a war measure and it continues at the present time as a sort of war measure; but if we were to give Government an additional four or five crores in the matter of the salt tax, then the emergency character of the tax would vanish. It is essentially a tax which ought to be resorted to only in a time, say, of sudden calamity, or sudden difficulty or a catastrophe. Salt cannot be regarded as an ordinary object of taxation. It is people's food, and therefore Government ought not to manipulate this tax from year to year in order to make up their recurring deficits. The Honourable Mr. Cook said that the outcry against the salt duty was a very old outcry, and that the battle-cries of one generation ought not to be made the battle-cries of another generation. Unfortunately in this country, Sir, some serious grievances of the public have not yet been redressed and we have to continue our agitation against them and in favour of certain reforms. The question of military expenditure and the question of currency and exchange are questions involving popular grievances of old standing, and we have to agitate for reform with regard to those problems and we are not here simply repeating the old cry against the salt duty when we say that the duty ought not to be raised. It is misleading to say that because the poor man is not likely to suffer very much by the addition of 12 annas or a rupee or Rs. 1-4, to the family burden, therefore, the Government should be allowed to increase the salt duty. I would suggest to Government, if they have any doubts about public feeling, that they might take a referendum. Many of my friends have doubted whether the public really feels against this salt duty. I would therefore throw out a suggestion; let the Government take a referendum of the mass of the people, and if they find that the people do not want this salt duty, certainly they will be welcome to impose it. But I have no doubt in my mind whatsoever that they will not get even a fraction of the population of India on their side in this matter of the salt duty. I do not want, Sir, to refer to what has been said in regard to provincial contributions. In the course of my budget speech I have said already that it was an apple of discord thrown into the midst of the representatives of the provinces by the Government of India. It has been suggested that if the public consented to this proposed increase in the salt duty, it might be possible for Government, in the very near future, to reduce provincial contributions. I would say in this connection, that if the Governments of provinces are to have their contributions reduced it will be practically tantamount to their taxing their own people. The increased tax will fall upon their people, so that the Government of India will give back to the provinces with one hand what they will be taking from the people of the provinces with the other. Then again, Sir, there is no certainty as to what Government is going to do with regard to the provincial contributions. In any case, I do not feel that the Government is justified in raising the salt duty, because I repeat that this deficit is not a real deficit, taking the normal revenue and the normal expenditure of the country. If the Council will allow the Government to raise the salt duty, it will only provide a big surplus. We do not want Government to have such a

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surplus just at this moment when the work of retrenchment of expenditure has not been completed. We feel that there is still considerable scope for retrenchment and we are convinced that all possibilities of retrenchment have not been exhausted. The Council is not, therefore, justified in allowing the Government to increase the salt duty.

The HONOURABLE SIR BASIL BLACKETT (Finance Member): Sir, Professor Kale is at any rate consistent. In the debate on the general discussion he took the view that it was better to budget for a deficit than to impose new taxation at the present time. I disagree, I am afraid, with his rosy picture of an abnormal deficit, which means really a normal surplus. But I would just give him one argument based on his premises. Assume that this year we have got an abnormal position which gives us a deficit. Is not that the moment to put on for a year the emergency tax to cover it? After all, the period for which the tax is imposed by this Bill is only a year. We should therefore on that basis be using our emergency weapon for the emergency purpose and reach the end of the year with our budget balanced and go forward next year to the problem of how to deal with the next year's Budget. But is the deficit abnormal? It has become rather normal. We have had five years of deficits in succession. It has been asked to-day why we should not have a sixth, and that a very little one? Well, "it is the last straw that breaks the camel's back" is a proverb which can be applied to deficits as well as to other things. It is said that the deficit is abnormal because the charges for Waziristan are not normal. I hope they are not, but such charges were not very abnormal in the last generation and the generation before that. It is said that the deficit is abnormal because there are the lag and the terminal charges in the army estimates which will not recur next year. I am afraid some terminal charges will not be over by 1924-25 though we hope the lag will be entirely over. But as I have pointed out in another place more than once, over 2 crores of the reduction in the army estimates this year represent a non-recurring reduction of stores. That reduction does not recur. Next year we shall have to find some means of effecting reductions in other directions to keep that particular bit of reduction in our hands. The same is true in some of the civil estimates. There is a cut of 3 crores in the programme Renewals expenditure, the expenditure for keeping the rail roads in repair, so as to keep them in proper condition and prevent depreciation. That is not a normal cut. That is not a recurring saving of 3 crores. The same line of argument that there is no real deficit this year is one on which the suggestion that we should transfer to capital certain charges which are at present charged to revenue has been based. Now that has been dealt with from time to time rather fully, but I must repeat here that there are certain charges in the Railway Budget which represent repayments of capital in the sense that they represent a reduction of our capital liability in respect of annuities. But that is the only provision in the Railway Budget for writing off railway debt, for reserve,—for depreciation in general. We cannot have an asset such as the Railways and regard it as certainly a valuable asset a hundred years hence. We may all then be flying about with our own wings. What will be the value of the railways? You must make some reasonable provision for writing down your expenditure.

The HONOURABLE MR. LALUBHAI SAMALDAS: Have a sinking fund.

The HONOURABLE SIR BASIL BLACKETT: That is exactly what I am advocating and that sinking fund must be charged to revenue.

The HONOURABLE MR. LALUBHAI SAMALDAS: That will be later on but at present it must go to capital.

The HONOURABLE SIR BASIL BLACKETT: That is not the case now. Such as it is, it is charged to revenue. Then, there are two crores of expenditure on New Delhi which has to be shown on the other side.

The HONOURABLE MR. LALUBHAI SAMALDAS: For which we are not responsible.

The HONOURABLE SIR BASIL BLACKETT: I do not say who is responsible. All I say is that I have not suggested in the Budget transferring it to a revenue charge. I said it is only sheer necessity which justifies its being kept as a capital charge without any provision for its yearly repayment. Would the Honourable Member like to do a deal with me over it? I have 196 lakhs which ought to be charged to revenue. Would he like to exchange this for the 114 lakhs representing annuity charges?

The HONOURABLE MR. LALUBHAI SAMALDAS: If it is correct, let us go in for it.

The HONOURABLE SIR BASIL BLACKETT: I am in great hopes that next year by the time the Budget is introduced we shall be able to revise all these deficits and be able to improve the whole of the accounts, and present real commercial accounts for the railways. But we are arguing now only this question of the annuity. Now for the purpose of showing a surplus where there is a deficit on the methods which you have used for accounting for years, when you have announced to the public that there is a deficit on those methods, are you going to improve your credit by making a transfer to capital not in order to improve the accounts but simply because you want to make your deficit appear like a surplus? I entirely agree with the line that Professor Kale took that, if you are going to have it, you should show your deficit as a deficit and not as a camouflaged surplus. The argument that our credit has been suffering has been challenged to-day by two Honourable Members. I should like to remind them of what they said on March the 7th. Mr. Lalubhai Samaldas said:

"The Budget ought to be balanced. There is no doubt about it. Those of us who have anything to do with commercial concerns realise that unless the budget is balanced neither the country nor the Government can have any credit with the outside world."

Sir Maneckji Dadabhoy had something interesting to say on the subject to-day. This is what he said on the 7th of March:

"I endorse all that Sir Basil Blackett has said as regards the necessity of balancing the budget. It would be impolitic, it would be unwise, it would not be in consonance with a well regulated policy to leave the deficit uncovered and some means must be found to obtain that object."

After all we are all agreed that the deficit must be covered. The only question is, is it better to put on new taxation or to leave the deficit uncovered, if the new taxation is so unpopular or so much disliked as the particular method which we have proposed this year? Well, I never heard of any taxation that was popular. All taxation is disliked. I imagine that it would be very seldom that you would get a majority in a referendum in favour of any taxation. Incidentally, I am afraid that the 4 crores

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deficit would be increased considerably if we tried to have a referendum on the question of imposing the salt tax. But all taxation is disliked, and taken by itself, it will invariably be objected to and opposed. The people who are responsible for the finances of the Government, this House, the other House, the Government, in the case of India, have got to do things that are not altogether popular if they want to balance the budget. If you do not carry taxation as this House and the other House have carried it with great spirit and courage in the last few years, you will never be able to put your finances in a sound position. This year we have gone further. We are not merely proposing to cover our expenditure by new taxation. We have done our utmost to put into effect the very drastic recommendations made by the Retrenchment Committee. I was very much gratified to hear to-day a Member of that Committee say that he was thoroughly satisfied that the Government had put into force all that was possible in 1923-24 of the recommendations of the Retrenchment Committee. That, I do assure the House, is the case. We have gone all out to effect those reductions. It is going to be a continued fight all through the year to prevent the actual expenditure exceeding the Budget figures. In this case we have to depend on putting into force retrenchments which we have not yet had actually time to carry out. If that is so, I think that I really have a good answer to the complaint that has been made that the Government was unyielding in not agreeing to large cuts in the estimates as presented to the other House. These estimates, as presented, showed the minimum figure which it was honestly possible to consider as likely to be reached in reducing expenditure next year. If the Government produces estimates and then accepts large cuts in the course of the discussion, it is open to the just charge of having produced bad estimates. It cannot permit a lakh or two here or a lakh or two there to be cut and still claim that the estimates that it introduced to start with were correct.

The HONOURABLE MR. LALUBHAI SAMALDAS: That is what we were told by the Honourable the Finance Secretary last year.

The HONOURABLE SIR BASIL BLACKETT: I admit that possibly some things that happened last year may have been misleading us this year. But this year our estimates represent the minimum that we can honestly put forward as required after putting into force all the recommendations of the Inchcape Committee.

One particular point has been mentioned. It is an item called service charges in the interest figures. Now, the budget for our requirement for interest is necessarily one of those which are uncertain. If you borrow late in the year you have larger charges to pay under the head of interest on treasury bills and less under service charges. But just taking that item as it stands, we are told that because last year we managed to get through a rupee loan of 47 crores with Rs. 58 lakhs for service charges, our estimate of Rs. 80 lakhs this year when the loan is only Rs. 25 crores is too big. Well now, in 1917-18 we borrowed Rs. 42½ crores and the service charge came to Rs. 236 lakhs. We borrowed Rs. 56 crores in 1918-19 and the service charge was Rs. 162 lakhs. In 1919-20 we borrowed Rs. 21 crores and the service charge was Rs. 131 lakhs. The next year, the loan was Rs. 49 crores and the service charge Rs. 190 lakhs and last year it was Rs. 47 crores and the service charge Rs. 58 lakhs.

The HONOURABLE MR. LALUBHAI SAMALDAS: The Department was learning. They ought to have learnt better now.

The HONOURABLE SIR BASIL BLACKETT: We have taken the yearly average which is over Rs. 80 lakhs and put it down at 80.

The HONOURABLE MR. LALUBHAI SAMALDAS: Not the average. Last year's percentage is what I want.

The HONOURABLE SIR BASIL BLACKETT: The year before it was Rs. 190 lakhs for Rs. 49 crores and last year Rs. 58 lakhs for Rs. 47 crores. We have not taken the average of those two. We have taken the average over a series of years. I only give that to illustrate that that figure is the best figure that we can produce. We are quite confident that taking the estimate for interest as a whole it was impossible to make any serious cut in it without being fairly certain that on the estimate as a whole we should find it necessary to come back for a supplementary grant. (The Honourable Mr. Lalubhai Samaldas: "Could have done it.") Of course, we can quite well introduce at the beginning of the year estimates which we know will require supplementaries of 10 per cent. all round, but we cannot present those estimates as our forecast of the budget expenditure for the year. The fact that you can get a supplementary estimate if a cut is made has nothing to do with the question that you have got to produce a forecast now of what your expenditure for the year will be. It may be quite different from your preliminary demand for grant which you can double by a supplementary grant if that is possible. An appropriation under the demand grant is really rather a different problem from forecasting your budget requirements. However, we have honestly reduced our estimates to a form where we think it is impossible to reduce the figure below the figure of the deficit of 369 lakhs which we now put forward.

Then the question is, if this salt tax is so unpopular, if like all other taxes sentiment objects to its being taxed, is not some other kind of taxation possible? As the Council is aware, we did our utmost to see whether anything could possibly be done in that direction. All efforts were made by Government to see whether an agreement could be arrived at for other kinds of taxation which would between them take the place of the salt tax. Not only was there no unanimity among those who suggested alternatives, but in nearly every case—I must not say they did, but I think they privately thought that salt tax was preferable. (A Voice: "No, no.") It was said in another place that if anything was going to encourage non-co-operation it was the income-tax department, and a surcharge on income proved very, very unpopular and I do not think there would have been any chance of an agreement on that as a substitute for the salt tax. Given that the budget deficit must be covered, the Government of India are honestly and sincerely convinced that the right and the fairest course in the interests of the Indian tax-payer as a whole, in the interests of India's credit and in the interests of the future of India is the salt tax. They did not close their minds to the possibilities of other taxes, though I may say for myself that I went through very much the state of mind which Sir Alexander Murray went through. I disliked salt tax. It did not seem to me to be a desirable thing in itself, or a desirable thing to come forward with as a supplement to the Retrenchment Committee's report. But one after another possible alternative taxes were explored. The possibility of a further reduction of expenditure was, as I have explained, out of the question. I have great sympathy with one argument that is put forward in connection with that matter. I think it is as a matter of fact the strongest argument against the imposition of salt tax or any other tax this year and that is

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that additional taxation will take away all inducement to Government for further retrenchment. Had I thought that I should have voted for the opposition to the salt tax. But why should that be so? Assume that we have produced a budget that balances in 1923-24. In the first place, most of our taxation is annual. But apart from that we are still over 9 crores short of a final balance because there are 9 crores of provincial contributions between the Government of India and the final balance—between its permanent income and permanent expenditure whatever the normal figure of that is going to be. We have got 9 crores of retrenchment to make before we can clear the provincial contributions out of the way as we are pledged to do, 9 crores of retrenchment less such amount as we may obtain from increasing revenue from existing sources. I have missed one point that was made by a speaker to-day and that is that our revenue estimates are unduly cautious. It is very difficult to frame revenue estimates with the world in its present state, to foresee what the future of our internal trade and of our export trade is going to be, but we have been sufficiently warned by our efforts last year only when our revenue estimates were 12 crores too high as to the dangers of overestimating. I claim that we have not underestimated. We have allowed for a considerable increase, I think nearly 4 crores in gross receipts from railways, for an increase of over 3 crores in the net receipts from the Customs and we have allowed for normal growth elsewhere. We have not allowed for abnormal growth of revenue. We have not allowed for a boom. I hope the boom is coming but I do not expect it, I am afraid. If we are going to have an improvement of trade, it is going to be slow and steady and probably, in the best interests of the world, it is better that it should be slow rather than a boom. But we cannot frame estimates on the assumption that it will be anything but slow and steady. That being so, there is no room for being over-sanguine as to balancing our budget in future years by growth of revenue. We have got considerable retrenchments still to carry out. We have got to complete the work that has been done by the Retrenchment Committee and I hope those Members of the Retrenchment Committee who are also Members of this House will not disagree with me when I endorse a remark that was made in the other House that the Retrenchment Committee is not the last word on possible retrenchments.

The HONOURABLE MR. LALUBHAI SAMALDAS: I hope not.

The HONOURABLE SIR BASIL BLACKETT: We too hope not but I do say that is the one argument which seems to me really a strong one against covering the deficit this year that it will take away the inducement to Government to economise. There is 9 crores between us and a real balance, which is a considerable inducement and the House can still study the Retrenchment Committee's report and talk to us next year and the year after. I do not imagine that will be forgotten. I do claim, therefore, that looking to the interests of India as a whole the Government is doing right in asking that the salt tax be passed, that the Budget for this year be balanced and that the era of deficits which has now been with us for 5 years shall be definitely brought to an end.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): The motion now actually before the House is that the Bill as amended by the Legislative Assembly be taken into consideration. I venture to suggest to Honourable Members that further discussion on the salt duty will properly

arise on amendment to clause 2 standing in the name of my Honourable friend Mr. Cook. There have, I submit, been already a sufficient number of speeches of a general character and therefore, Sir, I move that the question now be put.

The HONOURABLE THE PRESIDENT: I think the House is prepared to come to a decision without my putting the closure.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The Council then adjourned for Lunch till Three of the Clock.

The Council re-assembled after Lunch at Three of the Clock. The Honourable the President was in the Chair.

The HONOURABLE THE PRESIDENT: The Council will now proceed with the detailed consideration of the Bill—clause by clause, the Preamble being held over as usual.

Clause 1.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, there are certain amendments before this House.

The HONOURABLE THE PRESIDENT: There are no amendments before this House.

The HONOURABLE SAIYID RAZA ALI: I mean, Sir, in connection with the Finance Bill, there are certain

The HONOURABLE THE PRESIDENT: There are no amendments before this House.

The HONOURABLE SAIYID RAZA ALI: It is true, Sir, that there is no amendment before this House to clause 1, but so far as the other clauses are concerned

The HONOURABLE THE PRESIDENT: Order, order. I called clause 1. If the Honourable Member desires to speak on clause 1, he can do so.

The HONOURABLE SAIYID RAZA ALI: Sir, I want a ruling from you whether certain amendments would be in order.

The HONOURABLE THE PRESIDENT: The Honourable Member will get a ruling from me when the occasion arises for me to give a ruling. He will not get a ruling by endeavouring to speak on a clause on which he apparently does not wish to speak. I again call Clause 1.

The question is that Clause 1 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: Clause 2.

The HONOURABLE MR. E. M. COOK: Sir, I beg to move:

"That in sub-clause (i) of clause 2 of the Bill, after the words 'construed as if' the words 'with effect from the first day of March, 1923' be inserted, and that for the words 'one rupee and four annas' the words 'two rupees and eight annas' be substituted."

The operative portion of this amendment, Sir, is to give effect to the recommendation made by the Governor General. I do not propose to repeat what I said this morning in moving for the consideration of the Bill. I then endeavoured to show why it was, in the opinion of the Government, necessary that this amendment should be made to the Bill as passed by the Legislative Assembly. In my remarks this morning I did not dwell at any length on the merits or demerits of this particular tax, nor do I propose to do so now, for, if the truth be told, Sir, in the speeches we heard this morning I did not catch many remarks criticising the salt tax as a tax. So far as I understood them, those speeches were mainly directed at establishing a direct negative and in view of that I do not think it necessary to go over the ground again, or to examine the arguments advanced, or that perhaps will be advanced on this clause, against the proposed enhancement of the salt tax. I beg to move.

The HONOURABLE SAIYID RAZA ALI: Sir, I do not wish to lose my right to speak on the amendment moved by the Honourable Mr. Cook, but as I have given notice of an amendment to the amendment moved by my Honourable friend Mr. Cook, I, Sir, would ask your indulgence to give a ruling on a point that is not free from doubt. The point, Sir, is this, I have moved an amendment to the proposed

The HONOURABLE THE PRESIDENT: The Honourable Member has not moved an amendment; he has an amendment on the paper.

The HONOURABLE SAIYID RAZA ALI: Yes, I have given notice of an amendment; I have not moved it yet. But that proposed amendment is so indissolubly connected with two other amendments of which I have also given notice that it is impossible to separate the one from the others. The point, Sir, is this that there is a certain deficit in the Budget which amounts to Rs. 369 lakhs

The HONOURABLE THE PRESIDENT: If the Honourable Member wants a ruling with regard to his amendments, he must not make a speech.

The HONOURABLE SAIYID RAZA ALI: I just wanted, if I might, to explain that the other two amendments which follow the proposed amendment

The HONOURABLE THE PRESIDENT: We are now dealing with clause 2 and I will at once re-assure the Honourable Member that the amendment he has placed on the paper is perfectly in order as regards clause 2 and he can move it if he likes. When we come to any other clause, if it is necessary to give a ruling, I will do so, but I do not propose to anticipate events in any shape or way.

The HONOURABLE SAIYID RAZA ALI: That is exactly the reason why I ask your indulgence to put up with me for a minute so as to enable me to indicate what I mean. If I have that permission now I will do that.

The HONOURABLE THE PRESIDENT: If the Honourable Member is to ask me to rule whether certain amendments he has later on the paper

relating to other clauses are in order, he will not get a ruling from me. He will get a ruling on the amendment that is now on the paper and which deals with the clause under discussion. If it is necessary later, I will give a ruling regarding the other amendments when the time arrives.

The HONOURABLE SAIYID RAZA ALI: If that is your ruling, then the only thing I propose to do now and the only thing which I can do, strictly according to law, is to move that the consideration of clause 2 stand over till this Council has had an opportunity to consider clause 6. That is the request that I make to you; it is for you to grant it or not; but one thing I can say is that there is a precedent for that course. That was done last year when a clause that was first in point of order stood over until the consideration of the following clauses had been completed.

The HONOURABLE THE PRESIDENT: I am quite prepared to put that to the Council and, if the Council so decide, it can be so postponed. That is a matter entirely for the Council to decide. Motion is made that the consideration of clause 2 be postponed till the consideration of clause 6 has been completed. That motion is now open to debate.

The HONOURABLE SIR BASIL BLACKETT: Government have no objection to this, if it would meet the convenience of the House. I understand that the object of the motion is that Honourable Members may be in a position to know whether or not in the event of their not accepting the Government's proposal in regard to the salt tax, they can make up the balance of the deficit by proposing other clauses which would impose additional taxation. You, Sir, have ruled that a ruling cannot be given on that at this stage, but if you could give a ruling on that, it might be possible to go on with clause 2 at once. I do not wish to ask you to change your ruling, if it is contrary to the orders of the House, but the whole point of this amendment is to obtain a ruling for the guidance of the House.

The HONOURABLE THE PRESIDENT: Then if this is so I would suggest to the House that they take up what seems to me the logical position and oppose the motion of the Honourable Saiyid Raza Ali that the clauses be taken out of their order.

The question is:

"That the consideration of clause 2 be postponed till the consideration of clause 6 has been completed."

The motion was negatived.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, it strikes me that it might be helpful, while we are considering this particular amendment, to consider the position of the salt duty in the system of Indian taxation. It has been said that the opposition to this duty is sentimental, that it is a necessity imposed on Honourable Members by the approach of a general election and that upon the whole the considerations so far put before the Legislature are of a political rather than of an economic nature. I am gratified that there is no tendency on the part of official exponents of the Bill to minimise the political or the electioneer aspect; they grant that there is much force in them; but they are not prepared to grant that there is any material argument that might be brought forward against the salt tax. Sir, the poet has said that one half of the world does not know how the other half lives. If it is true anywhere,

[The Right Honourable V. S. Srinivasa Sastri.]

I believe it is true with reference to the Members of this Council, say, generally in their attitude towards those who live either on or below the margin of subsistence in this country. Of these people, there are not tens of thousands nor hundreds of thousands, but millions. The average income per head in this country has been variously estimated, but the official estimate which we regard as very sanguine puts it at about 30 or 32 rupees. This is the average. The number of people who get incomes far below that figure must be enormous. I am using the figure arrived at a long time ago, probably the figure of 30 or 32 should now under modern currency be put at 55 or 60 rupees. Even so, there are millions who live below the margin of subsistence. I am afraid a vivid perception of their life is not amongst the equipments of the Members of this Honourable House in approaching this subject. To these millions, Sir, an anna is not a bagatelle, a rupee is a considerable proportion of their extremely restricted annual budgets. I can speak from personal knowledge of these people, because, Sir, as I will admit, it being no crime, I have lived very close to this line of subsistence. For many years when I was a little boy, the prospect of starvation was a familiar companion and amongst my sharpest and bitterest recollections to-day is this circumstance, that one year when money was scarce and amongst other necessities of life salt was very dear, my poor mother was obliged to decline a gift of mangoes because she could not afford to purchase the salt necessary for pickling it. It is me, I may venture to say, who am entitled to say a word on behalf of the millions of India: others have no right to speak of what the effect of a salt duty raised to Rs. 2-8 may be upon these poor millions. Free salt is by ancient tradition one of the gifts which ambitious monarchs used to dream of being able to give some day to the poor people. After the British established themselves in this country and regular budgets became the rule, I quite remember for a long series of years Secretaries of State, Viceroys and Finance Members saying time after time 'we hate to put on a salt duty. We would gladly rid ourselves of this necessity, and our ambition is, as the financial strength of India grows, one day to abolish this tax for ever.' In that sentiment the people and the Government used happily to agree till some years ago. Now either because the necessities of India from a financial point of view have become vastly greater or because the close attention to the needs of the poor that used to be paid in former times has disappeared—I do not care to distinguish between these two causes as to their relative intensity,—for some reason or other, we have all, officials and non-officials, come to regard the salt duty as a part of our financial system. It has reached down to one rupee sometimes. It generally stood at Rs. 1-4-0; it came up to Rs. 2-8-0 for some years, but we considered it a piece of good fortune that we were able to bring the taxation down until it reached Rs. 1-4-0, and it must have been the direst necessity which could drive the Finance Member of a past generation to think again of raising it. As I said, even non-official opinion has come to regard the salt duty as an inseparable part of our fiscal system. I will venture, Sir, to quote the opinion of my late master Mr. Gokhale on this subject, for it is sometimes enveloped in obscurity. He used to say 'The salt duty now stands at a low level. If it could be reduced still further and brought down to the level of one rupee, I should not object to its being a part of our fiscal system. That is one of the taxes which must be kept at a very low level in order that Government may have in their hands always a margin of taxation which

they could avail themselves of at a pinch.' The occasions when he would have sanctioned an increase of salt duty would be the direst necessity of the State, and even then only for a temporary period. I had hoped in the discussions in another place that Government would declare that the additional impost on salt which they were contemplating was a purely temporary thing to enable them to tide over the distress of this particular year so that they can cut it out next year absolutely. If that condition had been promised, I personally believe that the objection to the salt duty would not have been so very bitter. On the other hand, Sir, it was freely allowed to be stated—and I heard something very near it this morning from the official Benches—that this additional revenue from salt was intended to be made a permanent part of Indian finance and glittering prospects of squashing the provincial contributions were held out upon the strength of the revenue acquired from the new duty on salt. That puts the case altogether out of court, so far as I am concerned. I should have been willing to recommend a small additional impost on salt for one year and for one year only, if it would have enabled the Government to bring about a balanced budget for this year, trusting to better sources next year to help them out of a similar difficulty. If it is going to be a permanent impost, if it is going to add to our revenues in order that we may meet obligations such as the squashing of provincial contributions or additions to the salaries of the Imperial Services, then, I am afraid, the last justification for this impost is taken away. I am very willing to believe, Sir, that an unbalanced budget, coming after four unbalanced budgets, is an evil. I am willing to believe that a surtax on customs is a nuisance. I am willing to believe that a surtax on income-tax is not popular by any means; but the greatest evil of all, it seems to me, is a certified tax on salt standing at the very high level of Rs. 2-8. I cannot but think that the Government of India have been very badly advised in choosing this means of escape from their financial difficulties.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I am sorry that Government have not been able to accept the recommendation, or rather the decision, of the Legislative Assembly as regards the duty on salt. It is a matter of great concern to us that His Excellency the Viceroy has had to use the power under section 67B three times in this year, 1922-23, which power he is supposed to use very rarely. I have the greatest esteem for His Excellency, but, at the same time, and with due deference to His Excellency's office, I must, I think, voice the feelings of the people and of my constituency in particular in putting before this House very strongly that the salt tax is very greatly resented by the people. So, I oppose the amendment very strongly. I cannot understand why Government has been led to enhance a most unpopular tax. Various proposals to meet the deficit have been put forward by this House and the Assembly but they have all been ignored by Government. (The Honourable Sir Basil Blackett: "No.") The Government, I am sorry to say, has been found non-co-operating with the co-operators. I think the Government should not incur any unpopularity among the people by adopting this measure which are evidently bent on enforcing regardless of our wishes. I cannot understand, Sir, why Government is so nervous about this small deficit of 3 crores and some lakhs. There was a time, Sir, in the last few years, I mean, when our exports were very small. But now, the prices of exportable articles have fallen considerably of late and in many cases by 40 to 50 per cent. I believe there will be a heavy export

[Rai Bahadur Lala Ram Saran Das.]

this year, which will lead to a very large income to railways although the Honourable the Finance Member has only put in about Rs. 2 crores as extra income from Railways, in the Budget. I think we shall fully get another 3 to 4 crores indeed from the Railway income. So, I do not imagine, Sir, that this deficit will really exist when our next financial year comes to an end. The increase in the railway goods rates has also been responsible for the decrease in the traffic as between small radii the traffic has been taken on by the carts and other transport. If the Railway administration will consider this point, that will be another way of regaining the income which they are at present losing. As I had no chance to speak on the main Bill, in case I am allowed, I want to put in about one or two remarks, at the end of my speech.

THE HONOURABLE THE PRESIDENT: I think the Honourable Member must confine himself to the amendment. The debate was very long this morning.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: As regards the income-tax also, Sir, I might point out that as trade is reviving, the Government can anticipate a bigger income under income-tax. I feel that when Government has not minded a deficit of Rs. 17 crores in the current year, the small paltry deficit of about Rs. 3 crores need not be minded now. I therefore beg the Government to reconsider their amendment.

THE HONOURABLE SIR EDGAR HOLBERTON (Burma Chamber of Commerce): Sir, I feel that in common with the whole of the House I must acknowledge the intensity of the impression that has been made upon me by the personal appeal of the Right Honourable Mr. Sastri. Coming as it does from a man who has himself lived, as he tells us, very close to the line, coming as it does from one who represents the society he does and has led the public life he has, it must carry great weight. It is therefore with some feelings of temerity that I venture to carry the argument a little further than he has and to put it to you that in spite of all this, there are periods in a country's career or history, when every class, race and creed of its population must bear its share in the burden which has fallen upon it. In the present instance we have had before us a very interesting series of debates in another place which we have been able to follow—some of us fortunate ones personally and some through the newspapers—and we have had some interesting speeches in this House also, and I think I may go so far as to say that we have arrived at a dead conclusion, practically unanimous, that this Budget deficiency must be made up. I was indeed surprised this morning to hear two of the senior Members of this House going back on this view and expressing the desire to let the deficit run. The gentlemen concerned, on second thoughts, I cannot believe will maintain this. As we have at present the facts before us, there is no way for this House to avoid leaving that deficit except by passing the salt tax. I wish to be quite clear on this point. All that has come up to us from Government who are the only people, who, as we are at present advised, can move an amendment, the only amendment which is officially before us which will cover this deficit is the salt tax. Supposing that the danger of leaving the deficit uncovered is greater than the danger of passing

the salt tax I would put before my Honourable friends here and specially before my Right Honourable friend the fact that from the evidence that has come before me from an eight months' travel round India with the Fiscal Commission there is a very deep and strong feeling in the minds of Indians that there is still room to tax the ryot. The volume of evidence that we had was overpowering that there was room to bring in a policy of protection even though it would certainly fall upon the lowliest and humblest houses in this country. From this point of view I think it must be admitted that in itself the salt tax, apart from its sentimental side, is no more a severe tax upon the multitudes than is a protective policy. In fact, I go so far as to claim that where the incidence of the salt tax will be in annas the incidence of protection will be in rupees. Therefore, Sir, from the purely financial point of view I do not find that the case against the salt tax is at all conclusive. From the sentimental point of view those of you who know India better than I do will probably feel even more strongly than myself that it would be desirable, if it could be afforded, to remit this tax and if this House had been meeting to-day to discuss a series of alternatives by which the budget could have been balanced and the deficit covered I very much doubt if the balance of opinion here would have fallen on the side of salt. It is a very queer thing to me, Sir, that the united wits of the Assembly have entirely failed to produce any alternative. Not one alternative has come up to us from that Assembly after some 20 or 25 days' discussion and therefore I can only take it that the position we have to discuss here is simply a choice between the salt tax and an uncovered deficit. Let us not confuse the issues by bringing in any other point whatever. That is the case which has been put to us from the Assembly. Well, Sir, in the course of his remarks this morning, the Honourable the Finance Member, if I heard him aright, was perfectly explicit on the fact that he was at the moment only asking for this salt tax for one year. If that is so, I appeal to the Right Honourable Mr. Srinivasa Sastri to come in with him for this one year. During that year we can all of us see how the affairs of the nation go. We can all of us think out alternatives to this tax and when the budget comes up next year it will not be a question of deciding simply whether the salt tax shall be at this figure or at that; it will be to decide whether a better alternative can be found for an unpleasant expedient which want of money has forced us into for one year.

THE HONOURABLE LALA SUKHBIR SINHA: This motion reminds me of what happened last year on this subject. When the budget was placed before this House as well as the other House last year the salt duty was proposed to be raised from Rs. 1-4-0 to Rs. 2-8-0. When the Budget was discussed on the general merits here as well as in the other House, very great opposition was made to this proposal of raising the salt duty. When the Finance Bill was placed before the other House this point was discussed, namely, of increasing the salt duty from Rs. 1-4-0 to Rs. 2-8-0 and it was rejected by a majority of votes. His Excellency the Governor General did not like to recommend or to amend the enhancement on that occasion. The Bill was brought here amended by the Assembly and my friend Sir Edgar Holberton took it in his head to move an amendment to raise the duty from Rs. 1-4-0 to Rs. 2-8-0. To that amendment almost all the non-officials objected.

THE HONOURABLE MR. LALUBHAI SAMALDAS: Officials also.

The HONOURABLE THE PRESIDENT: The Honourable Member was repeatedly interrupting this morning. I trust he will refrain from doing so this afternoon.

The HONOURABLE LALA SUKHBIR SINHA: That amendment of Sir Edgar Holberton was strongly objected to by the non-official Members of this House and as the Governor General did not recommend the Bill the Finance Member and other official Members did not support it. That amendment was rejected and the salt duty remained where it was, that is Rs. 1-4-0. Now we find the same proposal again before this House. I do not find any reason or justification though in a different shape—for in increase from Rs. 1-4-0 to Rs. 2-8-0. From last year to this year nothing new has happened which has enabled the Government to justify asking for an increase of duty on salt. I should have been very glad if our new Finance Member would have begun his career by having no fresh taxation. He had a full opportunity of retrenchment before him. The Incheape Committee recommended a great deal of reduction in expenditure. If he would have made a little more effort it was possible for him to balance the budget without any further taxation. The deficit is only about 369 lakhs out of 130 crores. I think to reduce the expenditure by $3\frac{1}{2}$ crores is not very difficult if we work out details. I am not going into details at present because we have discussed the question on previous occasions. But I find that both in the Military Department and in the Civil Department there is still a great deal of scope of retrenchment. What I say now is this that if the Finance Member would have liked to balance his budget with the present income he could have done so. But he says he has thought over all the proposals and could not find his way to suggest any other proposal than the increase of duty on salt. Sir, we non-officials, so far as we and the public are concerned, have opposed this proposal not only this year but opposed also last year. From my experience, and as it has been the experience of my Right Honourable friend Mr. Sastri, I can tell this Council that salt is one of the indispensable necessities of life. If you go to the villages you will find hundreds of people taking their bread with salt, nothing else but salt. From this you may see how much salt is necessary for the upkeep of life of the common villager who has nothing else but bread and salt. When the salt is so commonly used and so necessary to life, it is not right for the Government to increase the duty on salt again after so many years and it should be allowed to remain as it is without any increase. I quite agree with the Finance Member that the Budget should be balanced but the question is about the ways and means, how to balance it; he says that the salt duty is the only ways and means to balance it, but I differ here from him. I say that there are many other ways how the budget may be balanced. But we have no chance to go into the details, and we are never asked to express our opinion at the proper time. They budget as they like, and when they find difficulty, they come to us for fresh taxation. This country is already overburdened with taxation, and I think no further taxation is justified at this present time. My Honourable friend, Sir Umar Hayat Khan, attacked me personally and said that I would not raise the question of cattle in this respect but I do raise that question. It is my experience that salt is required for cattle also. I think in all dairy farms it is the experience that salt is given to cattle. To all cattle that we keep in our houses we give salt; without salt no cattle is found to be in good health, or can give good milk. He says

that salt is not required for cattle, and he says that when cattle are in the jungle, who give them salt? I think he has forgotten the fact that in the jungle these cattle have no work to do, and therefore they do not want these things, they do not get fodder, no grain that we give them in our houses and therefore salt is one of those things that are required, for fodder and other things. Therefore, to say that salt is not required for cattle is to go against the facts. Therefore, Sir, I submit that when salt is such a thing that it is required for human beings, and for cattle, and for all kinds of animal, then is it not the duty of Government to keep this tax as low as possible? It is said that it will be only 3 annas per head per annum more and it is nothing. But, Sir, when you take into consideration the total income per head of people here, you will find what effect this will have on them. The total income is not more than Rs. 30 or 35 per head in a year,—which means 3 or $2\frac{1}{2}$ rupees a month; so out of that, if a man spends so much on salt and so much on other things, it will be a great burden on the poor man. Little things become great when collected together. It is said that it comes to only 3 annas, but it will bring in six crores of rupees. Six crores of rupees is not an insignificant amount, and it will come from the poor people of this country. Then what I say is that this salt duty will be paid by the rich as well as the poor alike. The principle of taxation should be to tax those more who can pay, and less those who cannot pay. The salt duty will fall on the rich and poor equally. Therefore, Sir, I strongly oppose this amendment, and request the Honourable Finance Member and the Honourable Finance Secretary not to press this question, and I think Government is not well advised to press this enhancement of the duty on salt, and I would request them to reconsider the matter and not press it.

The HONOURABLE MAHARAJADHIRAJA SIR RAMESHWARA SINGH (Bihar and Orissa: Non-Muhammadan): I do not propose to say anything about the merits of the question before us as it has already been exhaustively dealt with by the able speakers who have preceded me. I will therefore, confine myself to a few remarks.

His Excellency the Viceroy has sent the Bill to us with his recommendations and has advised us to agree to the tax, as in his opinion it is the only feasible solution of the present difficulty. I daresay, there can be two questions as to the sincerity and earnestness with which he and the Finance Member are trying to solve the questions of the finances of the Empire.

The report of the Incheape Committee has come as a welcome relief and I am sure that India will be very grateful to the able financier who has rendered a signal service to the country by his report and to Their Excellencies the Viceroy and the Commander-in-Chief who have agreed to his suggestions. I hope that it may be found possible for Lord Incheape to come again to India in a year or two and go more deeply into the subject with the help and advice of officials and non-officials, and I am sure that his next visit will be attended with a still more welcome contribution to the question of retrenchment of expenditure. I have every hope that His Excellency the Viceroy will be only too glad to make such reductions in the very heavy taxation of the country as may be considered necessary, and that the proposed additional tax on salt is only a matter of a year or two.

[Maharajadhiraja Sir Rameshwar Singh.]

I appeal to the Honourable Members of this House to put their trust in His Excellency and they may be sure that by strengthening his hands at the present moment they would be acting for the best interests of the country.

The HONOURABLE RAJA VASUDEVA RAJA OF KOLLENGODE (Madras: Nominated Non-Official): Mr. President, when I spoke on the Budget two weeks ago in this Council, I expressed, Sir, that there was genuine mis-giving in regard to the form that the proposed additional taxation has taken, that there was a feeling against taxing the breakfast table, that, though the incidence of taxation proposed was negligible there was a sound sentimental objection to the enhancement of the salt tax and that it was of an unpopular character. These considerations appear to me to be real and I must confess that it was with a prejudice against this particular taxation that I approached the question. Having now given the proposal my most careful and anxious consideration, Sir, I have come to the conclusion that the reasons for supporting the motion before us and of accepting this additional burden far outweigh those against it and that it is our duty, as responsible Members of this House, to support it even at the risk of incurring some public odium. We are not here as mere advocates of one cause or another as in the pre-reform days, when we had neither power nor responsibility, but now things are quite different and we must take a long view of things consistent with our share of responsibility and position.

The position as I see it now is this. The Budget as presented to the Assembly by the Government anticipated a deficit of 4½ crores, and the Finance Member laid great stress on the absolute necessity of covering that deficit. So far as that point is concerned, no body has attempted to minimise the obligation upon us to do so, or seriously attempted to argue that we can, without most undesirable consequences, allow the world to know that India has once more failed to produce a balanced budget. There were two ways by which this object of covering the deficit might have been attained. One is by a reduction of the expenditure. In this respect circumstances have entirely altered since last year. The Retrenchment Committee has concluded its work and submitted its report; and the budget as presented provides for such retrenchments as can be effected in the coming year in accordance with its recommendations. Some people say the action taken does not go far enough, others have complained that in certain respects it goes too far and that Departments which are essential to the development of our resources and political life are being starved. There is a greater measure of unanimity that still further reductions should be made in the expenditure on the Army, though here again demands have been made for the improvement of the unsatisfactory conditions under which our troops are being housed. As regards the strength of the Army, His Excellency the Commander-in-Chief has stated that it is only with great reluctance and in view of the sheer financial necessities that he has concurred in the very considerable reductions which are to be effected. After all, on such a question those on whom such a tremendous responsibility is placed must have some say as to the terms on which they will undertake it. We have, therefore, to proceed on the assumption that so far as the reduction of expenditure is concerned we have arrived at the minimum demands which the Government are in a position to put forward. And while certain suggestions accepted by Gov-

ernment have reduced that demand slightly, we still have a deficit of about 3½ crores or, after allowing a small margin, about 4 crores to cover. It is unnecessary for me to refer to certain suggestions thrown out as to treating Revenue expenditure as Capital expenditure.

The HONOURABLE THE PRESIDENT: I must remind the Honourable Member that he is on the amendment.

The HONOURABLE RAJA VASUDEVA RAJA OF KOLLENGODE: I am only showing that

The HONOURABLE THE PRESIDENT: Will the Honourable Member proceed bearing in mind my words!

The HONOURABLE RAJA VASUDEVA RAJA OF KOLLENGODE: It seems clear that, so far from rehabilitating our financial credit, it might seriously be depreciated. This is a very serious matter, in view of the large amount of credit we have to raise in the near future in connection with the Railway Programme and the repayment of Government loans as they fall due. These obligations are so large that an increase of even one per cent. in the rate at which we can borrow money would make a very heavy addition to our interest charges in the next few years. We are, therefore, left face to face with the fact that in order to cover this deficit and to produce a real balance between our revenue and our expenditure, we must provide the Government with additional resources. The Government's proposal is to double the salt tax being the only proposal which has stood financial scrutiny. We were given to understand this morning that negotiations were carried on in another place to see whether no more acceptable alternative tax or combination of taxes could be devised but although the Government were apparently ready to go at least some way towards an accommodation, no general agreement was found possible. That seems to me a matter for great regret and I do not know whether there is any prospect of negotiations being resumed or, if so, with what chance of success. But, in the absence of any such arrangement I feel compelled, though reluctantly, to support the minimum demands which after full consideration of the discussion in this Council the Government feel bound to put forward. I trust nothing that I or others here may say, will in any way lessen the chances of some agreement being arrived at between the Government and the Legislature, for, I feel that much of our present embarrassment is due to the fact that a precipitate decision to condemn and reject the budget proposal was taken in certain quarters before full consideration of all the important issues involved could possibly have been accorded.

I cannot conceal from myself the fact that even if the taxation proposals of Government are accepted, they provide only their immediate obligations. The obligations to the Provinces still remain. This is, as I have stated before, a matter of very greatest importance. Retrenchment and additional taxation have, in most provinces, already been carried to the limit of which present conditions admit. Such further retrenchment as may be feasible are unlikely to be sufficient to meet even those additional pension charges and salary charges which under the new financial arrangement will not reach their maximum for several years to come. Nor can the provinces be expected further to tax themselves merely to relieve the Central Legislature of what, I admit, is a very unwelcome and disagreeable obligation of assenting itself to additional taxation. For my part, I can see no other way out of the unfortunate dilemma in which we are placed and can only hope that a decision may, ultimately, be arrived at,

[Raja Vasudeva Raja of Kollengode.]

which will not add to the already enormous difficulties of the situation and apparently irreconcilable differences between the Government and the Legislature, which, while it may no doubt cause the Government considerable anxiety and embarrassment, will not necessarily improve the position or reputation of the Legislature or forward the objects and aims which we have at heart. With these few words I support the motion.

The HONOURABLE SAIYID RAZA ALI: Sir, I cannot but deplore the form that the amendment of the Honourable Mr. Cook has taken. Sir, there are occasions when, in order to meet your budget requirements, you have to raise taxation, and I do not conceal from myself the fact that sometimes you have to impose taxes even on the poor classes; but Sir, it is almost unheard of to find a tax raised from Rs. 1-4 to Rs. 2-8, in other words an increase of 100 per cent. Sir, I deplore this amendment because of the constitutional developments which it may raise hereafter, but I no less deplore it because of the financial implications that are involved thereunder. Sir, let me say in plain words that there is a general feeling in

the country that the choice of Government has fallen on this tax in particular because Government think that they can get all the money that they want, or that they think they want, by raising the duty by 100 per cent. on this most necessary commodity of the poor. Had it been a case of the incidence of taxation falling proportionately on the rich and the poor, I do not think the solid united front that has been shown by the country against this taxation would have manifested itself. And what is it, Sir, that the incidence of taxation means? This is not the time to go into larger economic questions, but I believe every school-boy knows that you should not require all the residents of a country to pay the same amount of taxation, which, if you do so, amounts to nothing less than a poll tax. The incidence of taxation means that the poor or those who are least able to bear it should be required to contribute the smallest portion to the State exchequer, whereas those who can afford to pay larger sums should be required to contribute their proportionate quota. In this case, Sir, we find that every man, whether rich or poor, or belonging to the middle classes, will have to contribute to the State revenues almost the same amount; and this for obvious reasons is the most objectionable feature from a financial point of view of the tax that is proposed to be levied. Sir, it is most unfortunate that the Government should have concentrated all their energies on this tax in particular and should not have explored the possibilities of raising money from other sources. Is not one entitled to say that the Government ought to have considered the alternatives of taxing many other commodities which would readily suggest themselves to every man who has gone through this question. An import duty could easily have been levied on silver; there was petrol to be taxed and there were so many other commodities which I could name, and which for the sake of time I propose to drop, on which the Government could reasonably have raised a tax in order to supplement their revenues. All the same, Sir, we find that the entire burden has been thrown on this one commodity and on this commodity alone. Sir, if the Government had acted in a reasonable manner I am one of those who would have been prepared to support the raising of the salt duty by a small amount, but I cannot bring myself to support a measure which throws the whole burden on to the shoulders of the poor. Sir, I think, the amendment of the Honourable Mr. Cook is one of the inevitable results of the yoking together of an irremovable executive and an elected Legislature. Sir, there is not the least doubt if the

executive were even in some slight measure responsible to the Legislature, some way out of the difficulty would have been found long long ago. As it is, I can quite see the Government arguing: "We are aware no doubt that to certify does bring a certain amount of odium upon us; yet the vote of either Chamber cannot affect our position in any material degree. Here is a very handy tax and by imposing it we can raise 4½ crores; therefore, we are going to raise this tax." On the other hand you find a Legislature smarting under the knowledge that the increase is against the dictates of their own conscience and that it is impossible for them to swallow this camel. It may be, Sir, that the Government during the past 6½ months have swallowed many a camel and would not hesitate to stick at a gnat; but the Legislature is yet unable to do it. They also find that that is the feeling of their electorate. Therefore, they argue like this, "There is absolutely no reason why we should put our solemn seal of approval to a tax which we dislike, which we abhor, and which at the same time is highly distasteful to our constituents. Here is a Government which after all by a mere shake of its pen can certify this Bill and give it the effect of law; therefore, why not throw the entire responsibility, the entire odium, upon the shoulders of the Government?" These, if I mistake not, are the respective feelings and I have not the least doubt—I am convinced—that if our constitution would have allowed the Legislature greater voice in the counsels of the executive Government, this impasse would not have been created.

Now, Sir, coming to the speeches that have been delivered, I have made it quite clear that the greatest wrong that the Government have committed is to propose to raise the entire money from one source without looking to other sources of revenue. But, Sir, I am unable to see eye to eye with my friend the Right Honourable Srinivasa Sastri when he said that altogether it was impossible to raise the salt duty unless the country was faced with an emergency or a crisis. A speaker on this subject had earlier in the day given utterance to similar sentiments. The Right Honourable Srinivasa Sastri went on to quote from that distinguished son of India, the late Mr. Gokhale. Now, Sir, I find that in the officially reported utterances of Mr. Gokhale there is nothing which would give support to the contention of the Right Honourable Srinivasa Sastri. We know, Sir, that India's finances were in a most prosperous condition in the year 1902; surpluses had accrued from year to year during the preceding 4 years. Speaking in the Imperial Legislative Council, Mr. Gokhale pointed out that it was a wrong thing to take from the tax-payer more than was necessary for the needs of the State. His plea was for a reduction of the salt duty, also for a reduction in the income-tax so as to give relief to the payers of income-tax by raising the minimum income on which income-tax should be levied. Now taking that as his theme, I find, Sir, this is what the late lamented Mr. Gokhale said on the 26th March 1902: "Taxation for financial equilibrium is what we all can understand, but taxation—kept up in the face of difficulties and misfortunes of a period of excessive depression and for 'large, continuous and progressive surpluses'—is evidently a matter which requires justification." I believe, Sir, if the Government had not tried to cast their net too wide, and if they had not proposed to increase this tax by 100 per cent., it may well be that the Government could claim that their case was covered by the first dictum enunciated here by Mr. Gokhale when he said that "taxation for financial equilibrium is what we all can understand". Now reverting to the same subject, a year after, namely, in 1903, when relief was announced by Lord Curzon

[Saiyid Raza Ali.]

by reducing the salt tax from Rs. 2-8-0 to Rs. 2-0-0 and also by raising the minimum taxable income, I find the late Mr. Gokhale said this: "Public opinion in India has for a long time prayed for these very measures of relief, and the National Congress has, year after year, urged upon the attention of Government the necessity of raising the taxable minimum limit of the income-tax from five hundred rupees to one thousand, and of reducing the duty on salt from Rs. 2-8-0 a maund to Rs. 2 at the earliest opportunity." Sir, this, I believe, is the highest non-official Indian authority that I can quote on this subject. It would appear from this that provided your need is great, provided you will not make the tax permanent and keep it within reasonable limits, an increase would be justifiable; but here Government have given no indication that the present increase is only temporary.

The next objection is that the increase is too great, and it is impossible to agree to that. If, Sir, the Government had tried to touch not only the pocket of the poor but also to knock at the door of the rich, if they had tried to make both the rich and the poor pay proportionately, I for one would have been prepared to support the amendment of Government. As it is, Sir, I find it is absolutely impossible for me to support the amendment. If there is a division, the only course open for me would be to cast my vote against it.

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): Sir, salt has lost its savour for me. I hold of course by this salt tax, but I do say that I hope that never again shall I have to speak of salt either here or elsewhere. But I feel that I must once again get up to re-state the position of Government in regard to this most difficult matter. I think the House is well aware why we have proposed this tax. As I have said before, we began the preparation of our Budget this year with a postulate that this year at least we must balance the budget. We were aware that if we did not balance the Budget this year we should be driven for the sixth year in succession to have a deficit budget. We also were aware that if we left an uncovered deficit this year, that fact must tax the attention of the world. Everybody knows here, in England and elsewhere, that this year we had made the most strenuous efforts to balance our budget. The Honourable Mr. Raza Ali and others may say what they like, but I say without any fear of contradiction that the Government of India could have done no more than what they have done in the way of carrying out the recommendations of the Inchcape Committee's Report and in retrenching. We have cut down our expenditure side to the absolute minimum possible, and yet, Sir, in a good year, in a year of good crops, in a year where trade, if not very prosperous, at any rate, has shown signs of revival—and yet we still find ourselves with a deficit of 3.69 crores. That is our position. We have cut expenditure down to the limits and we still cannot make revenue and expenditure meet. Are we to go before the world with that position? We decided definitely that we could not do so. We could not do it in the best interests of India and in the interests of India's credit. And, whatever objection may have been taken to the precise method we propose for balancing this budget, I have rarely heard, either elsewhere or in this Council, I have rarely heard any challenge to that proposition. Everywhere it has been accepted almost as axiomatic that the deficit must be covered. I am sorry, to hear to-day, Sir, several of the most respected leaders of this Council

tending to resile from their position. I am sure that on reflection they will return to their former position, that come what may the deficit must be covered. Then, Sir, we have been accused to-day that we have made no efforts to explore alternatives. I am quite sure that everyone in this Council knows that that charge is not true. I am sure that everyone recognises that we have done everything we can not only by ourselves but in consultation with the non-official representatives of the people up here. We have done everything to find a satisfactory alternative to the salt tax. And we have failed. And that is why the salt tax still stands. The salt tax, whatever its disadvantages may be, has many advantages. It is easy to collect. The increase of the tax does not increase the collection charges. It does not increase the distribution charges. I would like the House to remember that what makes up the price of salt for the consumer is not the cost of manufacture, which is very small indeed, but the duty *plus* the distribution charges. We don't touch the cost of manufacture. We don't touch the distribution charges. And from one point of view, enhancement of the salt tax is a good tax because Government does get or should get practically the whole proceeds of the tax. The middleman may pass on rather more than the tax to the consumer, but he cannot do very much in that way. And, from that point of view, the tax is a good tax. It is also a good tax in that it distributes the burden all over the people. It is perfectly true that proportionately the burden comes more heavily upon the poor. But the burden in any case is so small that I cannot admit that it is a practical objection, having regard to the necessities of the case.

Mr. Raza Ali has given away his own case. Mr. Raza Ali is quite prepared to agree to a 50 per cent. increase in duty. We have proposed a 100 per cent. increase in duty. It sounds a lot. I admit it sounds a very heavy increase. But what does it mean? I have given the figures before, not once but many times. But let me put them to the Council in a slightly different way. It means this. I should first explain that we know by statistics that the annual consumption of salt in India, including the consumption by human beings, by cattle and including all the consumption of salt for industrial purposes,—we know that the average annual consumption per head is 6 seers per annum. On the 28th of February in Delhi City here, a man could have bought for one anna two months' supply of salt. As a result of our increased duty, he could on the 10th March of salt. As a result of our increased duty, he could on the 10th March have bought for one anna six weeks' supply of salt. If Mr. Raza Ali's amendment had been accepted, he could have bought seven weeks' supply of salt. Now, Sir, that is what Mr. Raza Ali's amendment means. Surely, in actual practice, there is not so very much difference between increasing the price of salt by 50 per cent. and increasing it by 100 per cent. And, Sir, let me take the Right Honourable Srinivasa Sastri's objection. And I should like to say, Sir, that I do appreciate the moderation with which the Right Honourable gentleman put his case. Mr. Srinivasa Sastri said that there were a very large number of people, many millions of people, in India who lived on the margin of subsistence and he put it to the Council very strongly that this increase in the duty on salt, slight though its effect might be, would press hardly upon this submerged tenth. I dare say that is true, Sir. But all taxation must press to some extent upon the poor and in every country in the world there is this submerged tenth. It is not peculiar to India. That phenomenon unfortunately is common to call countries in the world, and Sir, since we are dealing with this submerged tenth, I say that this submerged tenth in this country is in some

[Mr. C. A. Innes.]

ways better off than the submerged tenth in other countries. Mr. Srinivasa Sastri has been in London in England in the winter and I have no doubt that he has seen, as I have seen, miserable half starved half-clothed creatures selling matches or what not in the streets with the snow on the ground and the wind blowing on their faces. Take his own country, Madras. In Madras where it is always warm, where clothes are hardly a necessity of life, Sir, in Madras the submerged tenth are in some ways better off than they are in Europe. I do not attach great importance to the Honourable gentleman's arguments, for, as I have said, there is scarcely any taxation in the world but must press hardly upon some small fraction of the population.

Then, Sir, Mr. Srinivasa Sastri quoted Mr. Gokhale and I was interested to hear that in 1903 or 1904 it may have been—Mr. Gokhale admitted that there should be a tax of Re. 1 a maund on salt. Had Mr. Gokhale been alive to-day, Sir, having regard to the decrease in the purchasing power of money and the general rise in the standard of living, I am quite sure that Mr. Gokhale, in view of the changed conditions to-day, would not have disapproved at any rate of a Rs. 2 tax on salt. Rs. 2 to-day, Sir, is worth no more than Re. 1 twenty years ago.

Mr. Sastri also said, Sir, that had he any guarantee that this tax would only be a tax for one year, he personally would not object to it. He agreed that it was a matter of last importance to balance and cover our deficit, and in view of the importance of effecting that, he said that he would agree to this increase in the salt tax had he any assurance that it would be for one year only. Well, Sir, on that I can only refer him to clause 1 (3) of this Bill which provides that the clause of the Bill which relates to salt shall remain in force only up to 31st March 1924.

Sir, when I am on the economic aspect let me refer to one more fact. I should like the House to think how greatly the standard of wages and of comfort generally has gone up in India in the last few years. We all know that in 1919-20, subsequent to the war, there was a rapid and steep increase in prices. We had to readjust our wages all over the country in order to meet that increase in the cost of living. Government had to do it, and I think I am right in saying that they spent Rs. 9 crores in doing it. And not only Government but every employer of labour had to do the same. I was told the other day that Government had been very unwise in increasing the wages, and that instead of that, they should have tried to meet the case by a war bonus. From one point of view I agree, had we been able to do it, had we any cost of living index which would have enabled us to do it. From another point of view I do not agree, for I hold myself strongly that the one thing which India requires is an increase in the standard of living. Sir, as a result of our action in 1919-20 combined with a period of fall in prices, I hold that there has been a remarkable increase in the standard of living in India in the last two or three years. Wages remain where they were fixed. They were fixed on the basis of prices in 1919 and 1920. Prices have fallen all over India and people are far more able than they were before to stand even this small increase in the salt tax. Every one in this Council will admit, in fact I have not heard this position seriously challenged,—every one in this House will admit that there is no objection on the economic ground to

this salt tax, but the objection is political. I do not under-state the political objection at all. I do realise and Government always have realised that we have placed those Members of the other House who have to face their electorates in November—we have placed them in a very difficult position by asking them to agree to an increase in an unpopular tax. We would not have done so, Sir, had we been able in any other way, in any other satisfactory way to meet our present needs. But, Sir, in this Council Honourable Members are not placed in that same difficulty, and I do appeal to the Honourable Members of this Council to come to the assistance of Government in our hour of need. I know that the possibilities, the constitutional implications in this measure weigh very heavily upon the heart of every one here. If the Honourable Members will come now to the help of Government, if on a dispassionate consideration of a very difficult problem they arrive at the conclusion that on the whole Government have done the right and the wise thing, then, Sir, I say that it is their duty to go into the lobby with the Government, and to send back a message to the Legislative Assembly that on a consideration of all the facts of the case they have come to the conclusion that the action taken by Government was right. And, Sir, who knows whether the Legislative Assembly on getting that message may not reconsider the matter and may not minimise the crisis which we all fear may be coming. Sir, it is said that we are putting a great strain upon the reforms. I believe myself that the acid test by which the reformed councils will be judged in England and the world is by this case. The world will ask whether the reformed councils are going to rise to the occasion and again shoulder their responsibility. It is admitted that we must balance the budget. Government have done their part, and I ask the Council to do their part.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I just want to say that I shall shortly vote for the salt duty. My reason for so doing is that this duty falls equally on all shoulders and not on the zemindars alone. The second reason is that we might one day get rid of the provincial contributions. The third reason is that it is only 3 annas per head per year, that is one pice per month and I cannot think that people cannot pay one pice per month. I want to say the truth. I do not care whether my constituency returns me or not. I want to say that this is the best way of getting out of the difficulty in which the Government is.

The HONOURABLE SIR EDGAR HOLBERTON: I move that the question be now put.

The HONOURABLE MR. LALUBHAI SAMALDAS: We on this side of the House very much appreciate the appeal made by my Honourable friend Mr. Innes to consider very carefully the *pros* and *cons* of the subject, but there are certain factors which weigh with us and lead us to think that this increase of salt duty will be unbearable by the poorest of the poor. In this connection I would like for the sake of the Honourable Mr. Innes' information chiefly and for the information of the House refer to certain statistics to show that the submerged tenth in Madras or Bombay or in other parts is worse off than the submerged tenth in London. I have not been able to get the figures after 1909 but I have been able to get the figures up to 1909. They show that in England the consumption of salt is 72 pounds, but after deducting for manufacture and other purposes I take it that the consumption is 36 pounds per man. In France it has

[Mr. Lalubhai Samaldas.]

risen from 20 to 30, from 1830 to 1886, while in Germany it has risen from 25 to 35 pounds and in Russia, the poorest country on the Continent, it has risen from 18 to 33 pounds and in India it is still at 12 or 13 pounds. Now according to my Honourable friend the figure works out at 12 pounds also. For the information of the House I will read one sentence from Mulhall's Dictionary of Statistics:

"Whenever the consumption falls below 20 pounds per inhabitant, it is bad for public health. During the Paraguayan War of 1864-70, it was observed that the men who had been without salt for three months, when wounded, however slightly, died, as their wounds would not heal."

And then the same author says about India:

"Consumption of salt barely averages 10 pounds per inhabitant, which tends still further to debilitate the inhabitants."

This is a well known authority and a world recognized authority and I dare say it will be acceptable to all concerned. If that is the condition of the poorest of the poor in India, is it not likely that if we increase the duty on salt from Rs. 1-4-0 to Rs. 2-8-0 the consumption of salt will go down. I have before me figures to show that when the duty was increased in 1888 the consumption did go down and it was only in 1903 when the duty was reduced that consumption went up. Now, my late lamented friend Mr. Gokhale has been quoted by my Honourable friend Saiyid Raza Ali. I may also refer to his speeches and say that every time he has spoken on this subject he has said that the tax affects the poorest in the country and that it is the duty of the Government to do away with the salt tax as quickly as possible. He has quoted authorities from Lord Cross in 1890 and from Lord George Hamilton in 1895. We feel that the condition of the poor is such that they cannot afford to pay this heavy tax which will fall more on the poor proportionately than on the rich and it is because of that that I want to oppose this tax. It is not in a spirit of lightheartedness that we oppose this tax. We realise the difficulties of Government. At the same time Government should realise the difficulties of the poor. As my Right Honourable friend Mr. Sastri said the poor do not seem to be the concern of Government now. If they were the concern of Government, Government would find some other way of balancing the budget. But it is because the poor suffer that we want to vote against this amendment.

The HONOURABLE THE PRESIDENT: The question is:

"That in sub-clause (1) of clause 2 of the Bill, after the words 'construed as if' the words 'with effect from the first day of March, 1923' be inserted, and that for the words 'one rupee and four annas' the words 'two rupees and eight annas' be substituted."

As many as are of that opinion will say Aye, those of the contrary opinion will say No. I think the Ayes have it. (*Cries of "No."*)

The question I have to put to the House is that the amendment I have just read to the House be made. On that question the House will divide. As the House is very full, Honourable Members should be careful to rise in their places and to vote in a distinct voice, as otherwise it will be impossible for the clerk at the table to prepare the Division List properly.

The HONOURABLE THE PRESIDENT: The result of the division is as follows:

AYES—28.

Akbar Khan, Major Nawab.
Amin-ul-Islam, Mr.
Baker, Mr. C. M.
Barron, Mr. C. A.
Butler, Mr. M. S. D.
Chadwick, Mr. D. T.
Cook, Mr. T. M.
Crerar, Mr. J.
Forrest, Mr. H. T. S.
Froom, Sir Arthur.
Holberton, Sir Edgar.
Ismail Khan, Mr.
Jha, Dr. G. N.
Lal Chand, Lient.
MacWatt, Major-General R. C.

Miller, Sir Leslie.
Murray, Sir Alexander.
Muzammil-ullah Khan, Nawab.
Rawlinson, H. E. Lord.
Sarma, Mr. B. N.
Shaft, Dr. Mian Sir Muhammad.
Singh, Maharaja Bahadur K. P.
Singh, Maharajahdiraja Sir
Rameshwara.
Tek Chand, Mr.
Thompson, Mr. J. P.
Umar Hayat Khan, Col. Sir.
Vasudeva Raja, Raja.
Zulfiqar Ali Khan, Sir.

NOES—10.

Ayyangar, Mr. K. V. R.
Kale, Mr. V. G.
Lalubhai Samaldas, Mr.
Muhammad Hussain, Mr. Ali Baksh
Naidu, Mr. V. R.

Ram Saran Das, Mr.
Ray, Raja P. N.
Raza Ali, Mr.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Honourable Mr. E. M. Cook.

The HONOURABLE MR. E. M. COOK: I beg to move, Sir:

"That at the beginning of sub-clause (2) of clause 2 of the Bill, the following words be inserted, namely:

'With effect from the first day of March 1923'."

As regards amendments Nos. 3, 4 and 5, although of course I must move them separately, I should like to give an explanation which will apply to all of them. These amendments are either consequential to the amendment which has just been carried or are of a precautionary nature, in order to meet any possible doubt that may arise as to the applicability of the provisions of the Provisional Collection of Taxes Act, 1918.

The amendment was adopted.

The HONOURABLE MR. E. M. COOK: I beg to move:

"That sub-clause (3) of clause 2 of the Bill be omitted."

This sub-clause which is to be omitted was inserted in the Assembly in order that the extra tax collected during the month of March need not be refunded. It was proposed by a non-official Member and was accepted by Government. In view of my first amendment to-day, which has been carried, this particular sub-clause now becomes unnecessary.

The HONOURABLE THE PRESIDENT: To clause under consideration, further amendment moved, that sub-clause (3) be omitted.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 2, as amended, stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. E. M. COOK: I beg to move:

"That to clause 3 of the Bill a new sub-clause be added, namely:

'(3) The amendments made in the Indian Tariff Act, 1894, by this section shall have effect from the first day of March, 1923."

This amendment is of a precautionary nature and in order to make it quite certain that the provision of the Provisional Collection of Taxes Act, 1918, shall apply to this Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 3, as amended, stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 5 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 6 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule I stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule II stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule III stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: Before I call upon the Honourable Member to make the next motion which stands in his name, I should like to ask the Honourable Members whether they would prefer that I should do so this evening, or whether the House should now adjourn, I will ask the Honourable Member in charge the question.

The HONOURABLE MR. E. M. COOK: I should prefer to be guided by the wishes of the House, but I see no particular necessity for adjourning the debate now.

The HONOURABLE THE PRESIDENT: The Honourable Mr. Cook.

The HONOURABLE MR. E. M. COOK: I beg to move:

"That the Bill, as passed by the Legislative Assembly and as amended by the Council of State, be passed."

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax, as passed by the Legislative Assembly and amended by this House, be passed."

The motion was adopted.

The Council then adjourned till Eleven of the Clock, on Monday the 26th March, 1923.

COUNCIL OF STATE.

Monday, the 26th March, 1923.



The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, before we take up the work to-day with your permission I would like to bring to your notice that to-day is a great Hindu festival

The HONOURABLE THE PRESIDENT: The Honourable Member must remember that any point of that kind should be raised after question time and not before.

QUESTIONS AND ANSWERS.

WATERMEN ON N.-W. RAILWAY.

201. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Is it a fact that watermen from all stations on the North Western Railway have been withdrawn and retrenched?

(b) If it is so, what arrangements have been made for the supply of drinking water to the travelling public on these stations?

The HONOURABLE MR. D. T. CHADWICK: (a) The reply is in the negative.

(b) Does not therefore arise.

RAILWAY FINE FUND.

202. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will the Government be pleased to state what is the total amount to the credit of Fine Fund on each of the three State Railways (North Western Railway, Oudh and Rohilkhand Railway and Eastern Bengal Railway)?

(b) What amount in all has so far been spent by each of these Railways for (i) the benefit of Europeans and Anglo-Indians, and (ii) for Indians?

The HONOURABLE MR. D. T. CHADWICK: (a) The information asked for by the Honourable Member is given in Appendix 25 in Volume II of the Railway Administration Report for 1921-22.

(b) During the years 1920-21 and 1921-22 the amounts disbursed from Fine Funds for (i) the benefit of Europeans and Anglo-Indians and (ii) for Indians on the three State worked railways were as follows:

		1920-21.	1921-22.
		Rs.	Rs.
North-Western Railway	Europeans and Anglo-Indians	31,700	48,431
	Indians	9,563	9,447
Oudh and Rohilkhand Rly.	Europeans and Anglo-Indians	5,660	6,050
	Indians	2,250	2,040
Eastern Bengal Railway	Europeans and Anglo-Indians	7,088	8,933
	Indians	3,384	3,695

The Government have not collected information in regard to earlier years as it would involve an undue amount of time and labour.

COVERED SHEDS AT HARDWAR.

203. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Is it a fact that on the Hardwar Railway Station platform, which has daily a very large pilgrim traffic, there are no suitable covered sheds to protect the passengers from sun and rain?

(b) If so, what steps do the Oudh and Rohilkhand Railway authorities intend to take to remove this public grievance?

The HONOURABLE MR. D. T. CHADWICK: (a) and (b). There is a large area of covered accommodation provided for third class passengers on the city side of the station building. Passengers arriving or leaving by trains have the use of this accommodation at all times. In the circumstances Government do not propose to do anything further.

CONCESSION RATES TO SANITARIUMS AND PLACES OF PILGRIMAGE.

204. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it the intention of the Government to revive the week-end cheap return tickets from and to places of sanitariums and chief pilgrimages? If so, when?

The HONOURABLE MR. D. T. CHADWICK: The Honourable Member is referred to the answer given to Question No. 9 in the Council of State on the 24th January 1923. As promised therein Government have brought the matter to the notice of Agents.

REDUCTION OF MENIAL STAFF ON N.-W. RAILWAY.

205. The HONOURABLE LALA SUKHBIR SINHA: Is it a fact that a large number of sweepers and watermen has been reduced on stations on the North Western Railway and, if so, how many of them have been reduced and what arrangement has been made for their work?

The HONOURABLE MR. D. T. CHADWICK: The reply to the first part is in the negative.

As regards the second part, the number of watermen has been temporarily reduced during the winter months at certain stations where passenger train halts are very short and no inconvenience has been experienced. It is not intended to make such reduction as will, in any way,

reduce the supply of water or cause inconvenience to passengers during the summer months.

As regards sweepers, retrenchments have only been made where such staff were found in excess of actual requirements.

PASSENGER ACCOMMODATION AT HARDWAR.

206. The HONOURABLE LALA SUKHBIR SINHA: Is Government aware that at the Hardwar Railway station there is only one room for first and second class Indian passengers and no waiting room for Indian ladies on the platform?

The HONOURABLE MR. D. T. CHADWICK: It has been ascertained from the Railway Administration that there are two upper class waiting rooms on the platform—one for Indians and one for Europeans. In addition to this there is a separate building behind the platform, which is easy of access from the platform by a flight of steps.

This building consists of 3 rooms each of 600 square feet for the use of Indian upper class passengers, the central room being a refreshment room for Hindus. These rooms have not been provided on the platform owing to the platform being on a high bank.

A waiting room for Indian ladies is under construction close to the rooms referred to above and equally easy of access to the platform.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces North-eastern: Non-Muhammadan): Sir, with your permission, I should like to bring to your notice that to-day is a day of Hindu festival, Ram Naumi, and that no Council meeting should have been held to-day. I thought it my duty being General Secretary of the All-India Hindu Sabha, to bring it to your notice that Council meetings should not be held on days of public holidays and festivals.

The HONOURABLE THE PRESIDENT: I should like to ask the Honourable Member if to-day is a gazetted holiday.

The HONOURABLE LALA SUKHBIR SINHA: I should think it is.

The HONOURABLE THE PRESIDENT: That is not the information that has been given to me from the table. No one is more anxious than I am to avoid holding meetings on holidays which affect the religious feeling of any Members, but if the holiday is not a gazetted holiday, it is not open to me to postpone the meeting; and indeed the state of work is such that it would be most inconvenient to do so. I understand that in another place very important business is being transacted to-day.

THE MAHENDRA PARTAB SINGH ESTATES BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions, be taken into consideration."

Sir, the Bill which I have to ask the House to take into consideration is a measure of a very unusual character and, fortunately, the circumstances which render it necessary are equally exceptional. The land-owning classes in India have a history and tradition of their own, of

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loyalty and public service. Having a large stake in the country, they have doubtless a proportionate interest in the stability of the State and in public security, but no fair judge will ascribe either solely or even largely to an interest of that kind the traditional sense of responsibility and public spirit of Indian land-owners or the eminent individual services rendered by so many gentlemen of that class. As there are several representatives in this House who can very well speak themselves and their order, it is unnecessary for me to make any ampler acknowledgment of this tradition of loyalty and duty. I refer to it to emphasise my regret that I have to bring to the notice of the House an instance,—a rare and solitary instance—of a lamentable breach in that tradition. That breach, Sir, is the more lamentable in view of the origin of the estate to which this Bill refers. The original grantee of that estate was a loyal and gallant gentleman who in the disturbances of 1857 rendered good service to the State. Govind Singh, the original grantee, was a political pensioner and also, I think, held a civil office under Government. In that crisis he rose above his responsibilities, raised and equipped a force and rendered very valuable services. It was in recognition of that loyal and valuable service that this estate was originally granted by the Crown, and the original grantee was invested with the title of Raja. Sir, what were the motives which induced the person whose name appears in this Bill and who succeeded to such a heritage, both moral and material, what were the motives which induced him to embark on a course which ultimately led him into acts of high treason against His Majesty the King Emperor, it is not for me to surmise. It is my painful duty to record the fact and to cite, in confirmation of my statement, some salient points, by no means exhaustive, drawn from information which we received regarding Mahendra Partab Singh's proceedings during and after the war. Mahendra Partab left India about December 1914 in order, he said, to make a world tour and to ascertain the true facts regarding the war. Early in 1915 he arrived in Geneva and there met certain prominent Indian revolutionaries who introduced him to the German Consul. He was invited to Berlin and there received and decorated by the German Emperor. About this time (early in 1915) we have reason to believe that an agreement was drawn up between the Berlin Indian Committee and the German Government signed by Von Bethmann Hollweg and Von Jagow on the one part and by Mahendra Partab and others on the other part. The agreement provided that in return for help given by the Berlin Committee to the German Government, the latter would assist the former both during and after war. Mahendra Partab then joined a German Mission to Kabul under Von Hentig, the object of which was to offer His Majesty the Amir a treaty with Germany and to instigate him to make war upon the Allies. Sir, that Mission failed, and about this time a scheme was drawn up for a Provisional Government of India with Mahendra Partab as President. A proclamation addressed to the people of India, purporting to be issued under the seal of this Provisional Government, was found in the Tochi and contained the following passage:—"Murder the English wherever you find them. Cut telegraph lines, destroy railway lines and railway bridges and help in all respects the liberating armies." Among German documents seized at Kerman in 1915 was a letter from Bethmann Hollweg to Partab dated the 17th April 1915 asking him to deliver letters to the Amir and several Indian Princes. I feel, Sir, that it is an occasion for regret in

some respects that the letters addressed to the Indian Princes did not reach their destination and that the contemptuous negative they would undoubtedly have elicited was never communicated. In a letter from Mahendra Partab, dated the 21st February, 1916, to the Governor General of Russian Turkistan, Tashkend, he says:

"The Mighty Kaiser and the holy Sultan patronised our cause and encouraged me by granting me audiences, conferring honours and helping me officially in different ways".

In a letter, dated the 19th May, 1916, from Mahendra Partab to the German Chancellor the following passage occurs:

"Now my only request is that please send at least twenty thousand troops for purely Indian work and the Chief Commander should have clear instructions to co-operate with me and not to oppose me. . . . I think that if the war is sufficiently long and if you really desire to crush your bitterest enemy—the English—there can be no better step than to send a sufficiently large force to India and Afghanistan. In the meantime, however, everything will be done by me in the holy cause".

In 1917 Mahendra Partab seems to have made abortive attempts to return to Europe. He actually arrived in Berlin on the 23rd March 1918, as was announced in the German wireless of the 28th March. In Petrograd on the 12th March he took part in the anniversary celebration of the Russian revolution. He again had an audience with the Kaiser on the 6th May, 1918, and then went to Constantinople where he was received by the Sultan on the 2nd June, 1918. He then appears to have left on a second mission to Afghanistan, to have got as far as the Afghan frontier during June 1918 and then to have returned *via* Bokhara to Switzerland, where he arrived about October 1918. His treasonable activities continued and leaflets over his signature were intercepted in India during last year. In the course of a leaflet addressed to the Indian people, he says:

"It shall be extremely foolish to sit at 'charka'-like women when manly (and I should also add) womanly duties require you to grasp the holy sword. I request you to rise as soon as another opportunity presents itself. You have already lost one opportunity (during the war) and if you lose one again you shall suffer bitterly for it".

Mahendra Partab himself in an article published in the Indian press on the 16th January, 1923, admitted much of his activities during the war, which I have outlined above.

It is unnecessary for me to comment upon this record except to observe that it is the more to be deplored in view of the honourable circumstances in which this estate had its origin. In spite of the character of this record, however, I venture to point out that the primary object of this Bill is not penal. It is to protect against the consequences of the treason of Mahendra Partab Singh the interests of the innocent parties involved, notably his minor children and the tenants and the dependents of his estates. In consequence of information received, Government, in July 1916, in pursuance of the powers conferred by Regulation III of 1818, attached his estates. It is doubtful, however, if the powers of management contemplated by the Regulation are adequate for the efficient and economic administration of the estates. These powers appear to contemplate the collection of rents, the payment of land revenue and the cost of management and the accumulation of net profits. The result is that no investments can be made; a large sum is lying idle, and necessary improvements involving capital expenditure cannot be undertaken. The estate has considerable possibilities and as time progresses the need for improvement increases. There is, for instance, scope for

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the provision of irrigation facilities, with great resultant benefit to the estate. It is eminently desirable that action should be taken without delay to effect improvements in the estates in the interests of the minor and the tenants. The estate cannot be administered under the Court of Wards Act in the present circumstances. The disqualification of the present proprietor is not among the disqualifications specified in section 8 of the United Provinces Court of Wards Act. It is clearly impossible to release the estate so long as there is a risk of its revenues being applied to purposes hostile to His Majesty the King-Emperor and to the peace and security of India. The simplest and most effective course, therefore, is to provide for the transfer of the title of the present proprietor to Government and then from Government to the minor. The estate can then be administered in the normal way as a Court of Wards estate with the greatest benefit to all concerned. That, Sir, is an explanation of the necessity of this Bill. The solution proposed is, I think the House will admit, a liberal—and I might almost say a generous—one, and as such I commend it to the best consideration of the House.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I rise to give my unqualified support to this Bill. Government is fully justified in forfeiting all the property of Mahendra Partab Singh who has become an enemy of His Majesty the King-Emperor and who is himself now absconding from justice. When he was here before he went out on a tour, he took me to Brindaban and showed me a school of industries which he opened there, and which, I was very glad to see, was doing useful work. It is a matter of much regret that when he went out from here he was quite changed and he became an enemy of the King. Government is fully justified to forfeit all his property and it is very benevolent on the part of the Government to give that property to his son who is now quite helpless. But I would like to point out that if Mahendra Partab Singh had endowed any property for the maintenance of that industrial school at Brindaban, that should be kept up, and if no such property is endowed, some conditions should be laid down for his son to maintain that school, because that school will be very useful to the country. With these few remarks, I give my full support to this measure.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-official): Sir, belonging as I do to the same community as Mahendra Partab Singh, I think, with your permission, I may make a few observations.

I need hardly say, Sir, that ever since Mahendra Partab Singh left India and was reported to have associated himself with the enemies of the British Government, there was a feeling of disapprobation of his conduct in the community. Big gatherings were held and one of them was under the presidency of His Highness the Maharaja of Dholpur. At those meetings the members present talked about his conduct and I can assure the Government that at all those meetings I felt that all members of the community disapproved of the conduct of Raja Mahendra Partab Singh. So much was the community against this misbehaviour that while Raja Mahendra Partab Singh was communicating with the enemy to undermine the British Government his brother was acting as Honorary Recruiting Officer to raise recruits for the Indian Army. I simply want

to point out that the community has never approved of his conduct, and that the community welcomes the present Bill, inasmuch as it safeguards the interests of the minor son. The son should not suffer for the sins of the father, and I think this will establish feelings of good-will and loyalty towards the British Government among not only the Jat community, but among other sections of the people. The present Bill is intended to protect the innocent sons. With these few words, I congratulate Government on this wise and statesmanlike measure and welcome the Bill.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, I knew Mahendra Partab Singh from his boyhood, before he was the adopted son of the late Raja Har Narayan Singh. I knew him, his brothers and his father, and I was a great friend of his late lamented father. His estate is in Aligarh district. He was a ward under an English gentleman's tutorship, and he was educated, not as a boarder, but as a day scholar in my own College, the late Aligarh College. Since his boyhood it was seen that he had got curious ideas about everything in the world, and when he became the proprietor to an estate and when he married the daughter of one of the Maharajas of the Punjab, the Maharaja of Jhind, he took himself like a Ruling Chief, and whenever he met his elders like my humble self, who was a friend of his father, he considered himself as if he were 20 years older than myself; and we always thought that there was something wrong with his mind. He started many schemes, which all nearly failed, one of which has been referred to by the Honourable Lala Sukhbir Singh, that is, an industrial school, by the name of Maha Vidyalaya in Brindaban. But his methods were so curious that he never stuck to one thing for a few days. He started from India saying he would go to America and study the Arts and then come back with full knowledge about his school. He went and he fell into the hands of the Germans. He thought the Germans would win the war and would conquer India, and here was an opportunity for him to be made a Ruling Chief. This was the whole scheme of the boy who is a man now. But he acted very badly. My Honourable friend will see that the letters written by him are not such as a sane man would write. He is still issuing leaflets, some of which reached me the other day, saying the zemindars of India are great fools, and they must open their eyes now and should not be under the British Government's yoke any longer and so on. So it is a peculiar case of a peculiar man. It can never be a stigma on the loyal zemindars of India, and especially the loyal Jat subjects. They must never take it sore to their hearts that one of our community has been caught in this way.

I may say one word here, and that is that the bringing in of a Bill like this in the Council will give a very clear example of the ways and doings of the British Government. Sir, had it been my Government, had it been a Bolshevik Government, had it been a Swaraj Government, nobody would have let this sort of man off so easily. They would never think as to what would happen to his family, whether they would be breadless or waterless; whether they would be poor. They would have confiscated the estate throughout. But the way in which this Bill is put forward shows what sort of Government is in India now-a-days. I need not make any more remarks because my feelings are very high and

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my language is very poor. I will only give my hearty support to the Bill and will thank the Government for the very kind and lenient act of mercy which they have shown to the minors; and I will submit to Government that Government will not give up all responsibilities because of the passing of this Bill, but the local authorities may look after the welfare of the children and never allow those children to be spoiled, and always see that they take the advice of their uncle, that is the Raja Bahadur of Mursan who is such a loyal subject of Government as any one can be. With these few remarks I finish my speech.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, as a landholder, I welcome this Bill. We have got some stake in the land, and if our own landholders go and play the fool like this, they are very dangerous to the country. I said all that the mover has said to-day during the troubles in the Punjab we wanted to establish that it was Mahendra Partab Singh's friends and he himself who were connected with the troubles. Unfortunately, as all the papers in Peshawar were not brought forward before the Hunter Committee this was not established; but in reality he was at the bottom of the whole trouble that occurred in the Punjab, he as well as other Bolsheviks outside India. I think, Sir, it is really very kind of the Government to allow his son to have the property. For my friend to say that the school established by him should be financed, wherever there is poison one ought to avoid it, and personally I think wherever he has got any hold here or there, through that some day he might spread more poison. As to his property, if it was any other Government, as my friend has very nicely said, his sons would have got nothing. It is really very good of the Government to allow his son to have the property, but I hope there will be some Court of Wards, or somebody to see that he does not play the fool any more.

The motion was adopted.

The HONOURABLE THE PRESIDENT: I do not think I need put this Bill to the Council clause by clause. Unless any Honourable Member desires that I should do so, I shall not adopt that course.

(Honourable Members: "No.")

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the Bill be passed.

In view of the general approval which the Bill has received in this House little remains for me to say. I should only like to acknowledge on behalf of Government two things; firstly, the sentiments expressed by my Honourable friend Lieutenant Chaudhri Lal Chand indicating the universal reprobation which the conduct of the person with whom this Bill is concerned has excited in the order to which he belonged. The other acknowledgment which I desire to make is the commendation which has been paid by every Honourable Member who has spoken on the Bill to the liberality and the generosity of Government in dealing in this manner with the estate.

My Honourable friend Lala Sukhbir Sinha has asked a question regarding the school established by Mahendra Partab Singh. I cannot give him a definite reply on that point, because, as I indicated in my

speech at the opening of these proceedings, the intention is that the estate should be taken into management under the Court of Wards Act of the United Provinces. Whether it would be possible for the Local Government under the provisions of that Act to continue the support of this school is a matter on which at this stage I cannot give the Honourable Member any definite assurance. But I have no doubt the matter will be carefully considered by the Government of the United Provinces in due course.

Sir, I move that the Bill be passed.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions, be passed".

The motion was adopted.

THE LEGAL PRACTITIONERS (WOMEN) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I have the honour to move:

"That the Bill for the removal of doubts regarding the right of women to be enrolled and practise as legal practitioners, as passed by the Legislative Assembly, be taken into consideration."

I recollect, Sir, on a former meeting of this House an Honourable gentleman—I think it was my Honourable friend Lala Sukhbir Sinha—condoled with me on the circumstance that I was compelled to advocate a measure in this House with which my personal convictions were at variance. My Honourable friend's condolence on that occasion was superfluous, and I think if he repeated it now I should be compelled to say it was equally superfluous. I do not think I need say much in commendation of this Bill to the House. The object of it is plainly stated in the statement of objects and reasons. I have no doubt it will have the almost unanimous, if not the unanimous, support of this House. If there are any doubters it may be that the object of the Bill to remove them is not without value to them to be made aware that an application made by a lady to be admitted as a legal practitioner was rejected by the High Court of Judicature at Patna. That lady has now successfully applied to His Majesty's Privy Council for special leave to appeal. That, Sir, may be regarded either as an auspicious or as an ominous fact

The HONOURABLE THE PRESIDENT: Does the Honourable Member think he is justified in referring to a matter which is under judicial deliberation?

The HONOURABLE MR. J. CRERAR: If that is out of order I will not make any further comment on the matter.

This Bill originated in the other place in pursuance of a private Bill introduced there by an Honourable gentleman. Government undertook on a motion to refer that Bill to a Select Committee to introduce

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a measure of their own more precisely framed to secure the purposes contemplated. That Bill has been passed in the Legislative Assembly and I now move that it be taken into consideration in this House.

The motion was adopted.

Clauses 1 and 2 were added to the Bill.

Clause 3 was added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move:

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

The motion was adopted.

THE INDIAN MERCHANT SHIPPING BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I move:

"That the amendments made by the Legislative Assembly in the Bill to consolidate certain enactments relating to Merchant Shipping, be taken into consideration."

I have to ask the House to-day to complete the work which they initiated in this Council about a year ago. Those of them who were then Members of this House will recollect that you, Sir, brought before this House the consolidation of the Indian Merchant Shipping Bill. It is a long Bill and it very rightly evoked tributes from every portion of the Council. It is the result of long labour, Sir, for which we are all most indebted to you and your Committee, namely, the Statute Law Revision Committee. It consolidates 21 Acts on Indian Shipping which have extended over from 75 to 100 years. Without such preliminary consolidation it had proved quite impossible to amend these Acts and bring them into a form suitable to modern conditions. Well, Sir, that work, well started in this Council a year ago, has gone to the Legislative Assembly and has now come back with very few modifications, as we might naturally expect in any work undertaken by you, Sir. They have only made three amendments and I would briefly refer to them because I trust that in course of time the Council will to-day concur in all those changes. The first is in clause 4 in which for the words "used for the public purposes" the words "employed otherwise than for profit in the public service" have been substituted. That is a definition of the classes of ships and steamers to which the Act does not apply. In the various Acts on which this Act is based the kinds of steamers exempted are described somewhat differently; they were usually obviously meant to be ships of war or royal craft. But sometimes they are described merely as ships belonging to a foreign Prince or foreign States or again ships so owned but used in the public service of that State, etc. As it was perfectly clear that in one Act these ships must be defined in one way and that by the original intention of the old Acts only certain foreign ships were to be exempt, we again took your advice, Sir, in view of modern changes, how best to word

this clause in this consolidating Bill. The words which the Legislative Assembly have adopted and are now before us to-day are those which you advised us, as Chairman of the Statute Law Revision Committee, to use. The second amendment relates to certain number of grades of officers in the Navy who were qualified by the examinations they had passed to hold certificates for navigating ordinary passenger and mercantile steamers. In the consolidating Bill we adopted the same terms of rank as appeared in the Acts which are being consolidated. We now understand that many of those terms have gone out of use. Thus there is no rank now known as Navigating Lieutenant or Navigating Sub-Lieutenant; these are joined and merged together in one cadre and are known as a Lieutenant in His Majesty's Navy or in the Royal Indian Marine and so on. That is purely a verbal alteration bringing words into consonance with the designations of the present time. The third amendment made by the Legislative Assembly is the substitution in clause 93 of the word 'irrevocable' for the word 'revocable.' At first sight that might seem a matter of substance as introducing a negative. But as a matter of fact it is very largely a printing or typing error. In the old Act of 1859 the word undoubtedly is 'irrevocable,' in the English Act the word is 'irrevocable,' yet in some copies of this consolidation Bill which were printed and circulated the word appeared as 'revocable.' The correct word is undoubtedly 'irrevocable.' As the two words are contrary in sense, it was thought advisable not to treat this as an error of the printer's devil but to get the definite vote of the two Houses on the point that the correct word was 'irrevocable,' which undoubtedly appears in the Act of 1859. This is the third amendment, Sir, made by the Legislative Assembly. I would conclude by once more thanking the Statute Law Revision Committee generally and you, Sir, in particular for giving us such a valuable Bill. The amendments also are very valuable and I hope the Council will concur in them. Therefore, Sir, I beg to move that the amendments made by the Legislative Assembly in the Bill to consolidate certain enactments relating to Merchant Shipping, be taken into consideration.

The HONOURABLE THE PRESIDENT: As no other Honourable Member desires to speak on this Bill, I should like to detain the Council for one moment to say that it is to me a very considerable pleasure that this large measure of consolidation has come back to us and will, I hope, soon become law. I am sure it will be a matter of gratification to the Members of the Statute Law Revision Committee over which I presided that this should be the case; my only regret is that I can't see a single one of them in Council to-day. However, it is the first fruit of our labours, and it is a very considerable measure of clarification of the law. Only those who were concerned with its preparation know how very defective in many ways it is on account of certain circumstances into which I need not enter. But even after making that allowance, it is a valuable reform. It is also the culmination of much work done in the Legislative Department many years ago by men who have long since passed away and who did not receive at the time any recognition of their labours.

The question is:

"That the amendments made by the Legislative Assembly in the Bill to consolidate certain enactments relating to Merchant Shipping, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that this House do concur in Amendment No. 1* made by the Legislative Assembly.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that this House do concur in Amendment No. 2† made by the Legislative Assembly.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that this House do concur in Amendment No. 3‡ made by the Legislative Assembly.

The motion was adopted.

The HONOURABLE THE PRESIDENT: That concludes the business on the paper for the day.

STATEMENT OF BUSINESS.

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The HONOURABLE THE PRESIDENT: I regret to say that I am not in a position to inform Honourable Members of the exact course to be followed in regard to the further sittings of this Council. As Honourable Members are aware, there is a matter now probably under debate in another place, and until a decision in that place is reached, it will be impossible for me to adjourn this Council *sine die*. I further have it from His Excellency the Governor General that, should certain circumstances arise, he may possibly desire to address the Members of the Indian Legislature to-morrow. It is therefore impossible for me to-day to adjourn this Council *sine die*. In order that His Excellency might address the Council, it is desirable that it should be in session and I cannot adjourn it *sine die*, for it is possible that there may be business which may require our attention here to-morrow. At present I adjourn the Council till to-morrow, and I think a convenient time for us to meet would be half past Twelve. I take it that any address will probably be concluded by half past Twelve, after which we will return here and then probably adjourn the Council. Perhaps the Honourable the Leader of the House will say if that course is convenient.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): I think, Sir, that the course suggested by you is the most convenient course to adopt. I do not think I need add anything to what you have said.

The Council then adjourned till Half Past Twelve of the Clock on Tuesday, the 27th March, 1923.

*1. In clause 4 for the words "used for the public purposes", the following was substituted, namely:

"employed otherwise than for profit in the public service".

†2. In sub-clause (1) of clause 17, for the words "Lieutenant, Sub-Lieutenant, Navigating Lieutenant or Navigating Sub-Lieutenant in His Majesty's Navy or of Lieutenant in the Royal Indian Marine", the words "Lieutenant in His Majesty's Navy or in the Royal Indian Marine", were substituted.

‡3. In clause 93 for the word "revocable" the word "irrevocable" was substituted.

COUNCIL OF STATE.

Tuesday, the 27th March, 1923.

The Council assembled at Metcalfe House at Half Past Twelve of the Clock. The Honourable the President was in the Chair.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL: "Sir, in accordance with Rule 36 (2) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax, were taken into consideration by the Legislative Assembly at their meeting of the 26th March, 1923, and that the Legislative Assembly have not agreed to the amendments."

THE INDIAN FINANCE BILL.

The HONOURABLE THE PRESIDENT: Has the Bill been brought into this House?

The HONOURABLE MR. E. M. COOK (Finance Secretary): No, Sir. The Bill is at present under the consideration of the Governor General and I am not in a position to say what further action, if any, Government propose to take in regard to the progress of the Bill. I very much regret this fact, Sir, but I shall be in a position to state by this afternoon to the Council what action, if any, Government are taking with regard to the Bill. I can only suggest that the present meeting be adjourned until this afternoon.

The HONOURABLE THE PRESIDENT: As the Bill is not in the House it is obviously impossible for the House to take any action on it. Did I understand the Honourable Member to say that he will be in a position to make a statement this afternoon?

The HONOURABLE MR. E. M. COOK: Yes, Sir.

The HONOURABLE THE PRESIDENT: By five o'clock?

The HONOURABLE MR. E. M. COOK: Yes, Sir.

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COUNCIL OF STATE.

[27TH MARCH 1923.]

The HONOURABLE THE PRESIDENT: I think, therefore, there is nothing for it but for the Council to adjourn till five o'clock.

The HONOURABLE MR. E. M. COOK: Sir, might I say that I very much regret the inconvenience that Honourable Members have been put to by being called here without any business, but I think perhaps the Council will realise that in a highly important matter of this sort it is desirable that the Governor General should have a little time for consideration. The occasion for such consideration only arose yesterday on the action of the Assembly, and even twenty-four hours have not yet elapsed.

The HONOURABLE THE PRESIDENT: I think the Honourable Member in charge of the Bill did right to bring to the notice of this House that the circumstances were unavoidable. Any suggestion—even the shadow of a suggestion—that this House was treated with any lack of consideration would be greatly resented by this House, and I think the Honourable Member was very wise therefore to make it clear that the meeting this morning is fruitless from circumstances which were not under control. It only remains therefore for me to adjourn the Council till 5 o'clock this afternoon.

The Council then adjourned till Five of the Clock.

The Council re-assembled at Five of the Clock. The Honourable the President was in the Chair.

The HONOURABLE MR. E. M. COOK: Government, Sir, have no further motion to make as regards the Finance Bill.

The HONOURABLE THE PRESIDENT: This statement leaves me in some uncertainty and I must ask the Leader of the House to state whether I am in a position to adjourn the House or not.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, I think you are in a position to adjourn the Council.

The HONOURABLE THE PRESIDENT: In those circumstances, I can only regret that it has been necessary for me to bring Members here this afternoon. I have pressed, and shall continue to press, on those who are responsible for the conduct of Government business in this House that in so far as it is compatible with the disposal of public business it is most desirable that Honourable Members should have as definite notice as possible of the termination of a session. India is not a small country. Honourable Members come from great distances; communications are infrequent and restricted; accommodation is difficult to secure, and it is really essential that as far as possible Members shall have timely notice so that they may make their arrangements accordingly. I recognise that in this session there have been special circumstances which possibly made it impossible to adhere to a date which we have generally been able to do in the past; but I do beg that these considerations may not be lost sight of in future.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, I assure you and I assure the House, that the Government had and have that consideration always in mind, and I am sure you, Sir, as well as the House will recognise that the circumstances which have arisen in this particular case could not have been foreseen by Government. The circumstances being extraordinary, the Government was this morning unable to announce what the ultimate course of action in the afternoon would be. So far as the general principle which you, Sir, have enunciated is concerned, you may rest assured and the House may rest assured that the Government will always bear it in mind.

ADJOURNMENT OF COUNCIL OF STATE AND ATTENDANCE AT MEETINGS.

The HONOURABLE THE PRESIDENT: Nothing remains therefore but to adjourn the House. Before I do so, I should like to say that although the Council of State this year has probably not sat very long hours, it has met very frequently and it has made a great call on the time of the Members. I cannot say that the attendance has always been as good as it might have been. There is this, however,—great responsibilities are cast upon this House and it is desirable—I am sure the House will agree with me—that in discharging those responsibilities as many Members should be present as possible. I recognise there are many in this House who have charge of great estates, the conduct of great businesses and other affairs of their own; but may I put it to the House that a seat in this House involves responsibilities which if a Member takes upon himself he ought to discharge. I now declare the House stand adjourned till the 16th of July.

The Council then adjourned till the 16th of July, 1923.

