



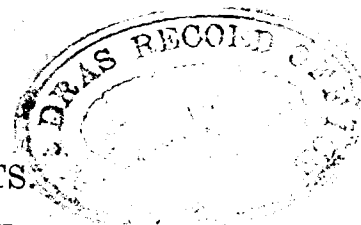
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LEGISLATIVE ASSEMBLY.

The President.

The Honourable Sir FREDERICK WHYTE, Kt.

Deputy President.

Sir JAMSETJEE JEEJEEBHoy, BART., K.C.S.I., M.L.A.

Panel of Chairmen.

Maulvi ABUL KASEM, M.L.A.

Sardar Bahadur GAJJAN SINGH, M.L.A.

Mr. N. M. SAMARTH, M.L.A.

Colonel Sir HENRY STANYON, Kt., C.I.E., V.D., M.L.A.

Secretary.

Mr. L. GRAHAM, M.L.A., I.C.S.

Assistants of the Secretary.

Mr. W. T. M. WRIGHT, I.C.S.

Mr. S. C. GUPTA, BAR.-AT-LAW.

Mr. G. H. SPENCE, I.C.S.

Marshal.

Captain SURAJ SINGH, Bahadur, I.O.M.

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LEGISLATIVE ASSEMBLY.

Monday, 2nd July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

DEATH OF RAI S. C. SEN BAHADUR, M.L.A.

Mr. President : Gentlemen of the Chamber, it gives me much pleasure to welcome you back to the resumption of your duties in this House. I regret, however, to have to tell you that two days ago we were deprived by death of the services of a well-known Member, namely, Rai Sarat Chandra Sen Bahadur, who, besides being a public figure in his own Province, was well-known within the walls of this Chamber ; and, I am sure, I shall be expressing the unanimous desire of this Assembly if I send to his relatives in their bereavement a message of the sympathy of this House.

MEMBERS SWORN :

Mr. Herbert Charles Barnes, C.I.E., M.L.A. (Assam : Nominated Official) ; Mr. Rajagopala Narasimha Ayyangar, M.L.A. (Madras : Nominated Official) ; Mr. Hugh Rosser Bardswell, M.L.A. (Madras : Nominated Official) ; Mr. William Gaskell, M.L.A. (Finance Department : Nominated Official) ; Mr. George Gall Sim, C.I.E., M.L.A. (Financial Commissioner, Railway Board) ; Mr. Montagu Sherard Dawes Butler, C.B., C.I.E., C.V.O., C.B.E., M.L.A. (Secretary, Department of Education, Health and Lands) ; Mr. Clement Wansbrough Gwynne, O.B.E., M.L.A. (Home Department : Nominated Official) ; Mr. Geoffrey Rothe Clarke, C.S.I., O.B.E., M.L.A. (Director General, Posts and Telegraphs) ; Mr. James Alexander Richey, C.I.E., M.L.A. (Educational Commissioner) ; Mr. Lancelot Graham, M.L.A. (Secretary, Legislative Department) ; Mr. Calvert, M.L.A. (Punjab : Nominated Official) ; Mr. Abdul

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QUESTIONS AND ANSWERS.

R. A. M. C. SUBORDINATES AS MALE NURSES.

1. *Lieut.-Colonel H. A. J. Gidney : (1) Is the Government of India aware that, there is a body of subordinates called R. A. M. C. Ranks attached to all British Station Hospitals who are supposed to perform the duties of male nurses to British soldiers ?

(2) Is the Government of India aware that this Corps totals about 500 men of all ranks and that these men are costing the Indian Exchequer a total of about 6 lakhs of rupees in salary only ?

(3) Will the Government of India be pleased to state, when men of this Corps were first introduced into the British Station Hospitals in India ?

(4) Will the Government of India state if it is a fact that the present Director of Medical Services is personally responsible for the introduction of this Corps into India ?

(5) Is it true that the ostensible reason of introducing this Corps was to replace the I. M. D. and if this is being given effect to ?

(6) If the answer to No. 5 is in the negative, will the Government of India state :

(a) of what use is this Corps at the present time ?

(b) if it is going to be retained or done away with in the very near future ?

(7) Is it a fact, that men of this Corps are in receipt of total wages, including allowances, much higher than the professional and warrant officers of the Indian Medical Department ?

Mr. E. Burdon : (1) Soldiers of the Royal Army Medical Corps are employed in some of the British Station hospitals in India. They perform the recognised duties of that Corps which are connected with the care and nursing of the sick of British troops.

(2) The establishment of Royal Army Medical Corps other ranks in India is 414. Their pay and allowances are estimated at Rs. 5½ lakhs per annum.

(3) The principle of employing Royal Army Medical Corps other ranks in British Station hospitals in India, in place of soldiers drawn from fighting units, was accepted in 1913, but it was not until early in 1916, that Royal Army Medical Corps ranks first came to India and then it was for duty in certain war hospitals. In July 1920, they were first posted to British station hospitals for duty as part of the post-war garrison in India.

(4) No.

(5) The answer to the first part of the question is in the negative. The second part does not, therefore, arise.

(6) (a). The corps serves in India the purpose which it serves elsewhere, the purpose for which it was constituted, i.e., it provides skilled nursing and care for British sick and wounded. It takes the place of a corresponding number of untrained British soldiers who would otherwise be employed in the hospitals as nursing orderlies.

(b) The present intention is to retain it.

(7) A statement showing the rates of pay and allowances drawn by (i) Royal Army Medical Corps other ranks ; and (ii) Assistant Surgeons of the Indian Medical Department, is laid on the table. The Honourable Member will see that the figures do not support the general contention suggested by this part of his question.

Statement showing the monthly rates of pay and allowances drawn by (i) Royal Army Medical Corps other ranks ; and (ii) Assistant Surgeons of the Indian Medical Department.

(i) Royal Army Medical Corps other ranks.

	*Rs.	A.	P.
Warrant officer, class I (B)	438	8	4
Warrant officer, class II (B)	348	8	4
Staff-Sergeant (B)	326	0	4
Sergeant (B)	281	0	4
Corporal (B)	236	0	4
Corporal (C)	230	6	4

NOTE.—(B) signifies the group to which the non-commissioned officer belongs and includes men who have qualified as dispensers, dental mechanics, cooks, opticians, X-ray attendants, laboratory attendants and trained nurses.

(C) includes clerks, nursing orderlies, masseurs, and sanitary orderlies.

* Pay and allowances.—The Sterling rates of pay are converted at Rs. 15 to the £ sterling.

(ii) Assistant Surgeons of the Indian Medical Department.

	Rs.
Assistant Surgeons, 1st class (of over 20 years' service) ..	450
Assistant Surgeons, 1st class	400
Assistant Surgeons, 2nd class	359
Assistant Surgeons, 3rd class	275
Assistant Surgeons, 4th class	297

These rates are consolidated rates of pay, but in addition, Assistant Surgeons receive certain charge allowances, which vary according to the appointment held by the assistant surgeons. The charge allowances range between Rs. 60 and Rs. 30 per mensem.

RECRUITMENT OF NURSES.

2. *Lieut.-Colonel H. A. J. Gidney : (1) Is the Government aware that about 300 nurses are engaged for British troops in the British Station Hospitals 266 of whom are recruited from England and 66 in India at a total cost in salary only of over 8 lakhs per annum ?

(2) In view of the fact that nurses are obtainable in India, is Government willing to discontinue any further importation of nurses from England and to replace them by recruitment in India ?

Mr. E. Burdon : (1) An establishment of 267 nurses is authorised for British and Indian station hospitals, 60 of whom are recruited in

India for duty in Indian station hospitals. The remainder are recruited either in the United Kingdom or in India. The total cost of these nurses is estimated at Rs. 8,57,100 for the present financial year.

(2) No. For certain purposes it is considered necessary to continue the long established practice of employing nurses belonging to a regular military nursing service, recruited and trained in the United Kingdom.

REDUCTION IN R. A. M. C. AND I. M. S.

3. *Lieut.-Colonel H. A. J. Gidney : Does Government intend reducing the strength of the R. A. M. C. and I. M. S. (commissioned ranks) ? If so, when and to what extent ?

Mr. E. Burdon : The question of the reductions to be made in the strength of the Royal Army Medical Corps (commissioned ranks) and the Indian Medical Service officers in military employ is now under the consideration of Government.

EMPLOYMENT OF I. M. D.

4. *Lieut.-Colonel H. A. J. Gidney : Does the Government intend to utilise the men of the Indian Medical Department in more professional capacity than heretofore ? If not, why not ?

Mr. E. Burdon : As a result of Royal Army Medical Corps other ranks having been introduced into hospitals in India, Assistant Surgeons of the Indian Medical Department are now employed in a more professional capacity than before. This process will continue as opportunities permit.

REDUCTION OF HOSPITAL ACCOMMODATION.

5. *Lieut.-Colonel H. A. J. Gidney : Will the Government state when they intend reducing the present Hospital accommodation in both British and Indian Hospitals as exposed by the Incheape Committee ?

Mr. E. Burdon : The question whether it is possible to close, forthwith, certain hospitals, and also to reduce the number of beds in both British and Indian station hospitals, is being investigated.

ECONOMIES IN MILITARY MEDICAL EXPENDITURE.

6. *Lieut.-Colonel H. A. J. Gidney : Will Government be pleased to state the approximate amount of economy that will be effected during the coming financial year, *vide* Incheape Committee recommendations on the Military Medical Expenditure on the Army in India ?

Mr. E. Burdon : It is anticipated that a saving of approximately Rs. 52½ lakhs will be effected in military medical expenditure in 1923-24 as compared with the budget for the year 1922-23.

DEATH OF MRS. D'CRUZ AT SABARMATI: REFUSAL OF COMPENSATION.

7. *Lieut.-Colonel H. A. J. Gidney : (1) Is the Government aware that on 29th August 1922, the late Mrs. P. D'Cruz lost her life whilst

crossing the Railway line from the Broad to the Metre Gauge side of the Railway Yard attached to Sabarmati Station ?

(2) Is Government aware that the late Mrs. D'Cruz was in receipt of a pension from Government, being a Mutiny Veteran ?

(3) Is Government aware that some of her grandchildren were dependent on her for their livelihood, and that an application was submitted to the Agent, Bombay, Baroda and Central India Railway, for adequate compensation ?

(4) Is Government aware that this compensation has been refused by the Railway on the score of trespass in the Yard by the late Mrs. D'Cruz ?

(5) Do Government propose to bring this to the notice of the Agent, Bombay, Baroda and Central India Railway, Bombay ?

(6) Will Government be pleased to call upon the Agent of the Bombay, Baroda and Central India Railway, to state definitely—

(a) how many accidents have taken place amongst Railway employees, their dependents and passengers who are compelled to cross from one side to the other either in their daily avocations or in their attempts to change from the Metre Gauge to the Broad Gauge and *vice versa* ;

(b) whether the Agent of this Railway has ever paid any compensation for any of the accidents which have taken place in the past ?

The Honourable Mr. C. A. Innes : (1) Yes. It is reported that Mrs. P. D'Cruz, an old lady of 84, was crawling under the wagon couplings of a standing train, when the train started and she was run over and killed.

(2) Yes

(3) and (4). The Agent states that he has received no application for compensation.

(5) Does not arise.

(6) (a). Various accidents, mostly among the Railway Staff, have occurred at this station in the last three years, but only one of them is attributable to the lack of an over-bridge.

(b) No.

RECOMMENDATIONS OF ARMS RULES COMMITTEE.

8. *Baba Ujagar Singh Bedi : Will Government be pleased to make a definite statement, as promised, on the subject of my Question No. 367 regarding the recommendations of the Arms Rules Committee under heads (a), (b), (c) and (d), printed at pages 2474-5 of the Legislative Assembly Debates, Volume 3, No. 40 ?

The Honourable Sir Malcolm Hailey : I regret that I cannot give an answer in detail to the Honourable Member's question. We have, however, already announced our intention that we hope to carry out the main recommendations of the Committee subject to inquiries from Local Governments and other authorities concerned. We have addressed Local

Governments, but replies are still outstanding from some of the major provinces. We hope, however, to get the rules re-drafted during the course of the present year and the preliminary work is now being done in my Department. We cannot, however, publish revised rules until we have received replies at least of the major Local Governments. The Honourable Member will realize that as Local Governments are in charge of the detailed administration of the rules, consultation with them is essential if a satisfactory and harmonious working of the new rules is to be secured.

RECOMMENDATIONS OF RAILWAY RISK NOTES COMMITTEE.

9. *Mr. Manmohandas Ramji : Will the Government be pleased to state :

- whether they have considered the recommendations of the Railway Risk Notes Committee ;
- whether they have taken any action to give effect to them ;
- if the answer to (b) is in the affirmative, will the Government state what action has been taken, and
- if the answer to (b) is in the negative, whether they propose to take any action hereafter ; and
- if not, why ?

The Honourable Mr. C. A. Innes : The two risk note forms specially dealt with by the Committee have been revised in accordance with the Committee's recommendations. Before issuing them the Government probably will consult the Indian Railway Conference Association. The Honourable Member will realise that the questions raised by the proposed revision of the forms in the direction of enlarging the responsibilities of railways are of great importance especially in view of the enormous increase in recent years of claims for compensation.

SUPREME COURT FOR INDIA.

10. *Dr. H. S. Gour : (1) Referring to my starred Question No. 65 and the reply of the Honourable the Home Member thereto given on the 16th January 1923, regarding the establishment of a Supreme Court for India, will the Government be pleased to state whether they have now considered the question, and if so, what action they propose to take in the matter ?

(2) What is the number of appeals from India to the Privy Council every year, and what is their approximate cost ?

The Honourable Sir Malcolm Hailey : (1) I regret that I am not yet in a position to give the information as to the action Government proposes to take in the matter.

(2) A statement giving the information for the years 1920, 1921 and 1922 is laid on the Table. The figures of cost which have been supplied by the High Courts are understood to refer only to charges for preparation, printing and transmission of records.

Province.	NUMBER OF APPEALS.			COSTS.		
	1920.	1921.	1922.	1920.	1921.	1922.
Madras ...	20	7	7	13,895 7 4	5,131 9 7	9,024 9 0
Bombay ...	1	2	9	2,796 11 0	3,431 1 4	24,044 9 6
Sind ...	...	2	...	...	655 0 0	...
United Provinces ...	14	11	15	7,664 10 3	13,404 15 0	7,680 7 3
Oudh ...	13	9	7	30,970 5 9	9,803 6 9	8,017 2 8
Punjab (including Delhi) ...	5	3	6	11,219 8 0	5,364 8 0	3,504 6 0
Burma ...	7	6	6	11,552 6 9	8,694 0 11	11,312 15 0
Bihar and Orissa ...	19	12	7	13,773 4 6	20,795 1 1	9,627 12 5
Central Provinces ...	4	...	4	6,266 4 11	...	3,186 6 0
Assam ...	...	...	...	...	...	...
North-West Frontier Province ...	...	...	...	...	...	...
Cooch ...	...	...	...	...	...	...
Total ...	£3	52	61	98,133 10 6	67,279 10 8	76,338 3 10

Bengal ... Total number for 17. | Total cost for 1920- Rs. 16,638-13-8
1920-22. | 22.

N.B. -The Bengal figures could not be included in the totals above as the Local Government did not supply figures for each year separately.

Mr. K. Ahmed : I wish to ask a supplementary question, Sir ? Has the Government got any idea with regard to the exorbitant fees charged by lawyers engaged in England for appeals to the Privy Council from both parties ?

Mr. President : That question would be more appropriate in the House of Commons.

PLAGUE IN DELHI.

11. *Sir D. P. Sarvadhikary : Will the Government be pleased to state :

- The total number of seizures and deaths from Plague in Delhi during the four months, January, February, March and April, 1923, giving detailed figures for the city of Delhi, the Civil Lines, the Raisina Area and the Rural Area ?
- When did the epidemic break out, what warning was given to the people, what steps were taken to keep them informed of the progress of the epidemic, and to get the plague returns published in the press, and what measures preventive and curative were taken to combat it ?
- Has their attention been drawn to a leaderette in the Tej vernacular daily of Delhi dated 27th April which characterises the conduct of the Delhi administration as 'criminal neglect' in not taking any notice of the epidemic till the press started agitation against the apathy of the local authorities ?

Mr. M. S. D. Butler : (a) A statement is laid on the table.

(b) The first cases in Delhi City were reported in the middle of December. All medical practitioners in Delhi city were informed by the Health Officer on the 19th December and were asked to notify cases. Notices warning the public of the outbreak and advising precautionary measures were posted and distributed broadcast from the same date. About 1,500 such notices were issued at once and between 6 and 7 thousand more subsequently. Simultaneously with the first issue some 700 special notices regarding inoculation were distributed.

Daily bulletins of plague returns were posted in all main bazaars, and communicated to the press, as soon as the epidemic began to show signs of increasing, i.e., from February the 26th.

The measures taken were :

Preventive.—Notification of cases and deaths, inoculation, disinfection, segregation, intensive rat destruction and examination, instruction by public lectures, appeals to influential citizens to co-operate.

Curative.—Free relief and treatment were supplied at all hospitals and dispensaries, and through accredited social workers. Extra staffs were recruited, the services were enlisted of the private practitioners, of the local female hospitals' staffs, of the Cambridge Mission, and the Social Service League, all of whom did most valuable work, and special hospitals were opened in several places.

(c) The Government of India have seen the article in question. As will be seen from the above, the local authorities lost no time in taking measures for combating the epidemic.

Plague Cases and Deaths.

	January.		February.		March.		April.		REMARKS.
	Cases.	Deaths.	Cases.	Deaths.	Cases.	Deaths.	Cases.	Deaths.	
Delhi City ..	16	13	67	46	832	538	1,320	837	
Notified Area.	...	...	...	...	...	...	4	2	Imported.
Civil Lines.	...	...	...	...	...	...	...	...	
Rural circle ..	142	85	210	187	481	358	410	275	
Raisina ...	...	...	...	...	...	...	...	...	*There were no cases in Raisina.

* 3 cases were reported from Majadpur village, and there were 3 imported cases.

DEATH STATISTICS IN DELHI.

12. *Sir D. P. Sarvadhikary : (a) Has the attention of the Government been drawn to the following form in which statistics of seizures and deaths from all causes is issued by the Health Officer of Delhi ?

Plague report for 26th April 1923.

Fresh cases.	Fresh deaths.	Total number from 1st January 1923, up to date.		Places wherein fresh cases occurred.
		Cases.	Deaths.	
33	19	2193	1232	W : 3S—Gandi Gali (Kachnal Kua) 1 W : 4—Kucha Seth, Kucha Katmal 2 W : 5—Chhatta Madon Gopal .. 1 W : 6B—Pipal Mahadeo .. 1 W : 7A—Rodgaran, Chanta Makwan 4 W : 7B—Kucha Fatehul-Nisa, Zer Fasil .. 3 W : 8A—Kundewalan .. 4 W : 8B—Phatak Talian Haveli .. 4 Muzafarkhan, Aqab Kalan Masjid .. 4 W : 9A—Sarak Prem Narain .. 1 W : 12—Ram Dwara, Gali Dak .. 5 Khana Kothi Shora Kharia .. 5 W : 13N—Bhagwan Ganj, Gali .. 6 Penhiari Nai Basti .. 6 W : 14—Nabi Karim .. 1

Total number of deaths from all causes : 61.

N.B.—The average daily mortality of the city in normal times is 20. If this is deducted from the daily deaths registered and reported these days, it will give a fairly correct idea of the daily mortality from plague, since there is no other fatal epidemic raging at present. The plague figures and deaths are only those that are reported and verified by this Department.

DELHI :

The 26th April 1923.

(Sd.) ILLEGIBLE,
for Health Officer,
Delhi Municipality.

(b) If so would the Government be pleased to explain what the *Nota Bene* at the bottom of the plague report means and how the statement made therein be reconciled with the figures given above the note ?

(c) Would the Government be pleased to consider the desirability of issuing statistics in a more intelligible and reliable form ?

Mr. M. S. D. Butler : (a) The Government have seen reports in this form which appeared during April in the press. It is not the official form.

(b) The note was discontinued on 30th April.

(c) The official form requires no modification. The figures are as reliable as the system of registration permits.

PLAGUE MORTALITY IN DELHI.

13. ***Sir D. P. Sarvadhikary :** (a) What action has been taken to give effect to the recommendations of the Delhi Municipal Committee for proper registration and publication of mortality from plague?

(b) What preventive and curative measures were taken by the local municipality, the local administration and the Government of India?

(c) Are there any proposals under consideration to introduce sanitary improvements in the city and will the Government place them on the table of the House?

Mr. M. S. D. Butler : (a) Certain minor recommendations were made by the municipal committee towards the end of April, and were carried out.

(b) The measures have already been described in the answers to the previous questions. It is difficult to indicate separately the parts taken by the public, the municipality, the Local Administration and the Government of India respectively, as the public co-operated with all classes of officials. The President of the Municipality is also the Head of the District and the Chief Medical Officer is a member of the Municipal Committee. Both these officers were in close communication throughout with the Local Administration. The Health Officers were also in touch with the Public Health Commissioner with the Government of India.

(c) Yes. These are however purely municipal matters. The main improvements in regard to water supply and sewerage depend on the co-operation of the Municipal Committee in the large public health schemes prepared by Government for the New Capital.

INDIAN STORES DEPARTMENT.

14. ***Sir D. P. Sarvadhikary :** Would the Government be pleased to state what steps have been taken for the development and expansion of the Indian Stores Department?

The Honourable Mr. A. C. Chatterjee : The Indian Stores Department was constituted on the 1st January 1922, from which date it undertook the work of purchasing textiles for the Army and certain other Departments of Government. During the course of the year 1922, the office of the Superintendent of Local Manufactures and Government Test House at Calcutta and the Metallurgical Inspectorate at Jamshedpur were incorporated in the Indian Stores Department. Owing to the financial stringency and the desirability on that account of subjecting the whole matter to review by the Retrenchment Committee no further steps were taken that year to expand and develop the Department, with the exception of strengthening the organization employed on the purchase of textiles.

The Government of India have given careful consideration to the views expressed by the Retrenchment Committee, but have decided to proceed with the expansion and development of the Department, as circumstances and the financial situation permit. In pursuance of this decision, they have sanctioned the following additional measures :

- (a) the constitution of a branch for the purchase of engineering plant and materials ;
- (b) the constitution of a branch for the acquirement and dissemination of information respecting actual and potential sources of supply in the country, market prices, etc. ;
- (c) the recruitment of an officer for the post of Director of Inspection and the provision of a portion of the subordinate staff required in connection with the work of that appointment ;
- (d) the recruitment of an officer for the post of Assistant Director of Inspection at headquarters to undertake under the Director of Inspection the revision and preparation of specifications and other information relating to stores ;
- (e) the re-constitution of the office of the Superintendent of Local Manufactures and Government Test House, and the separation from that organization of the Inspection work hitherto undertaken by it. For undertaking this work they have constituted a Circle of Inspection at Calcutta in charge of a Controller of Inspection. This new organization forms the nucleus of the Inspection Branch of the Department.

RESULTS OF INCHEAPE COMMITTEE'S RECOMMENDATIONS.

15. ***Sir D. P. Sarvadhikary :** Would the Government be pleased to lay on the table a detailed statement showing what steps have been taken to give effect to the recommendations of the Inchcape Retrenchment Committee, what financial results have been achieved thereby and what further steps are proposed to be taken and when?

The Honourable Sir Basil Blackett : I place on the table a statement which shows briefly the action taken with regard to each recommendation of the Retrenchment Committee. The statement has been compiled in the form in which the information is most readily available, that is, the progress report maintained by the Finance Department. It is not in the exact form in which the Honourable Member has asked for information to be supplied but I hope he will find the statement fairly complete. If he desires further information on any particular point, I shall endeavour as far as possible to obtain it. In a few days I propose to furnish a further statement showing for what reasons Government have been unable to accept a few important recommendations.

I should like to add, Sir, that arrangements have been made for the Standing Finance Committee to go through this statement with a view to being in a position to inform the House of progress made in more detail than is possible by just looking at the statement,

I.—Statement showing the action taken on the recommendations of the Indian Retrenchment Committee regarding the Military Services.

Serial No.	Head.	Reference to Report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
1	48—Army	9	4	Reduction of peace establishment of British infantry battalions to 684 British Other Bnks.	Rs. 144 lakhs less the necessary lag.	The proposal is under discussion with the Secretary of State.	Rs. None at present. This will depend on the decision arrived at.	
2	"	10	5	Reduction of peace establishment of active Indian infantry battalions (other than Gurkha units) to 706 Indian ranks.				
3	"	10	5	Reduction of peace establishment of training battalions by 50 Indian ranks.	Rs. 42 lakhs less lag.	The proposal is under discussion with the Secretary of State.	None at present. This will depend on the decision arrived at.	
4	"	10	5	Reduction of peace establishment of active pioneer battalions to 722 Indian ranks.				
5	"	10	5	Alteration of terms of service of Indian soldiers so as to include colour and reserve service.	Nil.	This question has been taken up with a view to the introduction of new conditions of service for Indian soldiers as soon as a definite decision has been arrived at on items 2, 3 and 4. The savings to be effected by this recommendation will not be realised this financial year.	Nil.	
6	"	11	6	Reduction of 3 British cavalry regiments.	Rs. 74 lakhs less the necessary lag.	The proposal is under discussion with the Secretary of State.	None at present. This will depend on the decision arrived at.	
7	"	11	7	Reduction of 10 per cent. in artillery.	Rs. 43 lakhs less the necessary lag.	The proposal is under discussion with the Secretary of State.	None at present. This will depend on the decision arrived at.	

Serial No.	Head.	Reference to Report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
8	48—Army	12	12	Reduction of officers employed at Army Headquarters to full extent recommended by Innes Committee, Rs. 4 lakhs being effected in 1923-24.	Rs. 4 lakhs less the necessary lag.	These two recommendations are being dealt with together. Orders of Government giving effect to a reduction of Rs. 6,65,090 per annum have already issued. These reductions will take effect from various dates during the current year and the full saving will not be realised this financial year.	Rs. 5 lakhs.	
9	"	13	12	Reduction of clerical establishment of Army Headquarters by Rs. 2 lakhs.	Rs. 2 lakhs less the necessary lag.	The question of reductions to the full extent recommended by the Innes Committee is also under consideration.		
10	"	13	13	The necessity for retention of 4 Commands to be again reviewed after 12 months (i.e., February 1924), and in meantime no expenditure to be incurred on new officers for the Commands.	Nil.	The matter is under examination.	Nil.	
11	"	13	16	The provision for Command, district and brigade staffs to be reduced by Rs. 4 lakhs for 1923-24 in addition to savings under transport and forage charges.	Rs. 4 lakhs less the necessary lag.	These two recommendations are being dealt with together. Orders of Government giving effect to a reduction of Rs. 7.24 lakhs per annum have already been issued.	Rs. 6 lakhs.	
12	"	14	17	All work in connection with movement of troops to be decentralised to Commands and districts and total provision for embarkation and railway transport staff be limited to Rs. 3,00,000.	Rs. 3.44 lakhs.	The question of reduction to the full extent recommended is under consideration.		
13	"	15	19	Tenders should be obtained for the construction of the Hindu-Bagh Fort Sandeman Railway, and if the cost approximate to Rs. 25 lakhs, work should be put in hand forthwith.	Nil.	Data is being obtained to enable this recommendation to be considered.	Nil.	
14	"	15	20	All the 1,702 obsolete Mechanical Transport vehicles should be sold or scrapped forthwith except vehicles of standard types which should be dismantled and their parts placed in stock as spares.	Nil.	Sales are proceeding	Rs. 1.8 lakhs.	

Serial No.	Head.	Reference to Report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
15	48—Army	15	20	While present financial conditions obtain, the authorised establishment of motor vehicles including reserves should not exceed 1,600 vehicles exclusive of motor cycles.	I.e. The proposed reduction is included in items 18 and 21.	Proposals for revised establishments are under consideration. Some reductions have already been made provisionally.	Rs. The reduction effected is included in items 18 and 21.	
16	"	16	21	Establishment of motor cars in use to be limited to 150 and their mileage to be restricted to 9,000 miles per annum.	1 lakh.	Departmental orders regarding the limitation of motor cars to 150 have been issued. Orders of Government will issue in due course. Orders of Government regarding the restriction of mileage of motor cars have already issued.	1 lakh.	
17	"	16	22	The possibility of increasing the mileage of Ford Cars per gallon of petrol to be explored (present mileage being 14 miles per gallon.)	Nil.	Data are being collected to enable the recommendation to be considered.	Nil	
18	"	16	22	All lorries and miscellaneous vehicles to be limited to 1,600 miles running per annum, petrol and other supplies being rationed to ensure the mileage limitation being enforced.	Rs. 48 lakhs.	Orders of Government regarding the limitation of mileage and the rationing of petrol and lubricants have already been issued. The full savings will not accrue this financial year as, owing to the bad state of repair of vehicles, it was necessary to provide Rs. 15½ lakhs for special repairs.	Rs. 32½ lakhs.	
19	"	16	22	Number of ambulances in use to be limited to 200.	Nil	The existing peace establishment of motor ambulances is 200. No action is necessary regarding this recommendation.	...	
20	"	16	22	Total establishment of motor cycles to be fixed at not more than 350, and all obsolete cycles to be sold or scrapped forthwith.	The proposed reduction is included in item 18.	Departmental orders have issued giving effect to this recommendation. Government orders laying down the revised establishments will issue in due course.	The reduction effected is included in item 18.	
					No reductions were proposed on account of sales.	Sales are proceeding.	The reduction effected on account of sales is Rs. 2 lakhs.	

Serial No.	Head.	Reference to Report.		Recommendation.	Reduction proposed on budget of 1923-24.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
21	48—Army	16	23	The adoption of the recommendations, regarding personnel, of the Braithwaite Committee, with the exception of that relating to the increase of the establishment of the Mechanical Transport training school.	Rs. 20 lakhs less the necessary lag.	Departmental orders regarding this recommendation have issued. Orders of Government giving effect to the reduction in establishments will issue in due course.	Rs. 15 lakhs.	
22	"	16	23	Total annual expenditure on Animal and Mechanical Transport should be reduced by Rs. 55 lakhs, viz.: Reductions of Personnel in Mechanical Transport units and formations (para. 23) ... 20 Reductions of Drivers of motor cars due to reduction of numbers of cars in use (para. 21) ... 1 Reduction in running expenses of motor lorries and other vehicles (para. 22) ... 48 Deduct annual replacements 69 Net saving ... 55 There will be an additional saving under the stock account of Rs. 15 lakhs.	Shown against items 16, 18, 21 and 60.	See remarks against items 16, 18, 21 and 60.	Shown against items 16, 18, 21 and 60.	
23	"	16	24	Owing to an over-estimate in 1922-23 on account of Sea Transport charges, there will be a saving of Rs. 48.05 lakhs in 1923-24.	Rs. 48.05 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 48.05 lakhs.	
24	"	17	25	Provision for Railway charges under all heads for 1923-24 to be reduced to Rs. 1,95,00,000.	Rs. 14.75 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 14.75 lakhs.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
25	48-Army	18	26	(a) Provision for educational and instructional establishments for 1923-24 to be reduced by Rs. 7,42,450.	Rs. 7.42 lakhs less the necessary lag.	Proposals giving effect to the recommendation are under consideration.	Rs. 6.16 lakhs.	
				(b) Grant for practice ammunition will have to be increased by Rs. 23 lakhs.	Nil.	The increased provision has been allowed for in the budget for 1923-24.	Nil.	
26	"	20	27	The provision for Army Education to be reduced to Rs. 33,04,000 for 1923-24 and to be fixed at this figure for the next 5 years, exclusive of any additional expenditure on the Dehra Dun and King George's Military Schools. A proportionate further reduction should be made if proposals regarding reduction of fighting troops are accepted.	Rs. 4,16,550 less the necessary lag.	The second part of the recommendation will be considered when a decision has been arrived at about the precise reduction in the strength of troops. As regards the first part of the recommendation, proposals giving effect to it are under consideration.	Rs. 3,52,000	
27	"	20	28	An enquiry to be made with a view to closing down hospitals whose retention is not justified and to substantially reducing the number of beds in the hospitals retained.	Nil.	Enquiries regarding this recommendation are proceeding.	Nil.	
28	"	20	28	A reduction of Rs. 5 lakhs to be made in the cost of the present establishments employed in hospitals in addition to the savings which should automatically result from reductions in Army personnel.	Rs. 5 lakhs less the necessary lag.	Proposals giving effect to the reduction are under consideration. Many of the reductions necessary have already been effected.	Rs. 4 lakhs.	
29	"	21	28	A reduction of Rs. 31 lakhs to be made under the head of "provisions and diets."	Rs. 31 lakhs.	The reduction has been given effect to in the budget for 1923-24.	Rs. 31 lakhs.	
30	"	21	28	A reduction of Rs. 16 lakhs to be made under the head of "clothing for patients."	Rs. 16 lakhs.	The reduction has been given effect to in the budget for 1923-24.	Rs. 16 lakhs.	
31	"	21	28	A reduction of Rs. 1 lakh to be made under the head of "cost of drugs." Total reduction under head of "working expenses of hospitals."	Rs. 1 lakh.	The reduction has been given effect to in the budget for 1923-24.	Rs. 1 lakh.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
32	48-Army	22	32	The provision for Arsenals and Ordnance depots for 1923-24 to be limited to the amount provided for 1922-23, and possibility of effecting economy by temporarily utilising military labour for clearing up arrears of work to be explored.	Rs. Nil	With the exception of charges for railway freight and losses on sale of surplus stores which have gone up since last year the provision for Arsenals in the Budget for 1923-24 has been limited to the same figure as for 1922-23. The aggregate provision under all heads on account of rail charges for the Army has been restricted in accordance with the recommendation shown against Serial No. 21; but the share of the aggregate provision specifically made available for arsenals and ordnance depots is greater in 1923-24 than in 1922-23, the budget grant for the latter year having proved too low. The provision included in the estimates for 1923-24 on account of loss on sale of surplus stores represents a loss inseparable from heavy sales of surplus stores that will be necessary in order to give effect to the recommendation shown against Serial No. 59 (b). The question of temporarily utilising military labour for clearing up arrears of work is being explored. It is stated, however, that all work of a nature that troops could carry out has probably been concluded.	Rs. Nil	
33	"	22	31	Steps to be taken to close down at an early date 2 out of the 4 clothing and boot depots.	Nil	The Committee appears to have been under a misapprehension when they made this recommendation. There were 5 boot and clothing depots of which it was intended to close 2. One of these has been closed, and the closing of the other depends on the building of increased storage elsewhere. The matter is being considered.	Nil	
34	"	22	31	Withdrawal from unit charge of mobilization reserves of winter clothing and their concentration in depots.	Nil	This is being done gradually.	Nil	
35	"	22	31	Budget provision for 1923-24 for Clothing and Boot Depots to be reduced to Rs. 4,50,000.	Rs. 21,080 less necessary lag.	The matter is under consideration.	Nil	

Serial No.	Head.	Reference to report		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
36	48-Army...	24	33	A savings of Rs. 41 lakhs to be effected in the cost of the supply services in 1923-24. The whole position to be again reviewed in 12 months' time with a view to a further reduction being effected.	Rs. 41 lakhs less the necessary lag.	The saving of Rs. 41 lakhs includes Rs. 15.38 lakhs on account of saving in turn-over of certain mobilisation reserves of Supply and Transport Supplies which are being either reduced or abolished. Departmental orders giving effect to these reductions have been issued. Orders of Government will issue in due course.	Rs. 35.7 lakhs.	
						The balance of the saving, i.e., 25.62 lakhs is on account of reduction of the establishments of the Supply Services. Departmental orders reducing the establishments have already issued. Orders of Government will issue in due course.		
37	"	24	34	Cost of Medical Stores Depots to be reduced to Rs. 5 lakhs in 1923-24 Budget.	Rs. 94 lakhs less the necessary lag.	Proposals giving effect to this recommendation are under consideration.	Nil at present.	
38	"	24	35	Reduction in Veterinary services recommended by the Braithwaite Committee to be put into effect for 1922-24 Budget.	Rs. 3.92 lakhs.	Orders of Government giving effect to this recommendation have already issued.	Rs. 3.92 lakhs.	
39	"	25	36	A reduction of Rs. 20 lakhs to be made in the Budget for Remount depots and breeding operations.	Rs. 20 lakhs less the necessary lag.	Departmental orders giving effect to the majority of the reductions recommended have already issued. Orders of Government will issue in due course. The remaining recommendations are under consideration.	Rs. 18.6 lakhs.	
40	"	25	39	Accounts on a commercial basis to be instituted for all manufacturing establishments (vide Appendix E. of Report with debit for interest on capital and depreciation.	Nil	Accounts on a commercial basis have already been introduced for most of the principal manufacturing establishments on the Army side. The question of developing the arrangements is under consideration.	Nil.	
41	"	26	42	The proportion of British personnel in Army clothing factories and depots to be reduced to 12 per cent. of the total staff.	Nil	Orders of Government giving effect to this recommendation have already issued.	Nil.	

Serial No.	Head.	Reference to report		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
42	48-Army	27	44	In view of the large reductions recommended in the use of the Mechanical Transport, only a small repairing shop should be retained at Chaklala, and the possibility of utilising the balance of the available accommodation to be explored.	Rs. Nil	The matter is under consideration.	Rs. Nil.	
43	"	27	44	Endeavours to be made to come to a favourable arrangement with the commercial concerns supplying the standard types of vehicles adopted by the Army to undertake complete overhauls in India of their own vehicles.	Nil	The matter is under consideration.	Nil.	
44	"	28	46	Consequent on the reduction in numbers of British troops in India of the Roman Catholic persuasion, the numbers of Roman Catholic Chaplains to be reduced to the essential minimum and all other Roman Catholic clergymen ministering to troops to be placed on a capitulation basis.	Rs. 1.5 lakhs, less the necessary lag.	The proposal is under discussion with the Secretary of State.	Nil at present.	
45	"	28	46	An early decision to be come to on the proposal to form an Army Chaplains Department for Church of England Chaplains; and, if proceeded with, no additional expenditure to be involved.	Nil	Action on the formation of an Army Chaplains Department is temporarily in abeyance.	Nil.	
46	"	28	47	A reduction of Rs. 50,000 due to fall in prices, to be made in grant for Administration of Cantonments.	Rs. 5 lakhs.	The reduction has been allowed for in the Budget for 1923-24.	Rs. 5 lakhs.	
47	"	29	48	A reduction of Rs. 20,000 to be made under the head of Recruiting Staff.	Rs. 2 lakhs.	Orders of Government giving effect to this recommendation have already issued.	Rs. 2 lakhs.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1923-24.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
48	48-Army...	19	50	An early settlement to be arrived at on the basis of the future capitation rate for British soldiers serving in India. Meantime the provisional rate having been reduced to £25 there will be an automatic saving of £44,000.	Rs. 6.6 lakhs.		Rs.	
49	"	30	51	Budget provision in 1922-23 for furlough allowances for officers of the Indian service was too high by £340,000. This will automatically produce a saving in 1923-24.	Rs. 51.0 lakhs.			
50	"	30	52	The payment to War Office of £93,000 in 1922-23 on account of clothing and equipment brought to India by British troops should disappear in 1923-24 consequent on the reductions proposed in British troops.	Rs. 13.95	The reductions have been allowed for in the Budget for 1923-24.	Rs. 183.45 lakhs.	
61	"	30	53	The non-recurrence of the item of exchange concession in respect of Mesopotamia will produce an automatic saving of £250,000.	Rs. 37.5 lakhs.			
52	"	30	53	The non-recurrence in the stock account of arrear payments of £110,000 and £80,000 on account of ordnance and mechanical transport equipment indented for in previous years will produce an automatic saving of Rs. 73.5 lakhs.	Rs. 73.5 lakhs.			
53	"	31	53	Stocks to be eaten up to the extent of Rs. 35 lakhs. Credit to be taken for Rs. 35 lakhs on account of fall in prices as compared with 1922-23. Debit of Rs. 10 lakhs to be taken on account of anticipated losses and writes off.	Rs. 60 lakhs.		Rs. 60 lakhs.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1923-24.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
54	48-Army...	32	60	Messing allowance of the British soldier to be reduced to 3½ annas per diem.	Rs. 37 lakhs less the necessary lag.	Orders of Government are about to issue giving effect to this recommendation.	Rs. 27.75 lakhs.	
55	"	32	61	Stocks to be eaten down to the extent of Rs. 10 lakhs. Credit to be taken for Rs. 50 lakhs on account of fall in prices and reduction of ration scales. Debit of Rs. 5 lakhs to be taken on account of anticipated losses and writes-off.	Rs. 55 lakhs.	The reduction has been allowed for in the Budget for 1923-24.	Rs. 55 lakhs.	
56	"	32	63	Stocks of petrol and lubricants to be reduced by Rs. 5 lakhs.	Rs. 5 lakhs.	The reduction has been allowed for in the Budget for 1923-24.	Rs. 5 lakhs.	
57	"	33	64	The stocks of medicines and surgical instruments are to be reduced to the level authorised by the orders issued on this subject in September 1921 and the estimated figures of Rs. 35.15 lakhs for new purchases in 1923-24 to be curtailed by Rs. 10 lakhs. A complete review to be made of all articles held, and, apart from the mobilization reserve of Rs. 4 lakhs, any stocks in excess of 15 months' supply of articles not in common use or liable to deterioration to be sold.	Rs. 10 lakhs.	Reports as to stocks have been called for. A reduction of Rs. 7 lakhs has been allowed for at present in the budget for 1923-24. The question of a further curtailment of purchases will be considered.	Rs. 7 lakhs.	
58	"	33	65	Possibility of authorised periods of wear of clothing being increased by 25 per cent. and other economies in clothing and kit allowances to be further reviewed. Reduction of Rs. 50 lakhs to be effected in existing stocks.	Rs. 53 lakhs.			
59	"	33	66	(a) A reduction of 50 per cent. in the war reserve could be effected.	...	Orders of Government increasing the authorised periods of wear of clothing have already issued. The question of the reduction in War reserves is	Rs. 146 lakhs.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
60	48-Army...	34	67	(b) The total stock of stores should be reduced to Rs. 8 crores. Expenditure on purchase in 1923-24 to be restricted to Rs. 130 lakhs after allowing for Rs. 10 lakhs fall in prices, a reduction of Rs. 1,00,42,000. Any balance required for consumption to be obtained by reduction of stocks or from the proceeds of sales of surplus stores. The provision for additions by purchase to be reduced by Rs. 21 lakhs, viz.— Rs. By consumption of existing stocks of tyres and spare parts, 15 lakhs. Omission of budget provision for purchase of new vehicles as shown in 1922-23 Budget. (But see paragraph 23 of Report). 6 lakhs. Total 21 lakhs.	Rs. 100.42 lakhs.	under consideration. A reduction of Rs. 146 lakhs has been allowed for in the budget for the present. The possibility of obtaining a further reduction is under consideration.	Rs.	
61	" ...	34	68	No purchase of camels being necessary in 1923-24, there will be a saving of Rs. 3.33 lakhs. If reduction in strength of fighting troops is accepted it should be possible to reduce purchase of animals by Rs. 10 lakhs by making equivalent reduction in number of animals in remount depots.	Rs. 10 lakhs.	A reduction of Rs. 5 lakhs has been allowed for in the budget for 1923-24. A further reduction may be possible when the recommendations at item 6 regarding the reduction of Cavalry and Artillery have been settled.	Rs. 5 lakhs.	
62	" ...	34	69	Net saving under recommendations contained in paragraphs 58 to 67 inclusive when compared to the 1922-23 estimate is only Rs. 188.43 lakhs, since the 1922-23 estimate assumed savings of Rs. 162.29 lakhs due to reductions of stocks.	Shown against items 53 to 61 inclusive.	See remarks against items 53 to 67.	Shown against items 53 to 67.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
63	48-Army...	34	70	The provision for Waziristan occupation for 1923-24 being limited to Rs. 19.5 lakhs will produce an automatic reduction of Rs. 153.5 lakhs under this head.	Rs. 153.5 lakhs less the necessary lag.	A change in the Waziristan policy since the Committee reported has rendered some 75 per cent of this saving nugatory.	Rs. 43.5 lakhs.	
64	" ...	34	70	Recommended that the garrison at Aden be reduced to its pre-war strength representing a saving of Rs. 10 lakhs on the 1922-23 Budget.	Rs. 10 lakhs less the necessary lag.	The proposal is under discussion with the Secretary of State. A reduction of Rs. 3 lakhs has been allowed for in the budget for 1923-24.	Rs. 3 lakhs for the present.	
65	" ...	34	70	War arrears adjustments in connection with the Great War and the Afghan War having been completed, the sum of Rs. 3.4 lakhs allowed under these heads in the 1922-23 Budget will not recur.	Rs. 3.4 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 3.4 lakhs.	
66	" ...	35	71	(a) Where stores are issued by the Army to other departments, a debit should be raised against the department concerned. (b) The Grant for net miscellaneous expenditure to be reduced to Rs. 20 lakhs.	Nil	(a) Orders of Government have issued giving effect to the recommendation. (b) The net expenditure recommended has been allowed for in the budget for 1923-24.	Nil	
67	" ...	35	72	No provision for unallotted reserve to be made in future budgets. Rs. 30 lakhs is being allotted for the completion of equipment in 1923-24. As approximately half of the "new measures" for 1922-23 are recurring charges and will be shown under appropriate heads, the net saving for "new measures" amounts to Rs. 3 lakhs.	Rs. 3 lakhs.	The reduction has been allowed for in the Budget for 1923-24.	Rs. 3 lakhs.	
68	" ...	35	73	Recommended that the pre-war arrangement be reverted to under which a settlement of pension was arrived at for each individual on retirement on the basis of his expectation of life.	Nil.	The matter is under discussion with the Secretary of State.	Nil.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.)
		Page.	Para.					
69	48-Army...	35	71	The share of India or the allowances and gratuities payable to demobilised officers during 1923-24 will amount to £415,000 an increase of £35,000 or Rs. 9.75 lakhs over 1922-23.	Nil.	The increased provision has been allowed for in the budget for 1923-24.	Nil.	
70	"	56	75	Recommended that the Budget for 1923-24 for the Auxiliary and Territorial Forces be fixed at Rs. 108 lakhs, the main saving being in Territorial Forces charges.	Rs. 10.86 lakhs.	The reduction has been allowed for in the Budget estimates for 1923-24.	Rs. 10.8 lakhs.	
71	50-Military Works.	58	3	That reappropriation of funds for Military Works be prohibited except for works included in the sanctioned programme when the reappropriation should be subject to the surrender of savings being justified by the financial situation.	Nil.	The recommendation is under consideration.	Nil.	
72	"	51	4	That the whole arrangement for accommodation dating both British and Indian troops should be reviewed and that it should be considered whether it would be possible in some cases to accommodate the troops in existing barracks, and in other cases whether the old system of hutting grants should not be reverted to until the future distribution of the army and the strength of units have been definitely decided.	Nil.	The recommendation is under consideration.	Nil.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed etc.)
		Page.	Para.					
73	50-Military Works.	51	5	That the whole programme of Military Works requirements be examined and curtailed on the basis that the total provision for new works and works in progress, apart from the requirements of the Royal Air Force and any special measures rendered necessary by the military situation, should be reduced by Rs. 20 lakhs.	Rs. 20 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 20 lakhs.	
74	"	51	6	That in the present financial conditions no major works should be embarked on without examination at headquarters and that the annual provision should be reduced to 6 lakhs.	Rs. 6.7 lakhs.	The recommendation regarding the major works is under consideration. The reduction has been allowed for in the Budget for 1923-24.	Rs. 6.7 lakhs.	
75	"	51	7	That the reserve for buildings and works costing up to Rs. 10,000 be limited to 10 lakhs.	Rs. 5 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 5 lakhs.	
76	XXXVIII --Military Works.	55	9	That the possibility be explored of effecting economies in new construction by utilization of vacant buildings for military purposes and that steps be taken to dispose of all buildings which cannot be so utilised.	Nil.	The recommendation is under further consideration although the policy recommended is already in force.	Nil.	
77	50--Military Works.	55	9	That the provision for repairs to buildings in 1923-24 be limited to 55 lakhs.	Rs. 9.47 lakhs.	The reduction has been allowed for in the budget for 1923-24.	...	
78	"	55	10	That the decision be expedited on the question of retransferring certain frontier roads to the civil authorities.	Nil.	The recommendation is under consideration.	Nil.	
79	"	55	10	That the total provision for roads be reduced to 27 lakhs.	Rs. 2 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 2 lakhs.	
80	"	55	11	That the total expenditure in 1923-24 under the head Miscellaneous be limited to Rs. 73,78,000.	Rs. 8.25 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 8.25 lakhs.	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
81	50-Military Works.	56	12	That the staff of officers employed on Military Works should be progressively reduced approximately to the pre-war cadre, the grant for establishment in 1923-24 being fixed at Rs. 75,03,000, a saving of Rs. 6 lakhs and that further saving should be effected thereafter.	Rs. 5 lakhs.	Proposals giving effect to the recommendation are under consideration. The reduction has been allowed for in the budget for 1923-24.	Rs. 5 lakhs.	
82	"	56	13	That the rule under which imported material must be obtained through the High Commissioner for India should be amended, so as to enable new works or extensive repairs to be given out on lump sum contracts.	Nil	The recommendation is under consideration.	Nil	
83	"	56	14	That some system should be immediately introduced to obviate the wasteful expenditure incurred in consequence of the lapsing of unspent grants.	Nil	Orders of Government giving effect to this recommendation have already issued.	Nil	
84	"	57	15	That the provision under the head "Tools and plant" be limited to Rs. 3 lakhs.	Rs. 5 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 5 lakhs.	
85	XXXVIII-Military Works.	57	16	That in the case of all new occupants of Military Works quarters rent should be charged with reference to present rate of interest irrespective of the date of construction but subject to the usual maximum of 10 per cent. of pay.	Nil	The recommendation is under consideration.	Nil	
86	50-Military Works.	57	17	That a reduction of Rs. 10 lacs should be effected in the total purchases of Military Works stores in 1923-24.	Rs. 10 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 10 lakhs.	
87	48-Army...	126	3	Reduction in the establishment of His Excellency the Viceroy's body-guard.	Rs. 4 lakhs.	The reduction has been allowed for in the budget for 1923-24.	Rs. 4 lakhs.	
88	"	126	4	Reduction in the establishment of His Excellency the Viceroy's band.	Rs. 42 lakhs.	The reduction has been allowed for in the budget for 1923-24.	...	

II.—Statement showing the action taken on the recommendations of the Indian Retrenchment Committee regarding the Royal Indian Marine.

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
1	"	43-44	3	The three troopships "Dufferin", "Hardinge" and "Northbrook" be laid up forthwith and placed under care and maintenance parties until sold.	Rs. 30,86,000	Vessels laid up and placed under a care and maintenance party from 1st April 1923. Confirmation of Secretary of State for India awaited before advertising sale of ships.	Rs. 30,00,000	
2	"	44-45	27	Fitting up of the "Lawrence" to perform both the duties of the Political Despatch Vessel and Light-house tender in the Persian Gulf, the "Neurehus" (the present Light-house Tender) being disposed of. Cost of maintaining the "Lawrence", exclusive of interest of capital and depreciation to be transferred to the Political Estimates.	4,62,000	Proposal accepted in principle by Government. Sanction of Secretary of State will be asked for as soon as possible. Director, Royal Indian Marine authorised to refit the "Lawrence" for dual duties and meet expenditure involved from existing provision in Marine Estimates for this year pending a decision on question of incidence of cost which is under consideration.	...	
3	"	44	4	Arrangements to be made for the tending of certain of the Burma lights by trawlers and for the "Clive", station ship at Burma, to combine the duties of Port Blair and Burma station ships, thus enabling the disposal of the "Minto", station ship at Port Blair.	1,95,000	This can only come into force when the port authorities of Burma take over certain lights which are really harbour and port lights and not coastwise lights. This question is under consideration in the Department of Commerce in connection with the general question of light house administration in India. It will be sometime before a decision can be arrived at on the general question.	...	
4	"	44	4	Discontinuance of the use of the "Dalhousie" as a Receiving ship at Bombay and her disposal.	1,30,000	Scheme for reorganisation of Royal Indian Marine will be adversely affected by acceptance of recommendation. Question of policy to be adopted in regard to recommendations of this kind under consideration.	...	
5	"	44	6	Immediate disposal of one patrol craft boat.	Not calculated.	Ditto	...	
6	"	44	6	Immediate disposal of at least 4 trawlers.	19,600	Ditto	...	
7	"	44	7	Reduction in the number of yard craft at Bombay.	Not calculated.	Director, Royal Indian Marine asked to submit specific proposals for reduction.	...	
8	"	44	7	Reduction in the number of military launches by 6 or 7.	60,000	Military launches reduced by 6.	1,21,000	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
9	...	44	8	Replacement of "Bhamo" and "Sladen" by two vessels purchased by the Government of Burma.	Rs. 1,70,000	"Sladen" placed out of commission. "Bhamo" will be replaced on arrival of vessels purchased by the Government of Burma.	Rs. 1,13,000	
10	1-General Supervision and Accounts.	45	10	Reduction in the Accounts Section.	Not calculated.	Under consideration by Military Accountant General in consultation with controller of Marine Accounts.	...	
11	"	45	10	Abolition of appointment of Deputy Director, Royal Indian Marine, and house under construction for that officer to be occupied by Director, Royal Indian Marine.	34,900	Vide remarks against item 4.	...	
12	"	45	10	Permanent retention of an officer in the appointment of Controller of Marine Accounts.	Nil	Financial Adviser has decided to give effect to recommendation by not transferring Controller of Marine Accounts too frequently.	...	
13	"	45	10	Provision for "General Supervision and Accounts" to be limited to Rs. 3 lakhs of which Rs. 2 lakhs should be recovered from Royal Navy and other bodies in connection with the work carried out in the Dockyard.	63,530	Recommendation largely dependent on acceptance of items (10) and (11) which are under consideration. Director, Royal Indian Marine, was asked to submit specific proposals by which reduction could be effected and to let us know amount likely to be recovered during this year from Royal Navy and other bodies. His proposals have just been received and are under examination. In the meantime a sum of Rs. 4,12,550 has been provided in this year's budget estimates as against Rs. 4,19,530 included in the last year's budget.	6,930	
14	2-Marine Survey. 5-Salaries and Allowances of officers and men afloat.	46-43	11-14	Reduction in the number of crews of Royal Indian Marine vessels.	59,000	Recommendation of the Director, Royal Indian Marine, who was asked to submit specific proposals for reduction, have just been received and are under examination.	...	
15	2-Marine Survey.	46	11	Inclusion of interest on capital, depreciation and pension charges in the cost of Marine Survey to be recovered from Port Trusts, Local Governments and Anglo-Persian Oil company.	Not calculated.	Under consideration.	...	
16	3-Miscellaneous Store Establishments.	43	12	Cost of working Perim Lighthouse to be recovered from light dues.	10,000	Under consideration by Department of Commerce. It will take some time to arrive at a decision.	...	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction effected for 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
17	3-Miscellaneous Store Establishments.	46	12	Coal depot at Henjam be closed unless it can be shown that its retention is justified financially. If it be retained, a saving of Rs. 32,000 will be effected by the employment of an outside contractor.	Rs. 32,000	Employment of outside contractor sanctioned, which will effect saving of Rs. 28,000 per annum approximately and further saving anticipated. Question of retention, or otherwise, of depot will be considered later on.	Rs. 16,000	
18	"	46	12	Total provision for "Miscellaneous Store Establishments" to be limited to Rs. 31,000	42,000	Original Budget estimates for 1922-23 included Rs. 73,000. Amount subsequently increased to Rs. 1,55,000. Budget Estimates for this year provide Rs. 1,33,700 and saving of Rs. 22,000 on this figure is anticipated. There will be a saving of Rs. 49,300 over last year's Revised Estimates. Further savings anticipated.	21,000	
19	4-Dockyards.	47	13	Drastic reduction be made in the Bombay Dockyards and only sufficient personnel maintained to provide for current work and leave the Dockyard capable of expansion in an emergency.	Not calculated	Vide remarks against item 4.	...	
20	5-Salaries and Allowances of officers and men afloat.	48	14	Reduction in the rates of pay of the ratings of the Royal Indian Marine consequent on the recent reduction in the pay of Indian Mercantile Marine ratings.	Do	Government of Bombay asked to furnish information as to reductions of pay of Indian Mercantile Marine ratings employed by shipping companies in the Bombay Presidency.	...	
21	6-Victualing of Officers and men afloat.	43	15	Saving owing to the fall in the price of rations.	30,000	Dependent on state of market. No action taken.	...	
22	9-Miscellaneous.	48	17	Limiting the total provision under "Head 9-Miscellaneous" to Rs. 3 lakhs.	2,86,000	Rs. 3,46,540 provided in this year's Budget Estimates. Recommendations of Director, Royal Indian Marine, who was asked to submit specific proposals whereby saving will be effected, have just been received and are under examination.	2,39,220	
23	"	50-202	16-7	Restricting the reserve of imported marine stores to one year's requirements. Limiting the provision for such stores during 1922-24 to £25,000 or Rs. 11,25,000 and early and progressive reduction in the stocks at present held.	17,85,000 (Rs. 1,19,000)	Under consideration. Budget Estimates for 1923-24 fixed at £45,720 or Rs. 0,85,600. Orders issued for the disposal of surplus articles.	22,30,200 (Rs. 1,49,680)	

Serial No.	Head.	Refer- ence to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
15	Railways	75	28	Programme for renewals on Great Indian Peninsula Railway for 1923-24 to be limited to actual requirements.	Rs. ...	The figures upon which the Committee worked were not the finally authorised figures and no useful deductions can be made from them. An improved system is, however, under consideration which will enable demands for renewals and replacements to be more rigidly scrutinised and revised.	Rs. ...	
16	"	75	28	Expenditure on freight stock on N. W. and M. and S. M. Railways to be largely curtailed as also the provision for miscellaneous vehicles on the O. and R. M. and S. M. Railways.	...	See remarks against Serial No. 15.	...	
17	"	76	28	On all unremunerative lines renewals of tracks to be limited to sections of line completely worn out and expenditure on certain railways to be drastically curtailed.	...	See remarks against Serial No. 5. The expenditure on track renewals on the railways specified has been restricted to actual commitments in regard to running contracts for rails.	...	
18	"	76	28	Total provision for other works to be limited to Rs. 1 crore.	...	The actual provision for 'other works' depends largely on the Capital Programme and is made up of a number of small items representing the revenue portion of works of improvement mainly charged to Capital. Railways are now revising their Capital Programmes and when these are revised it will be possible to estimate the effect under this head.	...	
19	"	76	28	Remodelling of Grant Road and Victoria Terminus at Bombay to be reconsidered.	...	These estimates are now under reconsideration. No sanction has yet been given to either work. The Committee appear to have been unaware that these works are connected with the reorganisation and electrification of suburban traffic in Bombay from which substantial economies are expected in dealing with these estimates care will be taken that only such expenditure will be allowed as is financially remunerative.	...	

Serial No.	Head.	Refer- ence to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
20	Railways	76	29	Programme revenue expenditure in 1923-24 to be limited to Rs. 9 crores. Agents to be empowered to utilise the amounts allocated to them at their discretion.	...	The provision has been limited to Rs. 9 crores. The second proposal involves an important question of principle and is under consideration. The Railway Board point out that this recommendation appears to be inconsistent with recommendations made elsewhere in the report that the Board should prevent money being spent on unremunerative lines in renewals of plant, permanent-way, etc.	...	
21	"	77	30	Budget provision for working expenses to be limited to Rs. 61 crores subject to further allowance to meet any increase in traffic.	4.59 crores.	The recommendation has been given effect to.	4.59 crores.	
22	"	78	31	Except for existing commitments no further capital expenditure to be incurred on unremunerative lines until the position has been examined by the Financial Commissioner.	...	Capital programmes for all Railways for the current year are now under review. The revised programmes will be examined by the Railway Board and the Financial Commissioner. The question of expenditure on unremunerative lines is under consideration.	...	
23	"	78	32	Reduction in Railway stores.	...	Stores balances are being examined by the Financial Commissioner with a view to reduction of balances. Stocks are being examined for disposal of obsolete material and new standards are being fixed. The figure of Rs. 34 crores is not correct. It should be Rs. 23½ crores.	...	
24	"	79	33	Agents of Railways to be designated General Managers and made responsible for administrative working and financial results of their Railways.	...	This question involves a careful consideration of the whole question of delegated powers which will be examined. It may be observed that Agents of State Railways and Boards of Companies Lines are already responsible to this extent. The extent to which powers are delegated to Agents of Companies' Lines is a matter for the Company concerned.	...	
25	"	79	34	Appointment of a Financial Adviser.	...	A Financial Commissioner has been appointed with effect from 1st April 1923.	...	
26	"	80	36	Abrogation of the rule imposing restriction on salaries of Managers of Railways.	...	There is no special rule in force as regards salaries of Agents. The present scale was fixed by Government after very careful consideration. The matter will, however, be further considered.	...	
27	"	80	37	Grouping of Railways.	...	The question is under examination.	...	

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Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
24	D—Miscellaneous.	50	19	Limiting the provision for supply of coal to subsidised vessels of the Royal Navy and the Persian Gulf during 1923-24 to £25,000 or Rs. 3,75,000.	Rs. 3,24,000 (£21,600)	Provision for 1923-24 fixed at £31,980 or Rs. 5,24,700. At present prices and on the estimated quantity required, it is hoped to keep the expenditure on supply of coal to subsidised vessels of the Royal Navy within the figure of £25,000 suggested by the Committee. The balance of the Budget provision represents the cost of coal to be issued on payment.	Rs. 1,74,200 (£11,620)	
25	4—Dock-yards.	50	Clause (2) of "Conclusions".	The Dockyard be worked as a separate entity on a commercial basis.	Not calculated.	Under consideration	...	
26	...	50	Clause (8) of "Conclusions".	Budget estimates for 1923-24 be limited to Rs. 62 lakhs.	75,00,000	Total net Budget Estimates for 1923-24 fixed at Rs. 75,07,000. Endeavours will be made to effect as much economy as possible.	61,92,000	

III.—Statement showing the action taken on each recommendation of the Retrenchment Committee on the Civil Side.

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
1	Railways.	61	5	Steps be taken to curtail working expenses as necessary to ensure that under normal conditions an average return of at least 5½ per cent. is obtained on capital invested on State Railways.	Rs. ...	Steps have been taken to limit working expenses during the current year to the provision made in the budget, viz., Rs. 61 crores. If the earnings anticipated are realised and working expenses limited as proposed the net revenue will, it is estimated, give a return of 5-45 per cent. The Financial Commissioner is examining the question whether in the varying circumstances of the Railways the average of 5½ per cent. represents a standard which can be adopted for the regulation of working expenses and adjustment of rates and fares.	Rs. ...	
2	"	62	6	The overtaking of arrears of maintenance and renewals should be postponed on Railways not able to earn sufficient receipts to pay interest and sinking fund charges. This would mean (paragraph 27) a saving of Rs. 2½ crores on the N. W., O. & R., E. R., G. I. P. and M. & S. M. Railways.	2½ crores	The question of provision for overtaking arrears is under consideration in connection with the report of the Depreciation Committee. In the case of the Railways mentioned it has been necessary to allow for commitments and essential renewals, e. g., of worn out material and also for works in progress. The figure of Rs. 2½ crores referred to is based on certain theoretical figures for normal depreciation proposed by the Depreciation Committee and these figures had no connection with the Budget figure for Programme Revenue. The sanctioned estimate, however, stands at Rs. 9 crores which is Rs. 2½ crores less than the figure originally proposed. The saving suggested has therefore been exceeded though it was not possible to accept the recommendations as regards individual Railways. The question of dealing with Capital and Revenue Expenditure on the Railways classed by the Committee as unremunerative is being separately considered.	2½ crores.	
3	"	62-63	7	The present system of Programme Revenue to be abolished and adequate provisional provision to be made annually by each Railway for maintenance and renewals of permanent-way rolling stocks.	...	As stated against Serial No. 2 the whole question of provision for renewals is now under consideration and it is expected that a proper system will be evolved shortly.	...	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
4	Railways	66	12	Revision of regulations to ensure a more equitable distribution between capital and revenue of expenditure on the maintenance of way and works and on rolling stock.	Rs. ...	The rules for allocation between Capital and Revenue are under examination in connection with the establishment of a depreciation fund.	Rs. ...	
5	"	66	12	In present financial circumstances renewals of permanent-way on unremunerative lines be limited to cases when track is worn out and not capable of being strengthened to meet probable requirements for a substantial period.	...	The principle laid down is generally in force. Renewals are not made before track has reached the limit of its useful life and in all cases rails and sleepers taken from the main line are used in branches and subsequently in sidings when the demand generally exceeds the supply.	...	
6	"	67-68	14	Expenditure on fuel to be reduced to Rs. 8.63 crores.	55 lakhs.	The sanctioned grant for fuel stands at Rs. 8.5 lakhs or a further reduction of Rs. 15 lakhs.	71 lakhs	
7	"	69	14	The system of placing long term contracts for fuel to be reconsidered.	...	The Railway Board controls contracts for the three State Railways only and the present contracts run till April 1925. Most Company Railways have contracts for a similar period. The question whether the decision to make these contracts has proved of advantage to Railways will be further examined.	...	
8	"	69	15	Renewals of locomotives on unremunerative lines to be postponed.	...	The question of expenditure on line classed as unremunerative is being examined. As far as possible expenditure on renewals of locomotives is being limited to actual commitments.	...	
9	"	70	18	Operating staff on all railways to be reduced to level necessary to meet current requirements. Reductions in headquarters staff to be effected as on G. I. P. Railway.	...	An enquiry is in progress on all railways and every possible reduction is being made. It is pointed out that the increase in the G. I. P. administrative and clerical staff between 1914 and 1922 was 22.8 per cent. compared with 28 per cent. i. general on all railways and possibility of reduction was greater on that railway. New statistics are being prepared which will form a better classification of numbers and cost of staff employed.	...	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed in budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
10	Railways...	70	20	That an investigation be made into the methods adopted by the E. B. Railway to reduce losses and that the provision for compensation be reduced still further.	...	There was no opportunity of explaining to the Committee that one of the reasons for the large reductions in compensation on the Eastern Bengal Railway was the construction of the Sera Bridge over the Ganges and the consequent reduction in damage and loss caused by transhipment over the river. The position of each railway is now being examined with a view to reducing expenditure under the head to the minimum.	Rs. ...	
11	"	70	21	Steps to be taken to eliminate records which serve no practical purpose.	...	The Report of the Committee on Statistics has been received and the new system is being introduced. Only those items which are sufficient for working requirements will be maintained.	...	
13	"	71	21	The present forms of Railway accounts to be investigated and recommendations of the Accounts Committee which have not yet been adopted to have the immediate attention of the Financial Commissioner.	...	The Financial Commissioner is considering the system.	...	
14	"	72	22	A saving of Rs. 1 crore on salaries and wages.	...	The saving of Rs. 1 crore was included in the reduction of Rs. 34 crores in working expenses as summarised in paragraph 3, and the Committee has recognised that it might be necessary to make alterations in the methods recommended for effecting this reduction. See remarks against Serial No. 9 as regards reductions of staff.	...	
14	"	75	28	No expenditure to be incurred on renewals of locomotives on the North-Western Railway in 1923-24.	...	Owing to commitments entered into before receipt of this recommendation it has not been possible to carry it out entirely. Some of the engines ordered will, however, be transferred elsewhere. The total provision for renewals which cannot be avoided stands at Rs. 27 lakhs compared with Rs. 46 lakhs originally provided.	...	

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28	Posts and Telegraphs.	93	8	Reduction in number of officers.	Rs. 6,40,000	The recommendation has been examined. It has been pointed out that the increase of officers included 44 officials who, on revision of pay, were automatically classed as such. The balance of 44 includes 17 officers and 15 officers respectively of the new Wireless and Telephone Branches in which no reduction is possible. Of the remaining 12 officers, 6 have been reduced. No further reductions are possible.	Rs. ...	Savings have been taken into account in the general reduction under salaries.
29	"	94	9	Economy in staff employed in telegraph offices.	...	The Director-General has shown that the sanctioned strength of telegraphists is not in excess of requirements. It appears that in making their calculations the Committee did not take into account the authorised proportion of telegraphists employed on non-operation duties and the additional leave reserve thereon.	...	The question will be further examined in connection with the traffic of the current year. It is understood that the traffic of 1921-22 was below normal.
30	"	95	10	Economy in engineering and line staff.	...	Under consideration.	...	
31	"	95	10	Reduction in provision for salaries.	25 lakhs	It is pointed out that the Committee did not take into account Rs. 16½ lakhs required in 1923-24 for increments of pay to staff on time scales and for new sanctions accorded in 1922-23. With these additions the normal budget of 1923-24 would have been Rs. 6,15,83,000 for salaries. The corresponding figure for 1923-24 is actually Rs. 5,47,40,000 a reduction of Rs. 31 lakhs on the normal expenditure though the limit imposed by the Committee has been exceeded.	31 lakhs	The reduction on the normal scale of expenditure on salaries has been effected mainly under the following heads during the current year. Rs. Officers... 50,000 255 clerks and sorters... 1,33,000 Line staff... 1,16,000 900 Postmen... 1,83,000 828 Peons, etc.,... 1,22,000 Wireless staff... 72,000 Temporary establishment... 1,68,000 Reduction in grant for normal expenses of staff... 3,50,000 The total reductions for 1923-24 amount to Rs. 14 lakhs in addition to over Rs. 16 lakhs retrenchment effected in the provision under this head in 1922-23.

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32	Posts and Telegraphs.	95	11	No additional motor services to be provided save on grounds of economy and use of motors to be confined to large towns, etc. Better rates to be obtained on renewal of contracts.	Rs. ...	Existing motor services are governed by contracts but on termination of these, recommendation of the Committee will be followed. Proposals for new motor services will be dealt with as proposed.	Rs. ...	
33	"	95	12	Reduction in provision for conveyance of mails.	7,00,000	The provision for the current year has been reduced to Rs. 74 lakhs.	9.3 lakhs	
34	"	96	12	Reduction in charges for Account and Audit.	3,71,000	A reduction to Rs. 25 lakhs has been effected in the budget and endeavour will be made to keep to this figure but it has to be remembered that it is false economy to restrict the check on the transactions of the Department, which may mean in the end a considerable loss to the Revenues.	3,71,000	The question of further reduction is under consideration but the Accountant-General points out that considerable reductions amounting to about 170 clerks had already been effected in 1922-23.
35	"	97	14	Reduction in expenditure on travelling allowances.	4,61,000	The provision has been reduced to Rs. 15 lakhs and with the recent alteration of the rules and the strict supervision of travelling it is hoped to keep within this reduced figure.	8,55,000	
36	"	97	15	Check over wastage in forms and consequent reduction in expenditure on stationery and printing.	3,00,000	The provision for the current year has been reduced to Rs. 27,21,000 and steps are being taken to minimise wastage of forms.	5,00,000	
37	"	97	16	Reduction in provision for postal buildings.	9,19,000	The programme has been revised and the expenditure in the current year is limited to Rs. 6 lakhs.	9,19,000	
38	"	97	16	Outside tenders to be called for for large buildings.	...	The matter is under consideration and it is hoped to employ outside agency more extensively in future.	...	
39	"	98	17	Reductions in charges for supplies and services.	4,92,000	The reduced provision of Rs. 8 lakhs has been accepted.	4,92,000	
40	"	99	20	Revision of house rent allowances and reduction in provision for house rent, local and other allowances.	2,61,000	The scale of allowances is under consideration and the provision has been reduced to Rs. 22 lakhs.	2,69,000	
41	"	100	21	Automatic reduction in subsidies to cable companies.	50,000	The reduction has been effected.	50,000	

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42	Posts and Telegraphs.	120	22	Maintenance of telegraph and telephone lines.	Rs. 6,70,000	The provision has been reduced accordingly.	6,00,000	
43	"	101	23	Miscellaneous expenditure (purchase of stores).	81.3 lakhs	It has been necessary to raise the provision by Rs. 7½ lakhs owing to commitments on purchase of stores in England.	76.8 lakhs	
44	"	102	24	Payments under arrangements with Treasury.	...	The sum of Rs. 7 lakhs has been omitted on the presumption that payment will not be required this year as the arrangements are still under discussion.	7,00,000	
45	"	102	25	Reduction in furniture grant.	3,75,000	The reduction has been effected.	3,75,000	
46	"	103	27	Reduction in scales of clothing and extension of periods between issues (central purchase of supplies).	...	The question will be taken up with the Stores Department. Scales have been reduced and periods of issue extended.	...	
47	"	103	28	Reduction in provision for contingencies.	6,31,000	Reductions have been effected but it has been found necessary to reduce the saving by Rs. 1 lakh.	5,31,000	
48	"	103	29	Reduction in miscellaneous expenditure.	2,29,000	This reduction is being effected.	2,29,000	
49	"	104	30	Reduction in expenditure on maintenance and repair of buildings.	4,58,000	The reductions have been effected in the budget but it is now realised that the reduction was too severe and it may be necessary to increase the expenditure, the increase to be met by savings elsewhere.	4,60,000	
50	"	104	31	Reduction in expenditure on apparatus and plant.	97,000	It has been found necessary to provide for the same expenditure as in the past year owing to commitments.	...	
51	"	104	33	Reductions in depot establishments.	1,01,950	The establishment of the depots is under examination and all possible sources of economy are being explored.	17,950	Further reduction depends upon the enquiry now proceeding.
52	"	105	34	Reduction in telegraph workshops.	30,000	This reduction has been carried out.	30,000	
53	"	105	35	Reduction in Wireless expenditure. Closing of stations.	93,630	Further reductions have been effected. Patna has been closed. Poona placed in charge of maintenance party, Ishapore handed over to Army signals. Maymoo placed in charge of caretaker. Eight out of nine stations mentioned have been placed under care and maintenance parties. Peshawar alone being retained with minimum staff.	1,79,860	
				Dismantling of more stations.	...	The matter is one of general policy and is under consideration.		

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54	Posts and Telegraphs.	108	36-39	Reduction in capital expenditure on the telegraph department.	Rs. 50.7 lakhs.	The programme has been reduced accordingly but the reductions did not take into account necessary expenditure on telegraphs for new Delhi and essential expenditure on railway control lines and it will probably be necessary to raise the provision by Rs. 16 lakhs approximately.	50.7 lakhs.	
55	"	106	37	Raising of rental charges on canal and railway lines.	...	This question is under examination.	...	
56	"	107	59	Further purchase of automatic apparatus to be postponed and enquiry to be made into comparative cost of ordinary and automatic exchanges.	...	No new commitments will be entered into and the proposed enquiry has been undertaken.	...	
57	"	107	40	Appointment of Financial Adviser.	...	The appointment was made with effect from April 16th.	...	
58	"	107	(*)	Reduction in total estimates for the Department for 1923-24.	137.27 lakh.	The estimate has been reduced to Rs. 8,99,18,000.	12.24 lakhs.	The difference is mainly accounted for under 'salaries' where, as shewn above, the Committee had not taken into account unavoidable commitments for 1923-24.
59	Indo-European Telegraph Department.	116	6	Steps to be taken to improve the output per man.	...	To attain this object further recruitment to the signalling branches has been stopped.	...	
60	"	116	7	Reduction in allowances.	2,63,000	Some expenditure will be necessary on kran compensation owing to state of exchange. Allowances are being scrutinised and some local allowances have already been reduced. It is hoped that reductions anticipated will be secured.	...	Exact saving not known.
61	"	117	8	Reduction on repairs to lines.	31,000	Estimates have been substantially reduced and the full saving is expected.	32,000	
62	"	117	9	Reduction on repairs to buildings.	70,000	Accepted	70,000	
63	"	117	10	Reduction on apparatus and plant.	32,600	Estimate has been reduced to Rs. 9,500.	10,000	Efforts are being made to effect further possible savings.
64	"	117	11	Reduction under Stationery and Printing.	28,000	Six months supply will only be kept.	18,000	Full saving not yet known.

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65	Indo-European Telegraph Department.	118	13	Savings under contingencies and miscellaneous.	Rs. 1,78,000	The estimates have been reduced to Rs. 2,39,000.	Rs. 2,39,000	
66	"	118	14	Reduction on cable repairs.	76,000	Estimates have been reduced to Rs. 82,000 as against Rs. 1 lakh recommended.	94,000	
67	"	118	15	Reductions on cable factory.	2,810	Estimates have been reduced to Rs. 73,634 and it is hoped to reduce to the full extent recommended if prices fall.	6,200	
68	"	119	16	Reductions in expenditure on cable steamer.	1,10,000	The budget estimate stands at Rs. 2,55,000 and reduction depends on the fall in prices. The question of reduction in salaries and wages is under consideration.	2,000	
				Arrangement should be made with commercial cable company for repair of cables.	...	The only company which has a steamer near is the Eastern Telegraph Company at Aden and this steamer cannot be spared for other work.	...	
69	Indo-European Telegraphs.	120	18	Decision to be arrived at on future control of Department and meanwhile no capital expenditure to be incurred.	...	The question is under the consideration of the Secretary of State and meanwhile no expenditure of a capital nature is being incurred.	...	
70	"	120	19	System of commercial accounts should be introduced and form of accounts improved.	...	Under consideration	...	
71	"	120	Conclusion (5)	Reduction into total estimates.	7,34,000	The provision has been reduced accordingly.	7,34,000	
72	Irrigation	124	...	Reduction in expenditure and closing of one division.	2,18,000	The savings will be effected and one division has been closed.	2,18,000	
73	General Administration.	128	8	Modification of scales of pay for lower division of the Secretariat.	...	The proposal is at present under examination. Departments already stop promotion at the efficiency bar where clerks are not qualified for more important work.	...	
74	"	129	9	Economy in expenditure of a contingent character.	...	The allotments of all departments have already been cut down materially under these heads as will appear from the demands for grants, and the expenditure is undergoing further scrutiny.	Included under general reductions in departmental budgets.	

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75	General Administration—contd.	128	9	Reductions in number of peons.	Rs. ...	Reductions have been carried out in all departments in accordance with a revised distribution scale calculated to effect an approximate reduction of 25 per cent.	Rs. Included under general reductions in departmental budgets.	The actual saving effected is not at present available but it is probably in the neighbourhood of the Rs. 75,000, suggested.
76	"	128	10	Reduction in expenditure on telegrams.	...	Substantial reductions have been effected in the provision under all departments which are curtailing the number and length of telegrams to the full extent possible.	"	
77	"	129	11	Reduction in number of officers and amount of establishment and records moved down from Simla.	...	The proposal is being examined in all departments in connection with the next move and expenditure will be restricted as much as possible.	...	
78	"	129	12	Reductions in Foreign and Political Department.	1,47,000	It will be seen from the demands for grants that the allotment for this department has been reduced from Rs. 10,42,000 to Rs. 9,41,200.	1,07,000	The possibility of further reduction is under consideration.
79	"	129	13	Reductions in Home Department including abolition of post of Inspector of Office Procedure.	17,000	The Department is effecting savings of Rs. 87,000 and the balance will be effected by larger reductions under attached offices. The post of Inspector of Office Procedure has been abolished.	87,000	
80	"	130	14	Reductions in Legislative Department.	1,08,000	The full reduction is being accepted. One post of Deputy Secretary has been held in abeyance. The Peace Treaty Branch has been amalgamated with the Local Clearing Office saving Rs. 24,400. Further reductions have been made in clerical and menial staff.	1,03,000	
81	"	130	15	Reductions in Department of Education and Health. Abolition of Educational Commissioner, Bureau of Education and Central Advisory Board.	...	The Department of Education and Health has been amalgamated with that of Revenue and Agriculture. Government have decided that it is necessary to retain the Educational Commissioner for a further year but propose to effect economy by placing him in charge of the duties of Superintendent of Education, Delhi and Ajmere. The Central Advisory Board has been held in abeyance and the post of Curator, Bureau of Education, abolished.	...	The economies are shown under the remarks on the general recommendation for amalgamation of departments. The retention of Educational Commissioner will be reconsidered after experience has been gained of the working of the present reorganisation.
82	"	130	16	Reductions in Finance Department.	1,01,200	The budget allotment has been reduced to Rs. 5,00,000 as proposed and the reductions noted have been effected.	1,01,200	
83	"	130	17	Military Finance.	69,000	The full saving is being effected.	69,000	
84	"	131	18	Reductions in Revenue and Agriculture Department.	...	This Department has been amalgamated with the Department of Education and Health.	...	The financial effect of the amalgamation is shown under the section dealing with the reorganisation of the Secretariat.

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85	General Administration— <i>contd.</i>	132	19	Enlargement of the Board of Revenue.	Rs. ...	The scope of the Board has been enlarged to include the administrations of Customs, Salt, Opium, Excise and Stamps.	Rs. ...	
86	"	132	19	Discontinuance of Industrial Intelligence and the Labour Bureau.	...	The intelligence work has been discontinued. The reorganisation of the Department involves the abolition of the Labour Bureau as such and consequent reduction of staff.	...	
87	"	132	20	Reductions in Army Department.	Rs. 84,000	Further reductions have been effected in the Marine establishment and Army list sections and in other portions of the office. The total reductions proposed have been carried out.	Rs. 84,000	
88	"	133	21	Reductions in Public Works Department.	...	The Department has been amalgamated with that of Industries and Labour. The 'estate work' is now dealt with by the Consulting Engineer in touch with local officers.	...	The effect of the reorganisation is shown under the section dealing with the reorganisation of the Secretariat.
89	"	133-134	22-24	Reorganisation of five Departments under two Departments and expansion of Board of Revenue.	10,68,900	Government have not adopted the exact line suggested by the Committee but have proposed as a more workable arrangement the reduction of five departments to three costing approximately as follows:— Rs. Commerce ... 3,00,000 Education, 5,15,000 Health and Lands. Industries and Labour, 6,00,000 Total 14,15,000	See remarks	The figure of Rs. 14,00,000 represents the cost of the departments as reorganised and with the addition of Rs. 1 lakh for addition to the Board of Revenue, the reorganisation will cost slightly over Rs. one lakh more than the arrangements proposed by the Committee. The figure for the Education, Health and Lands Department excludes the cost of the Secretariat Library for which a reduced figure of Rs. 17,000 will be required. On the other hand there will be a saving of Rs. 14,000 approximately on the assumption by the Educational Commissioner of the duties of Superintendent of Education, Delhi and Ajmere. It must be

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89	General Administration— <i>contd.</i>				Rs.		Rs.	understood that the total saving of Rs. 9½ lakhs will not be realised in the current year as it will be necessary to provide funds:— (a) for the period required to bring the new organisation into effect, i.e., up to 16th April. (b) for expenditure on the grant of notice, leave and travelling allowance concessions to the staff which has been retrenched. Details of this extra expenditure during the current year are not yet available, but a possible estimate is Rs. 3 lakhs.
90	"	135	26	Saving on Staff Selection Board.	13,300	There will be no examination this year and the question of the retention and constitution of the Board will be further examined. If it is retained, endeavour will be made to make it self-supporting. The budget provision this year is only Rs. 4,880.	17,820	
91	"	135	27	Central Bureau of Information.	...	No specific recommendation was made but it has been decided to reduce the expenditure proposed by Rs. 12,000.	42,000	
92	"	135	28	Bureau of Central Intelligence. Proposals as regards recovery of cost of the Finger Print Bureau and the Questioned Documents Section or their abolition.	3,01,000	Orders have issued for closing of the Bureau from 1st July, and arrangements are in train to make the Document Section self-supporting.	2,58,000	The Committee have assumed as a direct saving the cost of the Documents Section, but if it is continued—even if it be made self-supporting—provision will be necessary on the expenditure side of the Budget.

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93	General Administration.— <i>contd.</i>	136	29	Speeding up of work of elimination of records with a view to reduction of staff and setting free valuable accommodation.	Rs. 2,000	The budget estimates have been reduced to Rs. 1,01,000. Recommendations for the weeding of the pre-mutiny records are under consideration. Measures have been taken for weeding the post-mutiny records.	Rs. 11,400	
94	"	136	30	Abolition of appointment of Inspector-General of Irrigation.	72,100	After careful consideration Government have decided that in view of the importance of irrigation questions it is necessary for them to retain the services of an expert. It has however been decided to abolish the separate post and the duties will be performed by the Consulting Engineer to Government who also takes over part of the works hitherto transacted in the Public Works Department of the Secretariat. The appointment of Assistant Inspector-General has been abolished.	9,400	The cost of the Consulting Engineer and establishment is estimated at Rs. 60,000 but this includes Rs. 13,000 for establishment which was not separately provided for in the estimates for the Inspector-General of Irrigation but was included in the budget of the old Public Works Department.
95	"	136	31	If Local Governments press claims for services rendered, the Central Government should consider whether arrangements cannot be more economically carried out by an agency of its own.	...	This has been accepted in principle and claims will be dealt with in the light of this proposal.	...	
96	"	137	33	Reductions on the North-West Frontier.	...	The estimate has been reduced to Rs. 17,22,000 as against Rs. 17,38,000 proposed.	16,000	
97	"	137	34	Reductions in Delhi, and payment by the Municipality of the cost of their Secretary.	32,000	Reductions have actually been effected under the Chief Commissioner's establishment to the extent noted. The arrangement with the Municipality has been in force since 1906 but the question has been taken up whether the proposal of the Committee is practically feasible and administratively sound.	26,000	The budget as shown in the Demands for Grants is increased this year by the transfer of certain expenditure from the Head—Land Revenue.
98	"	137	35	Reduction in Ajmere.	9,000	The savings have been effected.	9,000	As in Delhi, charges have been transferred from Land Revenue. Excluding these the budget on the old basis is Rs. 1,10,000.

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99	General Administration.— <i>contd.</i>	143-144	48-55	Expenditure of High Commissioner.	£ 5,000	The High Commissioner has been addressed on the specific recommendations. As the budget is a net budget after deduction of recoveries much depends on the actual recoveries but meanwhile a lump deduction of £10,000 has been made in the net total for 1923-24 and the reductions in gross amount to £37,550. Under this head the net estimate for the present year is £142,800 compared with £169,900 (estimates) or £183,300 (revised) for 1922-23. The question of increasing recoveries for agency work done has been taken up. The reduction proposed under Stationery and Printing has been effected. The High Commissioner has been addressed on the recommendation as regards indents in paragraph 51. The issue of the orders recommended in paragraph 53 is also under consideration.	...	Note. —The total reductions under General Administration already effected in the budget estimates of 1923-24 compared with the budget of 1922-23 amount to Rs. 30,37,000 as against Rs. 40,89,000 recommended by the Committee for the whole expenditure dealt with under "General Administration."
100	"	138-142	37-48	Reductions in expenditure of India Office.	48,700	The Government of India are in correspondence on the subject with the Secretary of State who has intimated that every practicable method of economy is being carefully considered and that a detailed statement of results expected will be furnished at an early date. Meanwhile under his instructions a lump deduction of £15,000 was made in the original estimates for the current year. The Secretary of State has pointed out that the actual expenditure of the past year was considerably higher than the figure assumed by the Committee. The net budget for the current year is £97,600.	Awaiting advice from Secretary of State.	
101	Political Expenditure	154	7	Reduction in cost of frontier defence and immediate saving on cost of rations, clothing, etc.	Rs. 1,00,000	The position on the frontier is still unstabilised. The proposed saving will probably be effected under grain compensation charges.	Rs. 1,00,000	
102	"	154	9	Reduction in cost of entertainment.	48,000	This reduction has been made.	48,000	
103	"	154	11	Reduction in provision for political expenditure in the North-West Frontier Province.	26,27,000	The budget estimate for the year 1923-24 stands at Rs. 99,31,000.	10,17,000	Reduction in expenditure is still under consideration. As the position on the Frontier is still unstabilised, it is impossible to say what the final expenditure of the year will be.

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104	Political expenditure.— <i>contd.</i>	154	14	Reduction in Baluchistan under Political Agencies.	Rs. 1,45,000	Reductions of Rs. 1,21,000 have already been effected and further reductions are under consideration.	Rs. 1,21,000	
105	"	155	16	Reduction in temporary levies on the Sarhad.	90,000	Under consideration	...	Exact saving likely to be effected in the current year not yet known.
106	"	155	17	Additions to irregular forces to be abandoned.	8,22,000	The proposed additions have been abandoned, pending examination of the Railway Project.	8,22,000	
107	"	155	18	Reduction in contract for food-stuffs.	59,000	Under consideration	50,000	
108	"	155	19	Reduction in political expenditure in Baluchistan.	2,91,000	It is hoped to limit the expenditure to Rs. 40 lakhs this year.	2,31,000	The total reduction made on the provisional estimate for 1923-24 is Rs. 14,35,000.
109	"	155	20	Re-consideration of plans of Kabul Legation.	...	Estimates are being re-considered.	...	
110	"	156	22, 23	Administration of Aden.	...	Under consideration	...	
111	"	157	24	Incidence of pay of Chairman, Aden Port Trust and other reductions in Aden.	33,000	Under consideration	18,000	A deduction of Rs. 16,000 has been made on account of the Port Trust and other charges, pending examination.
112	"	157	27	Saving on lighting and buoying of the Persian Gulf.	1,00,000	A deduction on this account has been made. The transfer of the "Lawrence" is under consideration.	1,00,000	
113	"	157	28	Incidence of expenditure in Persia.	...	Proposals have been made to the Secretary of State on the lines recommended.	...	
114	"	159	34	Reduction in charges in Central India.	21,000	An appointment of Medical Officer, Indore, has been abolished. One agency has been kept vacant for the present as an experimental measure.	21,000	Savings on the agency not yet reported.
115	"	159	36	Examination of incidence of charges on account of the Resident, Mysore.	...	Proposals are under examination.	...	
116	"	160	40	Administration of the Bombay States and meanwhile a reduction of Rs. 1,75,000.	1,75,000	The recommendations made by the Committee will be considered when a decision has been arrived at on the question of the transfer of the Bombay States. Meanwhile the Government of Bombay are unable to accept a reduction of more than Rs. 1,51,000.	86,000	A lump deduction has been made for the current year pending examination of the question.

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117	Political Expenditure— <i>contd.</i>	160	1	Reductions in charges in Burma.	Rs. 1,50,000	Reductions slightly in excess of this amount have been accepted.	Rs. 1,50,000	
				Adoption of proposal for a fixed contribution for Political charges in Burma.	...	The question of political charges is under consideration with the Burma Government.	...	
118	"	161	Conclusion (b)	Total reduction in Political expenditure.	45,70,700	Excluding some Rs. 60 lakhs on account of military police in Burma and Assam transferred from the head Adjustments to this head in the current year, the provision in the budget for 1923-24 is Rs. 271 lakhs, a reduction of Rs. 38½ lakhs as compared with the budget estimates of 1922-23.	38,53,000	Further reductions are under consideration.
119	Audit	164	2	Reduction of appointment of Auditor, Government of India Sanctions, and conversion of other appointments.	88,000	These reductions have been accepted.	Included in total saving on Department.	
120	"	165	5	Separation of audit and accounts.	...	This and the other points raised in paragraphs (3) and (4) are under consideration.	...	
121	"	165	6	Simplification of rules of audit.	...	The matter is and has been receiving the continuous attention of the Auditor-General.	...	
122	"	165	Conclusion (c)	Limitation of budget estimates.	3,76,000	The provision has been fixed at Rs. 79,40,000.	3,76,000	
123	Administration of Justice.	166	4	Reductions in expenditure in North-West Frontier.	30,000	Sanction has been accorded to certain retrenchments proposed by the Chief Commissioner on the recommendations of the Local Retrenchment Committee.	26,000	
124	"	166	6	Abolition of Small Causes Court in Ajmere.	16,000	It has been shown that the abolition of the Court would cause great inconvenience and involve a loss of revenue. Further the total saving could not be Rs. 16,000. Reductions of Rs. 12,000 are, however, being made in other directions as a set off.	12,000	
125	Jails	168	4	Adoption of revised scale of court fees.	...	The United Provinces' revised scale is being introduced.	...	
				Reduction of expenditure in Minor Administrations.	37,000	Larger reductions have been made on account of fall in prices.	73,000	
126	"	168	Conclusion (2)	Limitation of budget provision.	4,80,000	Provision has been limited to Rs. 4,00,000 for the current year. A reduction of Rs. 4,26,000 on the preliminary estimates of 1922-23 and of Rs. 5,03,000 on the revised estimates for that year.	4,26,000	

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127	Police ...	169	4	Abolition of appointment of Personal Assistant.	16,000	A lump deduction of Rs. 1,25,000 has been made on the estimates for 1923-24 and total provision reduced to Rs. 50,30,000 compared with Rs. 55,60,000 which was the estimate for 1922-23.	1,25,000	The question of further reductions will be considered on receipt of the recommendations of the Chief Commissioner.
128	" ...	170	5	Reductions in police force.	250,000			
129	" ...	170	6	Continuance of frontier allowances and economies in clothing of police.	...	These questions are under consideration.	...	
130	" ...	171	9	Revised scale of pay for police recruits in Baluchistan.	...	Under consideration.	...	
131	" ...	171	11	Reduction of police expenditure in Baluchistan to Rs. 12,10,000.	...	Reductions have been effected and provision has been limited to Rs. 12,06,000.	10,000	
132	" ...	171	12	Reduction in expenditure on police in Delhi.	92,000	A reduction of Rs. 60,000 has been on the estimates for the current year and the provision limited to Rs. 7,98,000 compared with Rs. 9,74,000 which was the revised estimate for 1922-23. It is doubtful whether it will be possible to effect further reductions.	60,000	
133	" ...	171	13	Reduction in police expenditure in Coorg.	21,000	This reduction will be effected.	21,000	
134	" ...	172	14	Reduction on police expenditure in Ajmere.	...	The Committee recommended that expenditure should be limited to Rs. 3,28,000. Reductions of Rs. 60,000 have been effected and the provision for 1923-24 will be reduced to Rs. 3,97,000. The figure adopted by the Committee represented the original estimate for 1922-23 after deduction of a cut of Rs. 60,000 towards meeting the lump cut made by the Assembly. Necessary expenditure was subsequently restored under this head. The possibility of further economy will be explored.	50,000	
135	" ...	172	15	Revision of Contributions from Durbars for Rajputana Police.	...	The question is under consideration in connection with the reorganisation of the Police.	...	

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136	Police ...	172	16	Revision of arrangements for payment of Railway Police.	Rs. ...	Under consideration.	Rs. ...	
137	" ...	172	16	Abolition of Inspector General and reduction of expenditure on police.	10,000	Reductions of Rs. 24,000 have been made and the budget provision will stand at Rs. 3,78,000. The actual expenditure in 1921-22 was Rs. 1,27,000.	24,000	The possibility of further reductions will be examined.
138	" ...	173	17	Revision of contribution for police aid rendered to States and limitation of expenditure to Rs. 2,70,000.	...	A reduction of Rs. 24,000 has been made in the current year and the net expenditure will be Rs. 2,97,000. The Committee did not take into account the additional provision required for revision of pay and extra establishment entertained in consequence of the reduction in the Malwa Bhil Corps.	...	
139	" ...	173	Conclusion.	Limitation of police expenditure to Rs. 80,00,000 or reduction of Rs. 9,00,000 on the estimated expenditure for 1922-23.	...	The revised estimates for 1922-23 were Rs. 89,15,000. The estimates for 1923-24 are Rs. 66,81,000 and further reductions are under consideration.	...	Considerable reductions have been effected when allowances are made for necessary additional expenditure on account of increments of pay.
140	Ports and Pilgrage.	175	8	Steps should be taken to make the various services self-supporting and reduction of Rs. 2,11,000 should be made in expenditure.	2,11,000	The budget estimates for 1923-24 are Rs. 25,12,000, a reduction of Rs. 1,20,000 and it is expected that receipts will increase. The reorganisations of the services are under examination. The case of the Bengal Pilot Service has been examined by a local Committee. The question of making lighthouse services and the survey of vessels entirely self-supporting is under consideration.	1,20,000	
141	Ecclesiastical expenditure.	175	...	Early decisions should be arrived at on questions of policy now under consideration. Further recruitment of chaplains should be stopped and further economies effected.	2,00,000	The general questions of policy with regard to ecclesiastical matters are being considered and no fresh recruitment is being made. A saving of Rs. 1,00,000 at least is expected in the current year.	1,00,000	
142	Scientific Departments.	180	4	Reduction in cadre of military officers, etc.	50,000	Four vacancies in the cadre of military officers have not been filled up and revision of 3 officers has been arranged.	50,000	
						Retrenchment of military officers has been suspended. The immediate saving of Rs. 50,000 will be effected.		

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143	Scientific Departments.	180	5	Co-operation between Survey Department and Local Governments, etc.	Rs. ...	Under consideration ...	...	
144	"	180	6	Saving of 20 per cent. on Supplies and Services.	8,400	The saving has been effected.	8,400	
145	"	181	7	Reduction in contingent charges for Trigonometrical Survey Office.	24,000	The provision has been reduced to within Rs. 40,000.	24,000	
146	"	181	8	Placing of accounts of the Mathematical Survey Office on a commercial basis, etc.	...	The question is being considered by a special committee.	...	
147	"	181	8	Charges of Instrument Office to be fixed on a uniform basis to cover full cost.	...	Under examination by a special committee.	...	
148	"	...	...	Stocks to be reduced.	...	Ditto.	...	
149	"	182	10	Reduction in survey parties. Estimates to be reduced to Rs. 26 lakhs.	9,00,000	A lump deduction of Rs. 61 lakhs has been made in the general charges for survey parties and the question of reducing the number of parties is under consideration.	6,50,000	
150	"	182	12	Retention of headquarters at Calcutta to be examined.	...	According to latest estimates the cost of new offices at Dehra Dun would be Rs. 47 lakhs while the Calcutta offices would fetch Rs. 25 lakhs. It has been decided to postpone the transfer.	...	
151	"	182	13	Abolition of Weather Reports and reductions in general expenditure on Meteorology.	84,000	Monthly weather review has been abolished and issue of reports during dry season discontinued.	84,000	
152	"	183	14	Vacancies in Geological Survey to be kept unfilled till Indian recruits available. Department to work in co-operation with Provincial Governments.	67,000	Of 8 vacancies in the current year three only will be filled. The budget estimate for the current year is Rs. 5,73,000. Under consideration.	73,000	
153	"	185	17	Reduction in plantation of quinine.	50,000	The reduction has been effected.	50,000	
154	"	185	18	Estimates for Botanical Survey to be limited to Rs. 18,35,000.	8,50,000	The estimate has been reduced to Rs. 18,70,000.	9,03,000	
155	"	185	19	Reduction of establishment of Zoological Survey and provision to be limited to Rs. 1,30,000.	47,000	The provision will be limited to Rs. 1,55,000 and proposals for further reduction are under consideration.	22,000	

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156	Scientific Departments.	185-187	20-21	Reductions in Archaeological Survey.	Rs. 6,29,000	It has been decided to make a lump reduction of Rs. 3 lakhs in the current year and restrict expenditure to Rs. 13,72,000 as against Rs. 10 lakhs recommended by the Committee. The reduction has been effected under the heads supplies, services and contingencies.	Rs. 3,03,000	
157	"	187	25	Recovery of cost of mine surveys.	...	Will be taken up in connection with amendment of Land Acquisition (Mines) Act.	...	
158	"	187	25	Curtailment of free issues of publications, etc.	...	Under consideration	...	
159	"	188	27	Reductions in Archaeological Section of Calcutta Museum.	14,000	The expenditure has now been transferred to the head Archaeological Survey in which a reduction of Rs. 3,00,000 has been effected. The present proposal will be considered in making the general reduction.	...	
160	"	189	30	Reductions in expenditure in Minor Administrations.	16,000	Accepted	16,000	
161	"	189	31	Discontinuance of grant to Imperial Institute.	21,000	Accepted	21,000	
				Grant to Mineral Resources Bureau to be reduced to £1,000.	18,000	Accepted	18,000	
162	"	190	31	Reduction in purchase of Stores in England.	4,01,000	The provision has been reduced to £23,700.	3,44,500	
163	"	190	(6)	Provision for Scientific Departments to be limited to Rs. 82,58,000.	30,02,000	Provision has been limited to Rs. 88,33,000.	23,67,000	Further reductions are under consideration.
164	Education	192	3	Elimination of grant to Rajkot College and reduction of grant to Aitchison College.	38,000	The provision for the Rajkot College has been reduced to Rs. 10,000 and that for the Aitchison College to Rs. 15,000.	28,000	
165	"	193	7	Reduction in grant to Training College, Peshawar.	25,000	The post of Principal will be kept unfilled and possibility of further reductions is under consideration.	...	
				Contribution to Islamia College not to be increased. Grant to Dera Ismail Khan College to be withdrawn.	5,000	There is no proposal to increase grant to the former college. Question of latter college under consideration.	...	
166	"	194	8	Reduction in grant for secondary education in the North-West Frontier Province.	1,68,000	Government have decided to reduce Rs. 60,000 under University and Secondary education. The Chief Commissioner has been asked what further steps will be required to reduce the grant to the figure proposed by the committee.	60,000	
167	"	195	10 and 11	Reductions in cost of special schools and general charges.	44,000	Reductions of Rs. 40,000 have been made.	40,000	

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		Page.	Para.					
					Rs.		Rs.	
168	Education	195	12	Reductions in expenditure on Secondary Education in Baluchistan.	15,900	The reductions will be effected.	15,000	
169	"	195	13	Reduction in general charges in Baluchistan.	18,750	The provision has been reduced by Rs. 7,900 and further reductions are under consideration.	7,000	
170	"	196	15	Reductions of grants to Delhi Colleges.	91,500	It has been decided that the provisional cut should be restored to the extent of Rs. 25,000.	6,500	
171	"	196	16	Scheme for Delhi University to be re-considered.	50,000	It has been decided to retain the University and provision has been voted by the Assembly.	...	
172	"	196	16	Reduction in expenditure on secondary education in Delhi.	50,500	A provisional reduction of Rs. 45,000 was made in the budget but it has been decided to apply to the Assembly for restoration of Rs. 25,000.	20,000	
173	"	197	17	Reduction in expenditure on education in Coorg.	41,000	The provision has been reduced by Rs. 20,000.	20,000	
174	"	197	19	Reduction of expenditure on the Ajmere College.	19,750	Under consideration	...	
175	"	198	20	Reduction in expenditure on secondary education in Ajmere.	33,000	A lump deduction of Rs. 20,000 was made and reductions to the extent of Rs. 12,500 are being effected. Further reductions are under consideration.	13,500	
176	"	198	24	Reductions in grants for secondary education in Itanputana.	14,000	Under consideration	...	
177	"	199	26	Reductions in grants in Hyderabad.	18,400	A reduction of Rs. 9,000 has been accepted for the current year.	9,000	
178	"	200	33	Curtailment of grants for higher education, etc.	...	The Educational Commissioner is examining the question.	...	
179	"	200	34	Grants for primary education to be fixed on a capita-tion basis.	...	It is stated that the system advocated by the Committee is wasteful and that it has been discredited in the past.	...	
180	"	200	Conclusion (G).	Reduction in total expenditure on education.	5,10,000	The provision for Education after restoration of Rs. 60,000 will stand at Rs. 33,06,000 compared with Rs. 27,77,000 recommended by the Committee.	...	The total reductions which have now been admitted amount to Rs. 1,90,000.
181	Medical Services and Public Health.	204	3	Abolition of appointments of Officer on Special Duty and D. A. D. G.	30,900	The appointments have been abolished.	25,300	

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		Page.	Para.					
					Rs.		Rs.	
181	Medical Services and Public Health—contd.	...	...	Reduction of appointment of Public Health Commissioner.	45,000	It has been decided that the post should not be abolished during the current year. It is proposed to effect countervailing savings of Rs. 13,000 under other items.	13,000	
182	"	204	4	Reduction in expenditure in Director-General's Office.	34,000	Reductions in excess of the recommendation have been made.	37,000	
183	"	205	8	Abolition of appointments of 12 Bacteriological officers.	1,27,400	The provision for 1923-24 was reduced to Rs. 1,07,000. Further reductions of Rs. 12,500 are proposed. It is considered necessary to retain a nucleus of 6 officers.	1,02,900	
184	Medical Services.	205	8	Contribution to Indian Research Fund to be discontinued.	5,00,000	This has been discontinued for the present.	5,00,000	
				Appointment of Director, Medical Research to be abolished.	30,000	The appointment has been kept in abeyance and proposals have been made for abolition.	27,500	
185	"	206	11	Reduction in plague charges and grant for Central Health Board.	10,500	Accepted	10,500	
186	"	206	12	Reduction of charges for Imperial Serologist and abolition of appointment if not made self-supporting.	20,000	Reductions effected, fees will be levied and abolition will be considered if office does not prove self-supporting.	20,760	
187	"	206	13	Charges to be levied for training at X-Ray Institute.	...	It appears that the amount recoverable would be so small that it would not be worth while to effect recovery.	...	
				Cancellation of indent for stores and limitation of stocks.	1,27,000	Accepted	1,27,000	
188	"	206	14	Revision of quarantine arrangements.	...	It is stated that the Committee has misunderstood the situation and it is not proposed to pursue the matter further.	...	
189	"	207	16	Reductions in Baluchistan.	57,000	A reduction of Rs. 41,500 will be effected under Medical and Rs. 10,000 under Public Health.	51,500	
190	"	207	17	Reductions in Delhi.	54,000	The item of Rs. 23,000 was in correctly reported to the Committee as non-recurring. It is hoped to secure a saving of Rs. 9,000 under Medical and of Rs. 7,000 under Public Health. Plague has altered the situation.	16,000	

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191	Medical Services.	208	18	Reductions in Coorg	Rs. 11,500	A lump deduction of Rs. 10,000 has been made and further reductions are under consideration.	Rs. 10,000	
192	Medical Services and Public Health.	208	Conclusion (4)	Total reductions in these Departments.	11,19,000	The total reductions made under these two heads amount to about Rs. 12 lakhs.	12,00,000	
193	Agriculture	209	4	Dairy Farms to be self-supporting and two Military Farms to be transferred to the Department.	...	Under consideration	...	
194	"	210	6	Central Cotton Committee to be self-supporting.	79,000	All expenditure incurred will be met from proceeds of Cotton Cess.	79,000	
195	"	210	7	Continuance of Sugar Bureau to be examined.	...	It has been decided to continue the Bureau in view of the useful work which it does.	...	
196	"	210	8	Local Government to be asked to increase contribution to Pusa Hospital.	...	The Local Government has been addressed.	...	
197	"	210	9	Reductions in establishment of Agricultural Adviser.	10,000	Accepted	10,000	
198	"	210	10	Reduction of Rs. 10,000 under supplies, services, etc.	10,000	Reduction of Rs. 5,000 accepted.	5,000	
199	"	211	11	Reduction in expenditure on Research Institute.	15,000	Accepted	15,000	
200	"	211	12	Charges for training of students at Pusa Institute.	...	Under consideration	...	
201	"	211	13	Muktesar Institute to be self-supporting.	...	Under consideration. A reduction of Rs. 35,000 has been made in the expenditure.	...	
202	"	211	14	Reductions in North West Frontier Province and Baluchistan.	19,000	Accepted	19,000	
203	"	211	Conclusion (4)	Reductions in total expenditure on Agriculture.	2,85,000	Actual reductions amount to Rs. 2,55,000.	2,55,000	
204	Industries	212	5	Postponement of School of Mines and Geology.	...	It has been decided to make no provision for the construction of the School in 1923-24.	...	
205	Civil Aviation.	213	3	Retention of Chief Inspector not justified.	...	Appointment has been retained for six months pending consideration of future arrangements.	...	
				Provision for Aerodromes.	7,000	No provision has been made	13,000	

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206	Civil Aviation.	213	4	Disposal of gift Aeroplanes.	5,000	Machines have been disposed of.	5,000	
207	Do.	213	5	Reduction in total provision.	33,000	Provision has been reduced to Rs. 24,000 and further reductions are under consideration.	24,000	
208	Miscellaneous Departments.	214	4-6	Reductions under Commercial Intelligence.	2,50,000	The expenditure has been reduced to Rs. 2,53,000 and the possibility of further reduction is under consideration particularly in the matter of publications.	2,27,000	
209	Do.	216	12	Abolition of Board of Examiners.	50,000	The Board is being abolished and expenditure in the current year reduced to Rs. 35,000.	31,000	
210	Do.	216	13	Fees to be charged for inspections by Explosives Department.	...	Under consideration.	...	
211	Do.	216	15	No provision to be made for further expansion of the Indian Stores Department until expansion is financially justified. Expenditure to be limited to Rs. 3,00,000.	83,000	Government have decided that expenditure on the Stores Department should be allowed to the extent of Rs. 4,40,000 in the current year to permit of expansion to the extent contemplated when the budget was originally fixed at that figure in accordance with the sanctioned programme.	...	
212	Do.	216	16	Discontinuation of registration of Provincial Trade statistics.	15,000	Reductions have been effected.	0,000	
213	Do.	217	18	Abolition of separate Office of Indian Trade Commissioner in London.	1,15,000	The proposal has been accepted saving £4,000 in the current year. The saving will be greater next year. The appointment of Trade Commissioner, East Africa, has also been abolished at a saving of about Rs. 30,000.	90,000	
214	Do.	217	19	Reduction in provision for expenditure in England on sundry items.	45,000	A reduction has been effected to this extent, but it appears that there will be a carry over of some £2,500 from last year and it is doubtful whether the whole saving will be effected.	45,000	
215	Do.	217	Conclusion (9)	Total reductions under the head Miscellaneous Departments.	11,18,000	Excluding the special provision of Rs. 23,40,000 for the British Empire Exhibition a saving of Rs. 7,19,000 has been effected in the normal expenditure under this head.	7,19,000	Further reductions under consideration.
216	Customs	218	Conclusion.	Strength and pay of staff in Customs Houses to be examined.	...	The question will be taken up when a Customs Member has been appointed to the Board of Revenue.	...	
217	Salts	221	6	Introduction of commercial accounts.	...	Under examination by an accounts officer.	...	

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218	Salt ...	221	8-0	Reductions in Northern India Salt Revenue Department.	Rs. 13,51,000	Accepted ...	Rs. 13,51,000	
219	Do. ...	223	12	Reduction in Bombay and examination of possibility of Central Government taking over administration of Salt.	5,02,000	Reduction accepted. Question of administration is under consideration.	5,02,000	
220	Do. ...	224	18	Total reductions in Salt Estimates.	19,15,000	These reductions have been accepted.	19,15,000	
221	Opium ..	225	3	Abolition of appointment of Managing Director.	18,000	Under consideration. If the appointment is necessary, an endeavour will be made to effect equivalent reductions elsewhere.	...	
222	Do. ...	225	4	Reduction of purchase price paid to cultivators.	...	The proposal has been examined, but it is reported to be too early to reduce the present price.	...	Question will be reconsidered after a year. NOTE.—The reduction of Rs. 20 lakhs assumed by the Committee was based on estimates which were then incomplete. Further prior commitments for purchase of opium have made it impossible to effect the reduction assumed. In any case any reduction in expenditure would mean a considerable loss of revenue.
223	Land Revenue.	227	4	Reductions in North-West Frontier Province.	1,68,000	Provision has been reduced to Rs. 4,61,000.	65,000	Reductions are under consideration. Special provision had to be made for the Peshawar Settlement.
224	Do. ...	227	5	Reductions in Baluchistan.	31,000	Accepted ...	31,000	
225	Do. ...	227	7	Reductions in Coorg.	47,000	A reduction of Rs. 46,000 has been made, but part of this is due to adjustment. The question is under consideration.	46,000	
226	Do. ...	228	Conclusion.	Reduction in total expenditure under Land Revenue.	3,97,000	The budget has been reduced to Rs. 11,86,000.	3,98,000	A part of the reduction is due to readjustment of Treasury Charges.

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227	Excise ...	228	3	Arrangements to be made with provinces regarding payment of still-head duty or, alternatively, direct manufacture by Central Government.	...	Supplying provinces are not prepared to forego the duty and the question of erecting a distillery is under consideration.	...	
228	Stamps ...	230	7	Debit to minor administrations of cost of stamps supplied.	...	Steps being taken to give effect to this.	...	
229	Do. ...	231	8	Printing of post-cards in India.	...	Under consideration ...	...	
230	Stamps ...	231	10	Charging provincial expenditure direct to provincial accounts in England.	...	Under consideration with High Commissioner.	...	
231	Do. ...	231	11	Reduction of stocks.	...	Under consideration and saving anticipated.	...	
232	Do. ...	231	12	Claim against Provincial Governments for loss in exchange.	...	Under consideration ...	...	
233	Do. ...	234	13	Recovery of railway freight.	...	Accepted ...	...	
234	Do. ...	234	Conclusion.	Improvement in system of effecting recoveries.	2,00,000	The High Commissioner and the Controller have been addressed in the terms of this recommendation.	25,50,000	
235	Forests ...	231	2-3	Reduction in net expenditure on stamp operations.	...	Larger reductions are anticipated.	...	
236	Do. ...	235	7	Change in present method of administration and management of forests on commercial lines.	80,000	Under consideration ...	...	
237	Do. ...	236	9	Reconsideration of scheme for expansion of Research Institute and limitation of expenditure to Rs. 8 lakhs.	13,500	The scheme is under reconsideration and charges have been reduced to Rs. 8,73,000.	91,000	The reduction was made on the provisional estimate for the current year.
238	Do. ...	236	Conclusion.	Abolition of appointment of Director of Forest Studies in England.	6,90,000	Recommended to Secretary of State.	...	
239	Interest ...	238	5	Reduction in total Forest expenditure.	...	The total provision has been reduced to Rs. 46,10,300.	6,35,000	
				Purchase of sinking funds by open tender.	...	Under consideration ...	...	

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240	Currency	239	5	Discontinuance of one rupee note.	Rs. ...	The opinions of Local Governments and Chambers of Commerce have been invited. Meanwhile new supplies have been restricted and question of reducing cost of supply is also under consideration.	Rs. ...	
241	Mints ...	242	4	Closing of portion of Mints.	...	Under consideration	...	
				Transfer of Calcutta Mint to cheaper site.	...	Under consideration with Government of Bengal.	...	
242	Do. ...	244	Conclusion	Reduction in expenditure on Mints.	4,12,000	The reduction will be effected.	4,12,000	
243	Exchange	244	2	Revision of method of shewing exchange in the budget.	...	The method has been revised in the current budget though on different lines.	...	
244	Civil Works	246	3	Reconsideration of expansion of Forest Research Institute.	...	Expenditure will be limited to existing commitments. Provision for current year reduced.	2,00,000	
				Reconsideration of plans of Kabul Legation.	...	Plans are being reconsidered.	...	
				Dhanbad School of Mines.	2,00,000	Provision has been omitted in current year.	2,00,000	
				Reduction in provision for Agricultural Institute.	1,00,000	Provision reduced accordingly.	1,00,000	
				General reductions in expenditure on original works.	5,30,000	Total reductions effected	5,00,000	
245	Do.	246	4	Limitation of provision for repairs.	7,50,000	Accepted	7,50,000	
246	Do.	246	5	Future utilisation of buildings in Calcutta.	...	Under consideration	...	
247	Do.	247	6	Reductions in establishment charges in Rajputana and Central India.	40,000	An alternative scheme has been adopted involving abolition of two Executive Engineers and considerable further savings in establishment.	1,07,000	
				Reductions in Coorg	20,000	Reduction partly effected	12,000	Further reduction under consideration.
				Reductions in Simla	35,000	Will be effected	23,000	Saving of Rs. 42,000 proposed for 1924-25.
				Total reductions in establishment charges.	2,50,000	Reductions have been effected on lines proposed.	2,00,000	
248	Do.	247	7	System of tenders for complete works and of lump sum contracts whenever possible.	...	The system has been encouraged but as Local Governments are the Agents in this work, the question is largely for their discretion. The question is however under further consideration.	...	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on Budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
240	Civil Works	248	8	Revision of arrangements for execution of works now carried out by the agency of Local Governments.	Rs. ...	The question is under consideration and a scheme is being examined for an organisation independent of Local Governments.	Rs. ...	
250	Do. ...	248	9	Reappropriation of funds and introduction of a system to obviate rush of expenditure at end of year.	...	Under consideration	...	
251	New Delhi	249	5	Revision of scheme for construction of new station.	...	Under consideration	...	
252	Territorial and Political Pensions.	250	...	Endeavour to be made to effect progressive reductions.	...	The principle has been followed in the past and will be strictly adhered to in future cases.	...	
253	Superannuation allowances and pensions.	251	4	An actuarial examination should be made of the cost of revision of pensions.	...	The Government Actuary was consulted, but an accurate examination would mean very great delay. It has been otherwise ascertained that, compared with the present system, the revised rules are not likely to involve any material charges in present scale of expenditure.	...	
254	Do.	251	5	Adoption of varying mortality rates.	...	The principle has been accepted and an examination will be made.	...	
255	Do.	252	7	Debit to commercial departments of pensionary charges	...	This is already being done in the accounts of the main commercial departments and steps are being taken to include these charges in other departments which perform functions of a commercial character.	...	
256	Do.	252	8	Revision of temporary increased scales of pension in 1921.	...	Local Governments have been asked for their opinion and the question will be considered on receipt of their replies.	...	
257	Stationery and Printing.	253-250	...	Reductions and improvements in Stationery and Printing organisation.	10,37,000	The specific recommendations are under consideration and budget provision for 1923-24 has been reduced to Rs. 60 lakhs.	15,50,000	
258	Miscellaneous.	261	5	Special commissions of enquiry to be resorted to only in exceptional cases.	...	This recommendation has been noted and will be observed whenever possible.	...	
259	Do.	261	7	Local Clearing Office to be amalgamated with Peace Treaty Branch.	...	This has been carried into effect.	...	
260	Do.	262	9	Revision of incidence of certain payments to provinces.	45,000	Decision will shortly be arrived at. A provisional saving of Rs. 20,000 has been made.	20,000	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
261	Miscellaneous.	263	11	Reduction in miscellaneous expenditure on the North-West Frontier Province.	Rs. 1,22,000	Provision for grain compensation has been omitted. The reserve of Rs. 30,000 has been cut out and a reduction of Rs. 2,000 effected under Durbar Presents.	Rs. 1,20,000	
262	"	263	13	Reduction in miscellaneous charges in Delhi.	45,000	The reserve has been eliminated and the grant to the Notified Area reduced as proposed.	65,000	
263	"	264	Conclusion.	Reduction of provision under the head Miscellaneous.	14,63,000	It has not been possible to secure this reduction. The Committee assumed a reduction of Rs. 7,80,000 in expenditure in England under this head but the estimate for the current year is Rs. 21 lakhs, a reduction of Rs. 2,37,000 only. Provision has also been necessary for the Public Services and for unavoidable payments to provincial governments. Omitting the special provision for anticipated supplementary grants the normal estimate under this head will be Rs. 63,86,000. Reductions have been effected as indicated under the preceding items.	...	
264	Adjustments with Provincial Governments.	272	2	Steps to be taken to determine the amount of the fixed assignment to be made to Burma for the cost of Military police.	...	The question is under consideration with the Government of Burma.	...	
265	Expenditure in Minor Administrations.	277	Conclusion.	Settlement to be entered into with the North-West Frontier Province and Baluchistan.	...	The decision on the report of the North-West Frontier Province Enquiry Committee is awaited. Further, owing to the disturbed condition of the frontier, the present time is inopportune for framing standard figures to form the basis of a settlement. It is therefore proposed to postpone consideration of the question till the budget of 1924-25 is settled.	...	
				A special enquiry to be made into the cost of minor administrations in Central India and Rajputana.	...	This has been accepted. It is hoped to secure the services of the officer who conducted the enquiry in Coorg and to commence the investigation shortly.	...	

Serial No.	Head.	Reference to report.		Recommendation.	Reduction proposed on budget of 1922-23.	Action taken or now proposed.	Reduction in 1923-24.	Remarks (further action proposed, etc.).
		Page.	Para.					
266	Pay, leave and allowances.	285	Conclusion	(1) The whole question of pay and leave conditions of the subordinate services to be made the subject of an enquiry in which local Governments will be associated.	Rs. ...	Local Governments have been addressed on the question of pay and their replies are awaited. An examination of the present leave rules is in progress with a view to economy.	Rs. ...	
267	Pay, leave and allowances.	285	Conclusions (2) and (3)	Revision of travelling allowance rules.	...	The recommendations of the Committee have been accepted with a slight modification and orders have been issued accordingly.	...	The probable saving is not known but on the basis of expenditure for 1922-23, it is estimated that a saving of about Rs. 11 lakhs should be secured by the revision of the rules and stricter control over this expenditure.
268	General Observations.	292	"	Introduction of commercial accounts.	...	Will be adopted for all departments affected.	...	
269	.....	292	7	Reductions in holdings of stores.	...	Stocks are under examination in all departments affected and the recommendation is being carried into effect.	...	
270	...	...	...	Total reductions recommended in the civil departments.	6.05 lakhs.	Exclusive of interest and sinking fund charges, the total reductions now accepted in the current year's budget are over Rs. 7½ crores.	7.57 lakhs.	The possibility of further reductions is being considered.

CLERICAL RETRENCHMENTS FOLLOWING ON INCHEAPE COMMITTEE'S REPORT.

16. *Sir D. P. Sarvadhikary : Will the Government be pleased to state :

- (a) How many Indian Superintendents, clerks and menials have been retrenched as a result of the Incheape Committee's recommendation ?
- (b) How many European and Anglo-Indian Superintendents, Assistants and clerks have been similarly retrenched ?
- (c) The names of European and Indian officers of and above the status of Assistant Secretary who have been retrenched ?
- (d) Will the Government be pleased to state the designations of new appointments which have been created in the Government of India Secretariat and Attached Offices since the 1st January 1923 and the names of those who have been appointed to fill them, the pay of such appointments and the respective reasons for making the same ?
- (e) Will the Government kindly state the names and qualifications of officers in the Government of India Secretariat and Attached Offices who as a result of the reorganization following the Incheape Report have been provided with posts carrying higher salaries than those which they drew in posts occupied by them on January 1st, 1923 ? How many of these are Europeans and how many Indians ?
- (f) Will the Government kindly state how many vacancies there have been in the Government of India Secretariat and Attached Offices since the 28th February 1923 ? How many of these have been filled by Indians and how many by Europeans ?

The Honourable Sir Malcolm Hailey : If the Honourable Member will repeat his question early next week I shall be happy to supply him with the information for which he asks.

SALT TAXES.

17. *Sir D. P. Sarvadhikary : (a) Would the Government be pleased to state the number of persons and companies that had actually paid salt tax at the last year's rates on goods for which they contracted and which goods were actually in the Government godowns, and on which basis the tax was demanded and paid ?

(b) Would the Government be pleased to state the total amount of taxes so recovered against which there have been no deliveries at the old rates of salt tax on the ground that there has been subsequent increase in the tax ?

(c) Would the Government be also pleased to state the number of dealers who have, under circumstances similar to those stated above, been obliged to pay tax at the higher rate in order to obtain delivery of their goods under contract ?

(d) Would the Government be pleased to state the amount of extra tax collected at the higher rate and also the amount remaining uncollected on the ground of the dealers being unable or unwilling to pay the higher rate of taxes ?

The Honourable Sir Basil Blackett : So far as Government have been able to ascertain the replies to the Honourable Member's questions are as follows :—

(a) On the 1st March last 2,147 persons or companies had paid duty at Rs. 1-4 per maund on salt which was in the salt godowns on that date.

(b) The total amount of duty paid prior to the 1st March on this salt was about 30½ lakhs of rupees.

(c) 988.

(d) The amount of extra duty collected is Rs. 9,82,088, and the amount remaining uncollected Rs. 18,56,704. (These figures are based on the latest information available but are not fully up to date.) This outstanding amount is not, however, due to the inability or unwillingness of dealers to pay the higher duty, but to the fact that dealers are not anxious to remove the salt as they have large stocks on hand at present in consequence of abnormal removals prior to March last in anticipation of an increase in the duty. In the Bengal Presidency it is open to them to keep their salt in the golas up to three years. Rs. 2,21,564 have been refunded to dealers who were unwilling to pay duty at the increased rate and preferred to take back their money, and it is probable that nearly the whole of the amount now outstanding will be recovered during the course of the year.

INCHEAPE COMMITTEE'S RECOMMENDATION RE PLANT AND MACHINERY.

18. *Sir D. P. Sarvadhikary : Will the Government be pleased to state :

(a) Whether any decision has been arrived at in connection with the recommendations of the Incheape Retrenchment Committee that plants and machineries of the Government for which there is no immediate Government use, partially or fully, should not be allowed to be used by the outside public for private purposes and that a nucleus staff should be maintained for looking after the State plants and machineries while they are not fully or partially in Government use ?

(b) Does the Government propose to allow user of such plants and machineries for private purposes, and if not, would the Government please state the objections in support of such non-user ?

Mr. E. Burdon : (a) and (b). The matter is under consideration. If the Honourable Member will put his question down again for a date later on in the session, I shall probably be able to give him a definite reply then.

ELECTRIC PRIMARY BATTERIES.

19. *Dr. H. S. Gour : (1) Will the Government be pleased to state whether it is a fact that a large number of electric primary batteries are at present imported into India from foreign countries as Government stores ?

(2) If so, what is their value, and from what countries are they imported ?

(3) Has any attempt been made to get these batteries prepared locally ?

The Honourable Mr. A. C. Chatterjee : (1) and (2). No information is available of the number, value and origin of primary electric batteries imported for the use of Government departments, as these particulars are not separately recorded.

(3) An attempt to manufacture primary batteries on a commercial scale was made by a firm in India a few years ago, but the Government of India understand that manufacture has ceased for some time, as it was found that locally manufactured batteries compared unfavourably in quality with the imported articles.

PLAGUE IN DELHI.

20. * **Sheikh Abdul Majid :** (a) Are the Government aware that there was a serious outbreak of plague epidemic in Delhi during the first four months of the current year? If so, will the Government be pleased to state what steps, if any, were taken by the local administration to warn the public of the threatened outbreak?

(b) Will the Government be pleased to state the total number of deaths in Delhi due to plague only, from the 15th of December 1922 to 30th of April 1923, and the total mortality from all causes during the same period?

(c) What is the daily normal average death rate of the city, and what is the difference between the normal daily average death rate and the daily total mortality from all causes minus the daily plague mortality figures during the said period?

(d) Does the difference between the daily total mortality from all causes and the daily deaths due to plague represent the normal death rate of the city? If not, to what other causes does the Government ascribe the disparity?

Mr. M. S. D. Butler : (a) The epidemic began in December 1922 but did not assume serious proportions till March. It had practically ceased by the end of May. As regards warning, the Honourable Member is referred to the answer just laid on the table in reply to Sir D. P. Sarvadhikary's question* on the same subject.

(b) Reported plague deaths numbered 1,299 and deaths from all causes 4,878 in Delhi city.

(c) Average daily mortality varies with the season of the year. Taking 10 years as a basis, the average for January is 20, for February 22, for March 23, for April 30 and for December 23. The average mortality based on 10 years' figures for the period between December 15 and April 30th is 3,174. Between the same dates in 1922-23, 3,579 deaths exclusive of plague were recorded. The difference is 405 or about 3 daily.

(d) No. The disparity is due to deaths from fevers; under this head unrecognised cases of plague may be included.

ANTI-PLAGUE MEASURES IN DELHI.

21. * **Sheikh Abdul Majid :** (a) Will the Government be pleased to state what special steps, if any, were taken by the local administration of Delhi to stamp out plague whilst it was raging in an epidemic form in the city and the suburbs in 1923?

* Question No. 11 (b).

(b) Did the Local Government ever during the plague season ask the Government of India to lend the services of their experts on plague or consult the Health Commissioner with the Government of India for exploring the avenues leading to the complete elimination of the infection from the city?

(c) Is it not a fact that about 40 per cent. of the Delhi population left the city owing to the plague epidemic?

Mr. M. S. D. Butler : (a) The measures taken have been described in the answer laid on the table in reply to Sir D. P. Sarvadhikary.

(b) The Public Health Commissioner with the Government of India was constantly consulted.

(c) The percentage cannot be stated with accuracy but was undoubtedly far short of the figure mentioned, which would have meant an exodus of nearly 100,000 persons out of a total population of 248,000.

INSANITARY CONDITION OF DELHI.

22. * **Sheikh Abdul Majid :** Is the Government of India aware that there was a general complaint about the insanitary condition of the city of Delhi especially during the plague season and it also formed a subject of discussion at a meeting of the local municipality?

Mr. M. S. D. Butler : The answer to the first part of the question is in the negative and to the second part in the affirmative.

PLAGUE STATISTICS IN DELHI.

23. * **Sheikh Abdul Majid :** (a) What were the special measures, if any, adopted by the local administration of Delhi to ascertain the correct number of deaths during the plague season?

(b) Could the Government definitely say that there was no more number of deaths due to plague than was actually reported and verified by the Health Department of the Municipality?

(c) And further is it not a fact that the local administration made no efforts to keep the citizens who left the town informed of the range and extent of the epidemic and that this matter formed the subject of discussion at three consecutive meetings of the local Municipality?

(d) Has the attention of the Government been drawn to an editorial note under the headline "The criminal negligence of the local Government" published in the "Daily Tej", an Urdu organ of Delhi, in its issue of 27th April?

Mr. M. S. D. Butler : (a) The normal staff of the health department of the city was augmented by the appointment of two Sub-Assistant Surgeons.

(b) No such definite statement could be made; in fact, it is probable that as in every such epidemic the contrary is true.

(c) The Honourable Member is referred to the answer which has just been given to Sir D. P. Sarvadhikary's Question No. 11 (b). Authoritative returns of plague seizures and deaths have been supplied weekly by the Chief Medical Officer to the leading newspapers.

(d) Yes. The Honourable Member is referred to the answer given to Sir D. P. Sarvadhikary's Question No. 11 (c).

MEASURES AGAINST RECURRENCE OF PLAGUE IN DELHI.

24. ***Sheikh Abdul Majid** : What measures do Government propose to adopt to prevent the recurrence of the plague epidemic in Delhi next year ?

Mr. M. S. D. Butler : The Local Administration and the Municipal Health Department are considering in consultation with the Public Health Commissioner with the Government of India what measures can be taken.

CONDUCT OF MAJOR DOCKRELL, CANTONMENT MAGISTRATE, AMBALA.

25. ***Mr. W. M. Hussanally** : (a) Has the attention of the Government been drawn to an article published in the "Cantonment Advocate" of 10th April, 1923 ?

(b) Is it a fact that in February last one Major Watson of Supply and Transport Department was bodily removed from the office of the Cantonment Magistrate, Ambala, by Major Dockrell, the Cantonment Magistrate himself ?

(c) Is it a fact that before his removal Major Watson and Major Dockrell exchanged heated and unpleasant words ?

(d) Is the Government aware that Cantonment employees assisted Major Dockrell in bodily removing Major Watson from the office ?

(e) Is the Government aware that this is not the first case since Major Dockrell's arrival in the cantonment office when a respectable gentleman has been bodily removed from the office ?

(f) Will the Government be pleased to state the facts of the above incident ?

(g) If the facts be as stated above what steps does the Government intend to take to render such incidents impossible in the future ?

Mr. E. Burdon : (a) The Honourable Members is, presumably, referring to an article which appeared in the "Cantonment Advocate", dated the 10th April 1923, under the heading "Major Dockrell's impending departure from Ambala". This article Government have seen.

(b) — (g). The Government of India have received no report of the alleged incident, which, if it took place, was no doubt dealt with as a matter of military discipline by the responsible local military authorities. The Government of India do not propose to take any action at this stage.

CONTROL OF TRAFFIC BY THE MILITARY.

26. ***Baba Ujagar Singh Bedi** : (1) (a) Is it a fact that at Hill Stations generally and at Murree Hills particularly it has become a practice that British military soldiers, in spite of the presence of the Civil Police on duty, interfere, as if by right, in the general administration and control of civil traffic at times of normal peace and order, both in the Civil as well as in the Cantonment Areas ?

(b) Is the Government aware that there exists a feeling among the Indian gentry of Murree Hills regarding this inter-position of the military soldiers ?

(2) If the reply to the above is in the affirmative, do Government propose to pass general orders for the Hill Stations and particularly for Murree that in the presence of Civil Police, military soldiers should not, generally, interfere in the administration and control of the Civil traffic ?

Mr. E. Burdon : (1) (a) and (2). British military police are employed at Murree to deal with soldiers, and their presence is necessary because Murree is surrounded by cantonments. It is reported that, owing to some confusion regarding the respective jurisdiction of the cantonment and municipal authorities, and to the inexperience of some of the military police at the commencement of their turn of duty, a few cases occurred in which the military police exceeded their functions. But they now have clear instructions not to interfere with civilians within municipal limits. There is one exception to this rule, namely, a military policeman is on duty at the entrance to Murree to enforce municipal and cantonment regulations, which are identical, in regard to the entry of motor and other vehicles into Murree.

So far as the Government of India are aware, no complaints have been made in other hill stations of any interference by British soldiers with civilian traffic : the civil authorities are generally satisfied with the arrangements now in force at Murree ; and in these circumstances, the Government of India do not consider that there is any occasion for them to issue orders on the subject.

(1) (b) The report received from the Local Government does not confirm this suggestion of the Honourable Member.

Mr. Harchandrai Vishindas : Is it a fact that some Indian riders at this Murree hill station were compelled by military officers to dismount from their horses ?

Mr. E. Burdon : I have no information on the point ; I should like to have notice of that question.

INCOME-TAX ON MARRIAGE PREMIA.

27. ***Rai Bahadur D. C. Barua** : (1) Will the Government be pleased to state if the premium realized by the bridegroom from the parents or guardians of girls at the time of marriage is subject to assessment of income-tax ?

(2) If so, has it ever been assessed ?

(3) If not, why not ? And what is the policy of the Government with regard to such incomes ?

The Honourable Sir Basil Blackett : (1) No.

(2) No.

(3) Such sums are exempt under section 4 (3) (vii) of the Indian Income-tax Act, 1922.

APPRENTICES FOR ELECTRIC SHOPS, BENGAL-NAGPUR RAILWAY.

28. ***Babu Braja Sundar Das** : (a) Has the attention of the Government been drawn to the advertisement published in the "Statesman" of the 26th May 1923, by the Bengal-Nagpur Railway for recruiting only European and Anglo-Indian apprentices for Khargpur Locomotive, Carriage and Wagon and Electric Shops ?

(b) Will the Government be pleased to state why Indians have been excluded ?

The Honourable Mr. C. A. Innes : The Government have seen the advertisement referred to.

The reason why Indian recruits are not mentioned in it is that there are two categories of apprentices on the Bengal-Nagpur Railway, namely, European and Indian. The vacancies which it is desired now to fill are in the former category.

REUTERS AND ASSOCIATED PRESS AGENCIES.

29. ***M. K. Reddi Garu** : Will the Government be pleased to furnish the following information :

- (1) How much money is being paid annually to Reuters or the Associated Press Agencies for the supply of their daily news to the Government ?
- (2) How many Reuters or Associated Press Telegrams are subscribed for by the Government of India and what is the monthly subscription for the supply of each copy of these Telegrams ?
- (3) What is the necessity for subscribing for so many copies ?

The Honourable Mr. A. C. Chatterjee : (1) The amount paid to Reuter's Agency for the supply of news is Rs. 55,200 a year. This payment covers the cost of copies supplied to officials of the Government of India as well as Local Governments. The amount paid to the Indian News Agency by the Government of India in 1922-23 was Rs. 22,740.

(2) Reuter's messages are supplied to 76 officers in the Government of India and 28 in the Local Governments. The payment to the Agency is a lump sum payment as stated above. The Indian News Agency receives Rs. 30 a month for each set of copies supplied. The number of Government of India officials receiving copies of Indian News Agency messages during the past year was 60.

(3) It is considered necessary for administrative reasons that certain Government officials should receive news of public importance as soon as possible.

STATIONERY IN USE BY THE LEGISLATIVE ASSEMBLY.

30. ***Lieutenant-Colonel H. A. J. Gidney** : (a) Is it a fact that only embossed Legislative Assembly stationery is issued by the Government Stationery Department, Calcutta, to members on payment and that any other stationery is not so issued ?

(b) If the latter part of question (a) is in the negative, will Government be pleased to allow Members of the Legislative Assembly to obtain other varieties of Stationery, e.g., note-book blocks, Shorthand note-books, and files from the Government Stationery Department on payment ?

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

(b) Government do not propose to extend the practice of selling stationery to Members of the Legislative Assembly.

INDIAN MILITARY DAIRY FARMS.

31. ***Lieutenant-Colonel H. A. J. Gidney** : Will the Government be pleased to state :

- (1) On what dates enlistment into the newly formed Indian Military Dairy Farms commenced and ended so far as the present cadre is concerned ?

- (2) How many appointments have been made during this period ?
- (3) How many (a) Europeans :
 - (i) Domiciled in India,
 - (ii) *Ex-Army* rank and File.
- (b) Anglo-Indians and (c) Indians have been appointed ?
- (4) What is to be the total cadre of the Department ?

Mr. E. Burdon : (1) Registration of candidates for the newly formed Indian Military Dairy Farms Department commenced in April 1922, and ended in October 1922. Owing, however, to the destruction of all records in a fire which occurred on the 10th January 1923, registration was reopened in February 1923 and still continues.

(2) Since April 1922, 130 appointments have been made.

(3) (a) *Europeans*—

(i) Domiciled in India 3

(ii) *Ex-Army* rank and file Nil.

(b) *Anglo-Indian* 1

(c) The number of Indians who have been appointed since the 1st April 1922 is 126.

(4) The authorised cadre of the Department as originally sanctioned was 115. Subsequently, 20 appointments were abolished as a measure of retrenchment. The present authorised establishment is, therefore, 95 appointments.

CLERKS EMPLOYED ON BENGAL-NAGPUR RAILWAY.

32. ***Mr. B. N. Misra** : (i) Will the Government be pleased to state the total numbers of clerks employed in the District Traffic Superintendent's Offices at :

(a) Khurdba Road,

(b) Kharagpur,

(c) Saliner,

(d) Adra,

(e) Chakradharapur Stations on the Bengal-Nagpur Railway line ?

(ii) Will the Government be pleased to state the number of Oriyas in the same offices ?

The Honourable Mr. C. A. Innes : I propose to reply to this and the following two questions together.

CLERKS EMPLOYED ON BENGAL-NAGPUR RAILWAY.

33. ***Mr. B. N. Misra** : Will Government please state—(i) the total number of clerks employed in the several booking offices, parcel offices and goods offices on the Bengal-Nagpur Railway :

(a) Between Kharagpur and Navpara.

(b) Between Kharagpur and Bilaspur.

(ii) The number of Oriyas in the offices referred above ?

EMPLOYMENT OF ORIYAS ON BENGAL-NAGPUR RAILWAY.

34. ***Mr. B. N. Misra** : In view of the paucity of Oriyas in Railway service on the Bengal-Nagpur Railway line do the Government propose

to advise the Bengal-Nagpur Railway authorities to employ more Oriyas to mitigate the inconvenience of Oriya passengers and dealers ?

The Honourable Mr. C. A. Innes : Government do not possess the information asked for. Nor do they propose to address the Agent in the sense suggested. The question was brought to the Agent's notice on Mr. Braja Sundar Dass' representation last September, and the Government have no doubt that, subject to consideration of efficiency, the Agent fully recognises the desirability of affording Oriyas equal opportunities with other classes in the Railway Service.

REVISION OF THE CODE OF CIVIL PROCEDURE.

35. ***Dr. H. S. Gour :** (1) Is the Government aware that the present Code of Civil Procedure was enacted in 1908 and that objections have been raised that citation to its numerous provisions is very difficult on account of the matter therein being divided into Sections, Orders, Appendices and Schedules ?

(2) Is the Government aware that this arrangement was made with a view to give a certain degree of elasticity to its provisions for which purpose Rules Committees were to be brought into existence by the various High Courts ?

(3) Have such Rules Committees been brought into existence by any of the High Courts ? If so, have any of its provisions been altered by the Committees so formed ?

(4) If no Rules Committees have been formed or alterations made, do the Government propose to consider the question of restoring the original numbering of the Sections as far as possible to the end and revise the Code which a previous Law Commission recommended should, as a rule, be done every ten years ?

The Honourable Sir Malcolm Hailey : (1) Yes.

(2) Yes.

(3) Section 123 (1) of the Code of Civil Procedure, 1908, makes it obligatory to constitute a Rule Committee at the town which is the usual place of sitting of each of the Chartered High Courts. As far as information is available, the Madras, Allahabad, Lahore and Rangoon High Courts have made some use of the power conferred by Section 122 of the Code to amend the First Schedule to the Code to suit local needs.

(4) Does not therefore arise.

CONSTRUCTION OF NAGPUR-ITARSI RAILWAY.

36. ***Dr. H. S. Gour :** (1) Will the Government be pleased to state what progress has been made with the construction of the Nagpur-Itarsi Railway ? What sections of it remain to be completed and how long it is likely to take before the line is completed ?

(2) Is it a fact that the line from Nagpur to Katoul was completed long ago, in fact, about six years ago, that the rails were picked up and that that section has again been completed but has not yet been open to traffic ?

(3) What is the reason for the delay ?

(4) Has the line been completed as far as Amla ? If so, why has it not been open to traffic ?

(5) How long is it likely to take to complete the building of the Nagpur station ?

(6) Is the Government aware of the great inconvenience to the travelling public owing to the congestion of traffic at the small station built about fifty years ago ?

(7) Do the Government propose to take steps to see that the chord line between Nagpur and Itarsi and the building of the Nagpur station are completed without unnecessary delay ?

The Honourable Mr. C. A. Innes : 1. The Honourable Member is referred to the reply given him on 11th March 1921 on the same subject.

The section Katoul to Amla remains to be completed and the whole line will probably be opened next year.

2. Yes, owing to shortage of material during the war it was decided to use the rails for more urgent work. This section has now been opened for goods traffic and will shortly be opened for passenger traffic.

3. The delay is due to shortage of material as explained in 2.

4. The line has not yet been completed as far as Amla.

5. The Nagpur station will probably be completed by about April 1924.

6. Yes.

7. Every effort is being made to expedite the completion of the work.

CONSOLIDATION OF INDIAN PENAL CODE.

37. ***Dr. H. S. Gour :** (1) Do the Government propose to take steps to bring up to date all its old Acts and consolidate the provisions of the Indian Penal Code ?

(2) Is the Government aware that the Statute Law Revision Committee recommended the re-enactment of the Penal Code by consolidating all its provisions ?

(3) What steps did the Government take and if it took no steps, why not ?

(4) Is the Government aware that the late Home Member Sir William Vincent made a statement in this House on the 19th January 1922 that there was a proposal on foot to consolidate and recodify the Indian Penal Code ?

(5) Is the Government aware that when the Indian Penal Code was enacted the Law Commissioners who prepared the draft themselves recommended its revision after a certain time and that they themselves suggested reduction of sentences in several cases which they said they had fixed high because of the undeveloped state of the country at that time ?

(6) Is it a fact that the Government have rejected the proposal of the Statute Law Revision Committee to consolidate the Indian Penal Code ? If so, will the Government be pleased to disclose the reasons which induced it to formulate such decision ?

Mr. L. Graham : (1) The work falls into two branches—re-printing editions of the Unrepealed General Acts and Consolidation proper. Government regularly take steps to bring old Acts up to date wherever it is practicable to do so by re-publication with the amendments incorporated in the text. This is rendered practicable very largely by the form in which

administrative purposes and the percentage spent on :

- (a) Education, and
(b) Development of the country ?

The Honourable Sir Basil Blackett : It is not clear what items of expenditure are intended to be included under "Administrative purposes" and "development of the country". For the purpose of this reply I have included under the former the budget heads "General Administration", "Audit", "Administration of Justice", "Jails" and "Police", and under the latter, in the light of the next question by the Honourable Member, the heads "Scientific Departments", "Medical", "Public Health", "Agriculture", "Industries", and "Miscellaneous departments". The percentages calculated on the above assumptions on the figures of the budget estimates of the Central Government for the current year are as follows :

Civil Administration	..	..	1.83 per cent.
Education	..	..	.16 per cent.
Development	..	..	.97 per cent.

The Honourable Member is no doubt aware that Education and Development are at present mainly provincial subjects. The figures which I have just given are therefore of little practical utility, and hardly justify the labour spent on obtaining them.

EXPENDITURE ON CIVIL ADMINISTRATION, MILITARY, ETC.

43. ***Dr. H. S. Gour :** Will the Government be pleased to lay on the table a comparative statement showing the percentage of expenditure for the last 5 years under the heads :

- (1) Civil Administration,
(2) Military,
(3) Development such as Education, Sanitation, and Health, during the last 20 years ?

The Honourable Sir Basil Blackett : From the previous question by the Honourable Member it is presumed that he requires figures relating only to the Central Government. The percentages for the last five years are as follows :

—	1918-19.	1919-20.	1920-21.	1921-22.	1922-23.
Civil Administration (comprising the major heads General Administration, Audit, Administration of Justice, Jails and Convict Settlements and Police) ...	1.53	1.33	1.78	1.43	2.07
Military (net) ...	40.10	43.90	40.81	33.14	32.11
Development (comprising the major heads Scientific Departments, Education, Medical, Public Health, Agriculture, Industries and Miscellaneous Departments) ...	.66	.81	.95	1.20	1.05

N.B.—The figures for 1923-24 are not available.

As stated in the answer which I gave to a question by Sir Montagu Webb on the 22nd March last, the estimated expenditure of 1923-24 on Military Services amounts to approximately 21.6 per cent. of the total estimated expenditure in that year of the Central and Provincial Governments combined.

REVISION OF TRANSFER OF PROPERTY ACT.

44. ***Dr. H. S. Gour :** (1) Will the Government be pleased to state whether it had appointed an informal committee to revise and redraft the Transfer of Property Act ? If so, when was the committee appointed ?

(2) For how long has the Government been contemplating revision of the Transfer of Property Act ?

(3) Is it a fact that a committee was appointed by Sir George Lowndes ? For how long did it sit ? What work did it accomplish ?

(4) What progress has been made with the revision of the Transfer of Property Act and when do the Government propose to introduce a new consolidating measure ?

(5) Is the Government aware that there are over 7,000 cases many of which take divergent views upon points involved in the Transfer of Property Act ?

(6) Does the Government desire to settle these doubtful and conflicting points by means of legislation ?

Mr. L. Graham : (1), (2) and (3). The revision of the Transfer of Property Act has been under contemplation for some years. Proposals for a general revision were formulated in 1910.

No Committee for the revision of the Act was appointed by Sir G. Lowndes but an informal Committee consisting chiefly of lawyers who were also Members of the Indian Legislature (including the Honourable Member himself) was appointed in 1921 by the late Law Member, Sir Tej Bahadur Sapru, under whose orders Mr. L. G. Mukherji, a District Judge in the United Provinces, was appointed as officer on special duty in the Legislative Department in connection with the revision of the Act. The Committee held three meetings the last of which was on the 19th March 1922.

(4), (5) and (6). Definite proposals and suggestions for the amendment of the Act were placed by Mr. Mukherji before the Committee which made recommendations in regard to them. Mr. Mukherji has submitted his report and the results of his examination of the Act are under consideration. Government are aware of the conflicting decisions on various points arising out of the provisions of the Act and recognise the need for its revision, but in view of the difficult and complicated nature of the work they are not in a position at present to say when legislation will be introduced.

REDUCTION OF TROOPS.

45. ***Dr. H. S. Gour :** (1) Will the Government be pleased to state the reduction of troops recommended by the Government of India during the last 12 months and the reduction actually sanctioned by the Secretary of State or by the British Cabinet ?

(2) Will the Government be pleased to lay on the table the correspondence between the Government of India and the Secretary of State on the subject of :

- (a) The Military Requirements Committee's Report.
- (b) The reduction of the Army in India ?

Mr. E. Burdon : (1) The Honourable Member is referred to the answer which I have just given to his oral question No. 38.

(2) Government are not prepared to lay on the table the correspondence in question.

CORRESPONDENCE WITH SECRETARY OF STATE RE: BUDGET.

46. ***Dr. H. S. Gour :** Will the Government be pleased to state whether there was any correspondence between the Government of India and the Secretary of State on the subject of the Budget for 1923-24 ? If so, will it lay the correspondence on the table ?

The Honourable Sir Basil Blackett : The answer to the first part of the question is, as the Honourable Member is doubtless aware, in the affirmative. The answer to the second part is in the negative.

SALT TAX.

47. ***Dr. H. S. Gour :** (1) Is it a fact that the doubling of the salt tax was previously approved by the Secretary of State and in fact suggested and pressed by him on the Government of India ?

(2) Is it a fact that the Secretary of State declined to agree to the reduction of the Army in India unless the Budget was balanced by the imposition of the salt tax ?

(3) Will the Government be pleased to disclose full facts in connection with the imposition of the salt tax on a certificate by His Excellency the Viceroy ?

The Honourable Sir Basil Blackett : All budget proposals are in accordance with the usual procedure referred to the Secretary of State in the first instance and approved by him before the budget is presented to the Assembly. The answer to the second half of part (1) and to part (2) of the question is in the negative. As regards part (3) the full facts of the case have already been published.

Dr. H. S. Gour : Will the Honourable the Finance Member make a categorical statement in answer to sub-clause (1) of question No. 47, in which I have asked whether the Secretary of State in fact suggested and pressed upon the Government of India the imposition of an additional salt tax ?

The Honourable Sir Basil Blackett : I am sorry I did not make myself clear. The answer to that part of the question is in the negative, categorically.

TRANSFER OF SUBJECTS TO PROVINCIAL MINISTERS.

48. ***Dr. H. S. Gour :** (1) With reference to the Secretary of State's reply dated the 2nd November 1922 to the Assembly's Resolution on the subject of further Reforms, will the Government be pleased to state what action has it taken to obtain further powers stated to be possible

under the existing constitution without amendment of the Government of India Act ?

(2) (a) Is the Government aware that it is possible under section 45-A (d) of the Government of India Act to transfer all subjects to the charge of the Ministers in the Provinces ?

(b) Has the Government taken steps to transfer these subjects under the existing constitution ? If not, why not ?

(3) (a) Is the Government aware that section 19-A of the said Act provides for the relaxation of control of the Secretary of State over the Government of India ?

(b) If so, have Government moved the Secretary of State to relax his control, as provided in that section ? If not, why not ?

The Honourable Sir Malcolm Hailey : (1) I have been unable to trace in the despatch the reference to further powers stated to be possible, and to which the Honourable Member alludes.

(2) (a) and (b). It is possible under the section quoted to make rules under the Act for the transfer of subjects ; but no change in the original rules has been made. The Honourable Member's attention is invited to the recommendation of the Joint Committee that no change of substance in the constitution, including the lists of reserved and transferred subjects, should be made in the 10 years preceding the appointment of the Statutory Commission.

(3) (a) and (b). The section referred to provides that the Secretary of State may by rule regulate and restrict the power of superintendence, direction and control. With the exception of the rules referred to in my answer to Mr. Neogy's question 305, dated 1st February 1923, no further rule has been issued. The attention of the Honourable Member is invited to the Report of the Joint Committee on clause 33 of the Bill.

Dr. H. S. Gour : Sir, may I ask the Honourable the Home Member whether, in pursuance of the suggestion made in Lord Peel's despatch, namely, that further extension of reforms is possible within the existing Act and under the existing constitution, the Government of India has exploited that Act and addressed the Secretary of State on the subject of further reforms ?

The Honourable Sir Malcolm Hailey : No, Sir. The subject of further reforms is not necessarily connected with the extension referred to by the Secretary of State.

Dr. H. S. Gour : Is the Honourable the Home Member aware of the fact that, under the existing Act, it is within the competence of the Secretary of State to modify his power of supervision, direction and control and transfer the same to the Government of India, and has the Government of India requested the Secretary of State to modify his powers and transfer the same to the Government of India ?

The Honourable Sir Malcolm Hailey : Shall I read, again to the Honourable Member what I read out just now ?—because that is the answer to the Honourable Member's question.

Dr. H. S. Gour : No : it is not necessary ; but what I want to know is whether the Government of India have made any proposal for the transfer of the Secretary of State's powers to themselves.

The Honourable Sir Malcolm Hailey : No.

Mr. K. C. Neogy : Is the Honourable Member aware that the rule referred to in his answer as having been framed in pursuance of Section 19-A of the Government of India Act, relates solely to the control by the Secretary of State over provincial transferred subjects, and has nothing to do with the provincial reserved subjects or the Government of India ?

The Honourable Sir Malcolm Hailey : That is so, Sir.

HIGH COURT RETRENCHMENTS, BENGAL.

49. ***Sir D. P. Sarvadhikary :** (a) Would the Government please state the amount of costs incurred in connection with High Court Retrenchment Committee of Bengal ?

(b) Would the Government please state if and when the recommendations of the Retrenchment will be published ?

(c) If the Government does not propose to publish the Report at least the Recommendations, will the Government please state the reasons for withholding such publication ?

(d) Would the Government please state when the recommendations of the Committee will be given effect to ?

The Honourable Sir Malcolm Hailey : If you will allow me, I will answer that, Sir, because I think it is of public interest :—

(a) The total expenditure is Rs. 2,934.

(b) and (c). The Report of the Retrenchment Committee will be published shortly.

(d) The recommendations of the Committee are at present under the consideration of the Government of Bengal and the Calcutta High Court, who have been consulted by the Government of India.

Mr. K. Ahmed : May I ask, Sir, a supplementary question regarding the cost incurred on paper books in the High Court ?

Mr. President : Will the Honourable Member put his question on the paper and give the Home Member time to consider it ?

The Honourable Sir Malcolm Hailey : It is not, I think, connected with the Retrenchment Committee.

PAYMENT OF SURPLUS OFFICERS.

50. ***Dr. H. S. Gour :** (a) Will the Government be pleased to state the total number of surplus officers paid out of the revenues of India, the period for which their emoluments were so paid and the total cost thereof to the State ?

(b) By whose orders were these officers stationed in India ? How far was the War responsible for their being quartered in India ?

(c) When were they demobilised and how many still remain to be demobilised ?

(d) On what conditions were they demobilised and what was the cost of demobilisation ?

(e) Has its cost been debited to the War Office ? If not, why not ?

Mr. E. Burdon : (a) With a few exceptions, all the surplus officers who were stationed in India were paid out of Indian revenues ; the

cost of those stationed ex-India was borne by the War Office. The total pay charges met provisionally from Indian revenues from the 1st March 1922 or the subsequent date on which the officers were declared to be surplus amount approximately to £1,000,000.

(b) Under the orders of the Government of India. As regards the second part of the question, it may be said that the Great War was responsible for a portion of the surplus, but a portion is also attributable to reductions in Indian establishments, resulting from various measures of retrenchment.

(c) Between July 1922 and June 1923. No more officers remain to be demobilised.

(d) I will furnish the Honourable Member separately with a copy of the rules relating to the retirement of these surplus officers. The cost of their demobilisation is estimated at £4,000,000 approximately, exclusive of the amount specified in the reply given to part (a) of this question.

(e) The question of the incidence of cost is at present being examined by the Secretary of State and the War Office, in order to determine the proportion to be borne by each Government.

UNIVERSITY AT AGRA.

51. ***Lala Girdharilal Agarwala :** (1) Are the Government aware that the Legislative Council for the United Provinces of Agra and Oudh has adopted a Resolution on 27th February 1923 for establishment of a University at Agra ?

(2) Will the Government be pleased to lay on the table all correspondence which passed between the United Provinces Government and the Government of India on the subject of the proposed Agra University within the last 3 years ?

Mr. M. S. D. Butler : (1) Yes.

(2) No correspondence has as yet passed between the Government of the United Provinces and the Government of India on the subject.

UNIVERSITY AT AGRA OR CAWNPORE.

52. ***Lala Girdharilal Agarwala :** In view of the assurance conveyed to me by the Government in reply to my Question No. 495 on 17th March 1921, printed at page 1197 of the Assembly Debates, Volume I, regarding proposals for the establishment of a University at Agra or Cawnpore, do the Government propose to take suitable action in the matter ?

Mr. M. S. D. Butler : As the initiative in the matter rests with the Government of the United Provinces, the reply is in the negative.

INDIANIZATION OF 8 UNITS OF THE INDIAN ARMY.

53. ***Sir D. P. Sarvadhikary :** (a) Would the Government please state what steps have been taken towards the Indianisation of the 8 Units mentioned in the announcement of His Excellency the Commander-in-Chief at the last Delhi meeting of the Assembly ?

(b) Would the Government please state whether any difficulties have been experienced regarding Indianisation and, if so, what such difficulties are ?

(c) Is it a fact that comparatively low educational standard in the case of some of the eligible officers is one of such difficulties? If so, what steps does the Government propose to take for raising the educational standard of officers of this class?

(d) Is it true that apprehended isolation of the Units is one of the difficulties?

Mr. E. Burdon : (a) & (b). In the statement which I laid on the table of this Assembly on the 14th March last, it was explained that the first step in the process of Indianisation would be to transfer eight Indian officers, already in the Indian Army, one to each of the eight units destined for Indianisation. In carrying this out, however, a hitch arose in that a sufficient number of those Indian officers were not willing to transfer; and in order to complete the first stage of Indianisation, it will be necessary to await the batches of young Indian officers who will finish their year of attachment to a British regiment in October and January next. They will be posted direct to one or other of the Indianising units and will not be given the option of joining a non-Indianising regiment.

I may explain that in the case of Indian officers already posted to an Indian Army regiment, His Excellency the Commander-in-Chief deliberately made transfer to an Indianising regiment optional and not compulsory, because a British officer would not ordinarily be compelled to exchange the unit to which he has been posted for another. It is of course well-known that once an officer has settled down in a particular regiment, has made it his home and found his friends, he is generally very loth to leave it.

(c) The answer is in the negative. The standard of education of all officers who have qualified for the King's commission at Sandhurst is in theory the same and it is on this class that His Excellency the Commander-in-Chief proposes chiefly to rely for the purpose of Indianising the 8 units.

(d) Government have heard this suggestion, but have received no evidence which would justify them in believing it to be true.

PRACTICE IN REGARD TO CUSTODY OF RIFLES.

54. ***Sir D. P. Sarvadhikary :** Would the Government please state whether there is any difference in the practice of allowing members of the Indian Territorial Force and of the Indian Auxiliary Force in the matter of being allowed to take home their Regimental Rifles. If so, would the Government please state what the reason of such differentiation is and whether it proposes to take steps to remove such differentiation, and if not, why not?

Mr. E. Burdon : There is a difference between the practice obtaining in the Indian Territorial Force and the Auxiliary Force, India, in regard to this matter. The difference follows from the different systems of training applied to the two Forces. Units of the Territorial Force assemble and are embodied for training once a year and their training lasts continuously for a specified number of days, during which the members of the Force can engage in no other occupation. When the period of training is at an end, the rifles are withdrawn and deposited in arsenals. During the period of training, the rifles while not in actual

use are kept in armouries and this is the practice followed in the regular army. Members of the Auxiliary Force, on the other hand, have to train all the year round in such spare time as they can find without interrupting their civil occupations. It is necessary therefore that their rifles should be readily accessible. As a general rule, their rifles are kept in armouries; but in certain exceptional cases, as for example, when the armoury is not near the parade ground and rifle range and there is no great risk of the arms being stolen by rifle-thieves, members of the Auxiliary Force are allowed to keep their rifles in their own possession. From this explanation it will be clear to the Honourable Member that there is no occasion for Government to alter the existing practice. So far as it is possible to do so, the general rule is followed that rifles when not in use should be kept in arsenals or armouries, whether the rifles belong to the regular army, the Territorial Force or the Auxiliary Force; and there is a very practical justification for the few exceptions that are made.

ESHER COMMITTEE'S REPORT.

55. ***Sir P. S. Sivaswamy Aiyer :** Will the Government be pleased to state whether any and if so what orders have been passed by the Secretary of State upon Resolutions 7, 8, 10 and 11 passed by the Assembly on the 28th of March 1921 in connection with the Esher Committee's Report with the concurrence of the Government of India?

Mr. E. Burdon : I lay upon the table a statement in which the contents of the four Resolutions referred to in the question have been analysed and which shows also the action so far taken to give effect to the Resolutions.

Statement analysing the contents of Resolutions Nos. 7, 8, 10 and 11 passed by the Legislative Assembly on the 28th March 1921, in connection with the Esher Committee's Report, and showing the action which has so far been taken to give effect to them.

Serial No.	Recommendation.	Action taken.
1.	That the King Emperor's Indian subjects should be freely admitted to all arms of His Majesty's Military, Naval, and Air Forces in India.	Indians are now eligible for admission to all ranks of the Cavalry and Infantry arms of the Indian Army. The proposal that Indians should be admitted to the Royal Artillery and the Royal Engineers, which are branches of the British Army and not of the Indian Army, has not been agreed to. Indians are eligible for admission to all ranks in the Royal Indian Marine. The question of the measures to be adopted for the recruiting and training of Indians as officers of the Royal Indian Marine was examined by the Committee of Indian Students, 1921-22; and will be further examined by the Committee which has been appointed in pursuance of a Resolution moved by Sir Sivaswamy Aiyer on the 12th January 1922. The proposal that Indians should be admitted to the Royal Air Force, which is also a British Service establishment, has not been agreed to.

Serial No.	Recommendation.	Action taken.
2.	That Indians should be freely admitted to the ancillary services and auxiliary forces.	Indian officers of the Indian Army holding the King's commissions are equally eligible with British officers of the Indian Army for admission to the Indian Army Departments, e.g., the Indian Army Service Corps, the Indian Army Ordnance Corps, the Indian Farms Department, etc. Indian Officers will, however, be required to satisfy the same conditions as British officers, that is to say, they must enter the army as combatants in the first instance and then have some years' experience of regimental life and obtain certain prescribed qualifications.
3.	That every encouragement should be given to Indians, including the educated middle classes, subject to the prescribed standards of fitness, to enter the commissioned ranks of the Army	The measures taken to give effect to this recommendation may be summarised as follows :— (i) The establishment of the Royal Indian Military College at Dehra Dun. (ii) The decision, now in process of being carried out, to establish two schools which will give education preparatory for admission to the Dehra Dun College. The capital sum required for the construction of these schools has been provided by His Majesty the King Emperor. (iii) The fees for education at the Dehra Dun College have been fixed below actual cost, and certain further concessions in the shape of reduced fees are granted to deserving candidates whose parents could not otherwise afford to send them to College. (iv) Concessions and facilities of various kinds are given to enable qualified candidates to proceed to Sandhurst. These include free passage to England, and King's India and Honorary King's India Cadetships. The regulations provide that, in selecting candidates for the entrance examination for Sandhurst, regard should be paid to the claims of boys belonging to the educated middle-classes; and boys of these classes are selected when suitable.
4.	That in nominating candidates for the entrance examination, unofficial Indians should be associated with the nominating authority.	This practice has been adopted.
5.	That in granting King's commissions, claims to promotion of Viceroy's commissioned officers should be first recognised and thereafter commissions should be given to cadets trained at Sandhurst.	The arrangement at present in force is that a limited number of honorary King's commissions are granted annually to Indian officers of exceptional merit holding the Viceroy's commission. Apart from these, commissions are granted to cadets from Sandhurst.

Serial No.	Recommendation.	Action taken.
6.	That in selecting candidates for Sandhurst, the general rule should be that the large majority of the selections should be from the communities which furnish recruits and as far as possible in proportion to the numbers in which they furnish recruits for the army.	This recommendation has been embodied in the regulations, and is observed in practice.
7.	That no less than 25 per cent. of King's commissions granted every year should be given to His Majesty's Indian subjects to start with.	Full effect has not been given to this recommendation. During the past few years 10 commissions out of 50 annually have been reserved for Indians.
8.	That adequate facilities should be provided in India for the preliminary training of Indians to fit them to enter the Royal Indian Military College, Sandhurst.	See reply to item 3 above.
9.	That as soon as funds are available, steps should be taken to establish in India a Military College such as Sandhurst.	This recommendation has not yet been agreed to. Amongst other things, the financial condition laid down has not yet been satisfied.
10.	That the desirability of establishing in India training and educational institutions for other branches of the army should be kept steadily in view.	It is impracticable at present to take any definite action towards carrying out this recommendation.
11.	That a Territorial Force should be formed on attractive conditions.	The Indian Territorial Force has been created, and the results of the training carried out in the first year of the existence of the Force have been satisfactory. Recruiting results are also satisfactory.
12.	That a system of short colour service, followed by a few years in the reserve, should be introduced in the Indian Army.	The object of this recommendation is that, so far as it is safe to do so, a portion of the reinforcements required in war should in peace time be held in reserve instead of on the active list. A reference is invited to paragraph 5, page 10, of the Retrenchment Committee's Report, in which a proposal of the same character is advocated. The views of the Government of India on this proposal are now before the Secretary of State.
13.	That a gradual and prudent reduction of the ratio of British to Indian troops be carried out.	The Army Secretary stated in the Legislative Assembly on the 6th March 1923 that, if the recommendations of the Retrenchment Committee which proposed a reduction of 8,500 British troops and 6,000 Indian troops were carried out in full, it would have the effect of altering the ratio of British to Indian troops from 1 to 2 to 1 to 2.67. It has also been announced that His Majesty's Government have agreed in principle to a reduction in the present strength of British troops on the Indian establishment. It is hoped to announce shortly the final decision on this subject.

Serial No.	Recommendation.	Action taken.
14.	That officers in the Indian Territorial Force should have the rank of 2nd-Lieutenant, Lieutenant, or higher rank as the case may be.	As an <i>interim</i> arrangement it has been decided to grant officers in the Indian Territorial Force honorary commissions in His Majesty's Indian Land Forces which confer the titles of rank used in the British Army.
15.	That no distinction should be made between the Indian Territorial Force and the Indian Auxiliary Force in respect of the authority which signs the commissions, and that officers in these two Forces should take rank <i>inter se</i> according to date of appointment.	These questions have not yet been finally decided, for the reason that the form of commission to be granted to officers of the Auxiliary Force as a permanent arrangement has not yet been settled.

RETRENCHMENTS IN ARMY HOSPITALS AND MEDICAL SERVICES.

56. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to state whether they propose to make the inquiry recommended by the Incheape Committee on page 20 of their report with a view to effecting a retrenchment in the number of hospitals, beds, medical officers and staff in the Army Hospitals and Medical services ?

Mr. E. Burdon : These questions are replied to in the replies which were to have been given to-day to the questions Nos. 3 and 5 asked by Colonel Gidney, and copies of these replies will be laid on the table.

CAPITATION CHARGES PAYABLE TO WAR OFFICE.

57. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to state whether any steps have been taken to urge upon the Imperial Government the necessity for a more equitable, if not lenient, adjustment of the capitation charges payable to the War Office ?

Mr. E. Burdon : The views of the Government of India on the subject are now before the Secretary of State.

RELATIONS BETWEEN BRITISH AND INDIAN ADMINISTRATIVE SERVICES.

58. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to make a detailed statement whether any effect has been or is intended to be given, and if so in what respects, to the recommendations of the Esher Committee in Part IV of their report for amalgamating, or establishing, closer relations between the British and Indian administrative or ancillary services and for fusion of the British officers of the British and Indian armies ?

Mr. E. Burdon : So far it has not been found practicable in any concrete instance to give effect to the recommendations of the Esher Committee to which the Honourable Member refers. Generally speaking, the Government of India were in favour of the idea underlying the Esher Committee's proposal, *viz.*, that enhanced opportunities should be given for interchange between officers of the British and Indian services ; and it is intended to consider the possibility of adopting the idea when the organization of each of the services—they are mainly,

administrative services—to which it can be made applicable is finally settled. A scheme is under consideration at the present moment to amalgamate the Supply and Transport Corps with the Royal Army Service Corps.

INDIAN APPRENTICES IN ORDNANCE FACTORIES.

59. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to state—

- whether in the Ordnance Factories there is any provision for training Indian apprentices so as to qualify them for the rank of Foremen and if so, how many apprentices are entertained each year, the qualifications for admission, the terms and conditions of apprenticeship and the prospects open to apprentices on completion of training ;
- whether the Ordnance Factories are used for training purposes to the fullest possible extent ?
- how many of the existing Foremen in the Ordnance Factories are Indians and how many are imported from outside ?

Mr. E. Burdon : (a) Arrangements have been made during the last two or three years on a temporary and informal basis for the training of European, Anglo-Indian, and Indian apprentices in the Ordnance factories, with a view to their eventually being appointed foremen. A permanent scheme to provide systematic training is under the consideration of the Government of India. Under this scheme, apprentices would undergo a training for five years, after which those who had completed their course satisfactorily would be appointed to posts of supervisor, chargeman, and foreman as vacancies in these grades occurred.

(b) If the scheme to which I have just referred were sanctioned, it is considered that the Ordnance factories would be utilised for technical training purposes to the fullest extent possible.

(c) Of the present number of foremen and assistant foremen, one is an Indian, and 146 have been recruited outside India. 25 foremen and assistant foremen have been recruited in India.

MILITARY OPERATIONS IN WAZIRISTAN.

60. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to make a statement as to the progress and result of the military operations in Waziristan ?

Mr. E. Burdon : The attention of the Honourable Member is invited to the reply given on the 15th January last to part (a) of starred question No. 40.

Since the middle of February, no active operations of importance have been carried out in Waziristan. The excellent effect produced by the operations undertaken during the two months prior to that date may be judged by the fact that at the end of March a jirgah, representative of practically all sections of the Mahsuds, accepted the terms offered by Government. These terms included the recognition of Government's right to build roads in Waziristan and an undertaking to provide Khassadars as required by Government, for the maintenance of order in tribal country. The various sections have now furnished, or are in

process of furnishing, their quota of Khassadars, and the manner in which these newly-raised levies have so far carried out their duties justifies the hope that the Khassadar scheme will prove a success in Waziristan.

During May, the detachment of South Waziristan Scouts, which had been in occupation of Wana since May last year, was withdrawn, the Fort being handed over to Khassadars. It was feared that the evacuation of Wana by the Scouts might possibly give rise to local disturbance, and a column of regular troops was consequently despatched from Jandola towards Wana, to assist the Scouts in case of need. No opposition was, however, offered by the tribesmen to the advance of the column, or to the withdrawal of the Scouts; or to the establishment of Scout posts at Sarwakai, Splitoi and Chagmalai, the whole operation being carried out without any untoward incident. This again furnished evidence of the improved state of affairs in Waziristan.

Satisfactory progress has been made with the construction of roads. Heavy mechanical transport can now run from the Tochi as far as Razani, and work is in progress throughout the length of the uncompleted section of the circular road, i.e., from Razani to Sorarogha. The work is being carried out partly by military labour and partly by civil labour under tribal contractors. In this connexion, it is interesting to note that the Abdullai, who until recently were one of the most hostile sections of Mahsuds, are now supplying labourers in considerable numbers for work on the road within their area.

The construction of the Jandola-Sarwekai road has also begun. In this case, the work is being carried out entirely under tribal contractors.

Although slight sniping and occasional raids by small gangs still occur, these have no serious political or military significance, and it may safely be said that the situation in Waziristan at the present time is better than it has been for many years past.

CONSULTATION RE PROVINCIAL SUBJECTS

61. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to call for a report from the Local Governments as to :

- (i) whether and how far the habit of free consultation between both halves of the government in all matters of common interest which the Joint Select Committee on the Government of India Bill in paragraph 5 of their report thought it of the highest importance to foster has been adopted by the Governors of the various provinces ? and
- (ii) whether the Provincial Governors have made any rules on this subject under section 49 of the Government of India Act ?

The Honourable Sir Malcolm Hailey : The Honourable Member's attention is invited to the reply given by me on the 25th of January 1923 to Mr. Mammohandas Ramji. The Government of India do not propose to call for a report as suggested by the Honourable Member as the matter is not primarily a concern of the Governor General in Council.

CONCESSIONS TO THOS. COOK AND SON.

62. *Mr. Mammohandas Ramji : (1) Will the Government be pleased to state whether any commission, concession or rebate is allowed

to Messrs. Thos. Cook & Son, Shipping Agents, by the Railway companies on railway tickets purchased by them for tourists in India ?

(2) If so, how much ?

The Honourable Mr. C. A. Innes : (1) Messrs. Thos. Cook and Son and other recognised Tourist Agents, are allowed a commission on tickets sold by them to tourists.

2. The usual rate of commission is 10 per cent.

UNSTARRED QUESTIONS AND ANSWERS.

SYED NASIRUDDIN HYDER AND BABU BISHNATH PERSHAD, TEHSILDARS.

1. Haji Wajihuddin : Is it a fact that in the United Provinces (a) Syed Nasiruddin Hyder began his service as a probationary Tehsildar and Babu Bishnath Pershad as Naib Tehsildar, (b) was the former promoted to Deputy Collectorship in 1907 and the latter in 1911, (c) whether the former officiated as Collector and Magistrate on several occasions and the latter none, (d) whether both of them were appointed as Income-tax Officers in 1920, while the former was getting Rs. 820 and on the top of the list and the latter getting only Rs. 670, and if the answers are in the affirmative, will the Government be pleased to state the reason of promoting the latter to the post of Assistant Commissionership on a starting salary of Rs. 1,000 depriving the former senior most officer who was on the top of the list and whether under the circumstances, Government are prepared to consider the advisability of amending Section 5 of the Income-tax Act so that the power of appointment be entrusted direct to the local Government ?

The Honourable Sir Basil Blackett : The answers to (a), (b), (c) and (d) are in the affirmative. I would refer the Honourable Member, however, to the reply given to Question No. 50 at a meeting of this Assembly on the 16th January 1923 in which it was stated that the posts of Assistant Commissioners carry great responsibility and are not automatically filled up on the basis of seniority. The appointments to these posts are subject to the approval of the Local Government and the Government of India see no reason to make any change in the agency rules in the manner suggested by the Honourable Member.

CHIEF INSPECTOR, CIVIL AVIATION.

2. Lieut.-Colonel H. A. J. Gidney : (a) Is it a fact that in paragraph 3 of their Report on page 213 under Civil Aviation, the Inchcape Committee remarked that the amount of work in connection with Civil Aviation does not justify the retention of a full time Chief Inspector and they recommended that until aviation develops further, the duties hitherto performed by the Chief Inspector should be entrusted to a qualified officer of the Air Force to whom a suitable inspection fee or allowance might be paid ? Will the Government be pleased to state what action they propose to take on this recommendation ?

(b) Was any effort made to recruit in India for the appointment of Chief Inspector ; if so, how ; if not, why not ?

(c) Do the Government propose to consider, before giving effect to the Committee's recommendation, whether arrangements for carrying on

the duties cannot be made otherwise than by employing an officer of the Air Force, provided, candidates with the necessary qualifications are available in the country ?

The Honourable Mr. A. C. Chatterjee : (a) The reply to the first part of the enquiry is in the affirmative. The Government of India are retaining the services of the Chief Inspector of Aircraft up to the end of September, pending a final decision as to the best method of disposing of the work attaching to his appointment.

(b) Yes ; from ex-officers of the Royal Air Force.

(c) If, as is hoped will be the case, the Royal Air Force are able and willing to undertake the principal duties now discharged by the Chief Inspector of Aircraft in addition to their ordinary work, this will be a more economical solution than the employment of any special officer recruited *ad hoc*.

RESOLUTIONS IN INDIAN LEGISLATURES.

3. **Beohar Raghubir Sinha :** Will the Government be pleased to furnish to the Honourable Members before the next Simla Session the following :

(a) a combined list of all the non-official admitted Resolutions and Bills which remain unmoved in the Legislative Assembly and Council of State ;

(b) a combined statement showing the non-official Resolutions and Bills moved in the Legislative Assembly and Council of State, the results of the motions and action taken by the Government on these motions and also showing the Resolutions that have not been admitted and the grounds for rejection ?

Mr. L. Graham : (a) In regard to pending Resolutions which remained unmoved, I am to refer the Honourable Member to Lists No. 135-C, dated the 8th May 1923, and 198-A, dated the 23rd May 1923, copies of which were duly circulated to all Members and were posted in the Notice Office. A statement showing non-official Bills of which notice has been received and which have not been moved, is laid on the table.

(b) Statements showing Resolutions adopted by the Indian Legislature and the action taken thereon by Government were from time to time laid on the table in reply to previous questions and the Honourable Member's attention is drawn to the Assembly Debates, Volume II, pages 1603-1608, 1831, 2901-2906 and Volume III, pages 45-47, 108-109 and 991-993. Similar information in regard to the Delhi Session, 1923, is being collected and will be laid on the table in due course.

It is not the practice to publish Resolutions which have been disallowed by the Honourable the President or by His Excellency the Governor General, as the case may be, and the Honourable Member's attention is invited to the reply given to a similar question by Babu Ambica Prasad Sinha on page 985 of the Legislative Assembly Debates, Volume II.

As regards non-official Bills moved in the Legislative Assembly and the Council of State the Honourable Member is referred to Circular No. XXXIV, dated the 14th May, 1923, which contained a consolidated statement of all pending Bills. Any other information which the Honourable Member requires regarding Bills which were actually taken up in both the Chambers will be found in the Official Reports of the Debates.

Statement showing non-official Bills of which notice has been given but which have not been moved.

No.	Name of the Member.	Bill
1.	Rao Bahadur T. Rangachariar	Legal Practitioners Bill.
2.	Rai Bahadur Bakhshi Schan Lal.	Code of Criminal Procedure (Amendment) Bill.
3.	Lala Girdharilal Agarwala ..	Indian Criminal Law Amendment (Repealing) Bill.
4.	Mr. Abdul Qadi ..	Interest (Amendment) Bill.
5.	Munshi Iswar Saran ..	Code of Civil Procedure (Amendment) Bill.
6.	Mr. Manmohandas Ramji ..	Indian Merchandise (Amendment) Bill.
7.	Dr. H. S. Gour ..	Indian Penal Code (Amendment) Bill.
8.	Dr. H. S. Gour ..	Immigration into India Bill.

CORRESPONDENCE BETWEEN CENTRAL PROVINCES AND GOVERNMENT OF INDIA AND SECRETARY OF STATE.

4. **Beohar Raghubir Sinha :** Will the Government lay on the table the correspondence that has passed with the Central Provinces local Government on matters requiring a reference to the Government of India or Secretary of State ?

The Honourable Sir Malcolm Hailey : If the Member will indicate precisely the correspondence to which he refers, Government will consider the propriety of placing copies on the table.

POLICE DUTIES IN LEGISLATURES.

5. **Sir Campbell Rhodes :** (a) With reference to the reply given to Question No. 467 on 6th March, have the Government made the promised enquiries and if so, with what result ?

(b) What are the number and rank of police officers employed in and about the Council of State and Legislative Assembly during the Session ?

(c) Are these police officers on deputation and, if not, are the duties of policing the city and controlling the traffic being adequately performed during their absence on this special duty ?

(d) Do the Delhi sergeants employed in Simla during the summer receive the same local and rent allowances as the sergeants permanently posted to Simla and, if not, are Government prepared to grant them such equal allowances ?

The Honourable Sir Malcolm Hailey : (a) Yes. It has been decided to reduce the police staff required for the internal police arrangements for the Chambers of the Indian Legislature at Simla and Delhi to—

- 2 Sub-Inspectors.
- 2 Sergeants.
- 2 Head Constables.
- 3 Constables.

(b) The police force employed for this purpose in the past was :

	Delhi.	Simla.
	1921-23.	1921. 1922
1 Inspector	1	—
3 Sergeants	4	4
5 Sub-Inspectors	—	2
4 Head Constables	2	2
14 Constables	16	4

(c) The police officers are not on deputation but are taken from other duties; the general arrangements for traffic, etc., naturally suffer to that extent during the period that they are detached on this special duty.

(d) Yes. The allowances have recently been equalised.

POST OFFICES IN INDIA.

6. **M. K. Reddi Garu** : Will the Government be pleased to state :

(1) The number of post offices including the sub-post offices in each of the Presidencies of India, (a) during the year 1914, (b) during the year 1922, and (c) during the current year ?

(2) Whether as the result of the recommendations of the Incheape Committee any of these post offices have been or are intended to be abolished ?

Mr. G. R. Clarke : (1) and (2). For postal purposes India (including Burma) is divided into 9 circles, and the desired information is accordingly given by Circles in the statement which is laid on the table.

It is not possible to state yet what permanent post offices are likely to be closed in the near future. Many offices have to be retained, even though not remunerative according to Post Office standards.

Statement showing the number of post offices which existed in the various circles on the 31st March 1914, 1922 and 1923 and the number which have been closed or are proposed to be closed as the result of the recommendations of the Incheape Committee.

Name of Circle.	No. of permanent post offices existing on			No. of experimental post offices existing on			No. of post offices closed.		No. of experimental post offices proposed to be closed.	REMARKS.
	31-3-14	31-3-22	31-3-23	31-3-14	31-3-22	31-3-23	Permanent.	Experimental.		
Bengal and Assam	2693	3696	3701	60	13	20	8	NIL	NIL	
Bihar and Orissa	1263	1306	1310	22	13	7	13	5	NIL	
Bombay	2091	3046	2756	41	43	64	28	0	25	
Burma	438	463	457	12	13	21	4	3	NIL	
Central	1766	1808	1739	74	10	16	27	3	3	
Madras	3512	3591	3614	26	74	11	39	NIL	NIL	
Punjab and North-West Frontier	3200	3212	3212	58	25	62	NIL	55	NIL	
United Provinces	2277	2360	2362	45	11	23	41	14	NIL	
Sind and Baluchistan*	...	370	369	...	13	16	10	NIL	NIL	*created in 1922.

TELEGRAPH STATIONS.

7. **M. K. Reddi Garu** : Will the Government be pleased to state the number of telegraph stations in each of the Presidencies during the current year ?

Mr. G. R. Clarke : A statement showing the number of Government Telegraph Offices in each of the Postal Circles is placed on the table. The circles do not coincide with the Presidencies.

Statement showing the number of Government Telegraph Offices in each of the Postal Circles during the current year.

Bengal and Assam Circle	..	..	..	682
Bihar and Orissa Circle	..	..	..	290
Bombay Circle	..	..	..	433
Burma Circle	..	..	..	301
Central Circle	..	..	..	363
Madras Circle	..	..	..	655
Punjab and North-West Frontier Circle	..	..	..	472
Sind and Baluchistan Circle	..	..	..	91
United Provinces Circle	..	..	..	353

VARIATIONS IN LEAVE RULES ON RAILWAYS.

8. **Mr. N. M. Joshi** : (a) Will Government be pleased to state (i) whether different Leave Rules prevail on different Indian Railways, both under State and Company management, and (ii) whether there is a wide distinction between leave rules for (a) European and non-European employees; (b) Anglo-Indian and Indian employees; and (c) Indian labour and Indian ministerial staff ?

(b) If the answers to (i) and (ii) in (a) be in the affirmative, will Government be pleased to state the reason or reasons of such difference in (i) and of wide distinction in (a), (b) and (c) of (ii) ?

(c) Will Government be pleased to state whether they are prepared to issue orders to all Railway administrations in India, both under State and Company management, to have uniform leave rules for all classes of their staff without any distinction of caste, colour or creed ? If not, why not ?

Mr. G. G. Sim : (a), (b) and (c). The leave rules on Railways under direct State management are uniform. As regards Company Railways, fundamental or skeleton rules have been sanctioned by the Secretary of State, but within these rules the Railway Administrations are at liberty to frame their own rules.

On Railways managed by the State, there is no racial distinction. All men appointed in India to the subordinate grades come under one set of rules, whether they be European, Anglo-Indian, or Indian. Those appointed at home under covenant have the benefit of further rules, which do not apply to men appointed in India. The reason for this distinction is that a man whose home is in Europe and who is imported into India for employment in this country has a reasonable claim to special treatment in regard to long leave. On some of the Company lines, however, the case is different, for a distinction is made between Europeans and non-Europeans. Daily-rated workmen both on State and on Company lines usually receive less liberal terms in regard to leave than the permanent ministerial staff. The whole question of leave rules for Railway servants is now under consideration.

RAILWAY WORKMEN'S LEAVE RULES.

9. **Mr. N. M. Joshi** : (a) Will Government be pleased to state whether it is a fact that the workmen serving on Indian Railways are allowed only 15 days' privilege leave during a year as against 30 days'

privilege leave, 30 days' sick leave and 10 days' casual leave allowed to the ministerial staff on Indian Railways ?

(b) If the answer to (a) be in the affirmative, will Government be pleased to give the reason of this difference in leave privileges between workmen and ministerial staff ?

(c) Will Government be further pleased to state whether they intend to recommend to the Railway authorities to remove, at an early date, this difference and grant equal leave privileges to the workmen ? If not, why not ?

Mr. G. G. Sim : (a) Yes ; they also get public holidays and allowances when absent from work in consequence of injuries sustained while on duty.

(b) It is considered that 15 days' leave with pay a year *plus* the privileges referred to in (a) are sufficient for manual workers and more in fact than they would ordinarily get in other industrial occupations.

(c) The question of revising leave rules for all railway employees with a view to bringing them more into accord with conditions of employment in other industrial concerns is under consideration, but the Government does not accept the view that the conditions of service or leave must be the same for all classes of employees.

RETIREMENT LEAVE RULES ON RAILWAYS.

10. Mr. N. M. Joshi : (a) Will Government be pleased to state whether they are aware that on some Indian Railways, 18 months' retirement leave is granted to ministerial staff, while on the Bombay, Baroda and Central India Railway only 6 months' retirement leave is allowed ?

(b) If the answer to (a) be in the affirmative, will they be pleased to state whether they intend to recommend to the Bombay, Baroda and Central India Railway Company to bring their retirement leave to 18 months ? If not, why not ?

Mr. G. G. Sim : (a) and (b). The rules governing such cases are entirely a matter for the Companies to decide so long as they fall within the Fundamental Rules sanctioned by the Secretary of State and Government do not therefore propose to interfere. The question of revising the fundamental leave rules for railway employees is, however, under consideration.

LEAVE RULES ON GREAT INDIAN PENINSULA RAILWAY.

11. Mr. N. M. Joshi : (a) Will Government be pleased to state whether they are aware that under the existing Leave Rules on the Great Indian Peninsula Railway, an Indian subordinate on Rs. 600 gets less leave than a non-Indian subordinate on Rs. 60 ? If so, will they be pleased to state the grounds on which such difference has been maintained ?

(b) Will Government be pleased to state whether it is a fact that while nothing has so far been done in the matter of revising the Leave Rules for Indians, those for Europeans and Anglo-Indians have been revised ? If so, why has this differential treatment been given ?

Mr. G. G. Sim : (a) and (b). It is true that in the leave rules of the Great Indian Peninsula Railway, a distinction is made between Europeans and non-Europeans and that the leave rules for Europeans are consider-

ably more liberal than those for non-Europeans. As has been mentioned in reply to question No. 6 the whole question of Railway leave rules is now under consideration.

RAILWAY LEAVE RULES.

12. Mr. N.-M. Joshi : Will Government be pleased to lay on the table, for the information of the Members of the Indian Legislature, the various Leave Rules prevailing on different Indian Railways, both under State and Company management ?

Mr. G. G. Sim : Copies of the Fundamental and Supplementary Rules which apply to State Railway staff and of the Fundamental Rules applicable to Company-worked Railways within which Companies can frame their own rules have been placed in the Library.

MODIFICATIONS IN RAILWAY LEAVE RULES.

13. Mr. N. M. Joshi : Will Government be pleased to state whether they are considering any modifications in leave rules at present prevailing on Indian Railways ? If so, how long have they been considering them and when are they expected to come to a decision ?

Mr. G. G. Sim : Revised draft Fundamental Rules have been prepared, but have not yet been issued. The whole question of the leave rules for the Railways requires reconsideration in view of the criticisms made by the Retrenchment Committee on Indian leave rules generally. It is proposed to place an officer on special duty with the object of framing special rules suitable for application to the Railway service.

CAPITAL EXPENDITURE ON RAILWAYS.

14. Mr. N. M. Joshi : (a) Will Government be pleased to state how much of the amount of Rs. 30 Crores sanctioned for Capital expenditure is spent in India and how much is spent in England ?

Mr. G. G. Sim : The approximate expenditure on railways during the year 1922-23 against the grant of Rs. 30 crores has been Rs. 18,41,97,000, distributed between India and England as under :—

	Rs.
India	3,33,90,000
England	9,86,81,000
Exchange	5,21,26,000

The final accounts for the year have not yet been received from all the railway administrations.

MANUFACTURE OF RAILWAY MATERIAL.

15. Mr. N. M. Joshi : (a) Will Government be pleased to state whether it is a fact that the Managers of the Railway Workshops, instead of manufacturing the material required for railway purposes in their workshops, give orders for the same to British importers of foreign goods ?

(b) If the answer to (a) be in the affirmative, will Government be pleased to state whether, owing to shortage of work, Indian Railway Companies were required to dispense with the services of some of the workmen serving in Railway Workshops ? And if so, how many of these workmen were dispensed with in the year 1922 ?

Mr. G. G. Sim : The question is couched in such wide terms that it is almost impossible to answer it. The Honourable Member presumably wishes to know whether Railway Administrations import from abroad material which they could manufacture in their own workshops and whether as the result of this policy men were discharged in 1922 owing to shortage of work. Railway workshops are intended for the erection, maintenance and repair of railway plant and equipment. The extent to which the material required for this purpose is manufactured in the workshops is decided solely by consideration of economy and efficiency. There has been no change of policy in this respect in recent years, and if workmen were discharged in 1922, a point on which the Government of India have no information, such discharge was in no way due to any increased purchases from abroad.

RAILWAY POSTS ON RS. 500 AND ABOVE.

16. Mr. N. M. Joshi : Will Government be pleased to give the number of posts carrying salaries of Rs. 500 and above, on each of the different Indian Railways, both under State and Company management and the number of such of them as are held by Indians?

Mr. G. G. Sim : The Honourable Member is referred to the Classified List of State Railway Establishment and Distribution Return of Establishment of all railways, a copy of which is in the Library.

RAILWAY RELIEF STAFF.

17. Mr. N. M. Joshi : Will Government be pleased to state whether they have heard of complaints among the Indian employees serving on different railways that they cannot take advantage of their leave privileges owing to a stipulation in the leave rules that no staff for relief shall be engaged?

(b) If the complaints referred to in (a) are correct, do Government propose to take steps to remove them by appointing some staff for relief or by taking some such measures as Government think fit?

Mr. G. G. Sim : (a) and (b). The Government have heard of no such complaints. But, as has been mentioned in the reply to questions 6 and 9 the whole question of revising these leave rules is now under consideration.

INCREASED SALARIES ON GREAT INDIAN PENINSULA RAILWAY.

18. Mr. N. M. Joshi : (a) Will Government be pleased to state whether it is a fact that since 1919, the Great Indian Peninsula Railway Officers have received an increase of 25 per cent. in their salaries?

(b) If the answer to (a) be in the affirmative, will they be pleased to state whether they are aware that under the Manmad Agreement, according to Sliding Scale, only 20 per cent. increases were given to men drawing Rs. 400? If so, how is the higher percentage of increase in the case of officers referred to in (a) justified?

Mr. G. G. Sim : (a) Yes.

(b) Yes, the increase given under the Manmad Agreement to men drawing Rs. 400 was 20 per cent.

While the increase to the men drawing Rs. 400 was 20 per cent. it may be noted that the average increase for the staff under the Manmad Agreement is over 27 per cent. and that a still further increase was given in accordance with the Arbitration Award of the 29th October 1920.

COST OF TIME SCALE ON GREAT INDIAN PENINSULA RAILWAY.

19. Mr. N. M. Joshi : (a) Will Government be pleased to give the total cost that the Great Indian Peninsula Railway Company may have incurred during the year 1921-22, owing to the introduction of time scale for its officers?

(b) Will Government be pleased to state whether it is a fact that during the same year (1921-22) the Great Indian Peninsula Railway Company suffered a loss of 2 crores and 40 lacs of rupees?

Mr. G. G. Sim : (a) It is not possible to estimate with any degree of accuracy what the difference between the expenditure incurred in 1921-22 and what it would have been in that year had the previous scales of pay remained in force.

(b) The net earnings of the railway were 101 lakhs but this fell short of the charges, which are debitable to net earnings before there can be any division of surplus profits by 2 crores and 40 lakhs.

APPOINTMENTS OF INDIANS TO RAILWAYS.

20. Mr. N. M. Joshi : With reference to the Honourable Professor V. G. Kale's Resolution in the Council of State *re* Indianisation of higher grades of Railway service passed last year, will Government be pleased to state (a) how many vacancies occurred in higher grades since that Resolution was passed, (b) how many of these have been filled up and (c) how many of them that were filled up, were given to Indians—on each of the State-managed and Company-managed Railways?

Mr. G. G. Sim : A statement giving the information asked for is laid on the table.

Statement showing (a) the number of vacancies in the higher grades; (b) the number of vacancies filled up; and (c) the number filled up by Indians - on each of the State and Company-worked railways in 1922.

Railways.	(a)	(b)	(c)
<i>State Railways.</i>			
North-Western Railway	20	20	6
Eastern Bengal Railway	10	10	5
Oudh and Rohilkhand Railway	8	7	4
<i>Company worked Railways.</i>			
Assam Bengal Railway	3	3	1
Bengal and North-Western Railway	4	4	1
Bengal Nagpur Railway	20	19	5
Bombay, Baroda and Central India Railway	7	7	3
East Indian Railway	17	14	5
Great Indian Peninsula Railway	16	9	5
Madras and Southern Mahratta Railway	22	18	5
Rohilkhand and Kumaon Railway	1	1	1
South Indian Railway	12	8	4
Total	140	120	44

MR. COLE'S REPORT ON TRAINING OF INDIANS FOR RAILWAYS.

21. Mr. N. M. Joshi : Will Government be pleased to state whether the report of Mr. Cole regarding the training of Indians for higher posts on Railways is published ? If not, why not ?

Mr. G. G. Sim : Copies of Mr. Cole's report have been placed in the Library. His recommendations are under the consideration of Government.

DIFFERENTIAL TREATMENT ON GREAT INDIAN PENINSULA RAILWAY.

22. Mr. N. M. Joshi : Will Government be pleased to state whether the Indian staff of the Great Indian Peninsula Railway have during the last five years sent any memorials to the Home Board of Railways with regard to the differential treatment given to Indians on the Great Indian Peninsula Railway with regard to appointments, leave, passes, educational facilities, etc. ? If so, what action has been taken thereon ?

Mr. G. G. Sim : Government are not aware whether any such memorials have been sent in by the Indian staff. Such matters are entirely within the power of the Board of Directors to deal with.

QUARTERS ALLOTTED TO INDIANS ON GREAT INDIAN PENINSULA RAILWAY.

23. Mr. N. M. Joshi : (a) Will Government be pleased to state whether it is a fact that on the Great Indian Peninsula Railway, Indians who are now appointed on some higher posts on which non-Indians were working before, are not allowed to use the quarters used by their predecessors ? If not, why not ?

(b) If the answer to the earlier part of (a) be in the affirmative, will Government be pleased to state whether these Indians are provided with some other suitable quarters ?

(c) Will Government be further pleased to state whether it is a fact that rest houses meant for subordinates on the Great Indian Peninsula Railway are not allowed to be used by Indian subordinates ? If so, why ?

Mr. G. G. Sim : (a), (b) and (c). The necessary information is being obtained from the Great Indian Peninsula Railway Administration and will be supplied to the Honourable Member when it is received.

MEDICAL ARRANGEMENTS ON GREAT INDIAN PENINSULA RAILWAY.

24. Mr. N. M. Joshi : Will Government be pleased to state whether it is a fact that the Great Indian Peninsula Railway staff have repeatedly pointed out that the medical arrangement on the railway is not satisfactory ? If so, what means are adopted to improve them ?

Mr. G. G. Sim : Government have received no complaints. The Great Indian Peninsula Railway Company employ a large staff of medical officers and subordinates for the purpose of attending their employees. The total annual expenditure on this account including cost of medicines, contributions to hospitals, etc., exceeds Rs. 5 lakhs, and this should prove adequate.

EXPENDITURE ON EDUCATION ON GREAT INDIAN PENINSULA RAILWAY.

25. Mr. N. M. Joshi : Will Government be pleased to state (a) the total numbers of European, Anglo-Indian and Indian employees

on the Great Indian Peninsula Railway and (b) the total amount that is spent on the same railway for the education of the children of (i) European, (ii) Anglo-Indian, and (iii) Indian employees ?

Mr. G. G. Sim : The figures for last year are :—

			Rs.
(a)	Europeans	.. ..	1,367
	Anglo-Indians	.. ..	1,399
	Indians	.. ..	1,11,966
	Total	.. ..	1,14,732
(b)	(i) and (ii)	.. ..	86,982
	(iii)	.. ..	13,478

GREAT INDIAN PENINSULA RAILWAY GRADES UNDER MANMAD AGREEMENT.

26. Mr. N. M. Joshi : Will Government be pleased to state whether it is a fact that the maxima grades which the Great Indian Peninsula Railway staff got under the Manmad Agreement are reduced ? If so, why is the agreement broken ?

Mr. G. G. Sim : Government have no information on the subject.

IMPORTED COAL ON GREAT INDIAN PENINSULA RAILWAY.

27. Mr. N. M. Joshi : Will Government be pleased to state whether their attention has been drawn to the statement on page 100 of the report of the Indian Retrenchment Committee that the cost of coal imported by the Great Indian Peninsula Railway, was Rs. 52.75 per ton during 1921-22 whereas Indian coal was available at Rs. 14.47 per ton ? Will they be further pleased to state (i) the amount paid in excess on account of this importation of coal, (ii) who is responsible for this importation, and (iii) why the coal was brought from outside India at such heavy cost ?

Mr. G. G. Sim : The Government of India have of course seen the statement referred to by the Honourable Member. Made as it was without any comment in the Report, it undoubtedly needs explanation, and the Government of India are glad of an opportunity of stating the facts.

In 1920 the coal position throughout the East was very difficult, and the drain on India for coal for export was very great. Apart from this fact, consumers in India experienced great difficulty in obtaining the supplies they required, owing to the great pressure on the Railways. Before the war much of the coal required for consumption in India had been carried by coasting steamers. In 1920 freights had not yet come down, and coal for distant places like Bombay and Karachi was still carried by Rail. The result was that there was great congestion on the Railways, and at one time it looked as if many industries would have to close down for lack of coal.

Various measures were taken to meet the situation. The export of coal was first restricted and then prohibited altogether except for a small amount required for Ceylon. Efforts were made in various ways to drive as much of the coal trade as possible back to the route which it had taken before the war, namely, from the coalfields to the Kidderpore docks

and thence by coasting steamer. But the position remained very difficult, and the progressive diminution of stocks on the three Western Railways, the Great Indian Peninsula, the Bombay, Baroda and Central India and the North-Western Railways as long as they were dependent on rail-borne supplies from the Bengal fields, caused great anxiety. Stocks of coal on the Great Indian Peninsula Railway were at one time down to between 10 and 11 days supply, and on the Bombay, Baroda and Central India broad gauge to 6 days supply. The anxiety of the position was increased by unrest in the coalfields culminating in a number of short strikes in December 1920 and by the fact that there was reason to believe that efforts might be made to engineer a general strike in the coalfields in the spring of 1921. If this strike had come on, or, if the East Indian Railway strike had occurred in 1921 instead of 1922, the Bombay, Baroda and Central India and Great Indian Peninsula Railways would have had to stop working in a very short time, and it was for these reasons that, with the full approval of the Railway Board, the contract for English coal was placed. The Government of India do not admit that there was any waste of money. Extra expense was of course incurred, but the placing of the contracts was a measure of ordinary prudence. It may be mentioned that many other consumers in Bombay were forced to have recourse to imported coal. Imports of coal into India rose from 86,000 tons in 1920-21 to 1,878,000 tons in 1921-22, of the latter figure 700,000 tons were imported on behalf of the Railways. It is useless to attempt to calculate what the extra expense incurred by the Great Indian Peninsula Railway was, for, as has been mentioned, it was impossible for the Great Indian Peninsula Railway to obtain all the Indian coal it required.

RECOGNITION OF GREAT INDIAN PENINSULA RAILWAY STAFF UNION.

98 Mr. N. M. Joshi : In view of the Government of India's letter No. F-39 of 13th-20th October 1921, to Departments of Governments and Railway Administrations *re* official recognition of Unions, will Government be pleased to state the reason why the Great Indian Peninsula Railway Administration have not yet recognised the Great Indian Peninsula Railway Staff Union conducted by the Staff themselves ?

Mr. G. G. Sim : The letter referred to by the Honourable Member does not bind a Company Railway, and the question of recognising the Great Indian Peninsula Railway Staff Union is entirely one for the Agent to decide in consultation with the Board of Directors. It has been ascertained, however, that the Agent does not propose at present to frame any rules for the recognition of the Railway Union. In order to set up machinery for dealing with questions relating to the employment and welfare of the staff and as a method of negotiation on issues arising between the Railway administration and its servants, the Agent is preparing a scheme for the establishment of Councils on the lines of Whitley Councils. He proposes to defer the question of the recognition of the Union until a decision has been arrived at on the question of legislation for the registration and protection of trades unions in India, which is now under consideration by the Government of India.

RETRENCHMENTS OF RAILWAY STAFF.

29. Mr. N. M. Joshi : Will Government be pleased to lay on the table a detailed statement containing the reductions made, as a result of

the recommendations of the Indian Retrenchment Committee, in (i) the European, Anglo-Indian and Indian officers, (ii) the European, Anglo-Indian and Indian subordinates and (iii) the menials on each of the Indian Railways both under State and Company management ?

Mr. G. G. Sim : The Government are not in possession of the information asked for. They propose to collect it in due course and will include it in next year's budget memorandum.

REVENUE FROM INCOME AND SUPER-TAX.

30. Dr. H. S. Gour : Will the Government be pleased to state the progressive revenue made from Income-tax from 1886 up to date and from Super-tax since its levy up to date ?

The Honourable Sir Basil Blackett : A statement is laid on the Table.

Statement showing the gross collections of income-tax and super-tax, refunds and net revenue for the years 1886-87 to 1921-22 (Revised).

Year.	Gross Income-tax.	Gross Super-tax.	Refunds.	Net Revenue.
	Rs.	Rs.	Rs.	Rs.
1886-87 ...	1,35,47,350	...	2,70,670	1,32,76,680
1887-88 ...	1,43,14,360	...	1,09,490	1,41,14,870
1888-89 ...	1,52,09,400	...	1,63,520	1,50,45,880
1889-90 ...	1,59,52,740	...	1,26,090	1,58,16,650
1890-91 ...	1,61,73,960	...	1,65,250	1,60,08,710
1891-92 ...	1,65,28,220	...	1,47,160	1,63,80,970
1892-93 ...	1,68,61,410	...	1,56,150	1,67,05,260
1893-94 ...	1,73,91,710	...	2,15,440	1,71,76,270
1894-95 ...	1,80,80,600	...	1,33,520	1,79,47,080
1895-96 ...	1,83,51,890	...	1,27,710	1,82,24,180
1896-97 ...	1,87,25,090	...	1,24,610	1,86,03,480
1897-98 ...	1,89,54,650	...	1,42,320	1,88,12,330
1898-99 ...	1,92,21,910	...	1,11,610	1,91,10,300
1899-1900 ...	1,95,04,416	...	1,13,484	1,93,90,932
1900-01 ...	1,98,31,402	...	1,25,438	1,97,05,964
1901-02 ...	2,05,39,654	...	1,06,249	2,04,33,405
1902-03 ...	2,10,52,389	...	1,16,340	2,09,36,049
1903-04 ...	1,81,02,669	...	1,20,441	1,79,82,228
1904-05 ...	1,90,38,380	...	1,00,563	1,89,37,817
1905-06 ...	1,98,20,899	...	1,60,721	1,97,20,178
1906-07 ...	2,13,56,809	...	1,11,901	2,12,44,908
1907-08 ...	2,25,61,693	...	1,23,900	2,24,37,793
1908-09 ...	2,33,01,287	...	1,52,643	2,31,68,644
1909-10 ...	2,33,84,463	...	1,91,378	2,31,93,085
1910-11 ...	2,38,99,513	...	1,44,268	2,37,55,247
1911-12 ...	2,47,93,181	...	1,62,403	2,46,30,778
1912-13 ...	2,61,35,963	...	1,68,457	2,59,67,506
1913-14 ...	2,92,53,745	...	2,02,172	2,90,51,573
1914-15 ...	3,05,50,999	...	2,51,911	3,02,99,088
1915-16 ...	3,13,51,643	...	2,46,795	3,11,10,848
1916-17 ...	5,65,94,498	...	5,63,912	5,60,30,586
1917-18 ...	9,46,21,555	2,21,59,460	8,93,964	11,58,87,051
1918-19 ...	8,44,95,308	3,18,81,632	12,62,953	11,51,13,987
1919-20 ...	11,34,44,879	2,63,53,070	77,17,263	13,20,80,686
1920-21 ...	13,95,22,337	6,35,90,235	1,21,23,156	19,09,89,416
1921-22 ...	16,08,59,371	8,76,61,852	2,89,19,405	21,96,01,818

INCOME-TAX APPEALS.

31. **Dr. H. S. Gour** : Will the Government be pleased to state the number of appeals heard, (a) By the Income-tax Officers against assessment since the operation of the new enactment and the result of such appeals ?

(b) The appeals heard by the High Courts with their result ?

The Honourable Sir Basil Blackett : (a) Appeals are not heard by Income-tax Officers but by Assistant Commissioners and Commissioners of Income-tax. The necessary information will be supplied to the Honourable Member when available.

(b) Seventeen references have been made to the High Court under the Indian Income-tax Act, 1922, of which five were rejected and 12 are pending.

INCOME-TAX INQUIRY INSPECTORS.

32. **Dr. H. S. Gour** : (a) Do the Income-tax Department employ secret Inquiry Inspectors upon whose reports the survey books are prepared ?

(b) Is the Government aware that with a view to earn the good will of their superiors and their own promotion these Inspectors grossly exaggerate the income of persons ?

(c) Is it aware that widespread discontent exists in the country on the way the Income-tax Department assess incomes ?

The Honourable Sir Basil Blackett : (a) Inspectors are employed in certain provinces to make inquiries regarding assessee and their reports are utilised by Income-tax Officers.

(b) and (c). The answer to the remaining parts of the question is in the negative.

INCOME-TAX COMMISSIONERS.

33. **Dr. H. S. Gour** : (a) Will the Government lay on the table the academic qualifications, if any, of the Income-tax Commissioners and Assistant Commissioners of the several Provinces ?

(b) How many of them, if any, had legal training or possess judicial experience ?

(c) What additional salaries do they draw by reason of their appointment to the Income-tax Department ?

The Honourable Sir Basil Blackett : (a) and (b). A statement is laid on the table giving the information available.

(c) The members of the Indian Civil Service usually draw the pay of their appointments in the regular line with special pay of Rs. 250 per mensem. Other Commissioners and Assistant Commissioners draw the sanctioned pay of their appointments.

Statement showing the academic qualifications of the Income-tax Commissioners and Assistant Commissioners of the several Provinces.

Name.	Designation.	Academic qualifications.	Legal training.	Judicial experience.
<i>Bengal.</i>				
E. N. Blandy, Esq., I.C.S.	Commissioner of Income-tax	B. A. (Oxon) ...	No	Yes.
T. T. Williams, Esq., late of I.E.S.	Assistant Commissioner	B. Sc. (Wales.) ... M. A. (Cantab.)	No	No.
W. B. Kirkwood, Esq.	" "	Fellow of the New-Zeland Society of Accountants.	Yes	No.
Babu Rames Chandra Sen.	" "	.....	No	Yes.
Khan Bahadur Ataur Rahman.	" "	B. A. (Calcutta) ...	No	Yes.
<i>United Provinces.</i>				
Rai Bahadur Pandit Hari Har Nath Mut'o.	Offg. Commissioner of Income-tax.	B. A. (Allahabad) ..	No.	Yes.
Pandit Lachhman Sita Ram Kher.	Assistant Commissioner	Ditto ...	No	Yes.
Rai Sahib B. Bishwa Nath Prasad.	" "	Ditto ...	No	Yes.
Maulvi Mohammad Abdul Ghani Ansari.	" "	B. A., LL. B. (Allahabad).	Yes	Yes.
<i>Punjab.</i>				
L. L. Darling, Esq., I.C.S.	Commissioner of Income tax, Punjab and North-West Frontier Province	B. A. (Cantab.)	No	Yes.
Lala Arjan Dass Yesudava.	Assistant Commissioner of Income-tax, Punjab.	M. A. (Punjab) F. E. L.	Yes	Yes.
Mr. W. R. Pearce ..	" "	High School Examination.	No	Yes.
Rai Sahib Mangat Rai	Assistant Commissioner of Income-tax, Punjab and North-West Frontier Province.	B. A. ...	No	Yes.
<i>Burma.</i>				
J. C. Mackenzie, Esq., I.C.S.	Commissioner of Income tax.	M. A. (Edinburgh)...	No	Yes.
G. A. H. Alexander, Esq.	Deputy Commissioner of Income-tax.	...	...	...
<i>Bihar and Orissa.</i>				
A. P. Middleton, Esq., I.C.S.	Commissioner of Income-tax.	B.A. (Oxon) ...	...	Yes.
Rai Bahadur Surendra Nath Mazumdar.	Assistant Commissioner of Income-tax.	B.A. (Calcutta) ...	...	Yes.
<i>Central Provinces.</i>				
K. S. Jatar, Esq. ...	Commissioner of Income-tax.	Undergraduate of the Bombay University.	...	Yes.
K. S. Wali Muhammad Balkrishna Bhaskar Kekre.	Assistant Commissioner	B.A. (Allahabad) ...	...	Yes.
	Assistant Commissioner	B.A. (Allahabad) ...	...	Yes.

ASSEESSES OF INCOME-TAX.

Name.	Designation.	Academic qualifications.	Legal training.	Judicial experience.
<i>Bombay.</i>				
L. W. Hartley, Esq., C.I.E.	Commissioner of Income-tax	Matriculate ...	No	No.
Khan Bahadur J. B. Vacha.	Assistant Commissioner of Income-tax, Bombay City.	B.A., B. Sc. (Bombay)	No	Yes.
Rao Sahib D. P. Desai	Assistant Commissioner of Income-tax, Sind.	...	No	No.
<i>Madras.</i>				
D. N. Strathie, Esq., I.C.S.	Commissioner of Income-tax.	M.A. (Glasgow) ...	...	Yes.
Two Assistant Commissioners of Income-tax.	Not known	Not known ...	...	...

ASSESSMENT OF INCOME-TAX.

34. Dr. H. S. Gour : (1) Will the Government be pleased to state what percentage of assesseees during the last 3 years were assessed upon their own statement of their income ?

(2) Is it a fact that in the generality of cases the assessment is made without reference to the statement called for ?

(3) What per cent. of assesseees have been assessed at a gradually progressive rate of income ?

(4) Will the Government be pleased to state whether it is a fact that in some cases upon the assessee appealing against his assessment, the appellate Court has ordered realization of a larger sum from the appellant ?

(5) Is there any limitation as to time for the realization of income-tax of any given year ?

(6) Is the Government aware that the appellate Court has in some cases ordered realization of a tax for the period long barred by time ?

(7) Is it a fact that the assessing officer and the appellate Courts are both members of the same department ?

The Honourable Sir Basil Blackett : (1) and (3). The information is not available and its complication would require an amount of time and labour quite disproportionate to the result.

(2), (4), (6) and (7). The answer to the second and sixth parts is in the negative and to the fourth and seventh in the affirmative.

(5) No limitation has been prescribed in the Indian Income-tax Act, 1922, provided that with one exception, no proceedings for the recovery of any sum payable under the Act can be commenced after the expiration of one year from the last day of the year in which any demand is made under the Act.

35. Dr. H. S. Gour : (1) Will the Government be pleased to state the number of assesseees of income-tax and super-tax during the last 20 years ?

(2) What was the number of European assesseees in 1880 and what is their number now ?

(3) What is the total amount of assessment recovered from European and Indian assesseees, respectively, apart from registered companies ?

The Honourable Sir Basil Blackett : A statement giving the information asked for in the first part of the question is laid on the table. The other information asked for is not available and its compilation, where possible, would require an amount of time and labour disproportionate to the result.

Year.	No. of assesseees Income-tax.	No. of Assesseees. Super-tax.
1901-02	5,13,549	...
1902-03	5,30,800	...
1903-04	2,39,993	...
1904-05	2,43,172	...
1905-06	2,49,444	...
1906-07	2,55,762	...
1907-08	2,62,068	...
1908-09	2,67,619	...
1909-10	2,75,623	...
1910-11	2,77,822	...
1911-12	2,88,988	...
1912-13	3,13,690	...
1913-14	3,22,393	...
1914-15	3,38,954	...
1915-16	3,42,541	...
1916-17	3,57,021	...
1917-18	3,82,532	...
1918-19	3,66,431	1,958
1919-20	1,85,791	1,600
1920-21	2,29,788	1,910
1921-22	2,41,774	2,575

EXCHANGE COMPENSATION ALLOWANCE.

36. Dr. H. S. Gour : (1) When did the Government commence to pay exchange compensation allowance to its European employees ? What class of employees are paid such compensation and at what rate ?

(2) Is it a fact that the assessment of income-tax upon the European employees is more than counterbalanced by the payment of exchange compensation allowance, whereas no such relief is given to the Indian employees ?

The Honourable Sir Basil Blackett : (1) Exchange compensation allowance was made admissible for the first time in 1893. The allowance

has been withdrawn from time to time from practically all the services and only two limited classes of officers are now eligible for it, namely :

- (1) Officers of the Indian Police Service recruited before 1906 ; and
- (2) Officers serving on contract in which exchange compensation allowance forms part of the terms of the contract.

The amount of exchange compensation allowance admissible to a Government servant is the number of rupees by which one half of his pay falls short of the sum which, when converted at the current rate of exchange, will yield the sterling equivalent of one half of his pay converted at the rate of 1s. 6d.; provided that the total amount of exchange compensation allowance drawn in any quarter shall not exceed the number of rupees by which a sum of £250, converted into rupees at the rate of 1s. 6d., falls short of the rupee equivalent of the same sum when converted at the current rate of exchange.

(2) As the Honourable Member will have gathered from the answer to the first part of his question the answer to the second part is in the negative.

SALARY, PENSION AND EXCHANGE COMPENSATION ALLOWANCE.

37. **Dr. H. S. Gour :** (1) Was the salary of Government servants reduced when the exchange rose to 2s. 11d. and is the salary of European officials of the Government of India varied with the rise of exchange ?

(2) Is it a fact that all Government pensioners receive their pensions in England at 1s. 9d. in the rupee ? If not at what rate of exchange are their pensions calculated ?

The Honourable Sir Basil Blackett : The answer to both portions of the first part of the question is in the negative. In reply to the second part, rupee pensions paid in England are converted at the rate of exchange on the day the payment is due subject to a minimum of 1s. 9d.

OPPOSITION TO INDIAN ARMY ORDER NO. 805 OF 1922.

38. **Mir Asad Ali, Khan Bahadur :** 1. Are Government aware of the opposition of some of the Trades Association to the Indian Army Order No. 805, Paragraph 4, dated 26th September 1922 ?

2. Do the Government propose taking some action to annul the Order ?

Mr. E. Burdon : (a) Representations on the subject have been received from certain Trades Associations.

(b) The matter is under consideration.

REPEAL OF WORKMEN'S BREACH OF CONTRACT ACT.

39. **Mr. N. M. Joshi :** Will Government be pleased to state the time when they propose to introduce legislation for the repeal of the Workmen's Breach of Contract Act of 1859 ?

The Honourable Sir Malcolm Hailey : The Government of India have decided to repeal the present Act with effect from the 1st April 1926. It is not proposed to introduce the Bill until sometime in the next Session.

TRADE UNION LEGISLATION.

40. **Mr. N. M. Joshi :** Will Government be pleased to state the time when they propose to introduce Trade Union legislation as per resolution passed by the Legislative Assembly on the 1st March 1921 ?

The Honourable Mr. A. C. Chatterjee : The Government of India hope to be in a position to introduce a Bill early next year.

INDIAN SEAMEN UNDER WORKMEN'S COMPENSATION ACT.

41. **Mr. N. M. Joshi :** (a) Will Government be pleased to state whether they have addressed the Secretary of State for India regarding the steps to be taken to include Indian Seamen, serving on ships registered in Great Britain, under the Workmen's Compensation Act of the Indian Legislature ?

(b) If the answer to (a) be in the affirmative, will Government be pleased to state whether they have received a reply from the Secretary of State for India ? If so, will they be further pleased to state what that reply is ?

The Honourable Mr. A. C. Chatterjee : A despatch to the Secretary of State is under issue.

POSTAL EMPLOYEES UNDER WORKMEN'S COMPENSATION ACT.

42. **Mr. N. M. Joshi :** Will Government be pleased to state whether they have consulted the advisability of giving the benefit of the Workmen's Compensation Act to Postal runners and some other classes of Postal employees ? If so, will they be further pleased to announce the exact terms of their decision ?

The Honourable Mr. A. C. Chatterjee : The matter will be considered, but the Government of India are not, as at present advised, inclined to include any fresh classes of workers by notification under section 2 (3) of the Act until the Act has itself been in force for some time and experience of its working has been gained. I would remind the Honourable Member that a proposal to include postal runners was rejected by the Workmen's Compensation Committee which sat in June 1922, when the principles of the Bill were under examination.

THIRD CLASS RAILWAY TRAVELLING FACILITIES.

43. **Mr. N. M. Joshi :** (a) Will Government be pleased to state what steps have been taken by them to give effect to the Resolution passed by the Legislative Assembly on the 17th September 1922 regarding travelling facilities for the third class railway passengers ?

(b) Will they be further pleased to place on the table or make available to the Members of the Indian Legislature the whole correspondence that may have passed between the Government of India and the various Railway Administrations with regard to the resolution referred to in (a) ?

Mr. G. G. Sim : (a) and (b). The Honourable Member is referred to the answer given in the Assembly on the 29th January last to Question No. 289 asked by him on the same subject. The reports referred to therein have since been received, but in view of the fact that they will probably require revision in the light of the modifications which have been made in the Railway Programmes owing to the Incheape Committee's Report, the Railway Administrations have been asked to revise the reports, so far as may be necessary, and to place the revised reports before their local Advisory Councils for discussion. When the final reports together with the remarks of the local Advisory Councils are received, Government will consider the

question of publishing them. But the reports are very voluminous and I must warn the Honourable Member that, if publication is decided upon, it will be very expensive.

INDIAN ELEMENT IN IMPERIAL SERVICES.

44. Mr. N. M. Joshi : Will Government be pleased to lay on the table a statement showing the progress made in the direction of introducing the Indian element into the various Imperial Services in India from the time, when the last statement on the same subject was prepared for the purposes of the Legislative Assembly, to the end of June 1923 ?

The Honourable Sir Malcolm Hailey : A statement containing the information required by the Honourable Member is laid on the table.

Statement showing the percentage of Indians in certain Public Services.

Service or Department.	Percentage of Indians to the total strength.	Maximum percentage of posts intended to be given to Indians.	Ratio at which the appointments are at present being filled by Indians to the total number of appointments filled.	Number of years that will be necessary for Indians to attain the maximum percentage of posts open to them.	REMARKS.
1	2	3	4	5	6
Indian Civil Service.	16.3 per cent.	48 per cent.	37 per cent.	Cannot be definitely stated.	
Indian Police Service.	10.6 per cent.	33 per cent. generally. (For North-West Frontier Province not higher than 10 per cent. In Burma the percentage of local recruits has been fixed at 22 of which at least 15 should be Burmans)	33 per cent generally.	Cannot be definitely stated.	
Imperial Forest Service.	7.5 per cent Indians. 7.5 per cent Statutory Indians. 15 per cent total.	12.1 per cent of the Imperial Forest Service posts are reserved for the promotion of officers of the Provincial Forest Service. These will always be Indians or Statutory natives of India. Further 40 per cent of each year's direct recruitment requirements is to be obtained in India from Indians and Statutory Indians. For Burma the figure is 25 per cent.	In 1920.—4 Indians were found fit for appointment in India as probationers. The number of appointments made in England was 25. In 1921.—20 Indians were recruited in India and 2 in England. The number of Europeans selected as probationers in India under special regulations that year was 10, while 15 were recruited in England. Recruitment during 1922.—5 Indians in India under ordinary regulations and one Indian and one Burman in England. 6 Europeans in India under special regulations and 6 in England. Recruitment during 1923.—Probably 4 or 5 Indians in India and 10 Europeans in England under ordinary regulations.	This will depend upon the rate at which Europeans already in the Imperial Forest Service disappear and upon the number of suitable Indians forthcoming annually. There is no maximum number of posts fixed as open to Indians but a percentage of annual recruitment is reserved for them. This percentage is liable to reconsideration.	

Service or Department.	Percentage of Indians to the total strength.	Maximum percentage of posts intended to be given to Indians.	Ratio at which the appointments are at present being filled by Indians to the total number of appointments filled.	Number of years that will be necessary for Indians to attain the maximum percentage of posts open to them.	REMARKS.
1	2	3	4	5	6
Indian Agricultural Service.	32.1 per cent	60 per cent when adequate training facilities are provided for the training of qualified candidates in India.	Since the 8th September 1922, 6 Europeans and 2 Indians were appointed, i.e., 25 per cent of the total number of vacancies were given to Indians. The 6 Europeans were recruited for Burma where Indians are not appointed.	Cannot be gauged but the percentage of 50 will be worked up to as soon as qualified Indians are available.	
Indian Veterinary Service.	4 per cent	50 per cent for the present.	In addition to 5 Indian scholars who were sent to England for training in 1921 with a view to their appointment to the Indian Veterinary Service 6 provincial service officers are undergoing post graduate training at the Muktesar Laboratory. The former will complete their training in 1923 and the latter this year.	Impossible to say.	
Survey of India	There is one Indian of pure Asiatic descent in Class I but see column 3.	20 per cent. of class I appointments are reserved for and held by officers promoted from class II who must on appointment to class II be Indians of pure Asiatic descent or statutory Indians. Indians holding Commissions in the Indian Army are also eligible for appointment.			
Indian Educational Service.	41.7 per cent. excluding Burms, 38.9 per cent. including Burms.	50 per cent	50 per cent. of the annual recruitment is to be Indian, exclusive (until 50 per cent. of the total is reached) of Indians who may be transferred in posts transferred from Provincial Educational Service to the Indian Educational Service.	Nothing definite can be stated but it is hoped that the 50 per cent. will soon be reached.	The percentages in column 2 are based on the number of officers actually employed as was done previously.
Meteorological Department.	63.6	No percentage of posts is reserved for either Europeans or Indians. The intention is to fill as many appointments as possible by Indians.	Since March 1922 six Indians (4 permanent and 2 temporary) and no Europeans have been appointed.	Same remarks as in column 3.	

Service or Department.	Percentage of Indians to the total strength.	Maximum percentage of posts intended to be given to Indians.	Ratio at which the appointments are at present being filled by Indians to the total number of appointments filled.	Number of years that will be necessary for Indians to attain the maximum percentage of posts open to them.	REMARKS.
1	2	3	4	5	6
Indian Service of Engineers.	41 per cent ...	50 per cent in the provinces in India and 33 per cent in Burma.	11 out of 20 or 1:1.8.	As soon as possible.	*Excluding posts reserved for the I. C. S.
*Imperial Customs Service.	30 per cent (excluding Anglo-Indians).	50 per cent according to existing orders.	According to existing orders every other vacancy must be filled by a statutory native of India.	This depends upon the number of vacancies occurring annually.	
Mint and Assay Department.	<i>Mint Side.</i> —No Indian out of a total sanctioned strength of 3. <i>Assay Side.</i> —The total sanctioned strength is 4 appointments, but one appointment at present is in abeyance and will probably be abolished shortly. Of the remaining 3 appointments two are held by Indians, thus giving a percentage of 67 roundly.	No fixed percentage is reserved, or is intended to be reserved for Indians.	<i>Mint Side.</i> —Appointments are, as a rule, made from the Corps of Royal Engineers as being <i>prima facie</i> the most suitable incumbents for the posts, but the Government are not precluded from selecting for a vacancy any candidate, whether European or Indian, who possesses the necessary qualifications. <i>Assay Side.</i> —Vacancies in this Department are now filled by direct appointment, either in India or in England of qualified Metallurgical chemists. Recourse is had to recruitment in England only if no qualified person is available in India. Vacancies are advertised in the press.	<i>Vide</i> Columns 3 and 4.	
Indian Medical Service.	22 per cent. ...	No maximum percentage has yet been laid down, but the question of fixing a proportion is still under consideration.	The percentage of Indians appointed to the total number of appointments made during 1921 and 1923 upto 8th September 1922 is 48 per cent. and 86 per cent. respectively. No Indians have since been granted permanent Commissions in the Indian Medical Service.	<i>Vide</i> column 3.	
Royal Indian Marine.	Nil	Nil. The question of affording facilities to Indians to qualify themselves for Commissions in the Royal Indian Marine is one of the questions which will be examined by the Committee that has been appointed in pursuance of the Resolution moved by Sir P. S. Siraswamy Aiyer in the Assembly on 12th January 1922.	<i>Vide</i> columns 2 and 3.	<i>Vide</i> columns 2 and 3.	

PRIMARY EDUCATION.

45. Mr. N. M. Joshi : Will Government be pleased to lay on the table a statement containing the following information :

- (a) (1) The total number of (a) trained and (b) untrained teachers and (2) the percentage of the former to the total number of teachers serving in Primary Schools—Government, municipal, aided and those belonging to the Local Boards—in the years 1920-21 and 1921-22 in (a) India ; (b) all the Governor's Provinces (figures for each Province to be given separately) ; and (c) North-West Frontier Province, Coorg, Delhi, Ajmer-Merwara, Baluchistan and Bangalore (figures to be given both separately and collectively for all these territories) ;
- (b) Expenditure—Imperial, Provincial, municipal, local or otherwise, as the case may be,—incurred during the years 1920-21 and 1921-22 on Primary Education in (a) India ; (b) all the Governors' Provinces (figures to be given separately for each Province) ; and (c) North-West Frontier Province, Coorg, Delhi, Ajmer-Merwara, Baluchistan and Bangalore (figures to be given both separately and collectively for all these territories) ; and
- (c) The average annual cost of educating each pupil in Primary Schools in (a) India ; (b) all the Governors' Provinces (figures to be given separately for each Province) ; and (c) North-West Frontier Province, Coorg, Delhi, Ajmer-Merwara, Baluchistan and Bangalore (figures to be given both separately and collectively for all these territories) ?

Mr. M. S. D. Butler : (a), (b) and (c). A statement giving the information asked for will be supplied to the Honourable Member.

ARTS COLLEGES AND SECONDARY SCHOOLS.

46. Mr. N. M. Joshi : Will Government be pleased to give the following information :

- (a) The total number of Arts Colleges and the Scholars studying in them during the years 1920-21 and 1921-22 ; (b) the total number of Secondary Schools and the Scholars studying in them during the same period ; and (c) the expenditure incurred during the same years on (a) and (b)—in (1) India ; (2) all the Governors' Provinces (figures to be given separately for each Province) ; and (3) North-West Frontier Province, Coorg, Delhi, Ajmer-Merwara, Baluchistan and Bangalore (figures to be given both separately and collectively for all these territories) ?

Mr. M. S. D. Butler : (a), (b) and (c). A statement giving the information asked for will be supplied to the Honourable Member.

INDIANISATION IN INDIAN ARMY.

47. Mr. N. M. Joshi : Will Government be pleased to state what steps they have taken in the direction of Indianising the eight regiments of the Indian Army which was promised by His Excellency the Commander-in-Chief during the last Delhi term of the Legislative Assembly ?

Mr. E. Burdon : The attention of the Honourable Member is invited to parts (a) and (b) of the reply given to the starred question asked by Sir D. P. Sarvadhikary.

AMENDMENT OF PRINCES (PROTECTION AGAINST DISAFFECTION) ACT.

48. Mr. N. M. Joshi : Will Government be pleased to state whether they intend to introduce, in the Indian Legislature, a Bill to amend the Princes (Protection against Disaffection) Act of 1922 as promised by the then Home Member of the Government of India when the said Act was being debated in the Council of State ?

Mr. Denys Bray : The attention of the Honourable Member is invited to the reply given by me on the 20th February 1923 to a similar question asked by Sardar Gulamjilani Bijlikhan. The Honourable Sir William Vincent gave an undertaking that, if the Act proved to be defective in its operation, or there were any amendments found to be necessary, they would be considered by the Government of India in the most careful manner. No action has yet been taken under the provisions of the Act, and it cannot, therefore, be said that it has proved to be defective in its operation. It is, therefore, not proposed at present to introduce a Bill to amend it.

IMPORT DUTIES ON MEDICINES.

49. Dr. H. S. Gour : (1) Will the Government be pleased to state the income it makes from the 15 per cent. *ad valorem* duty it has imposed on the import of all medicines under the Indian Finance Act, 1922 ?

(2) Will the Government be pleased to consider the advisability of admitting all medicines free on the ground that a tax on medicine is a tax upon the sick and the infirm and upon the charitable hospitals maintained to treat them ?

The Honourable Mr. C. A. Innes : (1) The duty collected on drugs and medicines in 1922-23 was 21½ lakhs of rupees. The duty collected on chemicals was 24½ lakhs. It is not possible to distinguish between chemicals imported for medicinal purposes and chemicals imported for industrial purposes.

(2) The Government regret that they are unable to adopt the Honourable Member's suggestion.

MARRIAGE ALLOWANCE TO INDIAN MEDICAL DEPARTMENT.

50. Lieut.-Colonel H. A. J. Gidney : (1) Will the Government be pleased to state what progress has been made in the consideration of the question of granting Marriage Allowance to members of the Indian Medical Department ? Is it a fact that six months have elapsed since my last inquiry in this Assembly, and that so far no orders have been published on the subject ?

(2) If and when sanctioned, do the Government propose to make this allowance applicable from the same date as in the case of other Indian Departments, i.e., from 1st January, 1922 ?

Mr. E. Burdon : (1) and (2). The matter is still under consideration. The views of the Government of India on the subject have yet to be placed before the Secretary of State and this will shortly be done. The Honourable Member's last question on the subject was put on the 27th March 1923.

NOTIFICATION OF PROMOTIONS IN INDIAN MEDICAL DEPARTMENT.

51. Lieut.-Colonel H. A. J. Gidney : (1) Will the Government please state why the promotions to commissioned rank, which fall due in the ordinary course of events in the Indian Medical Department, are not gazetted within a reasonable time, as done in all other Army Departments ? Is it a fact that the last commission which fell due, was dated 23rd August, 1922, and Gazette notification was made on 26th May, 1923, nine months and three days later ?

(2) Is the Government aware that if these promotions were gazetted in due time, it would confer certain privileges and monetary allowances at a higher scale, which are lost through delay in publication, thereby causing a certain amount of hardship ?

Mr. E. Burdon : (1) It is recognised that promotions to commissioned rank in the Indian Medical Department should like other promotions be gazetted within a reasonable time but it is not always practicable to avoid delay. Such promotions are made by selection and in the specific case mentioned, it was necessary, before coming to a final decision, to call for two special reports. Further inquiry will however be made regarding the extent of the delay which the Honourable Member has brought to notice.

(2) Yes.

ENDOWED TOMBS.

52. Colonel Sir Henry Stanyon : (1) What was the capital sum held by Government on the 1st April, 1923, on account of endowed tombs in Christian Cemeteries in India ?

(2) What was the amount of the unspent interest on this sum ?

(3) Is this fund earmarked for application only to the maintenance and repair of endowed tombs, or is it incorporated in the general accounts of the Public Works Department ?

(4) What is Government's reason for not handing over to Chaplains the repairs of endowed tombs along with other cemetery repairs ?

(5) Is Government aware that there exists among the communities concerned considerable dissatisfaction with the manner in which the maintenance and repairs of endowed tombs are carried out ?

(6) Does Government contemplate any and, if so, what reform in this matter ?

Mr. M. S. D. Butler : The information asked for by the Honourable Member is being collected and will be furnished to him in due course.

CIVIL SERVICE ROYAL COMMISSION.

53. Lala Girdharilal Agarwala : (1) When is the Civil Service Royal Commission expected to arrive in India and what is the programme of that Commission and how long is the Commission expected to remain in India ?

(2) Will the Government be pleased to lay on the table a budget of the cost of the Civil Service Royal Commission with conveniently possible details ?

(3) What places is the Royal Commission going to visit and what witnesses is it going to examine ?

(4) Will the Government be pleased to lay on the table the exact terms of reference to the Royal Commission ?

The Honourable Sir Malcolm Hailey : (1) and (3). The Commission is expected to arrive in India early next cold weather. The programme of the Commission is not yet known.

(2) A lump sum of Rs. 3,00,000 has been provided in the Budget Estimates for 1923-24 on account of the cost of the Commission. Further detailed estimates cannot be given at this stage.

(4) A copy of the terms of reference is laid on the table.

TERMS OF REFERENCE.

His Majesty's Government have decided to appoint a Royal Commission on the services in India. The terms of reference are :

Having regard to the necessity for 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 in view of the experience now gained of the operation of the system of Government established by the Government of India Act in respect of the superior Civil Services in India, to inquire into (1) The organisation and general conditions of service, financial and otherwise of those Services ; (2) The possibility of transferring immediately or gradually any of their present duties and functions to Services constituted on a Provincial basis ; (3) The recruitment of Europeans and Indians, respectively, for which provision should be made under the constitution established by the said Act and the best methods of ensuring and maintaining such recruitment and to make recommendation.

INTERNAL POLITICS IN INDIA.

54. Lala Girdharilal Agarwala : (1) Will the Government be pleased to lay on the table papers showing the official version of the situation of internal politics in India ?

(2) Is it the duty of any official of the Government to watch the " Internal Politics " of India ? If so, what is the name and designation of that official and what are the nature of his duties ?

The Honourable Sir Malcolm Hailey : (1) The Government are not aware of the existence of any such papers.

(2) There is no one official whose duty it is to undertake the duty referred to in the question.

ALLOWANCE OR DISALLOWANCE OF QUESTIONS.

55. Lala Girdharilal Agarwala : (1) Is it the practice that some questions are allowed or disallowed after consulting some official of the Government ?

(2) (a). What is the procedure leading up to allowance or disallowance of questions of which notice is given by any Member of the Assembly, and

(b) How many questions have been disallowed during the last three years in the Legislative Assembly and how many in the Council of State ?

Mr. L. Graham : (1) The answer is in the negative.

(2) (a). All questions of which notice is received are examined by the Secretary of the Assembly or by one of the assistants of the Secretary and then submitted direct to the President for his orders as to admission or otherwise. A list of the questions is at the same time sent to all Departments of Government to enable each Department to extract from the list the question or questions with which it is concerned. The admission or disallowance of questions is a matter entirely within the competence of the President subject to the provisions of the rules

and standing orders. If in order to enable him to come to a decision, he requires any information either from the Member who gave notice of the question or from the Department of Government concerned, such information is obtained for him by the Secretary of the Assembly. Before coming to a decision as to the admissibility or otherwise of a question, the President considers any representation, on a question of fact, that may have been made by the Department of Government concerned, e.g., that it relates to a matter which is not primarily the concern of the Governor General in Council (see rule 7), or that it is the subject of controversy between the Government of India and the Secretary of State (see rule 9), or that it affects the relations of the British Government with any Prince or Chief or foreign state (see rule 8).

(b) No list is kept of questions which have been disallowed by the President of the Legislative Assembly and it is not considered that any useful purpose would be served by imposing on the staff of the Assembly the labour of collecting the figures asked for by the Honourable Member.

DISALLOWED QUESTIONS, RESOLUTIONS AND BILLS.

56. Lala Girdharilal Agarwala : Will the Government be pleased to lay on the table for the information of the House a list of disallowed questions, resolutions and bills of which notice was given by any Member of the Legislative Assembly or Council of State, briefly mentioning the subject of each ?

Mr. L. Graham : The attention of the Honourable Member is invited to the reply given by Dr. Sir T. B. Sapru on the 26th September, 1921, to a similar question by Babu Ambica Prasad Sinha and printed at page 985 of the Official Reports of the Legislative Assembly Debates, Volume II.

RELEASE OF POLITICAL PRISONERS.

57. Lala Girdharilal Agarwala : Have the Government considered the advisability of releasing the political prisoners in view of the present condition of internal politics in the Country ? If so, what decision has been reached ?

The Honourable Sir Malcolm Hailey : The answer to the first part of the question is in the negative, and the second does not therefore arise.

GOVERNMENT PROPERTY.

58. Lala Girdharilal Agarwala : (1) Will the Government please to state the value and income of property acquired by the Government :

(a) by escheat and

(b) by reason of its owners dying without heirs or intestate ?

(2) Will the Government be pleased to lay on the table a statement detailing such property with names of last owners, value and income of such property which has been acquired by the Government within the last 12 years ?

The Honourable Sir Malcolm Hailey : The proceeds of escheats and the property of persons dying without heirs or intestate are credited to Local Governments. The Honourable Member should therefore obtain the information he wants from the latter.

JAILS, REFORMATORY SCHOOLS AND PENAL SETTLEMENTS.

59. **Lala Girdharilal Agarwala :** (a) What is the number of :

- (1) Jails, (2) reformatory schools and
- (3) Penal Settlements in India and where are the last two situated ?

(b) What is the number of persons admitted into reformatory schools within the last 12 years, and how many of them were reported to have committed crimes after coming out of the schools ?

The Honourable Sir Malcolm Hailey : (a) (1). 42 Central Jails.

179 District Jails.

552 Subordinate Jails.

(2) 6 situated at :

1. Chigelpet in the Madras Presidency.
2. Yeravada in the Bombay Presidency.
3. Chunar in the United Provinces.
4. Delhi.
5. Insein in Burma.
6. Hazaribagh in Bihar.

(3) One in the Andamans.

(b) The information is not available and I suggest that the Honourable Member should himself endeavour to obtain it from Local Governments.

CLASSIFICATION OF POLITICAL PRISONERS.

6 **Lala Girdharilal Agarwala :** How are political prisoners classed and treated in India and on what principle ? Are the Government aware of the nature of treatment accorded to similar prisoners in Europe ? If so what ?

The Honourable Sir Malcolm Hailey : The Honourable Member's attention is invited to the Honourable Mr. O'Donnell's speech in the Council of State on the 20th September 1922 in connection with a Resolution moved by the Honourable Mr. Lalubhai Samaldas on this subject.

POLICE IN INDIA.

Lala Girdharilal Agarwala : 1. What control do the Government exercise on the Police ? What is the information of the Government as to integrity of Indian Police as compared with the Police in England ?

2. What steps do the Government propose to take to improve the Police of India ?

The Honourable Sir Malcolm Hailey : 1. The direct control of the police establishment is in the hands of the Local Governments ; the control of the Government of India is limited to such powers as they enjoy under section 45, Government of India Act.

Government have no information regarding the integrity of the police in England.

2. The question does not give any precise indication of the nature of the improvement which the Honourable Member considers necessary ; in any case this is primarily a matter for Local Governments and the Government of India are not in possession of any proposals by them for any special measures of improvement.

REPORT ON INDIAN CANDIDATES FOR INDIAN MEDICAL SERVICE.

62. **Mr. Ahmad Baksh :** 1. Is it a fact that a secret report of the Criminal Investigation Department is called for on all Indian candidates for Permanent Commissions in the Indian Medical Service ?

2. Is a similar report required in the case of the British candidate for the Indian Medical Service ? If not, will the Government state the reason of this distinction ?

Mr. E. Burdon : (1) The present practice is that the Central Intelligence Bureau is asked to report confidentially whether anything is known about a candidate which would render him unfit to be an officer.

(2) British candidates are selected in the United Kingdom by the Secretary of State who makes such inquiries as he thinks fit.

ARMY GRATUITY ON DEMOBILIZATION.

63. **Mr. Ahmad Baksh :** 1. Is it a fact that a gratuity varying from 500 to 3,000 pounds is paid to all surplus Army (British) Officers on demobilization ?

2. Is it also a fact that free passages to demobilized officers and their families are also granted to England and the Colonies ?

3. Is it a fact that Government renders all help to demobilized officers to find employment or land for settlement in the Colonies ?

4. Is it a fact that these surplus army officers were employed temporarily for the period of war for Imperial purposes ?

5. Will the Government be pleased to state the total amount of expenditure incurred under (1) and (2) ?

6. Will the Government please state the total amount of expenditure incurred by the Military Works Department in the year 1914-20 towards extending and putting up temporary buildings such as barracks, godowns, factories, and offices for Imperial purposes of the great war ?

7. Will the Government state the excess amount of expenditure over the normal which was incurred during the years 1914-23 towards pensions and military rewards occasioned by the great war ?

8. Will the Government state if the expenditure under (5), (6) and (7) was debited wholly or to what extent, if partially, to the Home Government ?

Mr. E. Burdon : (1) A gratuity which varies in amount from £900 to £2,350 according to an officer's length of service, rank, etc., is admissible to surplus officers of the Indian Army retired under the surplus officers scheme.

(2) The answer is in the affirmative.

(3) The attention of the Honourable Member is invited to the replies given on the 6th September 1922 to question No. 63 and on the 15th January 1923 to unstarred question No. 41.

(4) No.

(5) The expenditure involved amounts approximately to £4,000,000.

(6) Up to the end of March 1920, a sum of Rs. 2,97,52,033 was expended on providing temporary accommodation for the additional troops raised in India during the war and on erecting temporary hospitals and officers' quarters. This expenditure was borne by His Majesty's Government. Information regarding the amount expended on building factories, offices, etc., is not available. To collect this information, it would be

necessary to examine all the schedules of expenditure from 1914 to 1920 and thus to incur an expenditure of time and labour which, in the opinion of the Government of India, could not be justified.

(7) A statement showing the expenditure incurred during the years 1914 to 1923 in the grant of pensions and military rewards occasioned by the Great War is laid on the table.

(8) The question of the incidence of the cost incurred in demobilising surplus officers is at present being examined by the Secretary of State and the War Office, in order to determine the proportion to be borne by each Government.

The whole of the expenditure referred to in the reply to part 7 of the question is met from Indian revenues, as part of the arrangement connected with the payment of the further contribution from Indian revenues towards the expenses of the Great War which was offered by the Indian Legislature in September 1918 and was confirmed, subject to certain modifications, in March 1920.

Statement showing the amount of expenditure, incurred during 1914-23 towards pensions, etc., and military rewards occasioned by the Great War.

The figures are as follows :

		Rs.	
1914-15	..	18,491	
1915-16	..	4,48,264	
1916-17	..	18,25,630	
1917-18	..	31,89,256	
1918-19	..	45,89,888	
1919-20	..	57,71,882	
1920-21	..	71,29,173	
1921-22	..	*86,49,283	*(including Rs. 6,37,482 on account of loss by exchange on the sterling expenditure in England).
1922-23 (to end of February 1923).	†80,50,052	†	†(excluding loss by exchange on sterling expenditure in England).

In addition, certain payments were made on this account in England.

The following are the approximate figures :

	£	Rs.
1914-15	15,029	= 2,25,300
1915-16	51,183	= 7,67,820
1916-17	55,504	= 8,32,560
1917-18	57,917	= 8,68,755
1918-19	55,710	= 8,35,650
1919-20	89,574	= 13,43,610
1920-21	113,783	= 11,37,820
1921-22	123,948	= 12,39,480

CONDEMNED STORES AND EQUIPMENT.

64. **Mr. Ahmad Baksh :** Will the Government please state the total value of stores and equipment which were condemned or lost, and the value of which was written off and borne by the State during the years 1922-23 ?

Mr. E. Burdon : The information asked for by the Honourable Member, in so far as army stores and equipment are concerned, cannot be given until the accounts for 1922-23 have been completed, which will be some time in November next.

The total value of marine stores and equipment written off during the year 1922-23 is Rs. 1,17,446.

Information regarding the value of medical stores written off during the period in question will be furnished to the Honourable Member separately.

DEMobilIZATION IN INDIAN MEDICAL SERVICE.

65. **Mr. Ahmad Baksh :** Will the Government please state (a) the total number of temporary Indian Medical Service officers who have been demobilised up to the end of March 1923 ?

(b) The total amount of gratuities paid to them on demobilisation similar to those paid to the surplus British officers ?

(c) The number of temporary Indian Medical Service officers for whom Government has found employment after demobilisation ?

Mr. E. Burdon : (a) The total number of temporary I.M.S. officers demobilised up to the end of March 1923 is 829. (This number is exclusive of 103 temporary officers who were granted permanent commissions.)

(b) Temporary officers of the I. M. S., recruited for general service, were entitled under the terms of their contracts, to a gratuity of Rs. 900 per annum for each year of service. Under the terms of the new contract introduced in September 1921, however, no gratuity is now admissible to this class of officer on his services being dispensed with. The gratuity formerly payable was entirely different in character from the compensatory payments made to the surplus British officers mentioned by the Honourable Member. The latter had permanent commissions in the Army and on being removed from the service had to be paid compensation for the loss of permanent employment and prospects, including pensionary rights.

(c) It is understood that Local Governments have employed a certain number of these demobilised officers. The Government of India, however, have no detailed information on the subject.

STRENGTH OF I. M. S.

66. **Mr. Ahmad Baksh :** 1. Will the Government be pleased to state (a) the ratio per mille of the strength of the army, of the Indian Medical Service officers who were employed in the military department during the years 1914-1921, (b) the ratio per mille of strength of sick and mortality for the years 1914 and 1921 ?

2. Will the Government be pleased to state :

(a) the ratio of Indian Medical Service officers per mille of population employed in the civil department ?

(b) The ratio of sick and mortality per mille of population for the years 1914 and 1921 ?

Mr. E. Burdon : 1. (a) The ratio of officers of the I. M. S. employed on the military side per mille of Indian troops employed in India for the years 1920 and 1921 was 3·4 and 2·7 respectively. The figures for the years 1914-1919 are not on record and an attempt (which might or might not be successful) to compile the information desired by the Honourable Member in respect of these years would it is regretted involve an expenditure of time and labour which could not be justified.

(b) The information asked for in this part of the question is as follows :

			Sick rate per mille of Indian troops.	Death rate per mille of Indian troops.
1914	...	...	20.9	4.17
1921	...	...	34.4	10.16

2. (a) The ratio of I. M. S. officers employed on civil duties in India per mille of the population is .01.

(b) The ratio of sick and mortality per mille of population exclusive of Indian States, for the years 1914 and 1921 is as follows :

			Ratio of patients per mille of population (British India) attend- ing hospitals and dispensaries.	Total death rate per mille of population (British India).
1914	...	...	165.7	30.00
1921	...	...	186.8	10.59

QUALIFICATIONS OF MILITARY ASSISTANT SURGEONS.

67. Mr. Ahmad Baksh : Will the Government state the number of military assistant surgeons who are in possession of :

(a) Registrable medical qualifications, (b) who do not possess them ?

Mr. E. Burdon : All military assistant surgeons possess registrable medical qualifications.

PAY OF ASSISTANT SURGEONS.

68. Mr. Ahmad Baksh : What is the average rate of pay of a civil assistant surgeon in Government employ as compared to that of a military assistant surgeon ?

Mr. E. Burdon : A statement giving the rates of pay received by military and civil assistant surgeons is laid on the table.

Statement showing the rates of pay drawn by (i) military assistant surgeons, and (ii) civil assistant surgeons.

			Rs.
4th class (for 7 years)	..	..	200 per mensem.
3rd class (for 5 years)	..	..	275 " "
2nd class (for 5 years)	..	..	350 " "
1st class ..	..	..	400 " "
10 per cent. of	Lieutenant (by selection)	..	500 " "
total military	Captain (for 3 years) ..	..	650 " "
appointments.	Major ..	..	700 " "
(ii) Civil Assistant Surgeons (Punjab).			
Time-scale			Rs. 225—15—450.
	Civil Surgeon grade.		
	Rs. 600—40—800—50—900.		
	Selection grade.		
	Rs. 1,000 (25 per cent. of number of civil surgeoncies).		

MILITARY ASSISTANT SURGEON CLASS.

9. Mr. Ahmad Baksh : Is it a fact that statutory Indians are not eligible for admission to the military assistant surgeon class ?

Mr. E. Burdon : Candidates for the military assistant surgeon branch of the Indian Medical Department must be Europeans or members of the domiciled community.

QUALIFICATIONS OF EUROPEAN I. M. S. OFFICERS.

70. Mr. Ahmed Baksh : Will the Government be pleased to lay on the table a statement showing the number of European Indian Medical Service officers holding permanent commissions who are in possession of :

- University degree of United Kingdom (Medical).
- Diploma of Conjoint Board of England and London.
- Diploma of Triple qualification of Edinburgh and Glasgow.
- Diploma of College of Surgeons and Physicians of Dublin, Ireland.
- Colonial qualifications ?

Mr. E. Burdon : The number of European officers of the I. M. S., holding permanent commissions, who are in possession of University degrees (Medical) of the United Kingdom is 361.

The Government of India regret they are unable to say how many officers possess the particular degrees and qualifications mentioned in parts (b) to (e) of the Honourable Member's question. To obtain this information, it would be necessary to examine exhaustively the records of service of all I. M. S. officers, and the expenditure of time and labour involved in such an examination could not, in the opinion of Government, be justified.

LIFE INSURANCE TRANSACTIONS.

71. Lala Girdharilal Agarwala : Will the Government be pleased to state the names of companies, firms or other public bodies doing Life Insurance business in India with the amount of profits earned by them during the last 3 years ?

The Honourable Mr. C. A. Innes : The Honourable Member is referred to pages 2, 3, 40 to 46, 32 to 38 and 48 to 53 of the last issue of the Indian Life Assurance Year Book for the year ending 1921-22, a copy of which has been placed in the Library.

SUPPLY AND TRANSPORT CORPS.

72. Mr. Muhammad Yamin Khan : Will the Government of India be pleased to state :

- When were the present rates of pay of the clerks of the Supply and Transport Corps fixed, giving the percentage by which the present cost of living has increased over and above the cost of living prevalent at the time when the pay of the said clerks was fixed ?
- Whether the Government of India is aware that the grant of "temporary Increase" to the extent of 20, 25 and 30 per cent. to the Clerks of the Supply and Transport Corps in the year 1920, adversely affected the Lower Grade Clerks in some Provinces ? If so, what action was taken or has been taken to undo this adverse effect ?

Mr. E. Burdon : (a) The present rates of pay proper were introduced on the 1st June 1916. It is impossible to state the exact percentage, applicable to the whole of India, by which the cost of living has risen since that date.

(b) Yes, and for this reason clerks of the Indian Army Service Corps (formerly known as the "Supply and Transport Corps") were allowed to draw the special allowances sanctioned by Local Governments and Administrations for their own employes on account of the increased cost of living, if these allowances were more favourable than the temporary increases of pay referred to by the Honourable Member.

PAY AND STRENGTH OF S. AND T. CORPS.

73. **Mr. Muhammad Yamin Khan** : Will the Government of India be pleased to place on the table a statement showing :

- (a) Pay, and allowances if any, granted to Supply and Transport Corps clerks in the years 1905, 1914 and 1922 ?
- (b) Pay, and allowances if any, drawn by British Other Ranks of the I. U. L. (Supply and Transport Corps) including Departmental Officers in the years 1905, 1914 and 1922 ?
- (c) Total Complements of Clerks, Agents or Storekeepers, British Other Ranks (including Departmental Officers) and Officers, separately by categories, of the Supply and Transport Corps, in the years 1906, 1916 and 1922, giving reasons for increase or decrease in the complement of each category affected ?

Mr. E. Burdon : I will furnish the Honourable Member, separately, with the information for which he has asked.

DISCONTENT IN S. AND T. CORPS.

74. **Mr. Muhammad Yamin Khan** : Will the Government of India be pleased to state :

- (a) Whether it is aware that the attitude of the authorities in not acceding to the demands of the Supply and Transport Corps clerks by way of revising the pay and prospects of the said clerks is creating great discontentment amongst them ?
- (b) If the reply to (a) is in the negative, will the Government of India be pleased to state whether they have read the two "open letters" published in certain papers in India and England, addressed by the Supply and Transport Corps Civilian Employees' Association to His Royal Highness the Duke of Connaught and His Royal Highness the Prince of Wales on their visits to India ? If so, what action has been taken by the authorities to ameliorate the sufferings of the said clerks, especially of the Lower Grades ?
- (c) Is it a fact that the minimum pay at present allowed to Supply and Transport Corps clerks is Rs. 39 per month ? (ii) Has any representation been made that this salary is too much below the standard of living expected of clerks as a category and (iii) is the Government of India going to take any action to enhance the minimum pay of the Supply and Transport Corps clerks ?

Mr. E. Burdon : (a) and (b). Government are aware that a certain amount of discontent prevails amongst the clerks owing to their pay not having been revised.

(c) (i). Yes.

(ii) Yes.

(iii) The question is under consideration and it is hoped that a decision will shortly be arrived at.

REVISION OF PAY OF S. AND T. CORPS.

75. **Mr. Muhammad Yamin Khan** : Will the Government of India be pleased to state :

- (a) Whether any action is being taken by the authorities to revise the pay of the Supply and Transport Corps clerks ?
- (b) If the answer to (a) is in the affirmative, how long will it take to be effected ?
- (c) Whether any amount was budgetted for for this purpose in the Budget Estimate of the year 1922-23 ? If so, how it is proposed to utilise the budgetted amount ?

Mr. E. Burdon : (a) The question is at present under consideration.

(b) It is not possible to give a definite answer to this part of the Honourable Member's question. Every endeavour is being made to arrive at an early decision.

(c) Yes. The amount lapsed at the close of the financial year.

EMPLOYMENT IN S. AND T. CORPS.

76. **Mr. Muhammad Yamin Khan** : Is it a fact that British Other Ranks of the Supply and Transport Corps are being employed as Superintendents and Clerks in various Supply and Transport Offices ? If so, will the Government of India be pleased to state :

- (a) Whether this procedure is in accordance with Regulations ?
- (b) Whether Head Assistants and Indian Clerks were tried for such duties ? If so when, where and with what result ?

Mr. E. Burdon : (a) and (b). British other ranks are not employed as Superintendents or clerks in replacement of members of the regular clerical establishment, but their work, which is of a varied character, necessarily embraces some duties of a clerical nature.

Under the organisation for war, two British other ranks, belonging to the establishment of the Indian Army Service Corps, are authorised for the office of each Assistant Director of Supplies and Transport, and, for the purposes of training in time of peace, British other ranks up to this number may be attached to these offices at the discretion of the General Officer Commanding. No orders, however, have been issued from Army Headquarters that these British other ranks should be placed in charge of offices, and their employment in no way interferes with the rights, claims or pay of the Indian clerks.

KING'S COMMISSIONED INDIAN OFFICERS IN S. AND T. CORPS.

77. **Mr. Muhammad Yamin Khan** : Will the Government of India be pleased to state :

Whether King's Commissioned Indian Officers are eligible for employment with the Supply and Transport Corps ? If so, how many such Indian Officers are at present serving with the Supply and Transport Corps (i) in Supply Branch (ii) in Transport Branch.

Mr. E. Burdon : The answer to the first part of the question is in the affirmative. Up to the present, however, no Indian officers holding the King's commission are serving with or have applied for employment in the Supply and Transport Corps (now called the Indian Army Service Corps).

HARDINGE MEDICAL COLLEGE.

78. **Mr. K. B. L. Agnihotri :** (1) (a). Will the Government be pleased to state the number of students in the Hardinge Medical College, Delhi ?

(b) Is it a fact that the College is affiliated to the University of Punjab, and that medicine is a transferred subject ?

(c) What is the total cost, capital and recurring, of the Hardinge Medical College, and how is it met ?

(d) Will the Government be pleased to state why it diverts its central funds to the maintenance of the Lady Hardinge Medical College, the cost of which is chargeable to Provincial Revenue ?

(2) Has the Government considered the advisability of debiting the cost to the Punjab Government ? If not, why not ?

(3) What is the incidence of cost per student in this College, and how does it compare with the incidence of cost in the other Medical Colleges of India where lady students are admitted ?

(4) (a). Is it a fact that out of about 85 students about 40 are studying for the intermediate course in science and that only about 45 are really studying medicine ?

(b) What is the total accommodation in the College available for female students ?

(5) (a). Is it a fact that the University of Delhi recently invited the College authorities to affiliate their science course to the University of Delhi, and thus reduce cost ?

(b) Did the College refuse to be so affiliated ?

(6) How many Indian Professors and how many Indian nurses are there in this College ?

(7) (a). Will the Government be pleased to state what changes have taken place in the professorial and teaching staff during the last 3 years ?

(b) What are all these frequent changes due to ?

(c) Does the Government think that the efficiency of the College is not affected by these frequent changes ?

Mr. M. S. D. Butler : (1) (a). 94 women students.

(b) The answer to the first part of the question is in the affirmative. With regard to the second part the Honourable Member is referred to the Devolution Rules and the Schedules attached to the same.

(c) The capital cost is Rs. 30 lakhs met entirely from public subscriptions. The recurring cost for 1922-23 was Rs. 2,91,600 met as follows :

	Rs.
Government of India grant ..	2,00,000
Grants from Provincial Governments ..	28,000
Donation from Lady Reading Fund ..	12,000
Donation from Indian States ..	5,000
Students' fees ..	14,500
Payments by hospital patients ..	16,400
Miscellaneous ..	15,700
Total ..	2,91,600

The Government of India also provide certain staff through the Countess of Dufferin Fund.

(d) The cost of the College is not debitable to provincial revenues. This being so, no answer is needed to the first part of the question.

(2) The answer is in the negative.

(3) The total cost per student is Rs. 1,735 per annum. The Government of India have no information of the incidence of cost in other medical colleges.

(4) (a). About 36 students are in the intermediate science department.

(b) About one hundred.

(5) (a) and (b). The Government of India understand that the suggestion is under discussion between the University and the College authorities.

(6) There is no Indian Professor on the staff at present. There are 44 Indian Nurses in the College Hospital.

(7) (a) and (b). The Government of India are informed that two medical professors resigned on account of ill-health largely due to over-work, and one resigned on the occasion of her marriage. Two members of the science staff resigned on obtaining better-paid posts elsewhere, and two did not seek re-appointment chiefly on account of the smallness of the salaries offered.

(c) The Government of India have no reason to suppose that the efficiency of the College has been impaired.

CANTONMENTS (HOUSE ACCOMMODATION) ACT.

79. **Mr. Pyari Lal :** (a) Will the Government be pleased to state if the Cantonments (House Accommodation) Act of 1923 has been enforced ? If so, from which date and in which cantonments ?

(b) Will the Government be pleased to lay on the table the list of houses taken by the Government on 5 years' repairing lease in Peshawar and Meerut Cantonments ?

(c) Is there any proposal under contemplation to extend the Act to Sadar Bazar, Peshawar ? If so, for what military purposes is it intended to do so ?

(d) Is the Government aware that there is a great commotion among the people of Sadar Bazar of Peshawar on account of this proposal ?

(e) Is the Government aware that the new House Accommodation Act is not intended to be applied to the buildings and houses in the Civil areas of cantonments ?

Mr. E. Burdon : (a) The Cantonments (House Accommodation) Act, 1923, came into force on the 1st April 1923, and under the proviso to Section 1 (3) of the Act, it became operative from that date in all cantonments to which the Cantonments (House Accommodation) Act, 1902, was applicable. The new Act has not so far become operative in any cantonments other than those just referred to.

(b) The information is being obtained and will be furnished to the Honourable Member when received.

(c) The Act already applies to the Peshawar Cantonment, which includes the Sadar Bazar.

(d) Government have received no information to this effect,

(e) Government do not contemplate imposing any restrictions in this matter apart from those which are provided in the Act itself. The substantive provision is that in cantonment areas to which the Act applies, every house is liable to appropriation if it is suitable for occupation by a military officer or a military mess and if there are not a sufficient number of houses already available and suitable for occupation by military officers or military messes whose accommodation in the Cantonment is necessary or expedient.

APPLICATIONS UNDER CANTONMENT CODE IN MEERUT.

80. **Mr. Pyari Lal :** (a) Is the Government aware that prior to the submission of a notice with a plan under Section 92 (1) of the Cantonment Code, residents in Meerut Cantonment are required to submit a preliminary application for permission to send such a notice ?

(b) Is it a fact that such an application was submitted by H. M. Shaffiq Ellahi for permission to submit a plan of a new room he desired to construct on the first floor of his houses Nos. 110-113 ?

(c) Will the Government be pleased to state under what law is the submission of this preliminary application demanded ?

(d) If the practice be not according to any law, do the Government propose to issue immediate instructions to stop it ?

APPLICATION UNDER CANTONMENT CODE BY MR. SHAFFIQ ELLAHI.

81. **Mr. Pyari Lal :** (a) Is the Government aware that Mr. Shaffiq Ellahi, a respectable Motor Merchant of Meerut Cantonment, applied for the construction of an Upper Storey room on his houses Nos. 110-113 ?

(b) Is it a fact that on his preliminary application the Cantonment Magistrate after visiting the sites required him to submit formal plans and recorded an order that there was no valid objection to the construction ?

(c) Is it a fact that on the submission of formal plan, the application was rejected by the Building Sub-Committee ?

(d) Is the Government aware that under Q. M. G. Circular No. 4203-IV-3, dated 3rd August 1920, the erection of Upper Storeys can be rejected only by the G. O. C. the District ?

(e) Is it a fact that the rejection of this application by the Building Sub-Committee has been influenced by the Magistrate's suggestion, that the construction of the new room should be preceded by the demolition of two other rooms ?

(f) Do the Government propose to enquire into the matter ?

Mr. E. Burdon : The Government of India have no information on the subjects mentioned in these two questions, but are enquiring. The result of the enquiry will be communicated to the Honourable Member as soon as possible.

GROUND TAX IN MEERUT.

*82. **Mr. Pyari Lal :** (a) Is it a fact that the Cantonment Authority of Meerut has recently enhanced Ground Tax in certain cases from 50 to 100 per cent. and has also imposed Ground Tax where it did not exist before ?

* For answer to this question—see Answer above Question No. 88.

(b) Is it a fact that Ground Tax is now demanded for approaches to houses built scores of years ago ?

(c) Will the Government be pleased to say under what Cantonment Law and for what public purposes has the enhancement and fresh imposition of Ground Tax been effected ?

(d) Was any notice thereof given to the residents of Meerut before the new scale was sanctioned ?

TAX ON THELAS.

*83. **Mr. Pyari Lal :** (a) Is it a fact that the Cantonment Authority of Meerut has recently imposed a tax on privately owned Thelas, not used for hire ?

(b) Is the Government aware that these Thelas are kept in the private premises of their owners ?

(c) Will the Government be pleased to state on what ground and authority this tax has been imposed ?

GRAZING TAX IN MEERUT.

*84. **Mr. Pyari Lal :** (a) Is it a fact that in Meerut Cantonment Grazing Tax is demanded even in case of cattle that are not sent out to the Cantonment Land for grazing ?

(b) If so, will the Government be pleased to state in how many cases such demand has been made since the posting of Major Knowles as the Magistrate of that Cantonment ?

(c) Is the Government aware that the Cantonment Magistrate, Meerut, requires every animal for which grazing tax has been paid, to wear a certain Badge ?

(d) Is it a fact that failure to wear this badge is punished by a fresh exaction of grazing charge ?

(e) Will the Government be pleased to state under what law this wearing of badge is enforced and penalised ?

TAXES IN MEERUT.

*85. **Mr. Pyari Lal :** (a) Is the Government aware that in Meerut Cantonment, Tax is demanded even in case of Thelas which come from the neighbouring villages for delivering or taking delivery of some goods ?

(b) If so, will the Government be pleased to state under what Law can such Tax be demanded for such Thelas ?

(c) Is it a fact that on 24th May 1923 two Thelas belonging to the village of Mohaiuddinpore, came to Meerut loaded with lime deliverable to Mr. Shaffiq Ellahi ?

(d) Is it a fact that after the Thelas were unloaded they were forcibly taken to the Court of Cantonment Magistrate where they had to pay Rs. 22 as Tax ?

(e) If the facts be as stated above, do the Government propose to take steps to stop this practice ?

* For answer to this question—see Answer above Question No. 83.

SLEEPING OUT IN MEERUT.

*86. Mr. Pyari Lal : (a) Is the Government aware that poor people in Meerut Cantonment use to sleep outside in the open ground in front of their houses in summer ?

(b) Is it a fact that since the recent imposition of Ground Tax they have been prohibited from doing so without payment of the Ground Tax ?

(c) Is the Government aware that these people have been using the open ground in front of their houses for this purpose ever since the establishment of the cantonment ?

(d) Is it a fact that as a result of this hardship many people have been compelled to leave the cantonment ?

(e) Will the Government be pleased to enquire into the matter and restore this old right to the poor people ?

MOHAMAD SULTAN, CONSERVANCY INSPECTOR, MEERUT.

87. Mr. Pyari Lal : (a) Is the Government aware that one Mohamad Sultan has been recently appointed Conservancy Inspector in Meerut Cantonment ?

(b) Is it a fact that this man has already worked under Major Knowles in some other cantonment ?

(c) Is it a fact that this man is the chief agent of realising Ground Tax ?

(d) Will the Government be pleased to state on what ground his predecessor in office was removed ?

Mr. E. Burdon : The Government of India have no information on the subject but are enquiring. I will let the Honourable Member know the result as soon as possible.

CONDUCT OF MILITARY OFFICIALS IN MEERUT.

88. Mr. Pyari Lal : (a) With reference to Government reply to my question No. 125 in D. O. No. 414-S., dated 18th May 1923 of Army Department, Government of India, will the Government be pleased to state to whom the word "*Jackals*" was intended to apply by Major Dockrell ?

(b) Is the Government aware that immediately after the interview, Rai Bahadur Benarsi Dass wrote a letter to Major Dockrell protesting against his treatment and the use of the word "*Jackals*" ?

(c) Is the Government aware that much of the agitation in cantonment is due to such provoking conduct of the local military officials ?

(d) Do the Government in the light of these new facts propose to take effective action to stop such domineering on the part of the officials ?

Mr. E. Burdon : (a)—(d). The Government of India are enquiring into the matter, and I will let the Honourable Member know the result in due course.

OFFICE OF COMMISSIONER OF INCOME TAX, PATNA.

†89. Khan Bahadur Sarfaraz Hussain Khan : (1) Will the Government be pleased to state :

(a) if it was formerly decided to have the headquarters of the Commissioner of Income-Tax at Patna ?

* For answer to this question—see Answer above Question No. 88.

† For answer to this question—see Answer below Question No. 92.

(b) if it is now proposed to shift the office to Ranchi ?

(c) if so, why ?

(2) Did Government have any correspondence with the Government of Bihar and Orissa on the subject ?

(3) If so, what view is held by them, and

(4) Will they be pleased to lay on the table the papers to the publication of which they have no objection ?

INCOME-TAX APPEALS, B. & O.

*90. Khan Bahadur Sarfaraz Hussain Khan : Will the Government be pleased to state :

(a) the number of appeals filed before the Commissioner and Assistant Commissioner of Income-tax during the last financial year, from the three divisions of Bihar proper, Orissa and Chhota Nagpur, respectively ?

(b) Are the Government aware that it will greatly be inconveniencing the people of Bihar if the office, which has already been for over a year in Patna, is transferred to Ranchi, which is not accessible to them as easily and conveniently as Patna is ?

(c) Are the Government prepared to consider the desirability of maintaining the office in question at Patna instead of at Ranchi ?

NON-DOMICILED PERSONS IN B. AND O.

*91. Khan Bahadur Sarfraz Hussain Khan : Will the Government be pleased to state :

(a) If the Government of Bihar and Orissa have framed rules relating to appointment in the public services of persons not domiciled in the Province.

(b) If it is equally applicable to the appointments made in the Income-tax Department, if not, why not ?

INCOME-TAX DEPARTMENT.

92. Khan Bahadur Sarfaraz Hussain Khan : Will the Government be pleased to state the number of Income-tax Officers, Inspectors, Clerks in the combined office of the Commissioner and Assistant Commissioner of Income-tax ?

The Honourable Sir Basil Blackett : I propose to take these questions together. The answers to (1) (a) and (b) and (2) are in the affirmative and (4) in the negative. The transfer possesses considerable advantages and the Local Government has no objection to it.

A statement is laid on the table. No inconvenience is likely to be experienced by assesseees on account of the transfer as all appeals are heard locally.

Rules have been framed by the Local Government and are being followed by the Commissioner of Income-tax as far as possible.

There are one Inspector and 11 Clerks in the combined office of the Commissioner and Assistant Commissioner of Income-tax.

* For answer to this question—see Answer below Question No. 92.

Statement showing the number of appeals, etc., filed during 1922-23 in the Province of Bihar and Orissa.

Province.	Appeals under section 30(1) of the I. T. Act to Assistant Commissioner of I. Tax.			Appeals under section 32(1) of the I. T. Act to Commissioner of I. Tax.			Cases of review by Commissioner of I Tax under section 33 of the I. T. Act.			REMARKS.
	Number filed during year.	Number disposed of (including arrears of last year.)	Number successful.	Number filed during year.	Number disposed of (including arrears of last year.)	Number successful.	Number filed during year.	Number disposed of (including arrears of last year.)	Number of orders modified.	
Bihar ...	858	800	184	53	55	9	15	9	1	
Orissa ...	86	95	26	5	5	1	...	...	...	
Chota Nagpur	213	194	40	...	1	1	38	30	9	
Total.	1,157	1,089	250	58	61	11	53	39	10	

DISMISSAL OF KHALASIS ON B. N. RAILWAY.

93. Rai Bahadur Pandit J. L. Bhargava : Will the Government be pleased to state how many Khalasis working in the Engines have been dismissed since November last on the Bengal-Nagpur Railway ?

Mr. G. G. Sim : Government have no information on the subject.

RAILWAY APPRENTICES.

94. Rai Bahadur Pandit J. L. Bhargava : Will the Government be pleased to lay on the table a statement showing the total number of apprentices, Indian and European or Anglo-Indian separately, admitted in the years 1921, 1922 and 1923 in the Mechanical Engineering Department on the Bengal-Nagpur Railway, North Western Railway, and East Indian Railway ?

Mr. G. G. Sim : The full information desired is not available but at the end of 1922 there were the following literate apprentices on the lines in question :—

Bengal Nagpur Railway—			
European and Anglo-Indian	..	..	52
Indian	..	..	24
North Western Railway—			
European and Anglo-Indian	..	..	95
Indian	..	..	34
East Indian Railway—			
European and Anglo-Indian	..	..	104
Indian	..	..	80

Under the new arrangements being made between the Punjab Government and the North Western Railway it is hoped to introduce next October a scheme for the training of 225 apprentices at Lahore. Similarly when the arrangement come to between the East Indian Railway and the Government of Bihar and Orissa is in full swing 210 apprentices will be trained at Jamalpur. The necessary buildings are being erected and staff entertained.

QUALIFICATIONS OF RAILWAY APPRENTICES.

95. Rai Bahadur Pandit J. L. Bhargava : Will the Government be pleased to state the prescribed qualifications, rates of stipends and wages of apprentices for Indians as well as Europeans or Anglo-Indians for Mechanical Engineership on Railways ?

Mr. G. G. Sim : I would refer the Honourable Member to the reply given in this Assembly to a somewhat similar question asked by Mr. K. B. L. Agnihotri on the 7th September 1922. Much information on the points mentioned by the Honourable Member will be found in Mr. Cole's report, copies of which have been placed in the Library.

INCONVENIENCES OF PENSIONERS.

96. Rai Bahadur Pandit J. L. Bhargava : (a) Are the Government aware that great inconvenience is felt by the pensioners for over 20 Rs. per month who have to come out to the head quarters to receive their pensions ?

(b) Are the Government prepared to consider the advisability of extending the rule of sending pension money of Rs. 20 or less by postal money order to Rupees fifty or less ?

The Honourable Sir Basil Blackett : The Government of India have not so far received any representations in the matter, but are prepared to consult the Provincial Governments as to the advisability of extending the rule as proposed.

SETTLEMENT OF KENYA QUESTION.

MOTION FOR ADJOURNMENT OF ASSEMBLY.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : I ask for leave to move the adjournment of the House of which I have already given notice. The notice is in these terms :

"To call attention to a matter of urgent public importance in connection with the recent announcement that the Duke of Devonshire is going to disclose in the House of Commons, before the middle of July, settlement regarding Kenya question."

I am aware that a number of Resolutions have been sent up on this subject and it may be said that under the rules my motion cannot be regarded as one of urgency. At the same time, Sir, I may draw attention to the fact that the earliest of these Resolutions cannot come up for discussion before the 10th or 12th of July, and if the announcement made by the Duke of Devonshire that he is going to disclose to the House of Commons his decision on the subject at about that time is correct, then the discussion that will take place here at about the 10th or 12th July will have no effect upon the opinion that has to be formed by the Home Government on this important question. A large number of Members of this House feel that this matter should be considered very fully by this House and a report of our discussion should be cabled Home before the Secretary of State for India and the Secretary of State for the Colonies come to a decision on this subject. That is the reason, Sir, why I say that this is a matter of urgency. I may also mention that on the 5th of July which has been allotted by the Prime Minister of England for the discussion of matters relating to India this question

may be discussed, and if we put off our discussion till the 10th or 12th July, that discussion would serve no purpose. For these reasons, Sir, I ask for your leave to move the adjournment of the House to call attention to the matter of which I have already given notice.

Mr. President : The Honourable Member asks for leave to move the adjournment of the business of the Assembly :

“ to call attention to a matter of urgent public importance, namely, the recent announcement that the Duke of Devonshire is going to disclose in the House of Commons, before the middle of July, a settlement of the Kenya question.”

I am afraid I must rule that an announcement which is going to be made cannot be a matter of recent occurrence, and therefore the Honourable Member's request is not in order.

POSITION OF INDIANS OVERSEAS.

MOTION FOR LEAVE TO ADJOURN BUSINESS OF ASSEMBLY.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : I also have given notice of moving an adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely, the position of Indians overseas, the negotiations now proceeding in London in respect thereof and to define a policy. Sir, I think my motion pertains to the specific matter of recent occurrence inasmuch as it desires a discussion on negotiations proceeding in London and as the matter is to be decided soon. Therefore I think I am in order and I pray that I may be given leave to move an adjournment of the House.

Mr. President : The Honourable Member asks leave to move the adjournment of the business of the Assembly in order to discuss the position of Indians overseas. I am afraid I cannot regard that either as urgent or as definite and therefore it does not come within the rule.

RESIGNATIONS OF RAO BAHADUR T. RANGACHARIAR AND SIR CAMPBELL RHODES FROM THE PANEL OF CHAIRMEN.

Mr. President : I have to announce that I have received the resignations of Rao Bahadur Tiruvenkata Rangachariar and Sir Campbell Rhodes of their positions as Members of the Panel of Chairmen. To the vacancies thus created I appoint Mr. Samarth and Colonel Sir Henry Stanyon.

THE ABOLITION OF TRANSPORTATION BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I beg to move :

“ That Mr. Abul Kasem be nominated to serve on the Select Committee to consider and report on the Bill to provide for the abolition of the punishment of transportation in respect of criminal offences.”

As my colleagues on the Select Committee are aware, the reason for my seeking this addition to our numbers is the temporary absence of a Chairman.

The motion was adopted.

THE INDIAN STAMP (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

“ That the Bill further to amend the Indian Stamp Act, 1899, be referred to a Select Committee consisting of the Honourable Mr. Innes, Sir Jamsetjee Jejeebhoy, Sir P. S. Sivaswamy Aiyer, Mr. A. O. Jamall, Colonel Sir Henry Stanyon, Rao Bahadur C. S. Subrahmanayam, Mr. Manmohandas Ramji, Baba Ujagar Singh Bedi, and myself.”

This motion is, as the House will remember, in accordance with the decision taken by it in March last when it decided to have the Bill further to amend the Indian Stamp Act circulated for opinion. The opinions have now been received and the motion which I now make is that the Bill be referred to a Select Committee for the consideration of those opinions.

Mr. President : The question is :

“ That the Bill further to amend the Indian Stamp Act, 1899, be referred to a Select Committee consisting of the Honourable Mr. Innes, Sir Jamsetjee Jejeebhoy, Sir P. S. Sivaswamy Aiyer, Mr. A. O. Jamall, Colonel Sir Henry Stanyon, Rao Bahadur C. S. Subrahmanayam, Mr. Manmohandas Ramji, Baba Ujagar Singh Bedi, and the Honourable Sir Basil Blackett.”

The Assembly divided :

AYES—38.

Abdul Hamid Khan, Khudadad Khan,
Mr.
Aiyer, Sir P. S. Sivaswamy.
Akram Hussain, Prince A. M. M.
Asad Ali, Mir.
Ayyangar, Mr. R. Narasimha.
Bardwell, Mr. H. R.
Barnes, Mr. H. C.
Barua, Mr. D. C.
Blackett, Sir Basil.
Bray, Mr. Denys.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Gajjan Singh, Sardar Bahadur.
Gaskell, Mr. W.
Ghulam Sarwar Khan, Chaudhuri.
Graham, Mr. L.

Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Ikramullah Khan, Raja Mohd.
Innes, the Honourable Mr. C. A.
Jamall, Mr. Ashruff O.
Mitter, Mr. K. N.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Richey, Mr. J. A.
Samarth, Mr. N. M.
Sassoon, Captain E. V.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanyon, Colonel Sir Henry.
Ujagar Singh, Baba Bedi.
Yamin Khan, Mr. M.

NOES—27.

Abdul Majid, Sheikh.
Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahsan Khan, Mr. M.
Asjad-ullah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Dalal, Sardar B. A.
Das, Babu B. S.
Dass, Pandit R. K.

Gulab Singh, Sardar.
Joshi, Mr. N. M.
Majumdar, Mr. J. N.
Man Singh, Bhai.
Nand Lal, Dr.
Neogy, Mr. K. C.
Reddi, Mr. M. K.
Shahani, Mr. S. C.
Sinha, Babu L. P.
Sohan Lal, Mr. Bakshi.
Venkatapathiraju, Mr. B.
Vishindas, Mr. H.
Wajihuddin, Haji.

The motion was adopted.

Mr. E. Burdon (Army Secretary) : Sir, I beg to move :

"That the Bill to consolidate and amend the law relating to the administration of cantonments be referred to a Select Committee consisting of Mr. N. M. Samarth, Mr. P. B. Haigh, Mr. J. P. Cotelingam, Mr. W. M. Hussanally, Sir Deva Prasad Sarvadhikary, Mr. Pyari Lal, Chaudhuri Shahab-ud-Din and myself."

Mr. President : The question is :

"That the Bill to consolidate and amend the law relating to the administration of cantonments be referred to a Select Committee consisting of Mr. N. M. Samarth, Mr. P. B. Haigh, Mr. J. P. Cotelingam, Mr. W. M. Hussanally, Sir Deva Prasad Sarvadhikary, Mr. Pyari Lal, Chaudhuri Shahab-ud-Din and Mr. E. Burdon."

Dr. Nand Lal (West Punjab : Non-Muhammadan) : I beg to move that Baba Ujagar Singh Bedi's name be added.

Mr. President : Does the Honourable Member move that as an amendment ?

Dr. Nand Lal : I move that as an amendment.

Mr. President : The question is that that amendment be made.

The motion was adopted.

Haji Wajihuddin (Cities of the United Provinces : Muhammadan Urban) : I move that Mr. Seshagiri Ayyar be added to this Committee.

Mr. President : Has the Honourable Member got Mr. Seshagiri Ayyar's permission ?

Haji Wajihuddin : I have got his permission.

Mr. President : The question is that Mr. Seshagiri Ayyar's name be added to the Select Committee.

The motion was adopted.

Mr. President : The question is that the Bill be referred to that Select Committee, as amended.

The motion was adopted.

THE MAHENDRA PARTAB SINGH ESTATES BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I beg to 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, as passed by the Council of State, be taken into consideration."

The measure for which I ask consideration is of a novel and perhaps almost unique nature. Indeed, I think there are some of my friends here who might start with an initial prejudice against it on the ground that it partakes in appearance of the character of the old and obsolete Bill of Attainder. But it is of course in its essentials and in its substance, something entirely different. The Bill of Attainder not only attacked the property of the offender but attacked it in perpetuity. Here we are attempting to meet the problem of applying more modern methods and ideas in regard to the State's claim on the property of a fugitive rebel, accused of what would once have been described of treason and felony. That my description of him is accurate I hope that no one here will harbour any

doubt. In the other House my friend Mr. Crerar gave a complete history of the career of this misguided and mischievous man ; I do not wish to repeat its details here ; they make sorry reading. Here is a man descended from ancestors who served the State well and were remunerated by the State for their loyalty and devotion in difficult times. What has been his own effort to maintain those traditions ? Visits to Berlin during the war, with offers of assistance to the German Government ; attempts to persuade the Russian Government (then our ally), to attack us ; a visit to Kabul in order to seduce a valued ally from the attitude of neutrality which he was then preserving ; attempts to induce Frontier tribes to cut our railways and to destroy our telegraph wires ; lastly and worst of all, attempts whose criminality was not the less because they were from the first ridiculous, to make the Princes of India untrue to their allegiance to the Crown. As I say, it is a sorry tale. But do not let any one here have any doubt as to the truth of our charges we bring against this man. If any one here has any such doubt, I merely ask him to do his best to persuade Mahendra Partab to come back to India. I will undertake that the minute he puts his foot on our shores and comes within the scope of our laws, he shall be given instant opportunity to contest the truth of these charges before a Criminal Court. In the meanwhile, failing the ordinary course of law, we have been obliged to attach his estates under Regulation III of 1818. We have done so not by way of punishment of the fugitive or with any desire to penalise his family, but with one purpose only, to prevent any of the proceeds of those estates being sent to him in his place of exile, and to prevent their being utilized in the attempts in which he is still engaged to arouse elements which are hostile to the British Empire. That was our sole purpose. But we found that Regulation III did not give us sufficient powers to manage and develop the estates, that is to say, we could only collect revenues, pay Government dues and accumulate capital. What we seek to do, in the interest of the family, is to get complete control over the estates, or rather over such portion of them as is not the share of the minor son (for over the latter portion we could under our Court of Wards law assume management), and in virtue of that control to develop them before we hand them over to the minor son on his attaining the age of majority. That is our modern method of treating an ancient problem. It is a humane and it is a beneficent one. We are, paradoxically almost it might appear to some of our friends, binding ourselves to hand over these estates, of course under suitable terms, to the son of a fugitive rebel as soon as that son attains years of discretion. The Bill has been commented on by former friends of Mahendra Partab in another place, and commented on in terms of compliment (not I think undeserved) to the Government which has devised it.

Mr. 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, as passed by the Council of State, be taken into consideration."

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, may I ask the Honourable the Home Member one question ? I am not going into the merits of the matter at all, but I should like to know whether the income of the property from the time when it was attached till the time of restoration will be handed over to the minor son ? I should

[Mr. T. V. Seshagiri Ayyar.]

like to know whether it is the intention of the Government that the minor son should have the full benefit of the management of the estate or whether the Government intend to appropriate any portion of the income because Mahendra Partab has been behaving badly towards the Government? I should like to have an explanation.

The Honourable Sir Malcolm Hailey : Whatever our strict rights in the case and whatever the needs of the Department over which my friend Sir Basil Blackett presides may be, we do not intend to take any portion of the revenues of the estate. The whole of it, after payment of costs of management and development, will be given to the minor son, and the dependents on the estate.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I have very great pleasure in strongly supporting the Bill which has been put before the House just now. I have known the family of Kunwar Mahendra Partab Singh. He was the son of Raja Ghanshyam Singh, a very good Rais of the Muttra District. He was adopted by Raja Harnarain Singh, known as the Raja of Hathras. Raja Harnarain Singh served the Government well and was rewarded for it. I knew Mahendra Partab as a boy at school. He was a lover of education and he endowed a portion of his property for educational purposes. He has one son, Prem Partab Singh, a daughter and a wife. The family is well known and respected. He was married to one of the sisters of Raja Ranbir Singh of Jind. So far as I know, the estate gives an annual profit of over Rs. 10,000 and in the year 1919 I think there was a surplus of about Rs. 22,500 to the credit of the estate. Now, according to Hindu law, the estate belongs jointly to the father and his minor son. The Bill as framed clearly brings this point out and I am sure the Government will make proper provision for extinguishing the rights of Mahendra Partab, whatever they are, in the property and transferring them to the minor. With these few words I support this motion.

Baba Ujagar Singh Bedi (Punjab : Landholders) : Sir, I also rise to support the Bill which has been proposed by the Honourable the Home Member. There is no doubt that it is a great proof of the magnanimity, generosity and forbearance of the Government. I am quite staggered to hear the mischievous actions and doings of Mahendra Partab Singh, and there is no doubt that in handing over the property to his son Government is showing great generosity. With these few words, I support the Bill.

Mr. Denys Bray (Foreign Secretary) : Sir, after this chorus of approval no further words on behalf of the Government case are really required. But, like my friend Mr. Agarwala, I too have had some acquaintance with Mahendra Partab, though my acquaintance has been of a very different kind. Ever since the day he embarked on his career of high treason it has been part of my duty to follow him very closely. (*The Honourable Sir Malcolm Hailey :* "On a long journey.") As the Honourable the Home Member says, on a very long and a very laborious journey—which is not yet over. I propose simply to take one episode in his career, and to bring it into somewhat sharper relief by means of certain documents

in the archives of the Foreign Office. Mahendra Partab was sent by the German Government as one of the members of its Mission under Von Hentig to Kabul. At the time it struck me as a somewhat incongruous membership; indeed I think it was not until I was able to peruse this booklet now in my hand, that I realized what great store the German Government set by his presence on that Mission. It is a German diary kept up by one of the German members of the Mission, depicting the long journey from Berlin through south-east Europe, across Asia Minor, down the Euphrates to Baghdad, and from Baghdad right across the breadth of Persia into Afghanistan. And the many references in it to "our Indian Prince"—for as such Mahendra Partab appears to have imposed on the German Government—and the great solicitude set up throughout the whole of the Mission whenever "our Indian Prince" went down with a touch of fever on the way make it quite clear that the German Government attached the utmost importance to Mahendra Partab's presence on that Mission and expected great things from it.

Now one of the chief duties with which the German Government charged Mahendra Partab was the delivery of letters from the German Chancellor to the rulers of foreign States on our borders, to the Indian Princes, and even to leading Zamindars of British India. I think I am right in saying—but my memory after this lapse of time may be playing me a trick—that two only of those letters reached their destination. Of these two one reached us as soon as postal arrangements between Katmandu and Simla could bring it. I am not able to display to the House the original, for His Highness the Prime Minister of Nepal in sending us the letter and the two covering letters of Mahendra Partab requested that they might be returned to him as an interesting, if somewhat amusing, souvenir of the Great War. But I have in my hands photographic copies. There are first, two letters from Mahendra Partab, both signed "M. Pratap, for the time being President of the Provisional Government of Hind." (Laughter.) One is addressed to His Excellency (as he calls him) the Prime Minister. In it he says :

"The English and their party is totally hollowed from within. Now only a cracking skeleton stands. * * * Under the circumstances, it does not behove well to the Kingdom of Nepal to remain friendly or ally of the English. Nepal by its situation is like the crown of India * * * and should not side with the blood-sucking English. * * * I request Your Excellency therefore to so act in co-operation with other Maharajahs and peoples of India that Your Excellency may to-morrow be the Prime Minister of a great empire."

The German Government's letter is addressed to His Majesty the Maharaja Dhiraj of Nepal. But neither Mahendra Partab nor the German Government were quite up to date, for it was addressed not to his present Majesty but to the late Maharajah Dhiraj, who departed this life some six years before the letter was written. (Laughter.)

But, Sir, though the photographic copy is a literal facsimile, it does scant justice to the general character, the appearance, of the letter as it actually issued. And this I am going to illustrate to the House by means of a letter identically the same, except for some of the wording, addressed by the German Government to one of our Zamindars of British India. I have taken the trouble to block out the name of the addressee, partly

[Mr. Denys Bray.]

because I thought he might think the notoriety invidious, partly because, I confess, I was rather afraid that he might endeavour to wheedle out of us one of our last remaining specimens of this most interesting letter. Observe, Sir, the elaborate binding. Pigskin, I am told (Laughter) not an altogether happy selection perhaps for the covering of letters addressed to the fastidious princes and peoples of the East. Observe the arms of Imperial Germany embossed on it. It is bound round by a cord with a tassel of black, white and red, the colours of the German empire. Observe the silken lining; no doubt brought into use before the Germans felt the shortage of even common cloth. Observe the typical German ornamentation and illumination. Admire, Sir, with me the beauty of the German fount and the calligraphy of the vernacular translation. And as another example of German extravagance in the early days of the war, note the office copies, equally elaborate. Observe the seal of Imperial Germany. And now, Sir, mark the autograph of the German Chancellor. But here I feel that I should let my voice drop, for we are in the presence of one of the Immortals. So long as the English language endures, it will not willingly let die the name of von Bethman Hollweg,—the author of that immortal scrap of paper!

When one of these letters first came into my hands, I was struck by "German thoroughness again". It was a very foolish thought. I ask the House to observe the bulk and the weight of this single letter. How the German Government thought that poor Mahendra Partab was going to deliver them to the princes, the many princes of India, passes my understanding. I can only imagine that they thought that the British intelligence system was *quite* so childlike and bland as it so often, to serve its own ends, professes itself to be. I can only say this. Had Mahendra Partab been able to deliver all the letters entrusted to him to the Princes and Zamindars of India, everyone of them would have come back to us with the same alacrity as it came back from Nepal—another striking and stimulating demonstration of the solidarity and loyalty of India and its Princes. (Hear, hear.)

When I first heard that this Bill was afoot, I imagined to myself some devastating, annihilating instrument such as my mind in my boyhood days conjured up and at the word 'high treason.' When I read the Bill, I was greatly surprised. As Honourable Members before me have said, it is a generous and beneficent Bill. There is no straining of the quality of mercy here, no visiting of the sins of the fathers upon the children unto the third and fourth generation. It is a Bill of merciful generosity such as only a powerful Government could afford to display. (Hear, hear.) With all my heart, Sir, I support it.

The motion was adopted.

Clauses 1, 2 and 3, the Schedule, the Title and the Preamble were added to the Bill.

The Honourable Sir Malcolm Hailey : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE MOORSHEDABAD (AMENDMENT) BILL.

Mr. Denys Bray (Foreign Secretary) : Sir, I move for leave to introduce :

"A Bill to modify certain provisions of the Indenture confirmed by the Moorshedabad Act 1891."

The Moorshedabad Act of 1891 confirmed an Indenture between the Secretary of State for India and the son of the last Nawab Nazim of Bengal, Bihar and Orissa. Under that Indenture certain properties were assigned in perpetuity for the maintenance of the position and dignity of the Nawab Bahadur for the time being. In other words, those properties became attached to the estate and the Nawab Bahadur for the time being had only a life interest in them. It was, therefore, necessary to restrict his powers over the property; and in particular he was restricted from entering into any lease for a term exceeding 21 years. Now, this restriction has worked well enough in ordinary cases, but it has been found in certain cases to operate against the interests of the estate by militating against its proper development. Hence the present Bill, which proposes to do away with specific restrictions and to safeguard the development of the estate in the interests of the heirs by enacting simply that no lease shall be entered into by the Nawab Bahadur unless the terms and conditions of it have been previously approved by the Governor of Bengal in Council, the Local Government being obviously the proper authority to see that there is nothing in the lease which would in any way be detrimental to the estate itself.

The motion was adopted.

Mr. Denys Bray : Sir, I introduce the Bill.

THE INDIAN NATURALIZATION BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I beg to move for leave to introduce :

"A Bill to consolidate and amend the law relating to the naturalization in British India of aliens resident therein."

The object of the Bill is perhaps sufficiently explained in the Statement of Objects and Reasons, but there are one or two facts in addition that I may give to the House. The House is no doubt aware that as far back as 1852 India had its own Naturalization Law, by which it granted certificates of naturalization of local force and validity, that is to say, that the recipient of such a certificate while counting as a British subject in India was technically an alien outside India. I do not find, that any very great use was made of this law. Thus in Bombay, for instance, in the years 1904 to 1921, the Local Government issued 166 certificates, of which 46 were to Europeans and the rest to Asiatics; and though I do not possess complete figures, such as I have shown that the use of the law elsewhere and especially in the inland provinces was far less than in Bombay. Nevertheless, it must at the same time have been a very great convenience to a number of people who wished to gain British nationality. Shortly before the war the whole question of naturalization was taken up in England and the law overhauled, with the result that it was decided to pass an Act which would provide for the grant of certificates of all-Empire validity, thereby discouraging

[Sir Malcolm Hailey.]

the issue of local certificates, to which of course there are a great many inconveniences attached. That law was passed in 1914. Under section 8 of the English Act all Dominions and Possessions are entitled to issue certificates of Empire validity. But though the Dominions were enabled to utilise the British Act to the full, and have practically ceased to issue certificates of local validity, we in India were confronted with an obstacle not met by them. The British law, as intended to apply to the whole British Empire, very naturally provided that one condition which an alien must fulfil was a competent knowledge of English. It is true that it provided also that any Possession might issue a certificate to persons who had a competent knowledge of a language which in that Possession was the equivalent of English. But our difficulty was to find any one language in India which we could regard as equivalent to English. I see that the eyes of some of my Honourable friends here light up with a recollection of well known contest between the claims of Hindi and Hindustani and other languages of India. I do not desire to revive that here ; it is enough to say that we were unable to find any one vernacular in India which we could say was equivalent to English. As a consequence, we decided to put forward a Naturalization Bill which would enable Local Governments to give to alien applicants certificates of naturalization of all-India validity if they possess a competent knowledge of a vernacular which the Local Government recognise as being the prevalent vernacular in their province. Our Bill of course will not in any way be contrary to the British Act ; it will be supplementary to it, and it will enable certain Asiatics to avail themselves of a privilege which they would not otherwise have been able to obtain. The details will remain for future consideration ; I do not enter into them here, because if leave to introduce the Bill is granted, I propose subsequently to refer it to a Select Committee.

The motion was adopted.

The Honourable Sir Malcolm Hailey : Sir, I introduce the Bill.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I move for leave to introduce :

“ A Bill further to amend the Code of Civil Procedure, 1908, for certain purposes.”

This Bill provides for an increase in the standards which we apply to the reservation of certain salaries from attachment. The principle of saving certain portions of the salaries of Government officers from attachment has long been recognised in India, though the law in its present form only dates from 1908. Now the intention of the Legislature in this respect was not to create a special privilege for Government servants ; it was rather to safeguard the interests of the State. If the whole of a Government servant's salary is attached particularly if he is a low-paid Government servant, then he is put to hardships which would make his services useless to the State, or he may be put to temptation to gain a means of subsistence, and if he gave way to such temptation it would be greatly against the interests of the State. It may be said that a Government servant should not

get into debt, or indulge in a style of living which renders his salary liable to attachment. I can only say on this point that, by the mere fact that we preserve from attachment a certain portion of the officer's salary, we do thereby reduce to some extent his credit and thereby his power of incurring debt. However that may be, I do not think that anybody at this time of day would desire to go back on the general principle. But the exact standards we have taken for the Civil Procedure Code are now out of date. That is to say, if formerly we preserved from attachment a sum of Rs. 20, that would be now insufficient, for although at one time Rs. 20 might have been sufficient to keep the Government servant from temptation or want, the cost of living has gone up so much, that this amount would be no longer adequate. We have therefore proposed in this Bill to raise those standards. I am not wedded to the particular figures ; and they are not under discussion at the moment. The figures have been accepted by the Local Governments, but they are open to criticism and to comment at a later stage. At present I only move for leave to introduce.

The motion was adopted.

The Honourable Sir Malcolm Hailey : Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : Sir, I move for leave to introduce :

“ A Bill further to amend the Code of Criminal Procedure, 1908, for certain purposes.”

There are three purposes for which this Bill has been introduced. The first, to which we propose to give effect in clause 2, is really a rectification of a small error into which we fell in the course of the recent revision of the Criminal Procedure Code. The matter is somewhat complicated ; but I can explain it to the House in a few words. In our recent revision we made it necessary for a Presidency Magistrate to make a memorandum of the substance of the examination when a case is appealable. That memorandum was of course required for the purposes of the appellate court. Where the case is not appealable, the Magistrate had neither to record the evidence, nor to frame a charge. Now our revision of section 364, if it stands in its present form, will have the effect of applying the somewhat elaborate procedure of section 364, with which no doubt the House is well acquainted, to cases in which there is no appeal. So that the result will be that while in appealable cases the Magistrate makes a memorandum and signs that memorandum, in non-appealable cases he will have to comply with the elaborate procedure of section 364 although no evidence is recorded, no charge is framed and no appeal is possible. All we seek to do therefore is to rectify this inconsistency and to provide that where there is no appeal, there shall be no record made of the examination of the accused. We seek to make this change now because we are engaged in the consolidation of the Criminal Procedure Code, and it is well that we should take the earliest opportunity of asking the assistance of the House in rectifying or adjusting any minor point which may come to our notice.

[Sir Malcolm Hailey.]

The second matter for which it is intended to provide, see clause 3, is of course no question of rectification or justification. It is an attempt to make a substantive improvement in our criminal procedure. We propose to give effect to a suggestion put forward by the Jails Committee which we were unable to take up in time when we were amending the Code in March last. We suggest that where a fine is inflicted, with imprisonment in default of fine, the Court may pass an order that the fine may be payable either in full on or before a date not more than 30 days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than 30 days from the date of the order, or may suspend the execution of the sentence of imprisonment and release the offender on the execution of a bond to appear on the date or dates on which the payment of a fine or the instalments of a fine is to be made. I may say that we not only had in view a liberalisation of our procedure, but we also had in view other purposes of our own. We have always been desirous to do anything in our power to prevent the Courts from passing short terms of imprisonment. Perhaps the House hardly realises that in the five years ending 1918 the average number of people who passed into our jails or sub-jails every year on sentences of less than a month was over 41,000. This section is therefore intended, if possible, to prevent men from being sent to prison on short terms of imprisonment.

The third point is not one of equal importance, but also one to which our attention was directed by the Jails Committee. When a Magistrate is dealing with a case of a trivial nature for which a very light sentence is justified, he can of course sentence the accused to imprisonment until the rising of the Court. The Jails Committee suggested that it would be advisable to place formally on the Code a section enabling the Magistrate to convict and to discharge with a warning. That would call his attention to the fact that it was not necessary in every case to impose a sentence of imprisonment or a fine, and the new provision would perhaps in itself to that extent also tend to the reduction of the short sentences of imprisonment to which I have made previous allusion.

These are the three points involved; the exact terms will come under consideration subsequently, and at present I only ask for leave to introduce.

The motion was adopted.

The Honourable Sir Malcolm Hailey : I introduce the Bill.

THE INDIAN TERRITORIAL AND AUXILIARY FORCES (AMENDMENT) BILL.

Mr. E. Burdon (Army Secretary) : Sir, I move for leave to introduce :

"A Bill to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes."

Sir, the purpose of this Bill is very simple and obvious and I need not trouble the House with more than a very few words of explanation in amplification of what has already been said in the Statement of Objects

and Reasons. The necessity for the Bill arises essentially from the fact that the period during which a person may be a member of the Territorial Force or the Auxiliary Force does not coincide with the time that he is subject to military law. Under the Auxiliary Force Act, a commissioned officer of the Auxiliary Force when doing duty as a Commissioned Officer and every non-commissioned officer and man of the said force is only subject to the provisions of the Army Act when attached to or otherwise acting as part of or with any regular forces or when called out by an order or embodied by a notification under section 18 of the Act. Putting the matter in its simplest form a member of the force is not subject to military law outside the period of training or outside the period of his embodiment. The situation as regards members of the Territorial Force is almost precisely the same. Consequently, as pointed out in the Statement of Objects and Reasons, if a person belonging to either Force commits a serious military offence, not cognisable by an ordinary criminal court, towards the end of the period during which he is subject to military law and owing to the shortness of the time remaining cannot be tried by court-martial, then as the law stands at present, he would escape punishment. I think it is clear that such a result is certainly not intended and in the interests of military discipline would be most undesirable.

The motion was adopted.

Mr. E. Burdon : Sir, I introduce the Bill.

THE INDIAN ARMY (AMENDMENT) BILL.

Mr. E. Burdon (Army Secretary) : Sir, I move for leave to introduce :

"A Bill further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes."

In this case also the purposes for which it is sought to amend the Indian Army Act and the Indian Lunacy Act are very obvious; and the matter has been very fully and clearly explained in the Statement of Objects and Reasons. It is sought to amend the Indian Army Act in three respects; the second and third of these require, I think, no further explanation. Their object is merely to repair certain omissions which are clearly accidental, and it is not only desirable but necessary to repair these deficiencies. There remains the first amendment as shown in the Statement of Objects and Reasons, whereby it is proposed to amend the Indian Army Act in order that officers, warrant officers and non-commissioned officers of the Royal Air Force may stand in the same relation to Indian soldiers as do officers of the land forces. Here the necessity for the legislation arises directly out of the establishment of the Royal Air Force as part of the armed forces of India. It will be observed that the proposal is that the definition of officer in the Indian Army Act should only include, in relation to a person subject to this Act, a person holding a Commission in His Majesty's Air Force, when serving under such conditions as may be prescribed.

The conditions to be prescribed, I may explain, will only cover certain special circumstances in which it is necessary that Air Force Officers

[Mr. E. Burdon.]

should be subject to the Indian Army Act. The provision which it is here proposed to make corresponds very closely to the provision which for similar reasons had to be made in the Army and Air Force Act in the United Kingdom. I will give one or two examples of the conditions when the provision proposed would be enforced. One of the situations would be when bodies of the two forces were acting together in an expeditionary force beyond the seas. Again, a similar provision is required when bodies of the two forces are conveyed together on a transport or on a troopship. I do not think it is necessary for me to elaborate the argument any further. As I have explained the necessity for the legislation arises entirely out of the addition of the Royal Air Force to the armed forces of India.

The motion was adopted.

Mr. E. Burdon : Sir, I introduce the Bill.

THE INDIAN INCOME-TAX (FURTHER AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move for leave to introduce :

“ A Bill further to amend the Indian Income-tax Act, 1922, and for certain purposes.”

This Bill has the object stated in the explanation which is printed with the Bill. The first object is to correct a possible mistake in the existing law. There has been some doubt expressed as to whether it is at present possible to assess to income-tax the profits or gains of a business which accrue or arise outside British India to a person residing in British India. It was clearly the intention of the Act when it was passed that such profits or gains should be taxed, but some doubt has been expressed as to whether the Act as passed carries that into effect. At a certain stage in the proceedings a few words dropped out of the Bill as printed in the first instance, and those words are believed to be necessary to secure the object in view. The second purpose of this Bill is to render liable to income-tax the profits of occasional shipping, tramp steamers which belong to or are chartered by people or companies whose place of business is not in British India. Under clause 3 of the Bill it is proposed to make such profits liable, and in order to secure the actual payment by the people liable, it is proposed that before the departure of the ship from the port an assessment shall be made of 1-20th, that is 5 per cent. of the preliminary figures of profits subject to the possibility at a later stage of more correct and accurate assessment being made and a further payment being made by the tramp steamers, or in the other event, a sum being repaid to the shippers.

The motion was adopted.

The Honourable Sir Basil Blackett : Sir, I introduce the Bill.

THE INDIGO (REPEALING) BILL.

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : Sir, I move for leave to introduce :

“ A Bill to repeal the Acts which provide for the levy of a cess on indigo exported from British India.”

Sir, this Bill is a very little one and it is fully explained in the Statement of Objects and Reasons. Put briefly, the position is that five years ago a cess was imposed to promote research in indigo. The research has now been completed with a very small exception and there is enough money in hand to complete such investigation as is left. We, therefore, think that it is undesirable to keep on the cess any more and we propose to repeal the Act.

The motion was adopted.

Mr. M. S. D. Butler : Sir, I introduce the Bill.

THE INDIAN PAPER CURRENCY (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I move for leave to introduce :

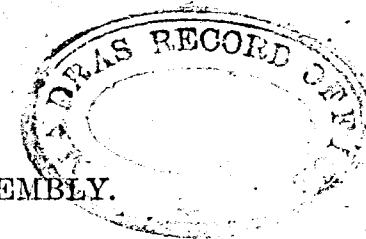
“ A Bill further to amend the Indian Paper Currency Act, 1923.”

A full Statement of Objects and Reasons with an explanation of the Government's intentions, should the Bill be passed into law, has been printed with the Bill. It is a technical subject on which I should like to make a three hours' speech, but, as it is nearly lunch time, I will confine myself merely to moving it.

The motion was adopted.

The Honourable Sir Basil Blackett : Sir, I introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 3rd July, 1923.



LEGISLATIVE ASSEMBLY.

Tuesday, 3rd July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

CHATTER MANZIL PALACE, LUCKNOW.

63. *Lala Girdharilal Agarwala : 1. Does the Chatter Manzil Palace in Lucknow belong to the Government of India or the Government of the United Provinces for purposes of maintenance and repairs and receipt of rents and profits ?

2. Is it a fact that the said Palace has been rented to the United Service Club, if so, when does the lease expire ?

3. Will the Government be pleased to state the expenses connected with and income from the Palace during the last 5 years and the profit or loss during that period, also stating to whose account the income was credited and the expenditure debited ?

4. Has it been considered whether that Palace after some alterations can accommodate the United Provinces Legislative Council ?

The Honourable Sir Basil Blackett : (1) The Chatter Manzil Palace in Lucknow is under the control of the Government of the United Provinces for purposes of maintenance and repairs and receipt of rents and profits.

The Government of India are not concerned with parts (2) to (4) of the question, and have no information.

CONCESSIONS TO CIVIL SUB-ASSISTANT SURGEONS.

64. *Dr. H. S. Gour : (1) Will the Government be pleased to state whether it is a fact :

(a) That the Government invited the Civil Sub-Assistant Surgeons to volunteer their services for general military service as per letter No. H.-4509, dated 29th May 1916 ?

(b) That in that letter it was distinctly stated that such volunteers shall get the same field concessions as were granted to military Sub-Assistant Surgeons ?

(c) That a number of Civil Sub-Assistant Surgeons volunteered their services and were employed on military duty for different purposes and on different fields ?

(d) That on the close of the War the Civil Sub-Assistant Surgeons applied for War gratuity, but it was refused on the ground that they had received additional privileges and concessions whilst employed on military duty, and were not therefore eligible for the gratuity ?

[Mr. E. Burdon.]

should be subject to the Indian Army Act. The provision which it is here proposed to make corresponds very closely to the provision which for similar reasons had to be made in the Army and Air Force Act in the United Kingdom. I will give one or two examples of the conditions when the provision proposed would be enforced. One of the situations would be when bodies of the two forces were acting together in an expeditionary force beyond the seas. Again, a similar provision is required when bodies of the two forces are conveyed together on a transport or on a troopship. I do not think it is necessary for me to elaborate the argument any further. As I have explained the necessity for the legislation arises entirely out of the addition of the Royal Air Force to the armed forces of India.

The motion was adopted.

Mr. E. Burdon : Sir, I introduce the Bill.

THE INDIAN INCOME-TAX (FURTHER AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move for leave to introduce :

“ A Bill further to amend the Indian Income-tax Act, 1922, and for certain purposes.”

This Bill has the object stated in the explanation which is printed with the Bill. The first object is to correct a possible mistake in the existing law. There has been some doubt expressed as to whether it is at present possible to assess to income-tax the profits or gains of a business which accrue or arise outside British India to a person residing in British India. It was clearly the intention of the Act when it was passed that such profits or gains should be taxed, but some doubt has been expressed as to whether the Act as passed carries that into effect. At a certain stage in the proceedings a few words dropped out of the Bill as printed in the first instance, and those words are believed to be necessary to secure the object in view. The second purpose of this Bill is to render liable to income-tax the profits of occasional shipping, tramp steamers which belong to or are chartered by people or companies whose place of business is not in British India. Under clause 3 of the Bill it is proposed to make such profits liable, and in order to secure the actual payment by the people liable, it is proposed that before the departure of the ship from the port an assessment shall be made of 1-20th, that is 5 per cent. of the preliminary figures of profits subject to the possibility at a later stage of more correct and accurate assessment being made and a further payment being made by the tramp steamers, or in the other event, a sum being repaid to the shippers.

The motion was adopted.

The Honourable Sir Basil Blackett : Sir, I introduce the Bill.

THE INDIGO (REPEALING) BILL.

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : Sir, I move for leave to introduce :

“ A Bill to repeal the Acts which provide for the levy of a cess on indigo exported from British India.”

Sir, this Bill is a very little one and it is fully explained in the Statement of Objects and Reasons. Put briefly, the position is that five years ago a cess was imposed to promote research in indigo. The research has now been completed with a very small exception and there is enough money in hand to complete such investigation as is left. We, therefore, think that it is undesirable to keep on the cess any more and we propose to repeal the Act.

The motion was adopted.

Mr. M. S. D. Butler : Sir, I introduce the Bill.

THE INDIAN PAPER CURRENCY (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I move for leave to introduce :

“ A Bill further to amend the Indian Paper Currency Act, 1923.”

A full Statement of Objects and Reasons with an explanation of the Government's intentions, should the Bill be passed into law, has been printed with the Bill. It is a technical subject on which I should like to make a three hours' speech, but, as it is nearly lunch time, I will confine myself merely to moving it.

The motion was adopted.

The Honourable Sir Basil Blackett : Sir, I introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 3rd July, 1923.

(3) Did the Government make any representation in the interest of Indians? If so, will the Government be pleased to lay on the table a copy of its representation made to the Union Government and of the replies, if any, received therefrom?

Mr. M. S. D. Butler : (1) The Government of India received both letters and cablegrams from the Natal Indian Congress in regard to the four ordinances recently introduced in the Natal Provincial Council. They at once made telegraphic representations to the Government of the Union of South Africa regarding all provisions which appeared likely to affect Indian interests adversely.

(2) Copies of the four Natal ordinances in the form in which they were published in the Natal Official Gazette, dated the 15th March 1923, will be supplied to the Honourable Member. The final text of the three ordinances that have been passed and have received the assent of the Governor General is not yet available.

(3) The Government of India do not consider that it would be in the public interest to lay either their representations or the replies of the Union Government on the table. The Honourable Member may, however, rest assured that the Government of India are and have been fully alive to the importance of the interests at stake.

Mr. T. V. Seshagiri Ayyar : May I ask a supplementary question, Sir? Is there any objection to the representation made by the Government of India to the Natal Government being circulated among the Members of this House?

The Honourable Sir Narasimha Sarma : The matter will be considered.

Dr. H. S. Gour : This is a question on which the public in this country feel strongly, and in view of the strength of public feeling, will the Government be pleased to state to the Members of this House, either individually or collectively, the course of negotiations that are proceeding in the direction of combating the Ordinances which have been passed and have received the assent of the Governor General.

The Honourable Sir Narasimha Sarma : Government will be able to make as full a statement as possible when some of the Resolutions on this subject come up on the 10th.

Dr. H. S. Gour : Will the Government in the meantime take measures that the South African Government does not hurriedly legislate so as to cause disabilities to Indians in South Africa and further that action under the Ordinances is suspended in the interval?

The Honourable Sir Narasimha Sarma : There is no likelihood of any action under the Ordinances being suspended but with regard to future legislation contemplated, there is no likelihood of its being proceeded with in the immediate future.

Sir Deva Prasad Sarvadhikary : In view of what the Honourable Sir B. N. Sarma has just been good enough to tell us, does he not consider that it would be useful for the purpose of the debate on the 10th July and for economising time in that connection that the announcement that he proposes to make then should be made earlier. The ground may be thus

cleared and the House may be in a position to come to a decision on considered materials. If the announcement is delayed, it would be rather difficult for the House to come to any conclusion with regard to the points that are likely to be raised in the debate.

Mr. K. Ahmed : Is that not a matter of opinion, Sir?

The Honourable Sir Narasimha Sarma : I do not think that any disclosure with regard to the nature of the negotiations between the South African Government and the Government of India would very materially affect the course of the discussion on the 10th. The Ordinances have been passed and have received the assent of the Governor General and are actually law of the land. With regard to the question of segregation, it is engaging the attention of the South African Government. We have made representations and we propose to make representations and we shall try our level best to see that the Ordinance is not passed in a way detrimental to the interests of the community.

Dr. H. S. Gour : May I inquire of the Government, Sir, if they have received a cablegram yesterday, as I did, from the South African Indians stating that the Ordinances have been put into operation with all their vigour in the case of Indians and that they are suffering from disabilities which are intolerable in the present circumstances?

Mr. President : In a matter of that kind, the Honourable Member had better give notice.

RESULTS OF O'DONNELL CIRCULAR.

69. ***Mr. B. Venkatapatiraju :** 1. Will the Government be pleased to state the result of the O'Donnell circular about the Indianization of services and the recruitment of I. C. S. Officers?

2. Whether the Government of India received any replies from the Provincial Governments and to what effect?

3. Whether the Government of India changed its policy since the issue of that circular?

4. Whether the Secretary of State expressed any opinion regarding the circular and whether it would be published?

5. Will the Government be pleased to place on the Editor's table the circular and the replies of the Provincial Governments thereto?

The Honourable Sir Malcolm Hailey : The correspondence will be considered by the Royal Commission, and the Government of India do not propose to make public the opinions of any of the authorities mentioned or to lay the papers on the table.

REDUCTION OF IMPERIAL SERVICE CADRE.

70. ***Mr. B. Venkatapatiraju :** Will the Government be pleased to state whether any Provincial Government recommended the reduction of the number of Imperial Service cadre serving in the Provinces and, if so, the result thereof?

The Honourable Sir Malcolm Hailey : I feel some difficulty in answering this question as it is rather vague. If the Honourable Member will kindly state more definitely what information he requires, I shall endeavour to obtain it for him; but if his enquiry refers to the replies to

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what is known as the O'Donnell circular, I would invite his attention to the answer I have just given to his Question No. 69.

STRENGTH OF IMPERIAL SERVICE CADRE.

71. ***Mr. B. Venkatapatiraju** : Will the Government be pleased to state the number of persons serving in India of the Imperial service cadre in 1916 and in 1923 and of whom how many are Europeans and Indians respectively ?

The Honourable Sir Malcolm Hailey : In view of the labour and expense involved Government regret that they are not prepared to supply these statistics, but the Honourable Member will obtain some information from the answer to Mr. N. M. Joshi's unstarred Question No. 44.

INCREASE IN PAY, ETC., SINCE REFORMS.

72. ***Mr. B. Venkatapatiraju** : Since the date of Reforms what increases have been made in pay, allowances and pensions and on what date or dates ? Whether it is correct to state that the emoluments are increased by 50 per cent. in the civil and 100 per cent. in the military ?

The Honourable Sir Basil Blackett : I regret that I cannot undertake to give a reply to a question so vague and general in its terms. There has been no general revision of pay, allowances, and pensions since the date of the Reforms in the case of Government servants paid from Central Revenues. The statement in the last part of the question is certainly not correct in the form in which it is made.

Mr. B. Venkatapatiraju : Is the Honourable Member aware that in the Incheape Committee Report they have stated that there is an increase in civil expenditure of about 50 per cent. and in the military of about 100 and odd per cent. since 1913-14 ?

The Honourable Sir Basil Blackett : The answer is in the affirmative.

INDIANIZATION OF THE ARMY.

73. ***Mr. B. Venkatapatiraju** : 1. Will the Government be pleased to state whether the Government of India sent any despatch on the Indianization of the army in India to England and if so, to what effect and whether it would be published ?

2. Whether the present proposal to Indianize 8 units is in conformity with the views expressed in the above despatch ?

3. Whether there was any difficulty in securing Indian Officers to the aforesaid 8 units and if so, the reasons therefor ?

4. How long would it take to Indianize the whole army in India at this rate ?

5. Is the Government taking any steps to make India self-reliant and self-dependant in the military defence of the country and if so, whether it would be published ?

Mr. E. Burdon : 1 and 2. The Government of India corresponded with the Secretary of State by despatch on the subject of the Indianisation of the Indian Army but they do not propose to publish the correspondence or to disclose details of its contents.

3. The attention of the Honourable Member is invited to the reply which I gave yesterday to the question asked by Sir D. P. Sarvadhikary. No other difficulty has, so far, been experienced.

4. In the statement which I laid on the table of this Assembly on the 14th March last, it was explained that the earliest date by which the 8 units could be completely officered by Indian officers who had the same career and promotion as British officers would be approximately 22 or 23 years, this being roughly the time which it takes for a subaltern with a few years' service to become a Lieutenant-Colonel and qualify for command. It will be obvious that it would take approximately the same time to Indianise every other unit, once Indianisation had been decided upon and suitable officers were forthcoming. Attention is invited, however, to the last paragraph of the statement which I made on the 14th March.

5. In the past few years, steps have been taken by Government to improve the capacity of Indians to defend their country and to increase their opportunities of doing so. The measures undertaken for this purpose have invariably been published either within the Legislature or outside it. At the present moment, Government have nothing new to announce.

EDUCATION OF STUDENTS.

74. ***Mr. B. Venkatapatiraju** : In the matter of Budgetary provision of one crore and 28 lakhs and odd for Educational and Instructional establishments (A), will the Government be pleased to state how many students are being educated and how many of them are Indians and how far this education would enable Indians to get into the commissioned ranks in the army ?

Mr. E. Burdon : The total number of students under training is approximately 7,590 ; of these rather more than 4,000 are Indians. These figures include 601 medical pupils at medical colleges and schools, of whom 505 are Indians. Apart from the medical pupils, the students under training are all personnel already employed in the army, and the education which they are receiving is technical and professional. The education is not designed primarily for the purpose of enabling the students to become commissioned officers but the qualifications which are given by certain of the courses are required for promotion, for example, to a Viceroy's commission. The army educational and instructional establishments referred to in this reply are entirely different from the Royal Indian Military College, Dehra Dun, and from Sandhurst, where boys are educated for the purpose of qualifying for a King's commission, and entering the army as officers.

SCHOOL OF COOKERY.

75. ***Mr. B. Venkatapatiraju** : In the school of cookery costing 34,890 how many students are being trained and whether a King's commissioned officer on 1,000 Rs. per mensem is employed to be in charge and whether he is an expert on cookery ?

Mr. E. Burdon : The answer to the first part of the Honourable Member's question is that 5 ordinary courses of instruction are held every year, each course lasting for a period of six weeks. 60 British and 50 Indian cooks are trained at each class. In addition, two courses, each lasting for

In the budget for 1923-24 provision has been made for normal losses arising out of the ordinary course of business at the various military store depots, as well as for special losses arising out of the sale of surplus stores to give effect to certain recommendations of the Incheape Committee. These special losses will arise from the fact that it will not be possible to dispose of the articles at the Stock Book rates at which they are held on charge in the military store depots of various classes. The amounts are separately shown in the Army budget for 1923-24.

The reason why the loss on turnover of maintenance of mobilization reserves in Supply Depots in 1923-24 is expected to be much less than in 1922-23 is that with reference to a recommendation of the Incheape Committee it is contemplated to make large reductions in the bulk of the mobilization reserves themselves. One of the objects of introducing the costing system of accounts in the Army was to bring these various losses prominently to the notice of the administrative and financial authorities, so that action might be taken to minimise them. Action in this direction has already been taken; and it may be mentioned that, apart from special losses likely to arise from the sale of surplus stores, the provision in the budget for 1923-24 is mainly based on the allowances passed by the Incheape Committee for normal losses which are bound to arise in the ordinary course of business at the various military store depots.

Mr. B. Venkatapatiraju : May I know what the actual loss is? Was there a defalcation committed in office?

Mr. E. Burdon : That is one of the causes. (*The Honourable Sir Malcolm Hailey :* "The Rs. 15,000?") Yes, the Rs. 19,000.

TRAINING OF INDIANS FOR AIR FORCE.

83. ***Mr. B. Venkatapatiraju :** Will the Government be pleased to state whether any arrangement is made to train Indians for the Royal Air Force when they are spending one crore and 83 lakhs for it, having provided specially a Royal Air Force School in India?

Mr. E. Burdon : The Royal Air Force school to which the Honourable Member refers no longer exists. It was established for the purpose, merely, of completing the flying education of pilots already commissioned in the Royal Air Force; but it was abolished last year as being uneconomical; and only fully trained pilots are now sent to India.

Indians are not yet eligible for admission to the Royal Air Force, as such. A proposal to make them eligible for admission which was set on foot some time ago has not been agreed to. At present Indians are only employed in connexion with the Royal Air Force in the Indian Technical Section, Royal Air Force, India.

REDUCTION OF RAILWAY WORKING EXPENDITURE.

84. ***Mr. B. Venkatapatiraju :** Will the Government be pleased to state the steps taken by the Government of India in securing the reduction of working expenditure of railways in the light of the Incheape Committee's criticism that the present scale of expenditure is not essential to the efficient and safe working of the lines?

Mr. G. G. Sim : The Honourable Member is referred to the reply given yesterday by the Honourable the Finance Member to Question No. 15 by Dr. Sir D. P. Servadhikary.

IMPORTED COAL ON G. I. P. RAILWAY.

85. ***Mr. B. Venkatapatiraju :** (a) Will the Government be pleased to state whether the Government sanctioned the transaction of Great Indian Peninsula Railway in importing coal at Rs. 52.3½ per ton when Indian coal at 14½ Rs. per ton was available at the time?

(b) Who is responsible for long term contracts entered into for the supply of coal at high prices condemned by the Incheape Committee as being absurd and undesirable and whether any tenders were called for before entering into this transaction?

The Honourable Mr. C. A. Innes : (a) The Honourable Member is referred to the answer given to a similar Question No. 27 by Mr. Joshi on the same subject.

(b) The Railway Board was responsible for placing the three years contracts for the supply of coal to the State Railways. It is not considered that the prices are disadvantageous to Government and the Honourable Member is not correct in stating that the Retrenchment Committee condemned the long term contract as absurd and undesirable.

The contracts were placed by the Railway Board on offers made by the Collieries after negotiations; before conclusion they were carefully considered in consultation with the Company railways who placed similar contracts at the same time.

Mr. B. Venkatapatiraju : Have the Incheape Committee approved of these long term contracts?

The Honourable Mr. C. A. Innes : The actual words of the Incheape Committee are that it is open to question whether long term contracts are desirable. That is not the same thing as saying that long term contracts are absurd and undesirable.

COMPENSATION FOR ARTICLES LOST ON RAILWAYS.

86. ***Mr. B. Venkatapatiraju :** What steps were taken for reducing the charges for compensation for articles lost or damaged in railway transit and more especially in the B. B. and C. I. Railway?

The Honourable Mr. C. A. Innes : Apart from the improvement of general transportation conditions which affect this particular item of expenditure, investigation is being made on the following general lines:

- (a) Adoption of a system of lock-rivetting wagons.
- (b) Reorganisation and improvement of the watch and ward staff on railways.
- (c) Improvement of police and detective organisation.
- (d) Improvement in lighting station yards and sheds.
- (e) Surprise checks of wagons *en route*.
- (f) Increased provision of closed goods sheds and cages for parcels.
- (g) Particular attention to the marking and addressing of goods tendered for despatch.

2. Detailed information as regards the Bombay, Baroda and Central India Railway is not available.

TRAINING OF INDIANS IN RAILWAYS.

87. *Mr. B. Venkatapatiraju : Whether any and what steps are being taken in the systematic training of Indians as Railway Officials and subordinates to secure the maximum of efficiency with a minimum of cost ?

The Honourable Mr. C. A. Innes : The information desired will be found in paragraph 34, Volume I of the Indian Railway Administration Report for 1921-22.

PURCHASE OF RAILWAY MATERIALS IN LONDON.

88. *Mr. B. Venkatapatiraju : (a) Whether it is a fact that the company-worked Railways purchase their Railway requirements in London through their Board of Directors with funds provided by the Government of India and (b) whether the Government exercise any, and if so what control to see that the articles are purchased in cheap markets at fair market value ?

The Honourable Mr. C. A. Innes : It is a fact that the Company-worked Railways purchase the stores they require from London through their Boards of Directors with funds provided by the Government of India.

Economy in such purchases is in the interests of both the Company and Government.

Government do not exercise control in detail over such purchases.

ALLOCATION OF RAILWAY CHARGES.

89. *Mr. B. Venkatapatiraju : Whether it is a fact that the Home Office charges of Companies were borne by the Railway Revenue (gross receipts) while the Government supervisory charges were not wholly debited to the same and if so, what steps will be taken to recover the whole amount from the gross receipts of Railway Revenue ?

Mr. G. G. Sim : The answer is in the negative. Under the terms of the contract, London Office expenses as well as the charge on account of audit, supervision and control by the Secretary of State which is recovered at a fixed rate per half year per mile worked are alike included in the working expenses of a company-worked railway. The attention of the Honourable Member is invited to the reply given to Rai Bahadur G. C. Nag's Question No. 38 on the 6th September 1922.

REVISION OF INDIAN RAILWAYS ACT.

90. *Mr. B. Venkatapatiraju : Whether the Government propose to introduce a measure to modify the Indian Railways Act, 1890 at an early date with a view to remedy defects in the existing Act ?

The Honourable Mr. C. A. Innes : The Government do not propose at present to introduce a Bill to amend the Indian Railways Act. They are at present formulating provisional proposals for the establishment of a Rates Tribunal. If such a Tribunal is established, they will consider the suggestion in paragraph 157 of the Acworth Committee's Report.

TRAINING OF MECHANICAL ENGINEERS.

91. *Mr. B. Venkatapatiraju : In view of the statement that extensive schemes for the training of Mechanical Engineers is under consi-

deration whether the Government will be pleased to state the number of persons under training and how many of them are Indians and how many Anglo-Indians ?

The Honourable Mr. C. A. Innes : The total number of apprentices in Mechanical Engineering of all grades under training in the Locomotive and Carriage and Wagon Departments of the State and Company-worked railways at the end of December 1922 was 3,155 of whom 2,340 were Indians and 815 Europeans and Anglo-Indians.

STIPENDS OF RAILWAY APPRENTICES.

92. *Mr. B. Venkatapatiraju : Is it a fact that stipends paid to apprentices are 30 to 50 Rs. per mensem to European and Anglo-Indian and for Indians 1st Class 10 to 15 Rs., Second class 4 to 9 Rs. ? Whether Indians of better classes are not available and when the Government propose to abolish racial distinction in this matter ?

The Honourable Mr. C. A. Innes : I would refer the Honourable Member to the reply given in this Assembly to a somewhat similar question asked by Mr. K. B. L. Agnihotri on the 7th September 1922. The whole question of the training of apprentices and of the best way to attract Indians of the better class is now under consideration.

PROFIT AND LOSS ON RAILWAYS.

93. *Mr. B. Venkatapatiraju : Will the Government be pleased to furnish an account showing the amount of profits realised by the Government on account of Railways and the loss incurred from time to time and how was this loss met ? How much from Government Revenue and how much by borrowing otherwise than by the railway debt as far as accounts are available ?

Mr. G. G. Sim : The annual Administration Report and the Revenue and Financial statement published annually give information regarding the profits and losses from railways. Profits from railways have been absorbed in, and losses met by, the general revenues and no account has been kept showing how far the losses from railways in a particular year have had to be met from a general loan or from balances.

LOSS ON RAILWAY COMPANIES.

94. *Mr. B. Venkatapatiraju : Is it true as stated by Mr. C. P. Tiwari in his book on Indian Railways that the Company Railways caused loss of 300 crores to Indian Government besides standing liability of 50 crores exacted by the companies as premiums on their share capital without including the Railway debt at all ?

Mr. G. G. Sim : The losses or gains from Indian Railways are shown in the Administration Reports issued from time to time and in other publications. The premia paid on purchase of certain railways may be seen on page 15 of the Administration Report, Volume II, for 1919-20. There has been no time to check the voluminous figures referred to in the question which go back to the year 1848.

Mr. B. Venkatapatiraju : It is suggested that there is a loss of 300 crores. Can it be stated approximately what the total loss sustained till now is ? It may be ten crores more or less. That does not matter. Is Government aware of the loss already incurred ?

Mr. G. G. Sim : I have already said that I have not had time to examine the figures for the last 80 years.

ALLOCATION OF RAILWAY CHARGES.

95. ***Mr. B. Venkatapatiraju :** Will the Government be pleased to state whether the Government is including the interest on Railway capital construction in the capital cost as well as debiting any deficits of interest as charge against capital amount and if not, why not ?

Mr. G. G. Sim : Interest on capital outlay during construction is not charged to capital on State-managed lines or on other lines unless specially provided for in the terms of the contract ; the second portion of the question is not understood but if the Honourable Member means that if the net earnings of an open line are insufficient to meet the interest charges on the capital sunk in the line the deficit should be debited to capital, the Government are not prepared to accept such a proposal.

RAILWAY CAPITAL.

96. ***Mr. B. Venkatapatiraju :** Has the Government been treating as capital expended on Railways all accumulated losses with interest minus profits ?

Mr. G. G. Sim : The question is not understood.

LOSSES ON RAILWAYS.

97. ***Mr. B. Venkatapatiraju :** (1) Is it a fact that as early as 1884 the Financial Secretary of the India Office admitted that 71 crores was the loss up to then sustained on Railways without including interest thereon and was this financial loss shown in any Railway account of the Government of India ?

(2) Is it also a fact that Lord Lawrence suggested as early as 1869 that the Railway losses might be debited against the capital account of the Railway and why was it not done till now ?

Mr. G. G. Sim : Search is being made for the papers of 1869 and 1884 referred to in the question and when they are found the result will be intimated to the Honourable Member.

REDUCTION OF RAILWAY WORKING EXPENDITURE.

98. ***Mr. B. Venkatapatiraju :** Has the Government of India approved the declaration of inflated profits to the companies by reducing working expenditure by suspension of repair and renewal work which was subsequently met with by the Governments in succeeding years ?

Mr. G. G. Sim : During the period of War, the repair and renewal work on railways had to be heavily curtailed owing to difficulty in obtaining materials, the result being an increase in surplus profits available for division between the Companies and Government in accordance with the terms of the respective contracts.

CONCESSIONS TO RAILWAY COMPANIES.

99. ***Mr. B. Venkatapatiraju :** Has the Secretary of State ignored the protests of the Government of India in the matter of undue concessions to the companies and modifications of contracts and even extensions with

favourable terms to the companies working the State Railways in India and if so, when and on what occasions and for what reasons ?

Mr. G. G. Sim : The question is so general that the Government regret that they are not in a position to give any answer.

Mr. B. Venkatapatiraju : Are there any instances in which the Secretary of State over-ruled the Government of India with reference to the concessions granted to the companies ?

Mr. G. G. Sim : I may be able to answer if the Honourable Member will give particulars of any individual case ?

Mr. B. Venkatapatiraju : I may mention the Bengal Nagpur Railway latest contract.

Mr. G. G. Sim : I am unable to answer that without notice.

PURCHASE OF RAILWAY STORES.

100. ***Mr. B. Venkatapatiraju :** (a) Has the Government ever insisted on the companies working State Railways in the purchase of stores with Government funds to buy locally when any suitable article at reasonable price was locally available, instead of leaving them as free agents to purchase stores wherever they liked and at whatever price they chose to pay ? (b) Is it a fact that the administration of the Company is subject to the controlling authority of the Government and purchases are subject to confirmation by the Government ?

The Honourable C. A. Innes : The Government is not in a position, under the terms of the Company Railway Contracts, to dictate the source of purchase of stores. Economy in such transaction is in the interests of both the Company and Government and general supervision is exercised through financial control and examination of estimates.

INDIANS IN HIGHER RAILWAY POSTS.

101. ***Mr. B. Venkatapatiraju :** (1) Has the Secretary of State impressed on the Government of India as early as in 1879 the expediency of employing Indians in posts of importance and of making determined and immediate efforts to provide better educational opportunities so as to make it possible to recruit in India the staff needed to meet all normal requirements of Railways ? What steps were taken since then and with what results ?

(2) Is it not a fact that the Industrial Commission complained of the paucity of Indian employees in the Railway workshops and has any improvement been made since ?

The Honourable Mr. C. A. Innes : I would refer the Honourable Member to the replies given to Mr. P. L. Misra in this Assembly on the 6th September last and to Mr. K. C. Neogy on the 7th idem. I would refer him also to serial No. 14-B-2 of the statement furnished in reply to a question by Dr. H. S. Gour asked on the 16th January 1923 ; to the reply given by Mr. Hindley on the 13th March 1923 in connection with the List of Demands (*vide* page 3358 of Legislative Assembly Debates, Volume III, No. 55) ; and the paragraphs 33 and 34 of Volume I of the Administration Report on Indian Railways, 1921-22.

Mr. G. G. Sim : I have already said that I have not had time to examine the figures for the last 80 years.

ALLOCATION OF RAILWAY CHARGES.

95. ***Mr. B. Venkatapatiraju :** Will the Government be pleased to state whether the Government is including the interest on Railway capital construction in the capital cost as well as debiting any deficits of interest as charge against capital amount and if not, why not ?

Mr. G. G. Sim : Interest on capital outlay during construction is not charged to capital on State-managed lines or on other lines unless specially provided for in the terms of the contract ; the second portion of the question is not understood but if the Honourable Member means that if the net earnings of an open line are insufficient to meet the interest charges on the capital sunk in the line the deficit should be debited to capital, the Government are not prepared to accept such a proposal.

RAILWAY CAPITAL.

96. ***Mr. B. Venkatapatiraju :** Has the Government been treating as capital expended on Railways all accumulated losses with interest minus profits ?

Mr. G. G. Sim : The question is not understood.

LOSSES ON RAILWAYS.

97. ***Mr. B. Venkatapatiraju :** (1) Is it a fact that as early as 1884 the Financial Secretary of the India Office admitted that 71 crores was the loss up to then sustained on Railways without including interest thereon and was this financial loss shown in any Railway account of the Government of India ?

(2) Is it also a fact that Lord Lawrence suggested as early as 1869 that the Railway losses might be debited against the capital account of the Railway and why was it not done till now ?

Mr. G. G. Sim : Search is being made for the papers of 1869 and 1884 referred to in the question and when they are found the result will be intimated to the Honourable Member.

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- (b) Whether the major portion of the tax roughly about £23,000 out of £28,000 has to be paid by Indians, mostly labourers ?
- (c) Whether Indian settlers and labourers are protesting against this new proposed imposition ?
- (d) Whether a clause is inserted in the Bill that every male should get himself registered as a prospective payer of tax with heavier penalty for non-compliance than even for non-payment of tax ?
- (2) Will the Government be pleased to state whether the Government of India protested against this proposed imposition and what reply was received from England ?
- (3) Whether the hut tax imposed on Indians some years back at 10s. per hut has been removed as it was found too heavy on Indians on account of the bad economic condition ?
- (4) Will the Government be pleased to state whether the Government proposes to insist on the withdrawal of the new proposal ?

Mr. M. S. D. Butler : (1) (a) The amount of the tax proposed is such sum not exceeding £1 as may be determined from time to time by the Legislative Council by Resolution in that behalf. A telegram dated the 21st June 1923, from the Government of Fiji states that the Residential Tax Bill has not yet been introduced into the Legislative Council of Fiji.

(b) The majority of persons liable to the tax will be Indians, most of whom are labourers.

(c) and (d). Yes.

(2) Representations have been made by the Government of India to His Majesty's Secretary of State for India on the subject. The reply of the Secretary of State to the representations has not yet been received.

(3) The hut tax has been abolished. The Government of India understand that it was abolished on account of the economic condition of the Indians at the time.

(4) The Government of India are not in a position to insist on the withdrawal of the proposed new taxation. They can point out that the imposition of excessive taxation on Indians is bound to affect their attitude regarding the re-opening of emigration to the Colony. The Honourable Member may rest assured that the matter will not be lost sight of in the negotiations with the Colonial Government.

Mr. S. C. Shahani : Will the Government be pleased to state if at any time they contemplate similar impositions by way of retaliation ; and if the reply be in the negative, will Government be pleased to state the reasons ?

The Honourable Sir Narasimha Sarma : I do not think there are any residents of Fiji who are domiciled in India, so there cannot be any question of retaliation. I do not think there is any question here of imposing a poll tax and I do not think that would be an effective remedy.

Mr. K. B. L. Agnihotri : May I know in this connection as to when the Government would publish the report of the Fiji deputation ?

The Honourable Sir Narasimha Sarma : They hope to be able to at a very early date,

Mr. K. B. L. Agnihotri : Within this month ?

The Honourable Sir Narasimha Sarma : I am not in a position to state that.

Mr. N. M. Joshi : Will Government explain the difficulty in the way of publication ?

The Honourable Sir Narasimha Sarma : Communications are passing between the Government of India and the Secretary of State on the subject and I am not in a position to disclose them.

Mr. N. M. Joshi : Is not the report ready ?

The Honourable Sir Narasimha Sarma : Not for publication.

PAYMENT BY IMPERIAL BANK OWING TO ALLIANCE BANK'S FAILURE.

108. * **Mr. Manmohandas Ramji :** Will the Government be pleased to inform :

- (1) whether it is true that the Imperial Bank of India had consulted them before undertaking to pay 50 per cent. to the depositors and creditors of the Alliance Bank of Simla, in liquidation,
- (2) if so, whether they gave their assent to the proposal,
- (3) if not, whether initially the proposal of paying 50 per cent. originated from the Government of India and was communicated by them to the Imperial Bank of India ?
- (4) If reply to (3) is in the affirmative, what were the reasons which induced the Government to take such action ?
- (5) If reply to (1) is in the affirmative, whether it is usual for the Imperial Bank of India to consult the Government before they undertake such huge dealings ?
- (6) On what terms did the Imperial Bank of India undertake payment of 50 per cent. ?
- (7) To what extent will the Imperial Bank of India be profited by this business,

and (8) whether the Government of India are assured that the Imperial Bank of India is not likely to lose anything in this undertaking ?

The Honourable Sir Basil Blackett : The Government of India welcome this opportunity, immediately after the opening of this session of the Assembly, of making a public statement in regard to the action taken by, or on behalf of, the Government in connection with the failure of the Alliance Bank of Simla. The initial proposal for the payment by the Imperial Bank of India of 50 per cent. of the amounts standing to the credit of depositors of the Alliance Bank of Simla originated from the Government of India and was agreed to by the Imperial Bank of India as being most desirable in the interests of Indian finance and Indian banking. It was regarded as most important that immediate steps should be taken to restore public confidence and to prevent the consequences of the failure of the Alliance Bank from causing inconvenience, and possibly danger, to other sound institutions. It was further desirable to minimise the hardship which would be caused to depositors and creditors of the Alliance Bank. In addition to these considerations, the Government of India were most

anxious that the favourable conditions in the money market, both in London and in India, for borrowing the sums needed by the Government in both markets on better terms than had recently been possible, and the good effects which the balancing of the Indian budget had created, should not be upset by the consequences of this unfortunate banking failure. In particular, the advices obtained from England were causing the Government much anxiety, as it was feared that, as a result of the failure of the Alliance Bank and the reactions of that failure in London, the loan about to be issued in London might have to be indefinitely postponed. The action taken by the Government fortunately averted these dangers and, as the House is aware, a big loan was issued in London in May on favourable terms. It is also true that, the action taken by the Government prevented such collapse of credit in India as might have made the issue of the rupee loan just about to be opened impossible. The information in the possession of the Government and of the Imperial Bank satisfied them that 50 per cent. of the claims could be paid without incurring financial risk, provided that the liquidation were properly supervised. The Imperial Bank could not, however, of itself take action, under the terms of the Imperial Bank of India Act, without the intervention of the Government. The Government, therefore, took the steps which they were advised were necessary in order to enable the Imperial Bank to fulfil what they regard as its legitimate function as a Central Bank. The Government considered that action by the Imperial Bank was more likely to localise the trouble at the time when the Alliance Bank closed than any overt action on the part of the Government.

The above statement answers parts 1—5 of the question. In regard to part 6, the Imperial Bank undertook the payments on the guarantee of the Government that they would be compensated for any loss incurred thereby. As I have already stated, no loss is anticipated.

In regard to parts 7 and 8, the Imperial Bank will make no profit by this business, and are assured against loss.

Mr. Harchandrai Vishindas : Can Government inform this Assembly whether they have taken similar action on any previous occasion on the collapsing of banks and gone to their assistance in the manner they have done now ?

The Honourable Sir Basil Blackett : So far as I am aware no such action has previously been taken.

Sir Deva Prasad Sarvadhikary : Did such a situation, or a situation nearly equal to it, arise when Government action would have been useful, in 1913 ?

The Honourable Sir Basil Blackett : The Honourable Member no doubt refers to the collapse of the Peoples' Bank and other banks. On that I should like to say that the present Government of India was not then in power. What happened in 1913 does not seem to me to be altogether relevant to what happened in 1923. I do not know in detail the circumstances in 1913, and for what reason action was not taken. The question whether it ought or ought not to have been taken is a matter of historical interest on which I do not think question and answer in this

House can elicit any facts. As regards the position now, Government were clearly of the opinion that the interests of everybody in India, especially those of the Indian tax-payer, and of all concerned in Indian banking right throughout India, and not of the individual depositors of the Alliance Bank only, were all concerned, and that action of the sort that was taken was not only justified but amply justified ; and the Government would I think have been open to very serious criticism had they not taken such action. I should like to take this opportunity of adding one other point. A good deal of suspicion has been brought into this subject by the events that have taken place in the Courts and elsewhere since the Alliance Bank closed. I am not in a position to say anything about the result of the action in the Courts because that is still *sub judice*, but I should like to say this. The Government have not and have never had any desire whatsoever to shield anybody from the consequences of fraud or wrong-doing. Their action in this matter was entirely concerned with the interests of India as a whole. It was necessary, obviously, before the Imperial Bank was to undertake either on its own behalf or on behalf of Government the payment of a proportion of the deposits, that it must be in some way insured against such action by the liquidator as would fritter away or otherwise get rid of the assets of the Bank available for the payment of this 50 per cent. The Government were not concerned as to who the liquidator was. They asked the Imperial Bank to make arrangements that the liquidator should be someone in whom the Imperial Bank had confidence. I understand that what the Imperial Bank did was in the ordinary course of procedure. As it was a bank in the Bengal circle, they nominated the Bengal liquidators. Government have never at any time had any objection to any other firm of liquidators satisfactory to the Imperial Bank being appointed. That question has been imported from outside. The sole object of the Government throughout this very unfortunate and difficult affair was to ensure that the consequences of a very unhappy failure should not be such as to damage the country more than necessary.

Sir Deva Prasad Sarvadhikary : Would the Government please state what steps they took, as has been stated by the Honourable Member, in order to enable the Bank to take the steps that it subsequently did ? Of course we cannot refer to what has happened in Court as the matter is *sub judice*, but I am asking as to what definite steps the Government took in order that the Bank might take the action that it did.

The Honourable Sir Basil Blackett : I have already really answered that. Government guaranteed the Imperial Bank against any loss that might be incurred, any contingent loss, as the result of the Imperial Bank's paying 50 per cent. of the deposits in the Alliance Bank.

Sir Deva Prasad Sarvadhikary : Under what authority, and under what law, was that guarantee given ?

The Honourable Sir Basil Blackett : As the Honourable Member is aware, he is raising a question which is to some extent *sub judice* ; so I think the only answer I ought to give under these circumstances is that the Government of India are advised that they have power to give such a guarantee.

Captain E. V. Sassoon : Sir, in view of the fact that the Government of India have taken up a liability however remote, would it not be advisable for the liquidation to be suitably supervised by the Government of India, instead of being left to liquidators appointed by the majority of the shareholders with a strong dissenting minority ?

The Honourable Sir Basil Blackett : The appointment of the liquidators is, as the Honourable Member is aware, a matter for the shareholders and the creditors, subject to this that it was made a condition of the offer of the Imperial Bank that the liquidators should be satisfactory to the Imperial Bank. The Government of India in this matter are so to speak using the Imperial Bank as their agents, and they have no reason to suppose that the liquidators approved by the Imperial Bank, who are in fact people who regularly work for the Imperial Bank in Calcutta, are other than satisfactory.

Sir P. S. Sivaswamy Aiyer : Will the Honourable Member tell us whether in England there have been any instances in which the British Government has come to the rescue of any Banks which failed ?

The Honourable Sir Basil Blackett : Yes, Sir, the answer is in the affirmative. I can myself recall more than one case. I should like to say that fortunately in England such intervention, direct intervention, by the Government is not so necessary as it was in this case here, because the Bank of England and the other Banks have ample powers to take on their own account the action which is considered necessary in the interests of English banking and English business in general. I do think that it is one of the lessons of this case that the question whether the Imperial Bank ought to be put in a position in future to take similar action on its own account is one which ought to be discussed, and I should like to say, arising out of the Honourable Member's question, that in England the Banks have a habit of working together which would have met this difficulty probably without any intervention from higher quarters. It is very much to be hoped that, with the development of banking in India, there will come a spirit of co-operation between the various Banks in India which will enable them to face crises on their own account.

Sir P. S. Sivaswamy Aiyer : I know the Bank of England might come to the rescue of other Banks. What I wanted to know was whether Government itself had ever come to such rescue.

The Honourable Sir Basil Blackett : Yes, the answer is in the affirmative.

Mr. K. C. Neogy : Was action by Government in the present instance taken on its own initiative or at the instance of the Secretary of State ?

The Honourable Sir Basil Blackett : It is very difficult to say where the initiative came from. Government have been in correspondence with various people on this matter. I myself had heard much about the case even before I came out to India. At that time of course it was hoped that the Bank was going to survive. But I knew a good deal about it from the English end at that time. Whether the initiative in this particular case came from the Secretary of State or the Government of India, I think

it is impossible to say, because if the correspondence is carefully studied, one will come to the conclusion that it came from both ends.

Sir Deva Prasad Sarvadhikary : Having regard to the very interesting statement just made that Sir Basil Blackett before he came out to India had an inkling of what was going to happen, I desire to ask a supplementary question as to when the Government had the earliest intimation of the catastrophe that was likely to happen and what action did it take to warn the public of the danger ahead.

The Honourable Sir Basil Blackett : I think my Honourable friend has slightly misunderstood my statement. I was aware in England of the difficulties in which the Alliance Bank was at least a year before I came out to India, and so were a great many other people ; it was indeed common talk in the City of London. The Alliance Bank themselves took steps which, as the House is aware, eventually resulted in the appointment of Sir David Yule as Chairman and made an arrangement, with which I may say the Government of India were not concerned, with the Imperial Bank which was hoped would tide the Bank over its difficulties. It was hoped for a very long time that those arrangements and Sir David Yule's prestige would tide the Bank over. Unfortunately in the spring of this year withdrawals became so severe that it became obvious that the Alliance Bank could no longer on its own assets justify itself in remaining open.

Mr. President : The more importance Honourable Members attach to this subject, the more essential it is to put their questions on the paper to give the Finance Member an opportunity for mature consideration. He has undergone a severe examination. Honourable Members will perhaps not pursue the subject further.

Sir Deva Prasad Sarvadhikary : May I be permitted one supplementary question ? Having regard to the strong public opinion regarding the appointment of liquidators and having regard to the influence the Government has with the Imperial Bank, would not the Government consider the desirability of supplementing that liquidation by associating those that may be acceptable to the minority of shareholders ?

The Honourable Sir Basil Blackett : I should like to say, Sir, that I have no objection to supplementary questions.

The point that is put by my Honourable friend is one of the difficulties of this case, but he must remember that the Alliance Bank is in voluntary liquidation. The appointment of liquidators rests with the shareholders and creditors of the Alliance Bank. Reference has been made to strong feeling on the subject. I am not quite sure whether the shareholders and creditors of the Alliance Bank are not satisfied with the position as it stands at present. At any rate it is not possible for the Government to intervene and insist on the appointment of a different set of liquidators or an increase in the number of liquidators contrary to the wishes of the shareholders and depositors of the Alliance Bank and possibly at the expense of the depositors.

Mr. President : On a question like this, which is degenerating into a debate, my intervention was not to protect the Finance Member from cross-examination, but to prevent question time being used for the purpose of debate.

RECONSTITUTION OF CALCUTTA UNIVERSITY.

109. ***Sir Deva Prasad Sarvadhikary** : (a) Has the attention of the Government of India been called to the Resolution of the Senate of the Calcutta University passed at the meeting of the Senate held on Monday, the 11th day of June 1923, regarding the reconstitution of the University of Calcutta ?

(b) What action, if any, does the Government of India propose to take having regard to the points raised in the Resolution about :

(1) Constitution of a Committee for investigation of the situation.

(2) Legislative action for reconstitution of University.

(3) Financial assistance to the University of Calcutta ?

Mr. M. S. D. Butler : (a) The Resolution referred to has not been communicated officially to the Government of India, but they have seen it in the press.

(b) The initiative in the matter rests with the Government of Bengal.

Sir Deva Prasad Sarvadhikary : Would the Government inform this House as to what action, if any, has been taken with regard to the Bill submitted by the Government of Bengal to the Government of India regarding the reconstruction of the University ?

The Honourable Sir Narasimha Sarma : The matter is under correspondence between the two Governments ; no final orders have been passed yet.

Mr. K. N. Mitra : Is the Government aware that the Government of Assam who have hitherto contributed little or nothing towards the maintenance of the Calcutta University desire to have a voice in the constitution of the Committee ? In view of this what action does the Government propose to take in this matter ?

The Honourable Sir Narasimha Sarma : The actual contribution of the Assam Government to the Calcutta University is a matter with which the Government of India has no concern and it is not in a position to make any statement. The Government of Assam have made certain representations to the Government of India on the subject and the whole question is under consideration.

CONSUMPTION OF SALT.

110. ***Mr. J. N. Basu** : Will the Government be pleased to state the average consumption of salt from March to end of June 1923, as compared with the average for the corresponding period in 1922 ?

The Honourable Sir Basil Blackett : In the absence of any information as to stocks of salt held in the country by private dealers on March 1st, it is not possible to give figures for average consumption during the period from March to end of June 1923. The average of actual issues of salt during the first four months of the year 1923 was 45,98,705 maunds, as compared with 45,94,120 maunds for the corresponding period of 1922. Figures for May and June 1923 are not yet available.

SALT MANUFACTURE IN BURMA.

111. ***Mr. J. N. Basu** : Will the Government be pleased to state :

(a) different places where salt is manufactured in Burma,

(b) the total output in each of such places, and the cost of production thereof from 1914 to 1922,

(c) the quantity of imported salt into Burma from 1914 to 1922,

(d) comparative table of imported and manufactured salt in Burma from 1908 to 1922 ?

The Honourable Sir Basil Blackett : (a) and (b). The Honourable Member is referred to Statements Nos. IV and V appended to the " Report on the Administration of Salt Revenue in Burma " for the calendar years 1914 to 1919 and official years 1920-21 and 1921-22, which give the places where salt is manufactured and also the output in each place. In regard to the cost of production, the Honourable Member's attention is invited to the answer given him by Mr. Ley on the 10th March last in which it was stated that Government had no information regarding the expenditure incurred in manufacture, as the salt is not manufactured by Government.

(c) The quantity of imports of foreign salt into Burma is given in Statement No. VII appended to the Administration Reports above mentioned.

(d) The Honourable Member will also find the required information in the three Statements referred to.

Copies of the Administration Reports from 1908 onwards are in the Library. The Report for the year 1922-23 has not yet been received.

OFFICERS AND CADETS FOR 8 ARMY UNITS TO BE INDIANISED.

112. ***Mr. J. N. Basu** : (a) Will the Government be pleased to state how many officers and cadets have been found for the 8 units to be Indianized ?

(b) How long will it take to get the required number ?

(c) What steps His Excellency the Commander-in-Chief is taking to secure the full number ?

(d) Is it a fact that boys who pass out of Dehra Dun School and not those who pass out of Sandhurst College, are to be grafted to these units ?

Mr. E. Burdon : (a), (b) & (c). The attention of the Honourable Member is invited to the reply which I gave on the 2nd July to the question asked by Sir D. P. Sarvadhikary.

For the first stage of Indianization, eight officers were required. Of these three have been obtained and the rest will be obtained in October and January next. In future years also vacancies will be filled by Indian officers as they join the Indian Army from Sandhurst and the Unattached List.

(d) I am afraid the Honourable Member is under a misapprehension as to the part played by the two institutions he mentions. Dehra Dun is merely a preparatory school for Sandhurst. It is at Sandhurst and Sandhurst alone that Indians can qualify for His Majesty's commission.

INDIAN STORES DEPARTMENT.

113. ***Mr. J. N. Basu** : With reference to the communiqué relating to the Stores Department issued in May last, will the Government be pleased to state :

- (a) Whether the charges for Inspection and Purchases would be reduced and if so, what is the percentage of such reduction ?
- (b) Whether the personnel of the Department has been determined and whether it will be wholly Indian, if not, what is the proportion of the Indian appointment ?

The Honourable Mr. A. C. Chatterjee : (a) The charges to be made by the Indian Stores Department for inspection and purchase have not yet been finally decided. The rate that is fixed will be fixed tentatively only, and will be liable to reconsideration when more experience has been gained of the cost of the work involved.

(b) The personnel of the department has not yet been finally determined. As appointments require to be filled, the ordinary procedure is to advertise for candidates and to recruit the most suitable applicant. The claims of Indian candidates possessing the qualifications required, receive particular consideration. Since the constitution of the Indian Stores Department five statutory natives of India have been appointed to superior gazetted posts out of the eleven appointments that have been made up-to-date.

I may add that the notice relating to the Indian Stores Department which appeared in the Press last May was not a communiqué, but was an article written by a press correspondent.

DISCUSSION OF FISCAL REPORT.

114. ***Mr. J. N. Basu** : (a) Will the Government be pleased to state whether opportunity for discussing the Fiscal Report will be given to the Assembly in the July Session ?

(b) What steps have been taken, or is intended to be taken, and when, to give effect to the view of the minority Report—that Tariff concessions be withdrawn from the Dominions that treat Indians as inferiors ?

The Honourable Mr. C. A. Innes : (a) The Government do not propose to allot during the current session any time for further discussion of the Report of the Fiscal Commission.

(b) There are no concessions in the Tariff at present to any Dominion.

AGRICULTURISTS IN INDIA AND BURMA.

115. ***Mr. J. N. Basu** : Will the Government be pleased to state what is the average income of agriculturists in Burma and India proper, and what is the incidence of taxation per head ?

Mr. M. S. D. Butler : The Government of India consider it impossible to frame a reliable estimate of the 'income' of the agricultural population of India and Burma in the economic sense of the word. An attempt to estimate the gross agricultural produce of British India by provinces based on the statistics of 1911 was made by the Director of Statistics in

917, and was referred to Local Governments for examination. The replies received show that the methods followed stand in need of considerable revision and leave a wide opening for error. The matter is being further investigated and in the meantime the Government of India are not in a position to furnish an estimate of the value of agricultural produce per head of the population.

It is not possible to determine the incidence of taxation per head for agriculturists.

RELEASE OF LALA LAJPAT RAI.

116. ***Rai Bahadur Pandit J. L. Bhargava** : Has the attention of the Government been drawn to the question put by Mr. Saklatvala and the reply given by Earl Winterton in the House of Commons regarding the release of Lala Lajpat Rai from prison on account of his reported tubercular illness, age and his past great services to India ?

The Honourable Sir Malcolm Hailey : The answer is in the affirmative.

Dr. Nand Lal : Will the Honourable the Home Member enlighten the House whether he is aware of the fact that the population in India is demanding, as far as we can gather from some of the Resolutions passed and from various opinions expressed in the newspapers that Lala Lajpat Rai may be released ? Is he aware of this fact ?

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Rai Bahadur Pandit J. L. Bhargava : Are the Government of India prepared to take action under section 401 (1) of the Code of Criminal Procedure to remit the unexpired portion of Lala Lajpat Rai's sentence on account of his ill-health ?

The Honourable Sir Malcolm Hailey : We have not yet received any memorial from Lala Lajpat Rai on the subject.

Rai Bahadur Pandit J. L. Bhargava : There is an insistent demand of the public of the Punjab on that account.

INDIAN STORES DEPARTMENT.

113. *Mr. J. N. Basu : With reference to the communiqué relating to the Stores Department issued in May last, will the Government be pleased to state :

- (a) Whether the charges for Inspection and Purchases would be reduced and if so, what is the percentage of such reduction ?
- (b) Whether the personnel of the Department has been determined and whether it will be wholly Indian, if not, what is the proportion of the Indian appointment ?

The Honourable Mr. A. C. Chatterjee : (a) The charges to be made by the Indian Stores Department for inspection and purchase have not yet been finally decided. The rate that is fixed will be fixed tentatively only, and will be liable to reconsideration when more experience has been gained of the cost of the work involved.

(b) The personnel of the department has not yet been finally determined. As appointments require to be filled, the ordinary procedure is to advertise for candidates and to recruit the most suitable applicant. The claims of Indian candidates possessing the qualifications required, receive particular consideration. Since the constitution of the Indian Stores Department five statutory natives of India have been appointed to superior gazetted posts out of the eleven appointments that have been made up-to-date.

I may add that the notice relating to the Indian Stores Department which appeared in the Press last May was not a communiqué, but was an article written by a press correspondent.

DISCUSSION OF FISCAL REPORT.

114. *Mr. J. N. Basu : (a) Will the Government be pleased to state whether opportunity for discussing the Fiscal Report will be given to the Assembly in the July Session ?

(b) What steps have been taken, or is intended to be taken, and when, to give effect to the view of the minority Report—that Tariff concessions be withdrawn from the Dominions that treat Indians as inferiors ?

The Honourable Mr. C. A. Innes : (a) The Government do not propose to allot during the current session any time for further discussion of the Report of the Fiscal Commission.

(b) There are no concessions in the Tariff at present to any Dominion.

AGRICULTURISTS IN INDIA AND BURMA.

115. *Mr. J. N. Basu : Will the Government be pleased to state what is the average income of agriculturists in Burma and India proper, and what is the incidence of taxation per head ?

Mr. M. S. D. Butler : The Government of India consider it impossible to frame a reliable estimate of the 'income' of the agricultural population of India and Burma in the economic sense of the word. An attempt to estimate the gross agricultural produce of British India by provinces based on the statistics of 1911 was made by the Director of Statistics in

1917, and was referred to Local Governments for examination. The replies received show that the methods followed stand in need of considerable revision and leave a wide opening for error. The matter is being further investigated and in the meantime the Government of India are not in a position to furnish an estimate of the value of agricultural produce per head of the population.

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THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I beg to move :

“ That the Report of the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration.”

Honourable Members will recall the long discussion that took place at the Committee stage of this Bill on the 20th September last year, when I brought forward the motion for the reference of the Bill to a Select Committee. The Select Committee have unanimously decided to recommend the Bill as redrafted by them for the acceptance of this House and I have nothing to add to what has been stated by the Members of the Select Committee in their note appended to this Bill.

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[Sir Malcolm Hailey.]

Member of the Select Committee and also am a Member of Government, that I should make perfectly clear that Government itself has not departed from the attitude that was taken up by Sir William Vincent when this Bill was first introduced.

It will be remembered that on that occasion Sir William Vincent stated that the attitude of Government on this question will be that "whatever may be the personal views of Members of the Governor General's Council, they will not vote on it. Other official members will have full opportunity of voting and speaking exactly as they like. Their discretion is completely unfettered." That was the attitude of Government at the time, and it remains exactly the same to-day. We do not desire to fetter the discretion of official members in respect to this measure, which is perhaps of small importance in some parts of India but in other parts of India is, I know, one which has attracted considerable attention and to which considerable importance is attached. I shall not repeat the arguments that Sir William Vincent used on a previous occasion as to the danger of removing the only sanction which lies behind the procedure for obtaining a decree for the restitution of conjugal rights. He said—and I think it still holds good—that it might be better to remove entirely the procedure for obtaining a decree for restitution rather than deprive the Court itself, as the present Bill will apparently do, of all power of execution. I say this simply because, although the Government was then neutral and is now neutral, we felt that in many parts of India decrees for restitution of conjugal rights are necessary in order to assist in preventing acts of violence arising out of matrimonial cases. We were at the time thinking of the numerous cases which arise in which wives are taken away possibly for sale elsewhere or in which wives are led away by seducers and so forth. But as the legislation is of a type which has some social aspects, we did not desire to vote as a Government on the subject.

Bhai Man Singh (East Punjab : Sikh) : Sir, I oppose the Bill and would advise all Honourable Members to give very serious consideration to it as it is before the House. The object of the Bill is to do away with the discretion that now lies with the Judiciary of ordering the imprisonment of the wife if she refuses to obey a decree for restitution of conjugal rights ; and the only remedy that it provides is that it gives the power of realising something from her property. I do not think that would be of any help. In the first place, 90 per cent.—I might almost say, cent per cent.—of women have no property. When a woman leaves her husband's house and goes to live with her seducer, she has not got anything of her own.

But that is not the only phase of the question at which I want to look now. The main point is whether there should or should not be real power of ordering the imprisonment of the wife in such cases. If you have no suits for restitution of conjugal rights, you do away with this difficulty. That is quite a different question. But so long as this law exists, so long as a decree can be passed for restitution of conjugal rights, there must be some effective means of executing it.

I oppose the Bill most strongly because the Government of my Province has most strongly opposed it ; and not only has the Government

of the Punjab opposed it but I might say that practically the whole of the Punjab community, with one or two exceptions, is unanimous on the point.

Mr. N. M. Joshi (Nominated : Labour Interests) : Do you represent the Punjab Government ?

Bhai Man Singh : At least, it is the Government of my Province, and the Punjab Government knows the views of the Punjab people much better than outsiders.

I think, Sir, it is generally known that suits for restitution of conjugal rights are extremely rare among the upper class. Nearly every respectable man, when he knows that his wife has gone wrong with another person and does not want to live with her husband—ninety per cent. of respectable people would turn her out rather than go to court for the restitution of conjugal rights. Such suits of course are more common among the lower classes, and often occur in the rural classes of the Punjab. But the way this evil traffic goes on is that sometimes women are sold to their would-be husbands at a price ; they are sometimes taken from their husbands. The woman is again seduced by her guardians or those who are her custodians, who manage to take her away from her husband's house and sell her again to somebody else. In such a case the poor husband will have no civil remedy to reclaim his wife if this power from the Court is taken away. This is a very great evil and I think those who have got any experience of the rural population of the Punjab will agree with me that if this Bill is passed it will have a very bad effect on the society of rural Punjab. At present we do not find any serious defects in the existing law. The existing law leaves the Court discretion to order the imprisonment of a wife against whom a decree has issued. That discretion being with the Court, we have not got before us any material to show that that power has not been properly used or that any of the highest Courts have thought this discretion insufficient, so that we went to take away the whole discretion from them or reduce them to a position of practical impotence in the execution of such decrees.

Instead of arguing the case myself I would rather like to draw the attention of this Honourable House to the opinions received from different Provinces. The Punjab is sometimes said to be a backward Province. Its rural population is said to be backward. Well, as regards the rural population of the Punjab, steps may be taken later on. But what about the Bombay Government, which is also opposed to the Bill. Now Bombay is a Province where female education is very advanced, and I think Bengal and Bombay top the list. But I should like to draw the attention of the Honourable House to the fact that both the Bombay and Bengal Governments oppose the Bill. At page 3 of the opinions supplied to us, the Bombay Government says :

"With reference to Mr. Tonkinson's letter No. F-478-Judl. dated the 2nd November, 1921, on the subject noted above, I am directed to forward herewith copies of the correspondence noted below and to state that the Governor in Council agrees with the opinion expressed by the High Court, Bombay, that the power of the Court to detain the judgment-debtor in jail under rules 32 and 33 of Order XXI in the First Schedule to the Civil Procedure Code, 1908, in execution of a decree for restitution of conjugal rights should be preserved."

[Bhai Man Singh.]

Of course as my Honourable friends would have seen the same is the opinion of the Bombay High Court. Then coming to the Bengal Government, on page 10, paragraph 2, we find the following :

"In reply I am to say that in the opinion of His Excellency in Council, the proposed legislation is unnecessary as there appears no real demand for it, and chiefly because the existing provision being an order under the First Schedule of the Code, if any High Court finds that an alteration is needed, it can, under part X of the Code (section 122 *seq.*) by rule on the recommendations of their Rules Committee, alter the law itself."

So much for the so-called most advanced provinces in female education. Now, coming to the Punjab, which I think will feel the passage of this Bill most keenly I should like to draw the attention of Honourable Members to a good many opinions where we find that nearly every authority is against it. There is only one single opinion in favour of it—that of His Lordship the Chief Justice of the Punjab High Court—and that with no arguments in support of it. I am reading from page 14, paragraph 1, last sentence :

"The Governor in Council therefore is of opinion that it is undesirable that the Bill should receive any support from Government, which should either resist it or maintain an attitude of neutrality."

The Government of my province wants the Government of India in the first place to resist the Bill, and in the second place to remain neutral at least ; but in no case to support it. Further on, if we take the opinions received from the different districts, we find strong opposition to the Bill. The Deputy Commissioner of Sheikhpura says :

"The Sheikhpura Bar Association are strongly opposed to the proposed amendment. The Secretary writes 'popular feeling in this part of the country is not in favour of the proposed amendment. It is most revolting to the public sentiment that the only remedy which now exists to persuade the wife to return to her husband should be abolished.'.....The rural districts in the Punjab, however, are very much more backward, and I do not think that the time has yet arrived when this reform could be introduced with advantage."

Both the Financial Commissioners in the Punjab are against it. I have read out to Honourable Members the opinion of the Deputy Commissioner of Sheikhpura which is in the Central Punjab. Now I come to the opinion of the Senior Sub-Judge, Ludhiana, which is in the East Punjab. He says at page 16 :

"Imprisonment in the civil jail in execution of the decree thus serves a double purpose. In the first place it removes her for a time from the influence of the seducer, and in the second place it affords the husband an opportunity to work up and try to win her back to himself."

Again, the opinion of the Bar Association of Ludhiana is :

"All the Members are opposed to the Bill to amend the Civil Procedure Code on the ground that this will strike at the root of the restitution of marriage, render all decrees for restitution of conjugal rights passed in favour of husbands useless and would probably increase crime in the Punjab."

We have also got the opinion of the Senior Sub-Judge of Hoshiarpur, a Judge of long standing ; Hoshiarpur is in the Doab, a very important portion of the Punjab. He is also very strong on the point. He says :

"I am afraid I cannot support the Bill. Decrees for restitution of conjugal rights are already discretionary and Order 21, rule 33 of the present Code further allows the court to make an order at any time that the decree shall not be executed by detention in prison. The Legislature has thus already vested large discretionary

powers in courts in the matter.....In England society has considerably advanced from a state of 'status to that of contract'. The same thing cannot, however, be said of India.....Among higher classes these suits are very rare and the abolition of imprisonment will further loosen the matrimonial tie which is unfortunately already loose among the lower classes. I cannot agree that a woman who casts her dignity or self-respect to the winds by openly living with a paramour is entitled to exemption from detention on any ground whatsoever."

Then I would draw the attention of Honourable Members to the opinions of the Honourable Judges of the Punjab High Court, excepting Mr. Justice Shadilal. We have his opinion on one side and that of all the other Judges on the other side. Here is the opinion of the Honourable Mr. Justice Chevis, who has very lately retired and who was perhaps of the oldest standing in the High Court at the time when he gave this opinion :

"I strongly object to the proposed change as regards execution of decree against the wife. What suits England will not necessarily suit India at the present time. If, however, the proposed change is to be made I think it useless to waste the time of the courts in trying such suits and I would do away with such suits against the wife."

As regards suits brought by the wife against the husband, he says that he has come across only one instance throughout his life. Mr. Justice Chevis is supported by Mr. Justice Scott-Smith who, I think, is at present of the oldest standing on the High Court Bench. Mr. Justice LeRossignol also supports this view, and Mr. Justice Broadway, Mr. Justice Martineau and Mr. Justice Raoof are also of the same opinion ; and so is Mr. Justice Abdul Qadir. So, excepting the Chief Justice, all the other Judges are against the Bill.

I need only read out to Honourable Members an extract from the opinion of Mr. Kennaway, District Judge of Ferozepur. He says :

"I would deprecate the further emasculation of our courts ; the present proposal would merely render them more impotent to execute their decrees than they already are, without in my opinion any adequate necessity being shown."

Again, Mr. Dundas, District Judge of Sialkot, says :

"I am not aware of any single instance in which an order for the imprisonment of a recalcitrant wife has been passed without full consideration and ample justification, inasmuch as courts are rightly allowed complete liberty to refuse to pass such an order, and I cannot at the moment recollect an instance where any such order has actually been carried into effect."

But amongst the lower rural and also the menial classes, threat of such an order obviously has some moral effect, and aggrieved parties do come to the courts to seek their remedy."

This further shows that this provision has some preventive effect. I am sorry I cannot lay my finger on the exact sentence, but in one of the opinions it is stated that the effect of this provision has been very excellent, namely, after the order of imprisonment was passed, it has resulted in a happy union between the husband and the wife. There are instances which show that the wives who went to their husbands for fear of imprisonment have afterwards lived quite happily with their husbands. Therefore, Sir, I do not think that we should take away such a happy provision from the Statute Book. I do not think I need take up the time of the House by reading out further extracts from the opinions received, but I will draw the attention of Honourable Members to the fact that the Government of the Central Provinces is against it, and they have discussed the question in great detail. Similarly, there is my sister province, which I feel is only a part of my own province, I mean the North-West Frontier Province,

[Bhai Man Singh.]

which has unfortunately been separated from us, and this province is also against it. The Honourable the Chief Commissioner of this Province says that :

“ the opinions consulted on the subject by this Administration are unanimously opposed to the enactment of the amendments under consideration. So far as the North-West Frontier Province is concerned, I am disposed to concur in the opinion expressed by the Secretary of the Bar Association of Peshawar that the abolition of the power to inflict imprisonment in default of fulfilment of a decree for restitution of conjugal rights would render the decree in such cases almost valueless. While sympathising with the general object of the proposed amendments I am doubtful whether the country is sufficiently advanced either educationally or socially to justify the removal of the penalty. In a proportion of cases the mere threat of its application is sufficient to induce a compromise, leading to adjustment of a temporary estrangement, and there can be no doubt that enactment on the lines proposed would remove a wholesome and effective deterrent.”

Therefore, the House will see that the Honourable the Chief Commissioner of the North-West Frontier Province thinks that this provision should not be removed from the Statute Book. Another neighbouring province of mine, namely Delhi, is also very strongly in favour of its retention. Therefore, I would beg Honourable Members to pay more serious attention to this motion and throw out the Bill.

Colonel Sir Henry Stanyon (United Provinces : Europeans) : Sir, I have a very few words to say in regard to this Bill. Restitution of conjugal rights is a social matter, a customary matter, as to which legislation has always been difficult. My Honourable friend the last speaker very obviously looked at the matter only from the point of view of the husband and not from that of the wife. He has not perhaps, quite naturally in this country, given it consideration from the point of view of the wife so far as a decree for restitution of conjugal rights obtained by her is concerned. This Bill will also relieve the husband from being sent to imprisonment on the decree of an importunate wife. But the absurdity of it was illustrated long ago in England in the well known cases of *Weldon vs. Weldon*. In those cases Mrs. Weldon periodically sued for restitution of conjugal rights. She got decrees and Mr. Weldon in order to comply with each such decree used to go and live with her for an hour and then leave her again giving a fresh cause of action for another decree. In course of time, as education advances, that may become a practice in India. After all, legislative interference with matters of this kind is always bound to be infructuous. You can get your decree easily enough, but the execution presents insuperable difficulties. How does it help restitution of conjugal rights to send a wife to prison ? No doubt, there are husbands who would gladly go to prison rather than live with some wives. That is hardly the point. The Honourable the Home Member has touched the real question at issue when he says that legislation like this would be an improvement if it did away with suits for restitution of conjugal rights altogether. I do not know how far the retention of suits in that form is necessary in the interests of this country, because the feeling in the matter varies with each province, possibly with each district of a province, with each community and so on. But, at all events, I do not see that this Bill

will in any way weaken the legislative power so far as it exists for restoring conjugal relations between a husband and wife. It will still be possible for the husband to sell his wife's “ slave-bangle,” or gold nose-ring, or some other trinket which probably she would rather keep than her liberty, and in that way he will have some effect. But the fact has to be faced that we cannot by any form of legislation bring about conjugal happiness and reconciliation. That is a matter for religion, for the people themselves and for education. This Bill in its way is harmless. All it does is to commit this Assembly to legislation of a more or less useless kind, but inasmuch as it is harmless, I think that it might have the support of the Assembly.

Mr. Muhammad Yamin Khan (Meerut. Division : Muhammadan Rural) : Sir, I opposed this Bill at the previous stage, and I oppose it now. I think my Honourable friend Sir Henry Stanyon has missed some points of Bhai Man Singh when he said that Bhai Man Singh did not see the view point of the wife. He gave a specific illustration about this, but we hardly see such a case in a district even in a decade in our society. Suits which appertain to conjugal rights mostly come from the lower classes of people, and the view point of the wife in the lower classes of people can hardly be conceived by this House. The wife in these classes has absolutely no idea of her rights. She only lives with a man who is supporting her for the time being or is getting something better than she was getting at her husband's house. Now let us see what are the causes that lead to such cases ? Generally, we find that the woman is living at the house of her parents because she is induced by them not to go and live with her husband, or she is living with her paramour. Now, Sir, my Honourable friend Sir Henry Stanyon must have noticed in his long experience both at the Bench and the Bar that when a woman is living at the house of her parents, the reason obviously is that they are trying to extort something from her husband which he is not willing to pay, and therefore they are inducing the girl, who has not got very much sense and who is practically under their control not to go to her husband. This is generally the cause when a girl is living with her parents, or the parents may be trying to induce the husband to relinquish his rights over his wife so that they may sell her to somebody else for some monetary gain to themselves. You will find that this is very common among the sweeper class, the Chamars, Kolis, Jats and other low class of people.

When a woman is living with her paramour, you find there are generally two causes why she has run away. Either the husband is poor and has not got sufficient means to keep her up in the style in which she wants to live, or she is generally an immoral woman, or the husband is an old man and the wife is quite young. (*Colonel Sir Henry Stanyon* : “ Cruelty.”) That is cruelty. If the husband is old, and the wife is young, that is generally a case of cruelty. These evils cannot be removed by the measure which is at present under consideration. For these purposes we require certain social improvements. For this purpose I think it would be better if the advocates of this Bill go about and organise some bodies who will go about and tell people not to marry their young daughters of about 10 or 12 years to old men of 60. If they go about and remove this evil in this way, that would help to remove many of the grievances that we come across in the district. In the other case, viz., where the hus-

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band is poor and cannot keep his wife in luxury and she runs away, will this House allow that all poor men's wives should run away with richer people without any remedy to the husband? I think this will place a great hardship on the poor husband. Taking the other case where she is living with her parents and the parents want to sell her to some rich man for some monetary gain, I think it will be a great revolution against the established morals of the country if this Legislature helps that to be adopted by the parents of the girl. Every measure which comes before this House to be passed requires the existence of some evil which is to a certain extent prevalent in the country. My Honourable friend who has brought this Bill before the House has not given any instance that in any particular district many women have gone to jail during any period in default of their returning to their husbands. Unless he can show that the Courts have been so very hard upon poor women as to send every woman against whom an order has been passed indiscriminately to jail, this measure becomes absolutely useless. I also agree with the suggestion that if the decree for restitution of conjugal rights had been absolutely done away with, that would have much better helped my Honourable friend's ideas than the present Bill which has the effect of keeping up a decree without any effect. If a woman is not sent to jail, how is the decree to be executed against her? A decree is passed by the Court. In most cases, a woman does not possess any property—at least among the Hindus. A Hindu woman has not got property unless she has got *Stridhanam* or some property which she has got from her parents as a life interest. That is property which is possessed in very rare cases.

But in most of the cases we find the woman does not run away if she has got some money inherited from her parents, if she is rich enough to keep herself properly if her husband cannot keep her in proper style. Then, if she has not got any property there can be no attachment of the property. The parent's property cannot be attached. The property of the parents cannot be attached if she has been induced by the parents not to go. And what is the effect? The Court's decree becomes absolutely impotent and I think it is taking a great deal of dignity from the Courts that they should pass a decree which becomes absolutely useless. I need not go and repeat all the arguments that have been advanced by Bhai Man Singh. But if we look at the circumstances we find that the poorer people are quite glad to receive back their wives who have been living with other men for years and years—they are quite happy. Well, for those persons this decree must be made effective and they should come back, because they have got no will power. It does not make any difference to them where they are living. I have seen myself in many cases, under section 498, that a woman who had eloped with another man and had been living with her paramour, if she came as a witness before the Courts, she gave evidence absolutely against her husband, but, if she had been taken away from her paramour and had been entrusted to somebody else and she came after a week or so, she gave all the evidence in favour of the husband and she accused the man who had run away with her, saying this man induced me in such and such a way, my sister or my daughter had been ill and he took me to such and such a place. This shows that the

woman has no will power and has no idea where she will be living and where she will be happy, but goes under the influence of a temporary idea that she will be happy. Of course, in a case where the husband is very old and the woman is quite young, it is different. In such cases I have seen many murders committed. But this is a social evil which can be removed as necessitated by social improvements in other ways and not by passing this measure and taking away the power from the Courts. So, with these few words, I oppose this measure and I think it is most unnecessary and not required at all to be put on the Statute Book.

• **Mr. J. N. Mukherjee** (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, it becomes my unpleasant duty at this stage to say a few words on this Bill. At its early stages I opposed it, and I do so again, not because I am labouring under any particular fear—any personal fear—of my own, but because I think there is an inherent inconsistency in the Bill itself which is about to become substantive law. The present is also another instance of a Bill which furnishes a very clear example of the mischief of allowing public Bills to be introduced by private persons before the state of public feeling on the subject has been ascertained. It was my privilege to point out to the House on another occasion, that if a Bill of this kind was to be treated as a public Bill in England, no private individual would be allowed there to put forward a Bill of this kind. If there was a sufficient momentum of public opinion behind it, Parliament would take it up and originate a Bill of this kind; and then, of course, it would go again to the country and public opinion on the matter as formulated in the Bill, would be ascertained. Now, what is the state of things, so far as the present Bill is concerned? Here, it was only after the introduction of this Bill, we find that public opinion was taken, but the Bill itself was introduced on the initiative of a Member without any outstanding demand for it by the public; and the public opinion that was collected after its introduction, and which has been read out to us by my Honourable friend, Bhai Man Singh, is perhaps practically unanimous in expressing surprise that whereas machinery is provided in the Statute Book for a decree to be passed for the restitution of conjugal rights, that that decree after being passed should remain ineffectual and the opinion thus collected does not seem to count at all. This is a position which is difficult to understand. One can understand that all suits for restitution of conjugal rights should be done away with. One can understand that. Let society find out other means for protecting husbands against the machinations of lovers or against unfaithfulness of wives and so forth. But what we forget now is this that the law allows, in a proper case, for a decree for restitution to be passed. That there may be extreme cases, there can be no doubt; but whether a decree should be passed or not, in a particular case, is a matter which rests and rests alone with the Courts. If a sufficiently strong case for a decree for restitution of conjugal rights has not been made out, the Court will hesitate to pass a decree, and no decree for restitution would come into existence at all. It is only in cases of an outrageous character, where it is found that the Court is justified in passing a decree upon the merits of the case, that this rule as to execution will apply not to a case of cruelty, as was argued by my Honourable friend

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opposite me, who is generally very very correct in his statement of facts ; in this particular instance, he unfortunately omitted to notice the fact that, if there was a case of cruelty, no Court would pass a decree for restitution of conjugal rights. Therefore, it is only in extreme cases that a decree for the restitution of conjugal rights would be passed, and, if there was justification for such a decree,—and every decree must be taken to be a fair, and just and honest decree—will the House take it that such a decree, when passed, should remain a scrap of paper; that no effect should be given to the decree? Even in the matter of execution of the decree, the discretion of the Court comes in. The Court may order enforcement of a decree by personal imprisonment or it may not, so that, the question of enforcement is one which stands apart from the question of hardship. It is only where we allow that no decree for restitution of conjugal rights should be passed, that freedom of personal choice in a matter of this kind can be left absolutely unfettered ; it is only in such cases that we can contemplate a real exemption from the operation of the proposed Statute. Therefore, Sir, that is a point which we should never forget. Now, it has been pointed out by my Honourable friend, Bhai Man Singh, very ably, to my mind, at any rate, basing his arguments upon the answers collected, that the existence of the present law operates as a deterrent. It is not necessary that in every case a person should be sent to prison for enforcing restitution of conjugal rights, but the present law operates as a deterrent, and, if the Statute Book contains a sanction of that kind, very often misguided persons might think twice before taking any decisive step in the matter.

Now, Sir, this is not a question purely and simply for the social reformer, but it is a question which affects the whole country at large, and, therefore, Sir, I may submit that I do not see the necessity of doing away with that portion only of the law which enables a Court, upon a sufficient case being made out, to detain a person in prison, to compel obedience to an order for restitution and which is something which does not affect freedom of individual choice and things of that kind in any way. Therefore, Sir, I must oppose the passing of this Bill—I am so sorry I am disobliging my friend, Dr. Gour, in a pet matter of his, but, taking all the points into consideration, I think, Sir, I ought to oppose the consideration of the Bill.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : Sir, I have had occasion to disagree with my friend, Dr. Gour, in a very important measure some time ago, but in this matter, I think I entirely agree with him that this Bill should be passed. The chief object of a marriage, as I understand it, is the conjugal happiness of the wife and the husband, and if that cannot be secured by the husband and wife living together I do not see why the law should compel the wife and the husband to live together in this manner by imprisoning the husband or the wife as the case may be. Imprisoning the wife and compelling her by that means to go to the husband, as was pointed out by my learned friend Sir Henry Stanyon, improves the matter in no way. On the contrary, so long as the woman remains in the civil jail,

she is entirely at the mercy of her captors there and she may be spoiled all the more. If the wife has gone wrong with another person, imprisoning her for a short time in the civil jail—it may be for a month or two or three—will not make her in ordinary circumstances think that she should go back to her husband. On the contrary, I think it will exasperate her and cause her not to go to the husband at all. My learned friend Mr. Mukherjee said that if there has been no cruelty proved, there is no reason why the wife should not be compelled to go back to her husband. Ordinarily, in cases of this kind, cruelty on the part of the husband towards his wife can seldom be proved because so long as she is under the roof of the husband she will hardly get any evidence of any cruelty that may be exercised against her by the husband. Therefore, if she has not been able to prove cruelty on the part of the husband towards herself, I do not think in ordinary circumstances she is to blame. Again, such cases as these—I mean cases of restitution of conjugal rights—are not very common in the country and therefore if this punishment is removed I do not think it will be any hardship at all. So far as the Muhammadans are concerned, they generally have got the remedy of divorce in cases where the husband and wife do not agree, and though in India divorce among Muhammadans, and especially among the higher classes of Muhammadans is not very common, in Arabia and Persia for this reason divorces are very common and I think the divorce law is based upon very good reason. It is no use putting the wife and husband together if they cannot agree and they cannot live happily. So far as the Hindus are concerned, the case is a little more difficult, but even then, if the wife and the husband cannot agree and if the law will not compel the wife to go back to the husband, the husband, at any rate, is not prevented by the Hindu law to marry again under special circumstances of this kind. Therefore, so far as the husband is concerned, there is no hardship to him. He can have another wife whereas it may be a difficult thing for the poor wife because she cannot have another husband so long as the first husband is living. She must be taken to have very good reason not to go to her husband. Even at present, if I mistake not, under the civil law it is within the discretion of the Judge to send her to prison or not. And so far as I am aware there have been very many cases in which courts have declined to send the woman to prison. If that be so, then there is all the more reason I say for not keeping this punishment on the Statute Book. Ordinarily we find civil courts of law decline to send a woman to prison for declining to go back to the husband. If that be so, I do not see the good of allowing this punishment to remain on the Statute Book. For these reasons I think there is no reason why this punishment should remain ; and whether you pass this law or not, the matter remains discretionary with the Judge all the same. There is, therefore, all the more reason why we should do away with it.

* **Mr. K. G. Bagde** (Bombay Central Division : Non-Muhammadan Rural) : I move that the question be put.

Mr. Pyari Lal (Meerut Division : Non-Muhammadan Rural) : I support the motion before the House. It is bad enough, as has been observed by one Honourable Member, to have suits for the restitution of

[Mr. Pyari Lal.]

conjugal rights, but it is worse to send either a husband or a wife to prison. Now marriage is a very sacred relation and it is a tie that depends for its subsistence on the mutual harmony and goodwill between husband and wife. No self-respecting man or a man with any refined feelings would ever care to see his wife sent to jail, and if she has committed any offence and if they do not agree, they live apart and that is quite enough ; but to be vindictive, to go to court and send her to jail—I think very few people would care to do that and for that very reason you find in this country, people of the upper classes rarely go to court or bring suits for the restitution of conjugal rights. I do not know of a single case where a wife has gone to court in a case of that character or where a man of the upper classes has gone to court if his wife has gone wrong or has run away or her parents do not send her to him. It is looking at the tie of marriage in a sordid way to insist that when you lose a thing you must get it back. Imprisonment of a wife is a relic of the old barbarous days when you treated wives as goods or chattels. Dr. Gour has done a service, if he cannot in the present state of the law altogether abolish suits for the restitution of conjugal rights, in doing the very best thing that was possible, at least, to abolish imprisonment as a result of such suits, and in that view I support him heartily.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : My experience has shown that so long as the provision for the imprisonment of wife remained, it turned out to be a dead letter. Now of course the primary object of providing this mode of execution for restitution of conjugal rights is that it should serve as a pressure upon the wife to go back to her husband to avoid the penalty of going to jail. What does experience show ? In many cases, probably in all cases that have come under my observation, wherever any such decree is passed against a wife and the execution is applied for, the wife has preferred to go to jail, which is after all a civil jail, rather than go to her husband. Now it appears, almost every speaker has told us, that such decrees or suits for the restitution of conjugal rights are few and far between in the upper classes and I have not within my experience come across a case where a member of the upper classes went to court for the restitution of conjugal rights. In certain cases a girl at an early age is tied down to a husband and eventually there is a feeling of repulsion between the two parties. Well, the girl is not willing to remain with the husband : the husband wishes to have her back and he files a suit for restitution of conjugal rights ; that is one class of cases. The other class of cases is where there comes on the scene a guardian or a parent who has his own axe to grind. In either case, whenever there is a decree of restitution and an execution, application is made for sending the wife to jail, the result has been the same ; she has refused to go back to her husband. There was one very celebrated Bombay case, more than 30 years ago, of Rukman Bai. She was a very well educated girl who had been tied down to her husband at a very early age ; when she grew up it was very repulsive to her to go to her husband and she declined to go. The Court eventually decided that she should not go to jail. In another case in which I myself appeared as a pleader, the woman when

directed to go to jail or else to go back to her husband said that she was willing to go to jail. The Judge in that case was however merciful enough not to pass the sentence of imprisonment upon her. So that, even if you do not amend the law, that portion will remain a dead letter. Therefore I think it is in the interests of society that this Bill should be passed.

Dr. H. S. Gour : Sir, I did not think that the debate on this subject would have been protracted to the length to which it has been after the unanimous recommendation of the Select Committee. So far as the Honourable the Home Member is concerned, he seems to lead a dual existence. As Sir Malcolm Hailey he has subscribed to the Bill and recommends that it be enacted into law.....

The Honourable Sir Malcolm Hailey : I must correct the Honourable Member. Our recommendation was that if the Bill was passed it should be passed in a particular form and nothing else.

Dr. H. S. Gour : As a Member of the Government he says he will abstain from voting and ask the other Members of the Executive Council to do the same. Now, Sir, the Honourable Member said that my Bill would be more logical if I abolished the suit for restitution of conjugal rights, and several Honourable Members, taking the cue from him, have repeated that argument. But have they for a moment adverted to the fact that the Civil Procedure Code which my short Bill is intended to amend applies not only to Hindus and Muhammadans but equally to all ? And in the case of Christians it is a well known fact that a suit for restitution of conjugal rights is a prelude to a subsequent suit for divorce. Therefore, in the case of Christians the necessity for such a suit exists and in the case of Hindus and Muhammadans the necessity for such a suit is equally obvious, for it is a well-known fact that if the wife contumaciously refused to obey the decree passed against her for restitution of conjugal rights, she forfeits her claim for maintenance. I therefore submit that that is not a sound argument, though it has been repeated from the Government Benches and by Honourable Members on this side of the House, that I should be more logical if I swept out of the Code of Civil Procedure suits for restitution of conjugal rights. I have demonstrated to the House that such suits are necessary, and I therefore submit that that argument goes by the board. I now pass on to the arguments addressed against my Bill from the non-official Benches. My friend, the Honourable Sir Henry Stanyon, has pricked the bubble when he said that every one of these arguments is an argument on the side of the husband, but it entirely overlooks the arguments of the wife ; and I am surprised to hear Members after Members taking it for granted that refusal on the part of the wife to cohabit with her husband is due to the influence of or the existence of a seducer and a paramour. Sir, I regard this as a libel upon the womanhood of this country. It is not always because a woman is seduced by a paramour that she refuses to live with her husband. It is also often because it goes against her conscience to live with her husband, who torments and tortures her, and she prefers to live a life of single blessedness to a life of servility and humility, confinement and misery in the house of her husband. Honourable Members have not referred to the common practice of infant marriages in this country. We have been told, and it is a fact, that girls of 5, 6, 7, 8, 10 and 12 are married and

[Dr. H. S. Gour.]

pass into the family of their husband. When they attain to years of discretion, they find that either the husband is ill-suited to them or that, either on account of temperamental differences of any kind, or of the cruelty of the husband, their life in the husband's house is intolerable. Who has not heard of the well-known case of the mother-in-law? I submit therefore that it is not merely a case of seduction as assumed by the Honourable Members but it is a case of conscience and individual liberty which guides the wife in refusing to live with her husband. Now opinions have been cited by my Honourable friend, Bhai Man Singh, who has told us of what certain learned Judges and learned pleaders think of the subject. But have they not one and all assumed that the wife leaves the protection of her husband because she has been seduced to do so by her paramour? And my friend, Mr. Yamin Khan, uses that argument as if it could admit of no contradiction. Sir, then it has been said that it is some protection against the seduction of the wife. I ask, Sir, if the wife is seduced by a paramour, a decree for the restitution of conjugal rights is no relief to the husband. The Indian Penal Code provides the relief. The husband can prosecute the seducer, and he can be imprisoned for the seduction of his wife. My submission, therefore, is that in the case of immorality, the husband is sufficiently and amply protected. I therefore submit that a very clear case has been made out for the enactment of this Bill. The Select Committee are unanimously of opinion and I should be wasting the time of this House if I harked back to the threadbare arguments used and replied to on the previous occasion. In my opening speech when asking this House to take this Bill into consideration I pointed out that this subject had been debated at great length on a previous occasion, and I hope, Sir, that this House will now pass this Bill into law with the self same strong majority with which it consented to the Select Committee. Let me remind the House that my motion for referring this Bill to the Select Committee was supported by 39 votes against 23—a majority of 16—and I hope, Sir, that this Bill will be enacted into law by even a stronger majority.

Mr. President : The question is :

“ That the Report of the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3, as amended by the Select Committee, Clause 1 and the Title and the Preamble were added to the Bill.

Dr. H. S. Gour : I move, Sir, that the Bill be now passed.

Bhai Man Singh : I oppose the motion, Sir, and have given my arguments before. I would not therefore like to take up the time of the House. I only beg the Members who are with me to see up to the final stage and, in particular, to vote in any way they like. I have only to draw attention to two points raised by Dr. Gour. One was that there are some cases of infant marriages and of tyranny in which case of course Dr. Gour is justified. So far as tyranny is concerned I think my learned friend fully well knows that tyranny is a very good defence in a suit for restitution of conjugal rights and that matter can very well be gone through under the present law. So far as infant marriages are concerned, there is more

than enough discretion in the Court not to allow any imprisonment under the Rules. My friend the Honourable Dr. Gour laid much stress on the point that those gentlemen who have spoken on my side have supposed that the wife leaves the protection of her husband because she has been seduced to do so by her paramour; and the learned Doctor has said that I have quoted the opinions of learned judges and learned members of the Bar who have practically assumed this state of affairs. I submit that if so many eminent lawyers and so many learned judges have presumed this, it shows from their experience they have found that, in 99 cases out of 100, if not invariably, the woman refuses to go to her husband's house, because she is under the influence of her paramour. So, for the sake of 1 per cent., we have given enough discretion under the present law to the courts and there is absolutely no reason why for the sake of so few cases we should make this new law which would be so harmful.

The motion was adopted.

THE PREVENTION OF DEFERRED REBATES BILL.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-official) : I am sorry, Sir, that I am not in a position to move that my Bill be referred to a Select Committee. Government have informed me that many opinions have not yet been received and some of the Local Governments have not yet replied. In these circumstances, Sir, I cannot now ask that this Bill be referred to a Select Committee. I am not making the motion to-day.

THE INDIAN EVIDENCE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I beg to move :

“ That the Bill further to amend the Indian Evidence Act, 1872, be referred to a Select Committee consisting of the Honourable Home Member, Mr. T. V. Seshagiri Ayyar, Dr. Nand Lal, Sir Henry Stanyon, Bhai Man Singh, Mr. Bagde and myself.”

Sir, Honourable Members will remember that, when introducing the Bill, I had stated that it was only to alter one word in Section 63 of the Evidence Act. The Evidence Act provides that documents should either be proved by primary evidence, or by secondary evidence if primary evidence is not available; a document may be proved by secondary evidence—and Section 63 provides several instances of secondary evidence, for example, certified copies, copies made by mechanical process and copies made and compared with the original and counterparts of documents, and the last one is oral evidence of the contents of a document given by some person who has himself seen it. Now, it is this last clause which I wish to amend by the substitution of the word “ read ” for the word “ seen ”. Now, what happens is this. As the clause at present stands, a man who is illiterate, that is to say, blind so far as the writing is concerned, who sees a document written in his presence which he cannot read, can give evidence as to the contents of that document. There was a case in the Allahabad High Court, in

[Lala Girdharilal Agarwala.]

which I had the honour to appear, in which it was held that the word "seen", as used here, does not mean seen like a toy, but it means seen with the mind's eye. The object with which I want this to be amended is to clear the law, so that the literal meaning of the law should be the same as the proper interpretation.

With these few words I commend my motion for the acceptance of the House.

The Honourable Sir Malcolm Hailey (Home Member) : Although the change in the Act which is now proposed consists only of one word, I must oppose the motion. The House will remember that when this Bill was introduced by a most unfortunate accident it could not be opposed. I need not perhaps recall the events to the recollection of the House, if only for the reason that they cast some discredit on my conduct of Government business ; but the omission was accidental and, had I not been prevented from appearing on that occasion, I should have made the same objection that I make now.

Lala Girdharilal Agarwala has referred to the case out of which this proposal has arisen. There was a mortgage, a somewhat ancient mortgage, on which certain persons took action in court. The plaintiffs could not produce the mortgage ; they attempted to give secondary evidence of it under Section 63 of the Evidence Act and they produced a man who said he was a marginal witness to the document. But he could not read. The two lower courts, though they held differing views as to the existence of a mortgage, did not enter into the point whether this witness was a competent witness or not ; but I have no doubt that, if, at this stage, counsel had called the attention of the courts to the wording of the Act, they could have had no doubt whatever on the subject. The words of the Act are, that an oral account of the contents of a document shall be given by some person who has himself seen it. Now it is very natural—the High Court agreed and everybody must agree—that a man who cannot read a document cannot give an oral account of its contents ; and so far therefore we need have no difference with Lala Girdharilal Agarwala. But two questions arise.—Is an amendment of the Act necessary, and is the kind of amendment which he proposes a suitable one ? I maintain that no amendment of the Act is necessary at all. Here we have a solitary instance in which two subordinate Courts have improperly admitted evidence. Had their attention been called to the wording of the Act, they could have had no doubt whatever that the evidence was inadmissible. They were, in other words, guilty of sheer inattention to the wording of the Act. I think it unlikely, specially with this case before them, that Courts will make a similar mistake again ; but I think the House will agree with me that the fact that the Courts have on one occasion paid improper attention to the wording of an Act does not in itself constitute sufficient reason for asking the Legislature to alter the Act itself.

This objection is reinforced by the difficulties which arise from the attempt of Lala Girdharilal Agarwala to amend the Act. He

proposes to change the word "see" into "read". Now if anyone will glance at Section 3 of the Evidence Act they will see that the word "document" has a somewhat wide meaning—that is to say, that a map or plan is a document. You could not pretend that you had read a plan. Again a picture is a document, and you could not pretend that you had read a picture. His change of the Act, therefore, would in itself make a requirement in regard to secondary evidence that could not be carried out at all in many respects. Then again, another difficulty arises: If all documents were short written documents—and I have shown that all documents are not written documents, and it is also perfectly obvious that all written documents are not short written documents—then you might put it to the witness that he had not only seen but had read a document, but it is perfectly competent for a witness to give an oral account of the contents of a somewhat long document, although he has not necessarily read the whole.

Now these are the objections to amending the Act. I say, in the first place, that no change is necessary because we have only one solitary case of inattention on the part of the Courts. My second point is that we have had no conflict of judicial rulings such as necessitates legislation. My third point is that if you amend the Act, as is suggested by the Honourable Member, you will produce complications which I am sure that he himself could not have foreseen but which are sufficiently serious.

The Honourable Dr. Mian Sir Muhammad Shafi (Law Member) : Sir, I would like to add a few words to what has fallen from the lips of my Honourable friend Sir Malcolm Hailey. It seems to me that the very case to which Mr. Agarwala has made reference is in itself an authority for the proposition that the proposed amendment is entirely unnecessary. Let me invite the attention of the House to a discussion contained in the body of the judgment on the point of law which is raised by my Honourable friend opposite in the amendment which he proposes. This is what the Judge says, at page 241 of the judgment :

"The point taken is that the witness, Neka, as his evidence shows is an illiterate person, who is unable to read and to write, that his evidence, if anything, falls within clause (5) of section 63 of the Evidence Act, which lays down that secondary evidence means and includes 'an oral account of the contents of a document given by some person who has himself seen it,' and that as he, Neka, was illiterate and could not read, he is not one of that class of witnesses which is contemplated by clause (5) of section 63."

And note what the learned Judge says with regard to this contention :

"There is considerable force in this argument. An oral account of the contents of a document given by some person who has merely seen it with his eyes but is unable to read it is merely the repetition of what was told or read out to him as to the terms of the document by somebody else. I am clearly of opinion that the word 'seen' in this clause of section 63 means something more than the mere sight of the document."

It is clear, therefore, that the learned Judge in this very judgment held that the word 'seen', as used in this provision—which my Honourable friend seeks to amend—means something more than seen, that is to say, the witness must have actually read it. Therefore, where is the necessity upon this judgment for the change of law which my Honourable friend seeks to bring about ?

The motion was negatived.

THE INDIAN LIMITATION (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadian Rural) : I beg to move :

"That the Bill further to amend the Indian Limitation Act, 1908, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. T. V. Seshagiri Ayyar, Sir Henry Stanyon, Dr. Nand Lal, Bhai Man Singh, Mr. Bagde and myself."

Sir, I see that there is an amendment on behalf of Government that the Bill may be circulated for eliciting further opinion. If the Government desires to take that action, I have got no objection ; but I want to explain to Honourable Members the object of my proposed Bill. The Indian Limitation Act, in sections 19 and 20, enacts that acknowledgment and payment of interest or principal shall extend limitation. It appears that the principle of acknowledgment which has been embodied in the present Limitation Act of 1908 has been taken from the English law as it then stood ; but the law has since been changed there and I am told that under the present law an acknowledgment to save period of limitation must be a sort of fresh promise to pay. Under the present Limitation Act an acknowledgment need not be clear and definite, it need not be dated ; it might be conditional and may not be addressed to the person affected thereby ; it might be made by a person not authorised in writing. These are things which I should say are now relics of the past and in modern times we should have our law in line with the English law and also in line with common sense. A person who sleeps over his rights for a long number of years cannot take advantage of an indefinite or vague or undated acknowledgment, unless the person who gives the acknowledgment really means that the period of limitation should be given afresh. With these few words I commend my motion for acceptance.

The Honourable Sir Malcolm Hailey (Home Member) : I beg to move as an amendment that the Bill be circulated for the purpose of eliciting opinions thereon. I understand from what the Honourable Mover said that he is prepared to accept my amendment. But at the same time, I feel it necessary to say on behalf of Government that its acquiescence in the proposal to circulate this Bill must not be held to bind it to an acceptance of its principle. We agree of course that sections 19 and 20 of the Limitation Act are some of the most difficult sections of the Act ; they have given rise to a large amount of case-law ; they have also given rise to a certain number of conflicting judgments. If, therefore, we could get the law clarified on this subject, it would be all to the good. But I must point out that the Legislature must work under certain limitations in clarifying the law. Its work would indeed be simple if it merely had to pass laws which were clear in themselves, and did not have to consider the complexities of the customs or habits to which these laws must apply. Here we have a matter which deeply concerns the business and commercial community, and we must, in any amendment that we contemplate of the law, consider existing commercial custom and practice ; we are not justified in amending our law in such a way that it will be

necessary to modify a commercial practice which is otherwise not open to objection. Let me take first the question of acknowledgment to which the Honourable Member referred. He states that modern practice demands that acknowledgment should be clear and unconditional ; and yet you will find in practice that many acknowledgments of an implied nature have been admitted in the past and are being admitted to-day, and so far from it being certain that acknowledgments must be clear and unconditional in order to set up a fresh period of limitation, I find on examining the question that, while the Madras Courts have held that an acknowledgment must be unconditional or subject only to a condition which is fulfilled, the Calcutta Courts, on the other hand, have held that a conditional acknowledgment is good. Then again, the Honourable Member seeks to clarify the question of acknowledgment by an agent. An acknowledgment by an agent should, he thinks, only be good if the agent is appointed in writing. Now our Courts appear to have held that the agent is not necessarily an agent who derives his authority from contract. We have a recorded case, for instance, of a Diwan who always signed on behalf of an employer who never signed or wrote himself, and it was held that his acknowledgment was good. Then we have all the difficult cases arising out of the position of a manager of a Hindu Joint family, and his power to make an acknowledgment which would bind the family and thereby set up a fresh period of limitation against the family. We have all the difficult cases arising out of the position of a guardian and a minor. The Honourable Member would introduce by his amendment a change in the practice of our courts and in the custom which has hitherto been held good in this country.

Then again it will be noticed—again this is an important point—that he would entirely neglect the effect of the payment of rent in regard to a mortgage subsisting on land. These are all important points, but it is not necessary that I should go any further into details on the subject. Indeed, it would be improper if I should do so on the present occasion. But there are important points of principle involved, and we could not ourselves agree to accept even in principle the amendments which he proposes. Finally, I think that he has neglected to observe that his amendment of the Act would prejudicially affect a large number of creditors in this country. For he would at one stroke insist on requirements in regard to the establishment of a liability which were not in contemplation previously ; liabilities hitherto believed to be good would cease to be so ; and creditors would find that they had run out of limitation when they imagined themselves to be within their periods.

All these points, therefore make it necessary that we should, as a serious Legislature, approaching a very difficult question, seek further opinion on the subject, the opinion not only of High Courts and Legal Associations, but of the business men who are so vitally affected by any amendment in the Limitation Act.

Mr. President : Amendment moved :

"That the Bill be circulated for the purpose of eliciting opinions thereon."

The question I have to put is that the Bill be circulated.

The motion was adopted.

THE GENERAL CLAUSES (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I beg to move :

"That the Bill further to amend the General Clauses Act, 1897, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. T. V. Seshagiri Ayyar, Sir Henry Stanyon, Dr. Nand Lal, Bhai Man Singh, Mr. Bagde, and myself."

The proposed amendment which I seek to make is in the definition of the term "sign" with regard to illiterate persons. As the law at present stands, it says : "sign" with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions : So that at present any mark which is made either in pencil or pen or by any other means is quite sufficient as a substitute for signature. Now, I submit that in modern times, the science of thumb impression has very much advanced, and I know of cases in which persons have been sentenced even to death merely upon the evidence afforded by thumb impressions. I submit that to fix the identity of an illiterate person's mark on a document, it is very necessary that the law should improve with the advance of society and the improvement of science. It is for this reason and to safeguard illiterate or half-literate persons from fraud, forgeries and perjuries, that I have brought this measure before the House. I am not wedded to the language or the terms used in my Bill, but I raise it as a question of principle, leaving it to the Select Committee to amend the Bill in any way they please. My simple object is that illiterate and half-literate persons should be saved from the effects of marks made by them or for them by somebody. There must be some guarantee and some certainty that the signature of an illiterate person is the mark of that person and nobody else. With these few words, I move this measure for acceptance of the House.

The Honourable Sir Malcolm Hailey (Home Member) : This is another of those Bills on which I was unfortunately prevented from giving advice to the House on a previous occasion, for whatever that advice is worth. It will be noticed that under the General Clauses Act, as it stands, it is merely provided that "Sign" shall with reference to a person who is unable to write his name include a mark ; that is to say, a person who is unable to write his name may establish the fact that he has witnessed the document by any manner including a mark. Now, the Honourable Member proposes that in any case in which a man is illiterate, he shall affix his left thumb impression. I leave it as a matter of detail to be attended to by the Select Committee, if a Select Committee is ever appointed, as to what should be done with an unfortunate man who had no left thumb. I merely wish to protest, on a matter of principle. The mover suggested that in modern times, and with the progress of the art of thumb impression, we should utilise the system of thumb impressions in order to secure—what ?—that we should "have some guarantee and certainty" that the mark really is the mark of the illiterate person. Now, those who have seen the kind of thumb mark that is made on postal

receipts—the kind of thumb mark that is made by any person, in fact, who does not make it properly, with proper material, after proper preparation and under proper supervision, is absolutely useless, and it could never secure the object at which the Honourable Member aims, namely, a guarantee and a certainty that the mark is the mark of the illiterate person who has witnessed the document. On the contrary, in my opinion, the measure would be distinctly harmful because it would lead to assumptions as to identity which could never be made good. A thumb mark, a mere smudge made on a document by an illiterate person, could not afford any justification for assuming the identity of the person, and the courts might very easily be led into serious mistakes by attaching to such a mark an importance which it does not possess and which they would never attach to an ordinary mark across the line, for, with regard to the latter, they would take it for exactly what it is worth and require evidence—very clear evidence—that it was made by the person who was alleged to have made it. I say, therefore, that so far from being an improvement on the present law, this amendment to the General Clauses Act would likely be prejudicial to the working of justice. We have never adopted this requirement in England. I have no reason to suppose that our thumbs are different from the thumbs of other people. We probably can make as clear marks as other people. But we are sufficiently wise not to attach to a mark of this nature unless made under expert supervision a value which it does not possess from the evidential point of view. I therefore oppose this motion.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : Sir, although by the remarks I am going to make I do not commit myself one way or the other to the measure proposed by Mr. Girdharilal Agarwala, I rise merely to correct the Honourable the Home Member, Sir Malcolm Hailey, in the remarks that he has made with regard to the value of thumb impressions. I am speaking from personal experience. I myself appeared in a case for the accused where the accused was charged with forgery—of having got the thumb impressions of different persons from those from whom he got the bond. Recently there had come out a book on thumb impressions. Witnesses were adduced who were experts in examining thumb impressions, and it was found absolutely impossible to commit any mistake in finding out whose thumb impression was taken.

The Honourable Sir Malcolm Hailey : If taken clearly, that is my point.

Mr. Harchandrai Vishindas : I studied that book. If a witness comes forward, and if you put 40 persons along with him, you can distinguish him over his thumb impression.

The Honourable Sir Malcolm Hailey : If it is taken clearly.

Mr. Harchandrai Vishindas : It is impossible to make any mistake. I wish I had that book before me to show it to Sir Malcolm Hailey.

The Honourable Sir Malcolm Hailey : It is unnecessary to produce it. I have read it.

Mr. Harchandrai Vishindas : If that be the case, my own opinion has been that a thumb impression is a greater guarantee of identifying the

[Mr. Harchandrai Vishindas.]

man than his signature. Whilst you can forge a signature, you cannot forge a thumb impression. Of course, I am making these remarks without committing myself to the view that the measure as introduced is necessarily a wholesome one.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I have only a few words to say with regard to the impracticability of this Bill. Those of us who have any experience in finger impressions know the value of them, when properly taken, for the purpose of identifying the person who made them. But they have to be properly taken, taken in a particular way, with a particular kind of ink, and in a manner which it is quite hopeless to expect will be carried out in places where documents and receipts are executed among the general body of the community. Most of the proposed thumb impressions, even though they be *left* thumb impressions, will be absolutely undecipherable. What will be the result if this enactment becomes law ? This Bill asks not only that the thumb impression shall be made, but also that it must be one which is clearly decipherable. Who is to decide that each particular impression is of that kind ? Is the State going to establish offices all over the country like registration offices which will pass each thumb impression as one that is clearly decipherable ? Because, if it is not clearly decipherable then the man who cannot pay his bond may plead that the bond has never been executed,—that it is not signed. That will be one practical difficulty. We do not find in the other part of the proposed definition of “signed” that the signature of a literate executant must be a legible signature. Yet in Clause (a) it is proposed that the thumb impression of an illiterate executant must be one which can be clearly deciphered. It is impracticable to hope to secure anything of that kind. I submit that the measure is absolutely impracticable ; it could not be given effect to if enacted ; and for that reason alone I think it ought to be opposed.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : I support this measure. It cannot be denied, and I think there is not a single Honourable Member in this House who can deny the contention that the present measure is decidedly an improvement upon the present law. Will this House allow this word “mark” to remain on the Statute-book when it finds that there has been a conflict of judicial decisions with regard to this question ? Sometimes a number of witnesses come forward and say that “the executant of this bond has made this mark.” There will be a difference in their very camp and on account of this difference the proceedings will be protracted, public time will be wasted and the author of this measure, to my mind, has rendered a great service in removing this ambiguity, which has been proved to be detrimental, so far as judicial proceedings are concerned, and the public interests go. The argument has been advanced that if this measure is very minutely considered, it leads to an impracticability. I do not find any impracticability in it. The author of the measure, however, has frankly made an admission that he is not dogmatic, that he is not wedded to the phraseology of this measure. He has left it to the discretion of the Select Committee. If they want to make any alteration in the phraseology of this measure they are welcome. The other point which could be urged in refutation of the argument centering

round the so-called impracticability is this. Is there not practically the same trouble so far as the question of signature goes. Some people will sign in so bad a manner that it is extremely difficult to decipher it. If he denies it, a number of experts would come, and judicial experience is in support of the contention which I am raising that sometimes experts have failed to come to any definite opinion in regard to the correctness of the signature even. If even the man who has signed has denied his signature, then this so-called impracticability, in regard to thumb impressions, has got no force at all. I should not prolong my arguments. This is a simple point. The proposed Bill is a measure of the greatest possible utility and it need not have any opposition. It has put me to great surprise that there has been opposition to this useful measure from some quarters. With these few remarks I support this measure which speaks for itself, and I hope the whole House will be in favour of it.

Mr. L. Graham (Secretary, Legislative Department) : My friend, Dr. Nand Lal, asks who is bold enough to say that the present Bill is not an improvement on the present Act. I think it requires no great amount of courage to take up that challenge. The present Bill, Sir, if passed into law, would have the effect of preventing a very large amount of illiterate people from executing any document at all. That seems to me a wholly undesirable position. Even if an illiterate person has the good fortune to possess a left hand and on it a left thumb, he has still to find an expert who can take his thumb impression so clearly as to satisfy the author of this measure and the courts—a left thumb impression which can be clearly deciphered. Sir, in my Assistant Collector days, when I was learning many odd things, I was taught amongst other things to take thumb impressions and I know what an extremely difficult thing it is to do. It is an art to put the ink on the plate. It is a greater art still to transfer the ink from the plate to the thumb. Then you have the delicate operation of rolling the thumb over the paper. The rolled thumb impression is a very delicate operation indeed. Now, we train our sub-registrars to perform this operation, but we do not have persons of that capacity in every village. The proposal is impracticable and the only result will be that an illiterate man will not be in a position to execute a document unless he makes a pilgrimage to a sub-registrar. There are two other grounds on which I would oppose this Bill, though no doubt it requires great hardihood. The first is this. In his motion for leave to introduce this Bill, the Honourable Member said : “We find neither in our law of evidence nor in the General Clauses Act thumb impressions find a place. The main object of my introducing this present measure is to give legality to thumb impressions.” Thumb impressions are perfectly legal now under the existing law. If the man is illiterate he can make his signature by thumb impression. If he is literate, he cannot. That is a question which was decided in a case in the Calcutta High Court as long ago as 1905 in *Sadananda Pal v. King Emperor*. In that case the thumb impression was taken of a man who was literate and the court disallowed it on the ground that he was literate. Had he been illiterate his thumb impression would have been as good as a signature. It is perfectly incorrect to say that it is necessary to legalise thumb impressions, which is the primary object of this Bill. Secondly, Sir, I object to this Bill on the

[Mr. L. Graham.]

ground that it ought not to have a plface, even supposing it was necessary, in the General Clauses Act, because we are enacting not only definitions; we are enacting a bit of substantive law in this Bill, and the General Clauses Act, at any rate Section 3, is of the nature of an index, an index to all the Acts of the Indian Legislature. When you are enacting an index you do not put substantive law into it.

Lastly, Sir, the Honourable Member says he is not wedded to the details of the Bill. I admire his discretion; he would find this Bill a most uncomfortable consort. But the point is that every single detail of this Bill is bad. All that a Select Committee could do—a Select Committee which did its duty—would be to recommend that in place of this Bill the existing provisions of the Law, which are ample, be maintained.

Mr. President : The question is :

“ That the Bill further to amend the General Clauses Act, 1897, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. T. V. Seshagiri Ayyar, Sir Henry Stanyon, Dr. Nand Lal, Bhai Mau Singh, Mr. Bagde and Lala Girdharilal Agarwala.”

The motion was negatived.

THE INDIAN CRIMINAL LAW AMENDMENT (REPEALING) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I rise to beg leave of the Honourable House to introduce the Bill which stands in my name, namely :

“ A Bill to repeal the Indian Criminal Law Amendment Act, 1908.”

Honourable Members may be reminded that that Act was passed hurriedly on the 11th December 1908 on the very date of its introduction after the rules of business had been suspended for the purpose. The Honourable Sir Harvey Adamson who introduced the Bill stated that there had been anarchical crimes in certain parts of the country which necessitated the passage of the Act and he cited as examples the Midnapur Bomb Case in which an attempt was made against the life of the Lieutenant Governor of Bengal and other cases against the lives of Sir Andrew Fraser, Mr. Allen, Mr. Hickenbotham, the Mayor of Chandernagore, Mr. Kingsford, Mr. and Mrs. Kennedy, as well as the Manicktolla bomb conspiracy case. The Legislation was in the first instance made applicable to the disturbed provinces of Bengal alone. The Honourable Mr. Dadabhoy made it clear that the Act should not be permanently placed on the Statute-book, but should be repealed as soon as a normal state of things was restored. He suggested that the Act should remain in force for a stated period. The Honourable the Maharaja of Darbhanga sounded a note of warning and hoped that the absolute power under the Act would be used with great discretion by His Excellency the Governor General in Council. The Honourable Dr. Sir Rash Behari Ghosh did not accept the clause which gives the Executive power to suppress associations which they may deem

to be unlawful. He added that anarchism was bound to die out as it was opposed to Divine laws, but it could not be killed by coercive Acts. In reply to the Honourable Mr. Dadabhoy, the Honourable Sir Harvey Adamson said if conditions improved it would be easy to repeal the Act though it may not be enacted for a stated period.

The law was applied to several parts of India from time to time and was withdrawn in several instances when no longer required. On the 4th of February 1921 a Resolution was moved in another place for the appointment of a Committee to examine repressive laws and to report whether all or any of them should be repealed or amended. As a result of that Resolution a Committee was appointed which examined a large number of official and non-official witnesses, and although the statements of those witnesses have not been published, the report has been published and it shows that there was a volume of evidence in favour of repealing the Indian Criminal Law Amendment Act as a whole.

The Committee reported that it was generally accepted that Part I of the Act has failed to achieve in Bengal the purpose for which it was designed. As regards Part II, the Committee reported that the conspiracy sections of the Indian Penal Code might meet the case if, but only if, evidence were forthcoming. But the Committee did not recommend the immediate repeal of Part II of the Act. The recommendation of the Committee was the same as that of the Government of Bihar and Orissa, viz. :

“ Subject, however, to the reservations temporarily made in favour of the Seditious Meetings Act and Part II of the Criminal Law Amendment Act, which cannot be abandoned until the present tension created by the non-co-operation movement has been relieved by the action of its leading promoters, His Excellency in Council desires again to emphasise the importance of removing from the Statute-book as far as possible all special laws of this character so that the Government of India under the reformed constitution may proceed with a clean slate.”

Part I of the Criminal Law Amendment Act has already been repealed by Act 5 of 1922. The present Bill is intended to repeal the Act as it now stands.

The laws of England are generally accepted as bases for Indian laws. Look at the law that obtains in England with regard to public meetings. Professor Dicey's well-known dictum may be cited when he says, “ The Government has little or no power of preventing meetings which to all appearance are lawful even though they may in fact turn out, when actually convened, to be unlawful, because of the mode in which they are conducted.”

The Honourable Sir Malcolm Hailey said in reply to a question on 7th September 1922 (page 175) that the Government of India addressed Local Governments in May last on the subject and some replies were still outstanding. I hope the replies have by this time been received from all the Local Governments. The object of my Bill is that the new Legislative Assembly might start with a clean slate. The present condition of the country is quite peaceful, and it is unnecessary to keep this coercive

[Lala Girdharilal Agarwala.]

measure on the Statute-book any longer. We have been told times out of number that when better times arrive, this Act will be repealed. I now request the Honourable House to grant me leave to introduce this Bill. With these few words, I commend my motion for acceptance.

Mr. President : The question is :

“ That leave be given to introduce a Bill to repeal the Indian Criminal Law Amendment Act, 1908.”

The Honourable Sir Malcolm Hailey (Home Member) : Sir, for some reasons it might suit me better not to oppose this motion. If the Bill were allowed to proceed, and were either referred to a Select Committee or brought up on a subsequent motion for consideration, I should have an ample opportunity both of justifying the retention of this Act and of meeting the charges which have from time to time been made that its provisions have been misused. As it is, the brief time allowed for a motion to reject introduction will allow me only to catalogue my objections and not to expatiate on them. The Honourable Member has referred to the circumstances and the times in which the Bill was originally passed. I shall not delay the House by referring to the long series of outrages and attempted outrages between 1906 and 1908 which made the passing of this Act necessary—it was amply admitted at the time that it was essential for the safety of an important province of India that exceptional measures of this nature should be undertaken. But its necessity did not end in 1908. Let me give the barest outline of the course of revolutionary activity in Bengal from 1912 to 1917. I am aware that we met that activity not mainly by this Act, but by the Defence of India Act. My immediate point is that some such exceptional legislation was not only necessary in 1908, but was still required at a later date. In that period, 1912 to 1917, there were 174 serious outrages of an anarchical or revolutionary nature. Taking the period as a whole some 800 persons were apprehended ; two hundred of them confessed to definite complicity in a revolutionary movement ; three hundred were implicated by the confessions of associates or by outside corroborative evidence ; two hundred were implicated by their own statements or finds of arms and other circumstances. There were six discoveries of bombs and some sixty finds of arms. That the revolutionary movement was a reality is therefore certain beyond all doubt, and I further assert that it could only have been met by exceptional measures such as are contained in this Act or in the rules under the Defence of India Act. For it was proved not once but again and again, that a state of terrorism prevailed so great that no one would give evidence against these criminals ; informers were more than once murdered, and the only way open to authority to suppress the movement was to attack these associations as soon as they were known to be engaged in a criminal programme, and before that programme could be carried into execution. We may be told that that state of things has passed ; that it will probably never recur again. But if it were safe to do so, I could give to this House details which would prove to them that there are persons in Bengal who are even now attempting to revive these anarchical conspiracies ; I could give them names of officers, some European, some Indian, whose lives are definitely known to be in danger

from these emissaries of revolution. What is more, those who are acquainted with psychology of such movements will bear me out when I say that the times are favourable rather than the reverse to a recrudescence of this movement. During seasons of intense political agitation, extreme or violent revolutionaries are apt to be absorbed in the agitation itself, or to suspend their activities in the hope that such agitation may bring them some part of that for what they are contending. The agitation in which they were absorbed is now for the moment quiescent ; but if there is anything in the history of similar movements, not only here but elsewhere, then the very fact of its ill-success argues a likelihood that the advocates of a campaign of outrage and violence will resort again to the programme to which they vowed themselves in the past.

So much for the class of crime which this Act was originally intended to meet. But we shall no doubt be reminded that it has been used for other purposes than repressing anarchical and revolutionary conspiracies such as those of Bengal. It has of late years been applied to bodies which are not anarchical in the sense of being committed to anarchical outrages, not revolutionary in the sense that they desire to subvert Government by force, bodies whose avowed object at all events is non-violent. I mean of course the Congress and Khilafat associations of volunteers. Not only has the Act been applied against them, but we shall also be told that it has been misapplied. I suppose that there is no stronger indictment of the use of the Act in this respect than can be found in the Report of the Congress Civil Disobedience Enquiry Committee of 1922. I take it that this is the best documented, even if the most biased and the most prejudiced statement that could be put together as an indictment against the use of the Criminal Law Amendment Act against associations of this nature. But I also believe that that Report, if studied dispassionately, will afford equal material for the inevitable conclusion that the use of this Act, or something like this Act, is essential. For what was the avowed object of these associations ? I take them at their best and on their most innocent and their least criminal side. Their avowed object was civil disobedience. Civil disobedience is not that mild, sentimental, almost Platonic programme that we have been sometimes led to believe. Let me read the definition of offensive Civil Disobedience. It is well that I should remind the House of it. It was laid down in the Ahmedabad meeting of December 1921 :

“ Offensive civil disobedience means deliberate and wilful breach of non-moral laws, that is laws the breach of which does not involve moral turpitude, not for the purpose of securing the repeal of or to relieve hardship arising from the obedience to such laws, but ”

—and I ask attention to these, the decisive words—

“ for the purpose of diminishing the authority of or overthrowing the State.”

Now, if that was the intention, it does not need much imagination to conceive either what would be the progress of the movement or its inevitable results to law and order or the safety of life and property. Here again remember that I am still speaking of what may be described as the most innocent aspect of the movement. You will find no better analysis of the inevitable course of such an agitation than in the words of one who has certainly been no friend of our administration.

[Sir Malcolm Hailey.]

I will read first what he has written, and I will give you his name afterwards. He says :

“ Long before this final stage of non-co-operation is reached, the people will either get out of hand or the Government, refusing to be paralysed, will provoke violence and revolt and try to crush the rebels by its superior might. No Government can allow a movement like this to proceed to its ultimate stage. If the Government is to be destroyed it would prefer to be destroyed by physical force rather than by the application of so-called soul-force ; non-violent non-co-operation can never go beyond a certain point. It is bound after it has reached this point either to collapse, or, which is more likely, to develop into an armed revolt or revolution.”

The writer of these words is Bepin Chandra Pal. Of the truth of that analysis, as a prophesy of the inevitable conclusion of such a movement, there can be no doubt. But it never really maintained, and never was at any moment able to maintain, the comparatively innocent and peaceful programme to which it pretended. Even the Congress Enquiry Committee had to admit that there were frequent instances of ill-discipline ; they had to admit that in many cases their volunteers had been guilty of actions which had done no credit to themselves or to their movement. The indictment is in all truth a mild one. I wish I had time to give the full story of what lay behind that very qualified confession. I would base my indictment not on the opinions of Local Governments, nor on the statement of any one who could be said to be biased on political or other grounds against the volunteer organizations. I would base what I should have to say entirely on the opinions of the criminal courts, and mainly the Sessions Courts and the High Courts. I would prove from the judgments of these courts that there had been frequent occasions when volunteers, under the pretence of persuasion, had indulged in intimidation which had ended in arson and riot and even in suspicion of murder. I would prove that under the pretence of assisting the temperance movement, they had hired as associates the scum of the bazars, who utilized the opportunity to raise blackmail from vendors, and were themselves frequently found in the extreme of intoxication. I would, again, appeal to our criminal figures as showing the indirect results of this movement. I would show that while in 1920 there were some 2,928 cases of dacoity and similar serious crime, the number of such cases rose in 1921 to 4,322. I would show from the judgments of the courts that in many cases crimes could definitely be traced to the impetus towards disorder and the feeling of insecurity caused by the operations of these organizations. But I need not dilate on this aspect of the case, because it was admitted in the discussions in this Assembly on Munshi Iswar Saran's Resolution of January 1922 ; our action was endorsed by the vote of a House which had at the time not only in its memory but before its eyes, the evidences of the reign of terrorism and disorder which had been created.

But, here again, Sir, I have no doubt there are those who would hold that, although it might have been justifiable at that time to retain on the Statute-book an exceptional measure for use against organizations of this nature, circumstances have now changed and that it is no longer proper to maintain the law now that the movement has collapsed and the danger has passed. But here again I must warn those who hold that view against an excess of confidence. What,

I ask, is the meaning of the Gaya Resolutions ? What is the meaning of the demand that 50,000 volunteers should be raised, better organized and better prepared than the old volunteers for a programme of civil disobedience ? What is the meaning of the demand that a movement which was at one time largely in the hands of people of some education, however slight, should be extended to the labourers and peasants ? What does it mean when the President of that Congress preaches not only against the Bureaucracy, but against the Scribes and Pharisees, to use his expression, who are sitting in this Legislature ? What does it mean when their own organ openly declares that the new policy must be to spread the gospel among the labouring and agricultural classes with the definite view of promoting immediately a “ No tax ” campaign ? The mover, in his easy optimism, might well take warning by what happened in his own province ; the facts I shall give should come home to him. He represents a constituency in the United Provinces. I refer him to a debate in the United Provinces Council which took place on the 23rd January 1922. One speaker after another asserted that it was unnecessary to retain this law in force in the districts of that Province. Ten days afterwards occurred the terrible tragedy of Chauri Chaura, and the High Court, in sentencing the persons mainly responsible for that crime directly attributed its occurrence to the action of the local Congress and Khilafat volunteers. I have no doubt that it was a provision of the danger of repealing the exceptional precautions provided by the Act which prompted our own Repressive Laws Committee—a Committee of this House—in deciding in September 1921 that it would not recommend that this particular Act should be withdrawn. The description of their recommendations given by the Honourable Mover did scant justice to their views. Actually they were as follows : on such evidence as was before them they found that many of these organizations were seditious organizations, formed for the purpose of intimidating loyal citizens and interfering illegally with the administration. For that reason they thought that for the present it was necessary to retain the Act.

Now, coming for a moment to the Act itself ; I am aware that it has deficiencies. I am aware that it is an exceptional measure and as such is always open to criticism ; but I maintain that all experience has shown that the ordinary law is not sufficient to cope with intimidation and terrorism on the extended scale to which these organizations have lent themselves. By all means let us use the Act sparingly. By all means let Local Governments avoid its use unless there is good and sufficient reason for holding that there is no other alternative. But it is impossible to contemplate the repeal of this Act until we can find something better or at all events something adequate to take its place. We ourselves have attempted to devise a substitute ; we have failed to do so. If the Honourable Member, instead of attempting to repeal this Act, had applied his ingenuity to devising adequate means to enable the law to cope with organizations of this nature, then we should have been prepared to give it the fullest consideration. But in the meanwhile I must oppose his motion ; and I oppose it, Sir, not because I am careful for the prestige of a bureaucratic government ; I oppose it in the interests of the ordinary citizen, who wants nothing so much as to be left in peace and quiet without intimidation and

[Sir Malcolm Hailey.]

without terrorism, to pursue his ordinary avocations. I oppose it in the interests of that stable atmosphere of order which is so essential to the moral, social and political progress of India.

The Assembly divided :

AYES—20.

Abdul Majid, Sheikh.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahsan Khan, Mr. M.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Das, Babu B. S.
Dass, Pandit R. K.

Gour, Dr. H. S.
Gulab Singh, Sardar.
Mahadeo Prasad, Munshi.
Man Singh, Bhai.
Nand Lal, Dr.
Neogy, Mr. K. C.
Shahani, Mr. S. C.
Singh, Babu B. P.
Sohan Lal, Mr. Bakshi.
Venkatapatiraju, Mr. B.

NOES—46.

Abdul Hamid Khan, Khudadad Khan, Mr.
Abdul Rahim Khan, Mr.
Abdulla, Mr. S. M.
Aiyer, Sir P. S. Sivaswamy.
Akram Hussain, Prince A. M. M.
Ayyangar, Mr. R. Narasimha.
Bardwell, Mr. H. R.
Barnes, Mr. H. C.
Bhanja Deo, Raja R. N.
Blackett, Sir Basil.
Bray, Mr. Denys.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Dalal, Sardar B. A.
Faridoonji, Mr. R.
Gaskell, Mr. W.
Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.

Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Hussanally, Mr. W. M.
Ikramullah Khan, Raja Mohd.
Innes, the Honourable Mr. C. A.
Jamall, Mr. Ashruff O.
Majumdar, Mr. J. N.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Nayar, Mr. K. M.
Percival, Mr. P. E.
Rajan Baksh Shah, Mukhdum S.
Richey, Mr. J. A.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Sim, Mr. G. G.
Singh, Mr. S. N.
Sinha, Babu L. P.
Stanyon, Colonel Sir Henry.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.
Yamin Khap, Mr. M.

The motion was negatived.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

AGE OF CONSENT.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I beg for leave to introduce :

“ A Bill further to amend the Indian Penal Code.”

Honourable Members will see that my Bill is a very sharp one but it introduces a somewhat controversial question. The Indian Penal Code prescribes a certain age limit for the protection.....

Mr. President : Order, order. I think it might be for the convenience of the Honourable Member as well as of the House if I were to point out that a point of order will arise on his next motion before he proceeds further with his speech. He is in order in making the motion which he is now making, but, if he were to attempt to move

motion No. 11 on the paper, I should have to draw his attention to the fact that that motion has already been rejected in respect of the Bill which stood in the name of Rai Bahadur Bakshi Sohan Lal in the September session of last year; and, therefore, the motion standing in his name raises substantially the same question as on the motion in the name of the Honourable Member from Jullundur. He is perfectly in order in moving the present motion but that it is entirely nugatory in effect as far as the present session is concerned because the Bill cannot advance beyond the introduction stage.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : On a point of order, again, if that is so,—and I am quite sure that that is so—would not it apply to the motion now being moved because the question involved is substantially the same ?

Mr. President : Technically, it is not, because the Honourable Member is asking for leave to introduce a Bill which was introduced in a previous session and not in the present. I admit, from the point of view of pure common sense, the Honourable Member from Bengal is perfectly right, but, from the technical point of view, I cannot rule Dr. Gour out of order on this motion, though I must move him out of order on the next.

Dr. H. S. Gour : Well, Sir, you have not heard me yet on my next motion, namely, to refer the matter to a Select Committee, nor have the Legislative Department taken any objection to it. If you will allow me a little time, I will explain to you why my next motion is in order and is not out of order. I hope you have not made up your mind to decide before hearing me on the subject of my next motion.

Mr. President : As I pointed out to the Honourable Member, the Chair does not prejudge points of order before they arise ; but, foreseeing this point must arise, I have taken some trouble to decide how I should give the ruling when the occasion arose.

Dr. H. S. Gour : After hearing me, I suppose—yes. Well, Sir, I shall resume my speech. The Indian Penal Code prescribes a certain age limit for the protection of minor parents. That age limit was fixed in the Code of 1860 at 10 years. In 1891 the question was forced upon the attention of Government by a case of culpable homicide perpetrated by a husband upon his infant wife and the Government instituted inquiries and found that there were a large number of cases in which the husband, after marriage, hurried to consummation with the result that wives were at times grievously injured. An inquiry from the medical men disclosed the fact that in India the age of puberty was 14 years, but the Government for the time being said : We cannot by one leap raise the age limit from 10 to 14 and we shall therefore raise the age limit from 10 to 12. Consequently, the Age of Consent Bill of 1891 was passed, raising the age of consent from 10 to 12. My friend, Bakshi Sohan Lal in the September session of this House, introduced a Bill for raising the age of consent from 12 to 14. The Bill was introduced but, when the motion came up for its reference to the Select Committee, this House threw out his motion.

When I move my next motion, I shall explain how my motion is different to his, and why my motion cannot be barred by a Resolution of this

[Dr. H. S. Gour.]

House throwing out his motion in the last Session of this House. For the present, I rest content with asking this House to give me leave to introduce this measure, a leave which it has given before, a leave which is justified upon the grounds of public morality and private justice to the individuals directly affected by it. I hope, Sir, that the leave I crave for will be given.

Mr. President : Motion moved :

“That leave be given to introduce a Bill further to amend the Indian Penal Code.”

The Honourable Sir Malcolm Hailey (Home Member) : For my part, if this matter proceeds to a division, I shall vote against the Honourable Member, for, I conceive, Sir, that it is an abuse of the privileges of this House for a Member to insist on introducing his Bill and making a speech in favour of its introduction when he has been informed by the President, that he cannot proceed any further after the introduction stage.

Dr. H. S. Gour : I rise to a point of order, Sir. Is it the privilege of the House, when introducing a Bill, to take by anticipation an adverse decision though you have ruled that your decision will be after hearing me on the subject ?

Mr. President : I see no reason to quarrel with the Honourable the Home Member over the words he has used. I had expected that the Honourable Member would have taken the warning which I gave him. I told him that technically I could not rule him out of order on the first motion, but that his motion and the debate thereon would be entirely nugatory, because, when we came to the second motion, I should have to give a certain ruling on the subject.

The question is :

“That leave be given to introduce a Bill further to amend the Indian Penal Code.”

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 4th July, 1923.

LEGISLATIVE ASSEMBLY.

Wednesday, 4th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

EXPENDITURE ON EDUCATION IN AJMER-MERWARA.

117. ***Rai Bahadur Pandit J. L. Bhargava :** 1. (a) Will the Government be pleased to state the amount of expenditure on Education in the Ajmer-Merwara Province during the last 3 years ?

(b) Is it a fact that reductions have been or are proposed to be effected in such expenditure for the future ? If so, will the Government give their reasons for the same ?

2. (a) Are the Government aware that such reductions have caused much concern and anxiety to the people of that province, as evidenced in the public meeting held at Ajmer on June 13 ?

(b) Do the Government propose to take early and suitable steps to remove such anxiety ?

Mr. Denys Bray : 1. (a) Actuals for 1920-21 : Rs. 2,00,398 ; 1921-22, Rs. 2,33,894 ; Revised estimate for 1922-23, Rs. 2,30,000. I may add that the actuals for 1913-14 were Rs. 1,02,000.

(b) A reduction of Rs. 20,000 was made in the Budget for 1923-24. Further reductions have been proposed, but have not yet been carried out. The reasons are financial stringency and the recommendations of the Retrenchment Committee.

2. (a) Yes.

(b) The whole question is under discussion with the Chief Commissioner, Ajmer-Merwara.

Mr. S. C. Shahani : Will the Government be pleased to state if a reduction in the expenditure on education in the Ajmer-Merwara provinces has been recommended by the Retrenchment Committee and if the Government have realised the shortsightedness of the Committee in proposing reductions in expenditure on education.

Mr. Denys Bray : The answer to the first part of the question is, Yes. The second part is a matter of opinion.

Sir Deva Prasad Sarvadhikary : Is the Government in a position to make any statement as to the likelihood of an university being established for Rajputana about which public opinion has been insistent in its demand.

Mr. President : The Honourable Member had better give notice of that.

PUBLIC SERVICES COMMISSION.

118. *Rai Bahadur Pandit J. L. Bhargava : (a) Will the Government be pleased to state if the Government of India was consulted in the selection of the personnel of the Services Commission ?

(b) If so, did the Government recommend any member of either Chamber of the Indian Legislature for the same ?

The Honourable Sir Malcolm Hailey : The constitution of a Royal Commission is a matter exclusively within the discretion of the Crown. The Government of India were not formally consulted on the appointment of Members, but the Secretary of State referred to His Excellency the Governor General. His Excellency recommended the names of such gentlemen as were in his opinion, by their administrative experience and acquaintance with the problems to be dealt with by the Commission, specially qualified to assist its enquiries.

Rai Bahadur Bakshi Sohan Lal : Were the Government of India informally consulted ?

The Honourable Sir Malcolm Hailey : The Government of India cannot be informally consulted on any question.

Mr. K. Ahmed : Did some correspondence pass between the Government of India and the Secretary of State with regard to the appointment of the members of the Royal Commission ?

The Honourable Sir Malcolm Hailey : As I have said very clearly in the answer to the question, no correspondence passed between the Secretary of State and the Government of India in regard to the personnel of the commission.

Mr. K. Ahmed : Is it not a fact that the Government of India recommended the names of those members who were appointed ?

The Honourable Sir Malcolm Hailey : Either my answer must have been obscure or, if I may venture to suggest, there has been a certain lack of apprehension at the other end. It must have been perfectly clear that as the Government of India were not consulted and as no communication was sent to the Government of India, the Government of India did not recommend any names.

Mr. K. Ahmed : Were the names whispered or inspired by the Government of India ?

The Honourable Sir Malcolm Hailey : Will the Honourable Member repeat his question to the House, as a certain portion of it was obscured by laughter ?

Mr. K. Ahmed : I want to know whether some unknown force has been acting and vibrating in the air in England, when the Secretary of State made these nominations, Sir.

The Honourable Sir Malcolm Hailey : I think the Honourable Member had better consult our Wireless Department.

ABOLITION OF RUPEE NOTE

119. *Rai Bahadur Pandit J. L. Bhargava : Will the Government be pleased to state if they propose to accept the recommendations of the

Incheape Committee regarding the abolition of the issue of one rupee note ? If so, when do they propose to give effect to this recommendation ?

The Honourable Sir Basil Blackett : The Government of India are considering the question in consultation with Chambers of Commerce

CORRESPONDENCE WITH NON-OFFICIALS RE : QUESTIONS AND ANSWERS.

120. *Mr. K. Ahmed : Are the Government aware that it is derogatory to the principle of parliamentary practice that the members of the Indian Legislative Assembly in charge of Government departments allow their subordinates who are not members of the Legislature to correspond with the non-official members regarding answers to questions put by them in the House ?

Mr. President : Technically, this question might have been disallowed. It raises a question with which no Government Department is directly concerned, and for which the Legislative Department has no responsibility whatever. At the same time, as its terms indicate a misconception regarding the relations between Government Departments and Non-official Members of the Legislative Assembly, I propose to answer it. Not only is it not derogatory to the dignity of a Member of Parliament or a Member of the Legislative Assembly for him to receive communications from subordinate members of Government regarding the answers to his questions, but such a practice seems to me to indicate a courteous endeavour on the part of the Government of India and its servants to assist Members of the Legislature in the performance of their public duties.

RETRENCHMENT COMMITTEE: TERMS OF REFERENCE.

121. *Mr. K. Ahmed : (1) Will the Government be pleased to state in full whether they had anything to do with regard to the terms of reference to the Retrenchment Committee and the circumstances under which the said terms were made ?

(2) (a) Will the Government be pleased to lay on the table all the correspondence which passed between the Government of India, the Secretary of State and the Provincial Governments on the subject regarding Question No. (1) ?

(b) In the alternative, do Government propose to explain in full their justification in refusing to lay on the table all those correspondence ?

The Honourable Sir Basil Blackett : (1) The terms of reference were settled by the Government of India with the approval of the Secretary of State.

(2) (a) Government regret that they cannot comply with this request.

(b) It is not customary to place such correspondence on the table and Government do not see that any useful purpose would be served by doing so in the present case.

Mr. S. C. Shahani : Will the Government be pleased to state whether they will consider the desirability of consulting the Assembly before formulating terms of reference for committees that are appointed ?

The Honourable Sir Basil Blackett : I should like to have notice of that question, which raises very large issues.

QUESTION RE : RESOLUTIONS.

122. *Mr. K. Ahmed : Will the Government be pleased to answer 7 of my starred questions left unanswered last Session, their registered numbers being 1012 to 1018 ?

Mr. President : I feel that I must apologise to the Honourable Member for the delay in answering these questions. They are not matters which concern the Governor General in Council ; and it was, therefore, my intention to deal with them in Delhi, but unfortunately the files relating to them were mislaid during my illness last January. I propose to answer them now.

DISALLOWANCE OF RESOLUTIONS.

123. *Mr. K. Ahmed : Are the Government aware that great inconveniences are being felt by the Members of this Assembly owing to the Honourable President's disallowing Resolutions in certain forms in some session having already allowed the same on other previous sessions ?

Mr. President : I am not aware of any instance in which the complaint made by the Honourable Member in question is justified ; but if he will supply me with the necessary information, I will do my best to satisfy his inquiry.

PROCEDURE RE : ALLOWING OR DISALLOWING OF RESOLUTIONS.

124. *Mr. K. Ahmed : Is it a fact that Government departments sometimes take objections of the questions and Resolutions to be allowed by the Honourable President who, on hearing the said objections by the Government only, decides *ex parte* without the knowledge of the non-official members giving notice of them and disallows or allows them sometimes in full and sometimes in different forms ?

Mr. President : The admission of questions is a matter in which the responsibility rests solely with the President. When the President is in doubt as to whether any question deals with a matter with which the Governor General in Council is or is not primarily concerned, he usually consults the Member of Government within whose department the question appears to lie. I am glad to say that in all cases such information is promptly supplied ; but communications of this character in no way affect the responsibility of the President for the admission or disallowance of questions.

Mr. K. Ahmed : Is that the practice followed in the House of Commons, Sir ?

Mr. President : What practice in the House of Commons ?

Mr. K. Ahmed : Is it the practice in the House of Commons to allow or disallow questions and Resolutions *ex parte* ?

Mr. President : The circumstances in the House of Commons are not the same as the circumstances here. There is no necessity for Rule 7 in the Rules and Standing Orders in the House of Commons and therefore the necessity for allowing or disallowing questions on that ground does not arise.

Mr. S. G. Shahani : Will the Government be pleased to state if, in the matter of disallowance of questions and Resolutions, they would consider the advisability of according the President the advice of the panel of Chairmen ?

The Honourable Sir Malcolm Hailey : I do not think that is a suggestion for Government to take into consideration at all. As the Honourable President has explained, he is responsible in the matter not Government ; he seeks information from Members of Government purely on certain points of fact, namely, whether the subject matter of the question does or does not fall under the Devolution Rules within the sphere of the Central Government, and matters of a similar kind. The Honourable Member suggests that we should appoint a panel in order to help the President to scrutinise questions. Apart from other considerations, he has no doubt realized that a large number of questions come in when the Assembly is not sitting. They are considered by the President and allowed or disallowed by the President, in some cases a month in some cases six weeks before the Assembly sits. It would be impossible for us to have a panel sitting in advance of the meetings of the Assembly to scrutinise questions, nor indeed, if I may venture the suggestion, is scrutiny what is required. All that the Honourable President asks for is information. As a Government, we give information and information only.

Mr. T. V. Seshagiri Ayyar : May I take an objection in regard to this matter. It appears, Sir, that whenever there is any difficulty you consult or get information, as just now pointed out by the Leader of the House, from the Government Benches as regards allowance or disallowance of questions. Supposing you get information which to a certain extent satisfies you that the question should be disallowed, would it not be fair that the Member sending in the question should be informed of the grounds on which objection is taken to his question so that he may reply to the objection raised ?

Mr. President : That is precisely the course that is taken. The Secretary of the Assembly acting on my orders writes to the Member informing him that his question has either been admitted or disallowed. If it has been disallowed, or any portion of it disallowed, reference is made in the Secretary's letter to the Rule or Standing Order which the question has infringed ; and there have been cases, and a number of cases, in which Honourable Members have written to me pointing out that in their opinion the Rule in question did not apply, and in some cases I have found on consideration that they were right. As far as I am aware the Honourable Member from Bengal and his colleagues have no complaint on that score. I may add that in consulting Members of the Government I consult them solely on questions of fact, and it is not possible under the Rules and Standing Orders, under the Statute itself, for me to divest myself of that authority and to hand it over to anyone else.

RESOLUTIONS DISALLOWED.

125. *Mr. K. Ahmed : Will the Government be pleased to state the reasons why some of the Resolutions though allowed on previous sessions by the Honourable President are disallowed under Rule 22 (2) by His Excellency the Governor General after the expiry of the required period

(fortnight) and some of them are disallowed by the President alone and also by His Excellency the Governor General direct ?

Mr. President : If the Honourable Member will be good enough to read Chapter XI of the Manual of Business and Procedure he will find therein a complete answer to his question.

RESOLUTION RE : RAILWAY FACILITIES.

126. ***Mr. K. Ahmed :** Is it a fact that the Resolution on the subject of free Railway Pass and facilities to be given to the Members of the Assembly by the Government in discharge of their public duty, was allowed by the Honourable President in one Resolution in the last Delhi Session, 1922, and in the September Session held at Simla in 1921 and then it was split up into two Resolutions in the last September Session at Simla in 1922 ?

Mr. President : The facts are as stated by the Honourable Member whose lynx eye has enabled him to detect an inconsistency in the action of the Chair.

RULE RE : SUBJECT OF RESOLUTION.

127. ***Mr. K. Ahmed :** Is there any rule prescribed for the Members of this Assembly that they should form their separate Resolutions touching separately the subject of each department of the Government and that the same Resolution touching different departments should not be allowed by the Honourable President ?

Mr. President : The Honourable Member will find the answer to this question in Standing Order 59.

PERIOD OF NOTICE FOR ALLOWING OR DISALLOWING RESOLUTIONS.

128. ***Mr. K. Ahmed :** Is it a fact that a fortnight's notice for allowing or disallowing a Resolution is not always followed and that whether a particular Resolution is being allowed or disallowed, the Members of the Assembly are not in a position to know about it at once ?

Mr. President : I am not aware of any case in which the Rules and Standing Orders relating to the period of notice for Resolutions have been violated.

NOTICE TO MEMBERS RE : ALLOWING OR DISALLOWING OF RESOLUTIONS.

129. ***Mr. K. Ahmed :** Do Government propose to make it a rule and to intimate it by writing to Members sending in notice of a Resolution whether the Resolution is being allowed or disallowed immediately on and after the expiry of a fortnight for the benefit of the public ?

Mr. President : The Governor General in Council is not responsible in this matter. The orders of the President are taken by the Secretary to the Legislative Assembly and are invariably communicated to the Member concerned on the expiry of the period of notice. I shall be glad to be informed by the Honourable Member of any instance which he has in mind in which this practice has not been followed.

RESOLUTIONS DISALLOWED.

130. ***Mr. K. Ahmed :** Will the Government be pleased to lay on the table all the questions and Resolutions disallowed by the President

and the Viceroy since February 1921 up to the last September Session 1922, of both the Chambers of the Indian Legislature ?

Mr. President : The Honourable Member will find an answer to his question on page 985 of the Official Reports of the debates of the Legislative Assembly, Volume II, 1921.

CENSUS REPORTS OF 1921.

131. ***Mr. K. Ahmed :** Will the Government be pleased to state whether the census reports of 1921 have hitherto been published in full giving reasons why they have taken such a long time over it ?

The Honourable Sir Malcolm Hailey : The following Provincial Reports of the Census of 1921 have been published in full :—

Andamans and Nicobars, Assam, Bombay, Madras, North-West Frontier Province, United Provinces, Baroda, Central India, Cochin, Gwalior, Mysore, Rajputana and Ajmer-Merwara and Travancore.

The reports of other Provinces or States are in the Presses and should shortly appear. The preparation of the Report for India is well advanced and the Report should be published by November. In spite of various local difficulties the compilation of the mass of statistics returned at the Census has been carried through as fast as if not faster than on previous occasions. The issue of the reports has, however, been considerably delayed in some cases by the pressure of work in the Presses. In spite of the vast population and area dealt with the compilation of the results of the Census of the Indian Empire compares well in speed with that of Western countries. The preparation of the reports of the Census of England and Wales with a population equal to that of one large Indian Province held on June 20th, 1921, is still going on.

Mr. K. Ahmed : May I ask the period that it took 10 years ago to publish the Census Report of 1911 ?

The Honourable Sir Malcolm Hailey : I have not the exact details, Sir. I fancy however that we shall publish our Census Report earlier than the last was published.

Mr. K. Ahmed : Did the Report of 1911 take a longer or shorter period than the Report now under preparation has already taken ?

The Honourable Sir Malcolm Hailey : If the Honourable Member wishes I will give him the exact dates subsequently.

BONGONG-SATKHIRA RAILWAY.

132. ***Mr. K. Ahmed :** (1) Will the Government be pleased to state whether it is under contemplation to complete the Bongong-Satkhira line on the Eastern Bengal Railway which was sanctioned some years ago after the plan was measured and everything was made ready for its construction ?

(2) (a) Are the Government aware of the great inconvenience felt by the people of Satkhira, Khulna, Jessore, 24-Parganas and the general public including the Government officers visiting Satkhira on duty for want of Railway communications ?

(b) Do Government propose immediately for the benefit of the public to take proper steps in completing the Bongong-Satkhirra line and thereby remove the long-felt grievances of the people of those places?

Honourable Mr. C. A. Innes : (1) The construction of a railway from Satkhira to Bongong has not been sanctioned and there is no intention at present of making this line.

(2) (a) Yes. As the headquarter town of the Satkhira subdivision is 25 miles from the nearest Railway Station there is no doubt that a railway connection with Satkhira would be a public convenience.

(b) The financial prospects of the line do not justify its construction under present conditions.

OFFICERS, SOLDIERS, ETC., FROM INDIA EMPLOYED OUT OF INDIA.

133. ***Mr. K. Ahmed :** (1) Will the Government be pleased to state how many soldiers, officers and followers from India are in Constantinople, Palestine, Mesopotamia, Iraq, Mosul, Chanak, Lausanne, Angora and other places out of India with their full description and the method of the work they are engaged in?

(2) Do Government propose to recall them immediately?

Mr. E. Burdon : (1) and (2). No Military officers, soldiers or followers from India are employed in Constantinople, Chanak, Lausanne or Angora. I lay on the table a statement showing the number of military officers, etc., employed in Aden, the Malay States, Hong Kong, and North China, and the duties on which they are engaged. As regards other overseas areas, the attention of the Honourable Member is invited to the reply which I gave on the 24th March 1923 to question No. 626 asked in this Assembly by Mr. W. M. Hussanally. The Government of India do not propose to recall immediately any of the troops at present employed overseas.

INDIAN ARMY.

Detail of employment.	Station.	British Officers.	British Other Ranks.	Indian Officers.	Indian Other Ranks.	Followers.
Normal Overseas Garrison ...	Aden ..	67	26	57	1,535	215
Consular Guards and Escorts, and Infantry on normal duties.	Persian Gulf ...	12	9	27	955	54
Normal garrison duties overseas.	Malay States ...	16	...	19	712	49
	Hong Kong ...	10	2	24	883	69
Temporarily overseas ...	North China ...	15	...	22	860	51

Mr. K. Ahmed : Do the people of India get any benefit by sending officers, soldiers and followers from India to these places in Constantinople, Mesopotamia, Mosul, Chanak, Lausanne, Angora and other places?

Mr. E. Burdon : That, Sir, appears to me to be a matter of opinion. The opinion that it is to the benefit of India that troops should be so employed is the opinion adopted by this Legislative Assembly in the Resolution quoted in the reply given to Mr. Wali Muhammad Hussanally's question to which I have just referred the Honourable Member.

MUSLIM PILGRIMS TO MECCA.

134. ***Mr. K. Ahmed :** Will the Government be pleased to state the number of Muslim pilgrims who have gone to Mecca for Haj this year and state the proportion of them in comparison to the other previous years?

Mr. M. S. D. Butler : According to reports received from the Government of Bombay the number of Muslim pilgrims who went for the Haj from the ports of Bombay and Karachi during the current pilgrim season was 18,032 up to the 25th June 1923. From 1919 to 1922 the numbers have been 12,121, 22,089, 10,854 and 12,550 respectively.

Haji Wajihuddin : May I know how many men are lying in Bombay waiting for steamers?

Mr. M. S. D. Butler : The Honourable Member will receive that answer in reply to the next question.

HARDSHIPS OF PILGRIMS.

135. ***Mr. K. Ahmed :** Are the Government aware of the great hardship the pilgrims have to undergo for want of easy convenience of travelling during the scorching heat? What are the approximate number of them who were unable to go to Mecca for want of steamers?

Mr. M. S. D. Butler : The Government of India are aware that a number of pilgrims had to suffer some inconvenience in Bombay owing to shortage of ships in June. But at the end of the season there were no pilgrims who purchased tickets who were unable to go to Mecca for want of steamers.

Mr. W. M. Hussanally : Is it a fact that the accommodation for these pilgrims in Bombay is very small, and pilgrims are obliged to live and sleep on streets in the city of Bombay while they are waiting for ships?

Mr. M. S. D. Butler : Musafarkhanas are provided in Bombay which are ordinarily adequate for the number of pilgrims who go there. During the present season, owing to the unusual rush, these Musafarkhanas were very much over-crowded.

Haji Wajihuddin : May I know what arrangements were made this year by the Government of India to provide sufficient steamers for the extraordinarily large number of pilgrims sailing from Bombay, and for the appointment of a special officer to look after the comfort of pilgrims outside India?

Mr. M. S. D. Butler : The Government does not provide ships, but owing to their efforts this season, despite the unusual rush, every pilgrim who had the money to go was enabled to go. The Government of India have recently appointed a pilgrimage officer as desired by the Honourable Member.

Mr. K. Ahmed : Is it a fact that the Government of India,—or probably the Government of Bengal forwarded a memorial to the Department sent by Maulana Abu Bakr of Furfura in Bengal saying that he took 8,000 pilgrims from the Howrah station to Bombay by a special train and, that they were stranded, and could not find accommodation to stay there? Was the memorial from Bengal forwarded to the Government of India at all, Sir?

Mr. M. S. D. Butler : I am afraid I did not catch what the Honourable Member said.

Mr. K. Ahmed : Is it not a fact, Sir, that Maulana Abu Bakr (Furfura) of Bengal took 8,000 pilgrims from the Howrah station in Calcutta to Bombay by special train on their way to Mecca and were stranded there for weeks and weeks and sufficient accommodation was not supplied to them at Bombay? How long were they detained for want of steamers at Bombay to go to Jeddah, Sir?

Mr. President : If the Honourable Member wants accurate information, he had better give notice of that question.

Mr. W. M. Hussanally : Do the Government propose to open the port of Madras for pilgrims to the Hedjaz?

Mr. M. S. D. Butler : The next question deals with that point.

OPENING OF CALCUTTA, MADRAS, ETC., FOR PILGRIM TRAFFIC.

136. **Mr. K. Ahmed :** (a) Is it a fact that Government of India promised in either one or both the Chambers that they will take steps to open the ports of Calcutta, Madras and other places for pilgrim traffic to Mecca and other Holy places?

(b) If the answer is in the affirmative, will the Government be pleased to state what steps they have taken to give effect to their promise, if there be any, and in full explain their justification in notifying to the public that pilgrims should not any more go to Bombay on their way to Mecca as there are no steamers available for the pilgrimage this year?

Mr. M. S. D. Butler : (a) A Resolution recommending the opening of the port of Madras for pilgrim traffic to the Hedjaz was adopted by the Council of State on the 13th February 1922, while a similar Resolution about the opening of the port of Calcutta was adopted by the Legislative Assembly on the 9th March 1922.

(b) The Government of India have decided that owing to financial stringency the time is not opportune for deciding whether the port of Madras should or should not be opened for pilgrim traffic. The Government of Madras and the Standing Committee of the Legislature, who were consulted in the matter, were of the same opinion. The question of opening the port of Calcutta to pilgrim traffic is still under consideration. As regards the last part of the question the facts are that there were more pilgrims in Bombay in the month of June than there were ships readily available. Consequently the local authorities notified the authorities in Calcutta of the situation in order to save pilgrims who were waiting to start from there from unnecessary expense and disappointment.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I beg to move :

“ That the name of Sir Henry Stanyon may be added to the Select Committee to consider my Bill further to amend the Code of Civil Procedure.”

Mr. President : Has the Honourable Member had the authority of Sir Henry Stanyon?

Lala Girdharilal Agarwala : Yes, Sir.

Mr. President : The question is :

“ That the name of Sir Henry Stanyon be added to the Select Committee to consider the Bill further to amend the Code of Civil Procedure.”

The motion was adopted.

Mr. W. M. Hussanally (Sind : Muhammandan Rural) : Sir, shall I be in order if I put forward another name also for the same Select Committee? I should like to propose the name of Mr. Harchandrai Vishindas.

The Honourable Sir Malcolm Hailey (Home Member) : Might I ask, Sir, if Mr. Agarwala did not previously consult you on the subject, and was it not through your courtesy that we were also consulted on that matter? It is not easy for us to face proposals of this nature without any previous notice. The matter of the appointment of the Select Committee is really not now before the House at all; it would have been a convenience if, when the constitution of the Select Committee was under consideration, the Honourable Member had considered whether that constitution was complete or not and made his proposals then.

Mr. W. M. Hussanally : That is exactly the reason why I asked if I would be in order. I did not know that this matter would be brought forward by Mr. Agarwala to-day, but when he did, I thought I might as well propose another name, yet I was not sure if I would be in order not having given previous notice.

Mr. President : I should not have accepted any motion of this character had it not been for the fact that the Committee needed a Chairman. I wish in no way to reflect upon the character or intelligence of the Honourable Member whom Mr. Hussanally has proposed, but in this case Sir Henry Stanyon stood in a special position and therefore the motion to propose his name as a member of the Select Committee was one which I did not hesitate to accept.

The Honourable Sir Malcolm Hailey : I also did not wish to cast any reflection whatever on Mr. Harchandrai Vishindas. It was only on the matter of procedure to which I objected.

Lala Girdharilal Agarwala : As Messrs. Rangachariar and Abul Kasem, two members of the Select Committee, were absent I wanted one

other gentleman to be on the Select Committee who might be one of the panel of Chairmen, to complete the constitution of the Select Committee. Therefore I was compelled to request my Honourable friend, Sir Henry Stanyon, to accept it.

RESOLUTION RE GIVING EFFECT TO RESOLUTIONS OF ASSEMBLY IN CONNECTION WITH ESHER COMMITTEE'S REPORT.

ADMISSION OF INDIANS INTO ALL BRANCHES OF THE ARMY.

Sir P. S. Sivaswamy Aiyer. (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I rise to move the first Resolution on the agenda to-day. It is in these terms :

" This Assembly recommends to the Governor General in Council that he will be pleased to urge upon the Imperial Government the necessity for promptly giving effect to Resolutions 7, 8, 10 and 11 of the Assembly passed on the 28th of March, 1921, in connection with the Esher Committee's Report with the concurrence of the Government of India."

These Resolutions were passed with the concurrence of the Government of India, and they have not yet been fully given effect to. I do not suppose that much argument will be necessary on my part to persuade the Government to return to the charge in respect of those portions of the Resolutions which have not been already carried out ; I need hardly tell the House that these Resolutions 7, 8, 10 and 11 were perhaps the most important of the Resolutions which were passed on that occasion in connection with the Esher Committee's Report. They have been given effect to only in part and my object in moving this Resolution is to ask the House to consider the progress made in carrying out these Resolutions, to express its opinion as to the very unsatisfactory character of the progress, and to urge upon the Government to make a further representation. Mr. Burdon was good enough to furnish us two days ago with a statement analysing the demands of the Assembly contained in the Resolutions referred to and showing what progress had been made in the matter of giving effect to these various Resolutions. I propose to refer in some detail to this statement which was furnished by Mr. Burdon and point out how halting and unsatisfactory the progress has been. The first matter to which I wish to refer is the request of the Assembly that the King Emperor's Indian subjects should be freely admitted to all arms of His Majesty's Military, Naval and Air Forces in India. Now the reply is this : " Indians are now eligible for admission to all ranks of the Cavalry and Infantry Arms of the Indian Army ". That is no news to us. They were eligible and they are eligible. There has been no further step taken in that matter. It is said that " the proposal that Indians should be admitted to the Royal Artillery and the Royal Engineers which are branches of the British Unit of the Indian Army has not yet been agreed to." I understand from Mr. Burdon that the word ' yet ' has crept in there by mistake and that he really meant to inform us that these proposals have been rejected. The words " has not been agreed to " are perhaps ambiguous. They do not

state at which end of the cable the hitch has arisen. But *prima facie* the hitch has not arisen at this end for we know that the Government of India concurred in the Resolutions which were passed. Apparently it means that the hitch has arisen at the other end and that these proposals have not been agreed to, or have been rejected, by the Imperial Government. The position, then, is this ; what we desired was the declaration of the eligibility of Indians to branches of the Army to which they were not eligible previously. They were eligible to the Cavalry and to the Infantry. What they were not eligible to was the Engineers and the Artillery, the Air Forces and so on. Now this statement that these are branches of the British Army and not of the Indian Army is perhaps meant to suggest a reason for the refusal of the Imperial Government to accede to our request. But that, I submit, is no satisfactory reason. It is true that the units of the Royal Artillery and of the Royal Engineers now in India are British units, and it may be that there are insuperable difficulties in the way of admitting Indians into British units ; but that was not what we desired. Our object was to have it declared that Indians are eligible to the Artillery and Engineers. If necessary let Indian units of Artillery and Indian units of Engineers be formed in India and if any question of cost should arise, let a certain number of British Artillery units and British Engineer units be replaced by the Indian units. That is the solution of any difficulty which might arise from the fact that the Artillery and the Engineers are British units. It is really no answer at all to our claim to be admitted into branches of the Army to which we were not admitted before. With regard to the admissibility of the Indians to the Marine services, we know that it is a subject which will come up for examination before the Committee which was appointed to inquire into that question. I shall not therefore trouble the House with any remarks upon that matter. Then, with regard to the Air Forces, it is stated the proposal that Indians should be admitted to the Royal Air Force, which is also a British service establishment, has not been agreed to. The remarks which I made in connection with the Artillery and the Engineers are equally applicable to the Royal Air Force. The fact that they are British units is no answer at all to our claim. In fact I should suggest that if this attitude is persisted in that Indians cannot be admitted into the Air Force or into the Artillery or the Engineers because they have got only British units and no Indian units, it will be necessary for us to take up the position that if there is no provision made for the admission of Indians and their training in these various arms of the defensive force, we should call upon the Imperial Government to foot the Bill in respect of these services, into which Indians have no right of admission and which are maintained by the recruitment of Britishers only. It seems to me, therefore, that these difficulties are not really of an insuperable character.

The next item is that Indians should be freely admitted to the auxiliary services and the auxiliary forces. The answer is " Indian officers of the Indian Army holding the King's Commissions are equally eligible with British officers of the Indian Army for admission to the Indian Army Departments, namely, the Indian Army Service Corps, the Indian Army Ordnance Corps, the Indian Farms Department, etc. Indian officers will, however, be required to satisfy the same conditions as British officers, that

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is to say, they must enter the Army as combatants in the first instance and then have some years' experience of regimental life and obtain certain prescribed qualifications." Now, it may possibly be news to many of the members that service in the combatant ranks is necessary for admission to these auxiliary forces and that it is necessary for an officer to obtain a King's Commission in the combatant ranks before he is eligible to these auxiliary forces. With that position, which I presume to be correct, I do not propose to quarrel, but I think it is necessary to publish the fact that Indian officers holding King's Commissions are eligible for appointments in these auxiliary services and that there is no bar to their entertainment, apart from the conditions which are applicable to all alike. That I think is necessary. In this connection another matter which I should like to bring out and which may have connection with another item to be mentioned later on is this. The number of recruitments made annually for King's Commissions was stated by Sir Godfrey Fell two years ago to be about 10 a year or so out of 50 vacancies to be filled up. Now, it struck me as somewhat curious that for the whole Army which consists, I believe, of over 4,000 officers including the regular, the auxiliary and the other services, the rate of decrement should be so small that the number of annual vacancies to be filled up in the King's Commissions should only be 50 or 60.

I know that in the Civil Service, which consists of a much smaller cadre, the rate of decrement is larger and the number of vacancies annually thrown open is larger. One would have thought that in the military service the rate of decrement would perhaps be a little faster, but probably military service may have a tendency to prolong life, the number of annual vacancies may perhaps be as stated. But I should like the authorities to examine the question and give us correct information as to whether the 50 or 60 annual vacancies in the King's Commissions have been correctly calculated with reference to the total strength of officers, including the ancillary services. Of course, if it has been correctly calculated, I have no quarrel. I have simply stated that, *prima facie*, it strikes one as rather curious that in the whole Army, which consists of thousands of officers, the annual number of King's Commissions to be thrown open should be so small as 50 to 60.

Then, Sir, the next item is this. We suggested that every encouragement should be given to Indians, including the educated middle class, subject to the prescribed standards of fitness. The answer is that it is being done. I do not wish to go further into that matter.

The next is that in the nomination of candidates for the examinations non-official Indians should be associated. The answer is that this practice has been adopted. What I beg to suggest is, not merely that there should be non-official Indians associated on some selection board in the Provinces, but that, if possible, there should be a central advisory board here at the headquarters. I trust it is no reflection at all upon the judgment of the authorities at the headquarters if I suggest that it would be an advantage to have a central advisory board associated with the authorities here in making a selection out of the names of the candidates who might have been nominated by the Local Governments, for I take it that the number of

candidates nominated by the Local Governments is not exactly equal to the number who have to be selected. I believe they send up a larger number of names, and it is the headquarters that selects persons out of these nominees, after a personal interview with His Excellency the Commander-in-Chief, and perhaps with higher authority. The responsibility for the selection undoubtedly rests with His Excellency the Commander-in-Chief and with His Excellency the Viceroy. I submit it would be no disparagement at all of their judgment to suggest that a small committee of non-officials might be associated with them in making the selections. I do not believe it can be claimed that the selections made have all turned out quite good bargains. If they have not turned out good bargains, it might very probably be due to the unfitness of the candidates. But if there had been some non-officials associated, it is quite possible that they might have been in a position to assist or advise the authorities here as to the rejection of certain candidates and the selection of fit candidates.

The next item of recommendation with which I propose to trouble the House is this, that not less than 25 per cent. of the King's Commissions granted every year should be given to His Majesty's Indian subjects to start with. The answer is that full effect has not been given to this recommendation. During the past few years 10 Commissions out of 50 annually have been reserved for Indians. In connection with this I need only call attention to the remarks I made about the number of Commissions annually thrown open. I should like to have accurate figures as to the number of Commissions annually filled up and I should like to urge upon the Imperial Government the necessity of carrying out this Resolution in its entirety by starting with at least the minimum percentage of 25. It has not been stated in the answer that it has not been possible to secure 25 per cent.; all that is stated is that 10 Commissions have been reserved every year. Why it is not possible to reserve more Commissions we do not know, and here we call upon the Government to give effect to this part of our Resolution. Here I do not know where the hitch has arisen. Possibly the native hue of the Government's Resolution might have been sicklied over with the pale cast of thought. I should like to be informed whether the trouble has arisen here or at another place.

The next item was that adequate facilities should be provided in India for the preliminary training of Indians to fit them to enter the Royal Indian Military College, Sandhurst. The reply, as we all know, is that a so-called College has been started at Dehra Dun. I use the word 'so-called' because it really is a high school. Of course it may be a good thing to give it an attractive name such as College. Now what we really want is, not merely one preliminary training institution like Dehra Dun, but at least one more. In spite of the vast size of this country, Dehra Dun is the only place in the whole of this sub-continent to which recruits have to be sent. To realise the conditions, just imagine a candidate in England having to be sent to Russia for training for entrance to Sandhurst or some other institution. The distance is quite as vast. A candidate, say from the South of India, or the East Coast of India, or from Burma has now to go to Dehra Dun. I respectfully suggest the opening of another school at Bangalore or Poona whichever the authorities may prefer, which might be convenient to other parts of India as well.

[Sir P. S. Sivaswamy Aiyer.]

The next recommendation was that, as soon as funds were available, steps should be taken to establish in India a military college such as Sandhurst. The answer is, this recommendation has not yet been agreed to. I do not know whether the 'yet' here also is a *lapsus calami*, whether it is still under consideration, or whether the formula that 'it has not been agreed to' means it has been rejected. I hope it does not mean that, because the next sentence says, "amongst other things, the financial condition laid down has not yet been satisfied." I venture to draw some hope from the manner in which this sentence is worded, and I take it to mean that this proposal has not been definitely rejected. The financial condition has not been satisfied because funds are not available. Now if the Government would kindly give us some idea of the cost of running a regular institution like Sandhurst, it might be possible for us to help them with suggestions as to ways and means. There are, for instance, items of expenditure which we at any rate would have no hesitation in proposing a retrenchment of. For instance, there are schools of education for the British wing of the Army which are meant to train up British soldiers for avocations in after life, after their discharge. Now, that is an item which has all along appeared to me to be one which ought not to be thrown upon the Indian Exchequer at all, because the soldiers to be trained are not going to live in this country and earn their livelihood here, but are going back to their own country. Now, we might be able to suggest various other ways and means with regard to meeting the cost. If the Government will kindly tell us what the other obstacles are to the opening of a military college like Sandhurst, it might be possible for us to suggest ways of getting over them.

The next item recommended by the Assembly was that the desirability of establishing in India training and educational institutions for other branches of the Army should be kept in view. It is said that it is impracticable at present to take any definite action towards carrying out this recommendation. Of course, our recommendation did not request the Government to carry it out at once but merely asked them to keep the desirability of establishing such institutions in view. We do not know whether it is still being kept in view or has been lost sight of or whether the difficulty referred to is a difficulty of funds. However, there is one sentiment to which I think I may give expression with some confidence, namely, that in these matters of training Indians to take their part in the defence of the country, if expenditure is really necessary, the country will not be unwilling to find ways and means of providing for it, and we shall be very pleased if the Government will tell us what their plans are and what the cost would be.

The next recommendation was that a territorial force should be formed on attractive lines. The answer is that the Indian Territorial Force has been created and the results of the training carried out in the first year of the existence of the Force have been satisfactory, and that recruiting results are also satisfactory. With regard to this subject of the Territorial Force and the lines upon which it has been formed, it would perhaps be rash for a layman like myself to express any opinion with any confidence, and I must confess that I have not been able to study the subject or exactly

understand and appreciate the lines on which the Territorial Force is now being organised; but I understand that the principle upon which the Territorial Force is being organised is that it should take the place of a second line of reserve. I am not sure whether I am correct in my assumption but I am merely stating what my impression of the situation is. I believe that the Territorial Force is, unlike the Auxiliary Force, liable to service outside of India. If I am right in my surmise, it seems to me that that policy requires further consideration. It is not that I am opposed to the formation of a second line of reserve or of a reserve at all. Reserves are necessary and essential, but the question is what is the proper function of a Territorial Force. So far as the Auxiliary Force is concerned, I believe that it is not intended to send them out of the country for service, but, so far as the Territorial Force is concerned, I understand the conditions are different. I may also point out here that, according to the English Territorial Forces Act, 1907,—the Territorial Force was not and perhaps is not liable to be sent out of the country without its consent. Of course, I am speaking subject to correction, but I took a brief opportunity of consulting a book, the authority of which perhaps His Excellency the Commander-in-Chief may acknowledge—Lord Halsbury's "Laws of England". In the section on the Territorial Force, he says:

"The Crown may raise and maintain a force called the Territorial Force, any part of which is liable to serve in any part of the United Kingdom, but may not without its consent be carried or ordered to go out of the United Kingdom."

(His Excellency the Commander-in-Chief: "What is the date of that?") The date was 1913. It may be it has been amended since. I do not pretend to be an expert in military law but I am only stating what I have gathered. Be that as it may, I am right in making this statement that, when the Territorial Force was started in England, it was started with the object of making it liable to service inside the country and not outside. Subsequently, if I understand His Excellency aright, the law was changed so as to make them liable to service outside. What I wish to observe is this that in the matter of the formation of a Territorial Force we are not prepared to adopt the cautious lines on which the Territorial Force was formed even in a country with military instincts, where the people are accustomed to the idea of military service; and the authorities are anxious to organize the force on the lines finally adopted in England. In some matters, notably in matters political, we know we adopt the motto "*Festina lente*," but in other matters like this we are prepared to adopt the final form reached in the evolution of the Territorial Force in England for the organisation of our force here. Well, I do not wish to go further into the question. It may be said that, from the point of view of military efficiency, it is necessary that the final form reached in the evolution of the Territorial Force in England should also be adopted in this country. But there is one point which arises here. What, have you done in the case of the Auxiliary Force? Why do you not make them also liable to service outside India? If the Auxiliary Force is not liable to service outside India—I speak subject to correction—and is more or less meant for the purpose of training a large number of Europeans and Anglo-Indians in the country to deal with disturbances of the internal security, why do you not form a similar organisation with regard to Indians or declare that Indians also are liable to be enrolled, not necessarily in the same unit of the Auxiliary Force but in separate units

[Sir P. S. Sivaswamy Aiyer.]

of the Auxiliary Force? I am not quarrelling with your organisation of a Territorial Force with its liability to serve abroad, but, if that is to be the ideal of the Auxiliary Force—I am using the word “Auxiliary” in the broad sense—then, do one of two things. Either make the Auxiliary Force in the narrow sense liable to serve outside India or allow us to form Indian units of the Auxiliary Force. It cannot be said that the distinctions between the Auxiliary Force and the Territorial Force, which it was the object of the Assembly to get rid of, have been touched.

Then, the next point was this that a gradual and prudent reduction of the ratio of British to Indian troops should be carried out. I do not propose to go into that very large question of policy here. The next recommendation was that officers in the Indian Territorial Force should have the rank of Second-Lieutenant or higher rank as the case may be and that no distinction should be made between the Indian Territorial Force and the Indian Auxiliary Force in respect of the authority which signs the commissions; and that officers in these two forces should take rank *inter se* according to the date of appointment. The answer is, as an *interim* arrangement it has been decided to grant officers in the Indian Territorial Force honorary commissions in His Majesty's Land Forces which confer the titles of rank used in the British Army. These questions have not yet been finally decided for the reason that the form of commission to be granted to officers of the Auxiliary Force as a permanent arrangement has not yet been settled.

Apparently the question has been under consideration during these two years and is said to be still under consideration. I only hope that the question will be settled in a satisfactory manner. (Mr. N. M. Samarth : “At an early date.”) Now I have done with the various recommendations made by the Assembly in its Resolutions of the 28th March 1921. It remains for us now to press the Government again to make a further representation to the authorities at home. We know that the influence of the War Office is great, is very conservative, and very baleful. But we know also and we are glad to remember that His Excellency the Commander-in-Chief told us on one occasion that he was a servant of the Assembly and that you could trust him to fight our battles not merely on the battlefield but in the Council Chamber, with every weapon in his hand (Hear, hear) including even the civilian's weapon, of the pen! I hope that the Government will not let the grass grow under their feet. I hope that they do not require any persuasion from the Assembly to recur to those subjects, to make a further representation to the Imperial Government and to urge upon them the necessity for giving effect to those Resolutions of the Assembly as early as possible—Resolutions, which voice, I may say with confidence, the public opinion of this country. It has often been said—sometimes even by our official friends—that we do not possess a representative character. Now in this matter at any rate I have no hesitation in saying that in formulating those recommendations we voice the public opinion of the country. After those Resolutions were passed when I went to Madras I met a young journalist who asked me “When do you think these Resolutions will be carried into effect?” In my innocence I was sanguine enough to imagine that the Resolutions having been passed with

the concurrence of the Government of India and the Joint Select Committee having said that in matters in which the Government of India and the Legislative Assembly were in accord, the Secretary of State should not interfere—I was sanguine enough to think that the Resolutions would be carried out in the course of a year or two. But I have been disillusioned, and my hope in the fulfilment of the promises made by the Government has been very considerably chastened. I hope that the Government will apply themselves again to this task with all the earnestness at their command and see that these Resolutions are carried out at as early a date as possible.

Mr. E. Burdon (Army Secretary) : With the permission of the Chair I desire to move an amendment to the Resolution of my Honourable friend. The occasion for my doing so arises primarily out of the fact—which is very clearly demonstrated by the reply I gave two days ago to a question asked by the Honourable Member on precisely the same subject as that with which the present Resolution deals—the fact, namely, that effect has already been given to a considerable number of the recommendations embodied in Resolutions Nos. 7, 8, 10 and 11 of this Assembly passed on the 28th March 1921, on the discussion of the Esher Committee's Report. I think the House will agree that it is only right that their proceedings to-day should recognise that this measure of progress has been achieved. As regards the remaining recommendations, which so far are unfulfilled, the amended proposal which I wish to place before the House does not seek in any way to run counter to the policy or the principles which are advocated by the Resolution of the Honourable Mover. It seeks only, for very practical reasons—which, if I am permitted, I will explain later on—to moderate the pace at which the Government should be asked to proceed in order to achieve the object in view. The amendment which I desire to move is as follows :

“That for the words ‘urge upon’ to the end of the Resolution, the following be substituted, namely, ‘take the first favourable opportunity of representing once more to His Majesty's Government the necessity and desirability of giving effect, as soon as circumstances render it practicable and advisable to do so, to those portions of Resolutions Nos. 7, 8, 10 and 11 of the Legislative Assembly passed on the 28th March 1921, which have not yet been carried out’.”

I imagine, Sir, that all Honourable Members may not have before them the full text of the reply which I gave to my Honourable friend Sir Sivaswamy Aiyer two days ago on the subject of this Resolution. The substance was embodied in the statement laid upon the table to which my Honourable friend has himself referred. But, if I may be permitted to say so, the Honourable Mover very naturally stressed, in support of his arguments, those recommendations which have not been fulfilled; and I think it is natural, and I think it is desirable, that I should endeavour to place the emphasis which I consider to be due on those recommendations which have so far been carried out.

In the first place, the Honourable Mover pointed out that before the Resolutions of March 1921 were passed, Indians were already eligible for admission to all ranks of the Cavalry and Infantry arms of the Indian Army and that therefore since those Resolutions were passed no new steps have been taken in this matter. That of course is per-

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fectly true; but, on the other hand, it seems to me that the really important thing is that, since the Resolution was passed, a very great, a very real advance has been made in providing the means whereby Indians can qualify for commissions. I may mention here that the four Resolutions with which the present discussion deals can be split up into no less than 15 separate propositions, of which the greater number, I may say, have actually been carried out; and I wish to refer particularly to the third of these propositions, which is that every encouragement should be given to Indians including the educated middle classes, subject to the prescribed standards of fitness, to enter the commissioned ranks of the Army. Now the measures taken giving effect to this recommendation can be summarised as follows: In the first place, we have established the Royal Indian Military College at Dehra Dun. The Assembly has heard a good deal about this College, and I only wish that Members of the Assembly had visited it, as I did during the last Easter holidays. I am perfectly certain it would have left a very strong impression on their minds, a very strong impression of the great efficiency of the arrangements which we have made for the purpose of training boys to qualify for Sandhurst. In addition, Government have arrived at the decision, which is in process of being carried out, to establish schools which will give education to boys preparatory to their education at Dehra Dun. The capital sum required for the construction of these schools has been provided by His Majesty the King Emperor. Again,—this is another means of encouragement and help—the fees for education at Dehra Dun have been fixed below actual cost and certain further concessions in the shape of reduced fees are granted to deserving candidates whose parents could not otherwise afford to send them to the school. Concessions and facilities of various kinds are given to enable qualified candidates to proceed to Sandhurst. These include free passage to and from England and they also include a very important concession of which, I think, Honourable Members of this House are not aware, namely, the grant of King's, and Honorary King's, India Cadetships. A King's India Cadetship is granted to the son of an Indian gentleman who has rendered long and distinguished service to the Crown. Its grant is in the first place honorific, but actually in the majority of cases the grant of a cadetship carries with it in addition the remission or a substantial reduction of the fees payable at Sandhurst.

There is another point, Sir. I am afraid this was not included in my statement, but it occurred to me afterwards as a very important item in this category of encouragement. In the earlier phase of Indianisation the examination by which Indian boys required to qualify for Sandhurst is very much simpler and easier than the examination to which British boys are subjected. Finally, some time ago it was agreed by His Majesty's Government that in the case of Indian cadetships desiring to proceed to Sandhurst, the upper age limit should be raised temporarily to 20 years from 19. The object of this was of course to repair in the later stages the inferiority of the educational advantages which at the present moment are enjoyed by many of the Indian boys who

desire to qualify for an army career. This concludes that particular item.

Then there are some subsidiary matters, subsidiary in a way, but matters to which, I know, this House and the people of India attach very great importance, namely, that in selecting candidates for Sandhurst the general principle should be that the large majority of the selections should be from the communities which furnish recruits, and as far as possible, in proportion to the numbers in which they furnish recruits for the army. A great deal of stress has been laid on this aspect of the matter, and this principle has been observed in practice ever since the Resolution was passed. A connected recommendation is that due regard should be given to the claims of the educated middle classes. That has also been given effect. It is embodied in the Regulations and observed in practice.

I turn now to certain observations which my Honourable friend made and certain requests which he made for information. With reference to the recommendation that no less than 25 per cent. of King's Commissions granted every year should be given to His Majesty's Indian subjects to start with—with reference to this, my Honourable friend pointed out that the total number of commissions granted annually is curiously low as compared with the normal decrement in the civil public services. I can explain that point at once. The normal decrement of course is much higher, but for some years past the annual intake has been limited to 50, because we had a certain number of surplus officers, and it was not necessary to take in new recruits while we had the services available of those officers whom it was desirable to retain. Again, this process, more or less, is still going on. It was only a month or two ago that a regiment came back from overseas where it had been on garrison duty. It is no longer required for that purpose and the regiment was disbanded and consequently a certain number of officers are available, and therefore it relieves the necessity of recruiting fresh candidates, and it will be some time before we can rise again to the full actuarial number of new recruits to be taken in.

There is another observation, which my Honourable friend made. He referred to the British Army School of Education and suggested that this institution exists for the purpose of giving British soldiers an education which will enable them to earn their living when they return to civilian life. My Honourable friend is mistaken. The school exists for the purpose of giving British soldiers that education which, according to modern theory, is held to be necessary in order to make them efficient soldiers. The question of vocational training to fit a soldier for his civilian life is an entirely separate matter, and in India we have been able to provide for this by an arrangement with industrialists in Calcutta which is carried out without expense to Government at all.

My Honourable friend also asked me if I could give him any idea as to what the cost of Sandhurst is. My recollection is that the cost to the Home Government of Sandhurst works out to between £700 and £800 a year for each student. That is my recollection, but of course the cost would vary very largely with the number of students being educated

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at the College. I do not propose to follow my Honourable friend into his discussions regarding the functions which should be assigned to the Territorial Force and the Auxiliary Force respectively. If I may say so, perhaps he was travelling slightly outside his Resolution. The functions of the Territorial Force and of the Auxiliary Force are laid down by statute, and in regard to the suggestion that the Territorial Force should be confined to Home defence instead of being required to undertake the liability to serve overseas to reinforce the regular army, I can only say that we have received more than one representation to the effect that the existing liability of the Territorial Force to undertake internal security duties should be taken away. However, as my Honourable friend has recognised, these questions involve large separate issues of policy which should not, I think, enter into the present discussion.

There is another matter in the statement which, in my opinion, is one of importance but which, I find, my Honourable friend has not mentioned. It is the recommendation that a system of short colour service followed by a few years in the reserve should be introduced in the Army. This recommendation is one of considerable importance. If it could be fulfilled, it would undoubtedly enable important economies to be effected, because the essence of this recommendation is that a portion of the reinforcements required in war should in peace time be held in reserve instead of on the active list. As regards the action taken on this, I would ask Honourable Members to refer to paragraph 5 on page 10 of the Retrenchment Committee's Report in which a proposal of the same character is advocated, a proposal which would involve very important economies to be obtained. The views of the Government of India on this proposal are now before the Secretary of State.

My Honourable friend also made only a passing reference to the recommendation that a gradual and prudent reduction of the ratio of British to Indian troops should be carried out. Without entering into any discussion of the question of ratio as such, I do think it is important that I should draw the attention of the House to the fact that the recommendations of the Incheape Committee involve important reductions of British troops which, if carried out, as they undoubtedly will be, in considerable measure if not altogether, will enable very large economies to be effected.

Well, Sir, notwithstanding what my Honourable friend Sir Sivawamy Aiyer has said, I venture to express the opinion that in the facts which I have just recited Honourable Members of this House should find solid ground for satisfaction. It is evident to me, and I think it will be evident to many, that substantial progress has been made in the direction of enabling Indians to serve their country in the Army. I say with confidence myself that the foundations have been well and prudently laid. The principal recommendations which remain unfulfilled are as follows :

- (1) The proposal that Indians should be admitted to the commissioned ranks of the Royal Artillery, Royal Engineers and the Royal Air Force.

- (2) The proposal to increase to 25 per cent. of the annual total the number of commissions granted to Indians.

- (3) The proposal to establish an Indian Sandhurst.

Well, Sir, as my Honourable friend has pointed out, these Resolutions were adopted with the concurrence of the Government of India, and I may say that the proposals were duly laid before His Majesty's Government. But they have not been accepted. I will state briefly the chief reasons for this decision. His Majesty's Government are finally responsible for the security of India from dangers without and within and their immediate and most effective means of guarding India consists in the Indian Army and its loyalty and efficiency. In the past, the Indian Army has proved itself to be a highly efficient and trustworthy instrument of war and its splendid record is largely due to the ability and devotion to duty of its British officers and to their extraordinary capacity for gaining the respect and affection of their men. The present organisation of its officer establishment, where it differs from the organisation of the corresponding British units, hinges on the employment of British officers in certain posts. His Majesty's Government, taking, as needs they must, a serious view of the high responsibility which rests upon them, are not prepared to risk the efficiency and traditional reputation of the Indian Army by embarking on any large and revolutionary change, such as would be involved by immediately replacing British officers in large numbers by Indian officers, without—without I say—having the proof of some well chosen experience that the risk will not be unduly great. Accordingly, for the time being, Indianisation has been limited, so far as formations are concerned, and apart from the employment of individual officers, to the gradual substitution of Indian officers for British officers in eight selected units of the primary combatant arms—cavalry and infantry. And it must be recognised that on the facts as they are known His Majesty's Government have grounds for their reluctance to go further. There is no evidence to show that, if the present basis of Indianisation were largely widened the larger number of candidates required as King's commissioned officers would be forthcoming. On the contrary, it has unfortunately to be admitted that a sufficient number of thoroughly suitable candidates is at present obtained only with difficulty for the small number of vacancies annually reserved for Indians. Further, it is true, it must be admitted, that the selected Indian candidates have not yet shown themselves fully capable of attaining the educational and other standards required of other cadets at Sandhurst. I have some figures here which, I am sure, will interest the House. The first batch of Indian cadets who went to Sandhurst in accordance with the measure introduced in 1918 attended the course beginning in February 1919. The number of Indian cadets admitted since February 1919 amounts to 43. Of these, 9 were withdrawn as unsuitable, 2 unfortunately died, 14 were commissioned, and of these 2 subsequently resigned their commissions while the commission of one was cancelled. The number of Indian cadets still at College is 18. I have not yet received progress reports on the 6 cadets who went to the College in February 1923.

Now, Sir, it must be borne in mind, in considering these facts and figures, that, as I have said before, Indian cadets are given preferential

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treatment over British cadets in that they are admitted to Sandhurst on passing a simpler examination. Further, in the case of Indian cadets, the upper age limit has been temporarily raised to 20 years of age, for a reason which I gave just now. There is, however, I am glad to say, a very much brighter side of the picture. Those who have been concerned throughout with the examination in India of Indian cadets for Sandhurst have found a noticeable improvement in the quality and educational attainments of the candidates who have recently presented themselves. I can say definitely that the military authorities feel justified in taking an optimistic view and a much greater improvement is expected when the Dehra Dun School begins to produce a full quota of boys who have gone through a complete course of preliminary training there. At the last examination, the first two boys from Dehra Dun appeared, and, although they had only been at the College for a little over a year, they displayed a marked superiority over the other candidates who had not had even this small advantage. I need hardly assure the House that the utmost care and attention is devoted to seeking out, encouraging and selecting suitable candidates. The day to day supervision of the matter has been in the hands of experienced and enthusiastic educationists in the Military Training Directorate of the General Staff Branch. A Central Board already exists. It does not actually contain non-officials: the association of non-officials in the selection of candidates is limited to the Local Governments. The Central Board consists of a military officer of very high rank, another military officer specially selected from the Indian Army, and the third is generally an officer of high position in the Educational Service. In addition, of course, there is always the necessary medical examination, and in the end, as my Honourable friend recognises, the ultimate choice is made by His Excellency the Viceroy and His Excellency the Commander-in-Chief, who interview personally every candidate admitted to the examination. These observations which I have made cover the whole of the unfulfilled recommendations including the establishment of an Indian Sandhurst. For while Government recognise the advantages that would accrue by enabling Indians to obtain an adequate military training in their own country, it is clearly impracticable to create an Indian Sandhurst while the number of cadets is limited to 10 a year. For so small a number, it would be an entirely uneconomic proposition to employ, for example, a staff of instructors as efficient as those at Sandhurst and capable of teaching the same range of subjects. Moreover, there is an advantage, which may in the long run be the greater, in requiring for some time to come that Indian boys who wish to qualify for a King's Commission in the Army should receive their military training in the parent institution in England. Sir, I will not detain the House any longer. The sum and substance of my remarks is that while Government continue to identify themselves, as in 1921, with the principle and policy of the Indianisation of the Indian Army as expressed by this Assembly, they desire to be allowed to choose their own time for making the further representations to His Majesty's Government which my Honourable friend urges. It is necessary, it is only expedient that the Government of India, before renewing their proposals, should be in a position to

produce some convincing evidence that the measures already undertaken are proving successful. Insistence out of season will do the cause of Indianisation more harm than good. The amendment which I have proposed embodies the course which Government have set before themselves and which in their opinion is the best designed to secure the object in view. Honourable Members of this House need have no fear that the questions in issue will suffer from avoidable delay or neglect on the part of the Government of India.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, I am quite sure that my Honourable leader, Sir Sivaswamy Aiyer, and the non-official Members of this House have not the least desire to minimise the good work that has been done in this direction, which has been effectively detailed by Mr. Burdon in moving his amendment. We are conscious that a step in advance—I would almost say a great step in advance—has been taken under the auspices of His Excellency the Commander-in-Chief, for which we are all thankful, and it is that that encourages us to bring before this House, and through this House before His Excellency the Viceroy and the Government in England the supreme necessity of taking further steps—of course within reason—that will convince the Indian people that the Government is really in earnest with regard to the recommendations of the Esher Committee's Report that have been accepted by the Government of India. To-day, Sir, somewhat to our surprise, although by implication, we have been told by the Government Benches that what this House accepted and the Government of India accepted were large and revolutionary changes and that the Imperial Government, which is finally and ultimately responsible for the defence of India, and through it the Empire, cannot countenance such changes. We have been told to-day that what was accepted and agreed to two years ago really amounts to revolutionary changes which the Imperial Government does not see its way to accept. His Excellency the Commander-in-Chief who was in good company before is now in extremely bad company, company of the Assembly who were responsible for advocating these large and revolutionary changes, changes that did not appear large and revolutionary in 1921. My Honourable friend Sir Basil Blackett is looking at me and almost reminding me of what he said yesterday in the Banking concern that the Government of India to-day was not the Government of India in 1917. (*A Voice*: "1913.") I wonder whether he was going to tell me to-day that the Government of India to-day was not what it was in 1921, because he was not here then. Sir, very modest proposals were put forward by Sir Sivaswamy Aiyer and the Government of India found no fault with them then, and I take it that on the statutory basis, the Assembly and the Government here agreeing, the Right Honourable the Secretary of State had no fault to find with those recommendations, and our information is.....

The Honourable Sir Malcolm Hailey (Home Member): How do you draw that conclusion?

Sir Deva Prasad Sarvadhikary: Because, that is the unavoidable statutory conclusion. Even if the Secretary of State individually had to find fault with it, that must go by the Board under the law. But our information is otherwise if it is not the information of the Government

[Sir D. P. Sarvadhikary.]

of India. Sir, this emphasises the necessity of insisting on our demands in time and out of time, as Mr. Burdon has called it, the need of keeping the thing in view, not Oliver Twist like asking for more, but adhering to what we have asked for and what has been agreed to. Sir, the proposals of the Incheape Committee with regard to military retrenchment and His Excellency the Commander-in-Chief's announcement in this Assembly, which gave encouragement in many quarters, although in other quarters it was received with some pessimism, that 8 units would be Indianized, with regard to which there have been many difficulties already, created unaccountable excitement outside India amongst people who deemed themselves finally responsible for the defence of the Indian Empire. It has therefore become all the more necessary to emphasise our demand and to keep it in constant public view, not only in India but also in England, so that due effect may be given to those recommendations without delay. I am sorry, Sir, I cannot see my way to agreeing to the amendment moved by Mr. Burdon. By some irony of fate, there has been a change of places. It is for the lawyer—Sir Sivaswamy Aiyer to make a blunt, straightforward demand, and the military now want to indulge in lawyer-like euphemistic periphrases, adverbs and adjectives, the value and possibilities of which we in our profession know too well. We have made the demand, which was agreed to ; and what is proposed now is further to whittle it down as far as possible with all the adjectives and adverbs that the armoury of the diplomatic English language furnishes. The soldier is unaccountably trying to avail himself of it. We do not agree to it. What does Sir Sivaswamy Aiyer ask for ? That what was agreed to two years ago should be promptly given effect to. Whatever safeguards were necessary were provided in the original Resolutions with which the Government of India had no fault to find. But I shall not be long on this part of the question, because I desire to express my emphatic disagreement with another statement that Mr. Burdon has made.

Sir Sivaswamy Aiyer has, I think, correctly introduced the need of improving Auxiliaries and Territorials into the consideration of this question because it was one of the most important planks on the platform that he was occupying at the time when these Resolutions were accepted. And further, I regard the due development of civic soldiering as a supremely important educational propaganda without which, what we call Indianization of the Army, will never be possible. I quite agree with Mr. Burdon that it is difficult to find suitable candidates in adequate numbers in the present state of education and culture—military education—for the purpose of filling the commissioned ranks. But why is this ? Have the Military authorities found any difficulty in getting recruits in any number they wanted for the ranks ? If they have not, why should it be difficult to find recruits for commissioned ranks ? For the very obvious reason that there have been no facilities, that there has been no encouragement, that there has been no propaganda work such as has been necessary even in England in times of crisis. People have to be induced, they have to be encouraged, have to be given facilities and have to be trained. What facilities have we had ? Sir, I must recall to mind what happened when

the Auxiliary and the Territorial Forces Acts were passed. Reference has been made to the existing statutory situation as if that were the last word on the subject. Those of the Members of this House who were Members of the previous Imperial Legislative Council will remember and bear me out that the matter was then left open and promised to be improved. His Excellency the Commander-in-Chief was not here, then ; his predecessor was there. We raised an objection exactly of the kind that Sir Sivaswamy Aiyer has voiced to-day, that there should not be this racial differentiation between the Auxiliaries and the Territorials and that the objectionable limitations with regard to the Territorials would really amount not to an attraction but to an obstacle in the way of the middle class educated people. Whereas the Auxiliary forces were not to be held responsible for going out of the country, the Territorials, some of whom come from the ranks similar to those from which Auxiliaries came, were to be, and what was the reason urged ? That the Auxiliaries would come from commercial ranks and business people who would not like to leave their business and go away. But, I ask from what ranks are the Territorials to be recruited, particularly if they are to be recruited from the middle class educated people ? They belong to the same classes as those from whom the Auxiliaries were to be recruited, and if you want to make the Territorial forces really agreeable and attractive to the educated middle class Indian and if they are to be limited to the Territorials and are to be excluded from the Auxiliaries, you must place them on the same basis as the Auxiliary force. That is an important point that should be taken into consideration in connection with this question and cannot be given the go-by as Mr. Burdon has suggested. Considerable changes are here needed.

In passing, Sir, I desire to pay my tribute to the work done by the present incumbent who is in charge of the Territorial organization as well as by his predecessor. They are doing all they can in spite of the handicaps to which they are subject. In the first place, the grant with regard to the development of Territorials is small and in the second place the facilities in the provinces are not adequate. I myself can bear testimony to what is happening in Bengal and in spite of it Bengal is giving a good account of itself, particularly in its University Corps. (*A Voice* : "Mr. Burdon is shaking his head.") Now, my friend will not shake his head in the same way when I mention the Calcutta University Corps. I am glad he has now corrected his shake for these head shakings are becoming valuable as in the case of a Labour Member in Parliament in recent times. I am glad he has corrected himself with regard to the Calcutta University Corps. But the Territorials in the other branches have failed exactly for the reason that there are not facilities enough and there is not encouragement enough ; you have laid down obstacles and embargoes that will make the Territorial force even more unattractive (*A Voice* : "And unpopular") and unpopular as I have been reminded. Unless you create an atmosphere, and that you can and ought to do—unless you encourage real citizen-soldiers as they used to be called, these Territorials and Auxiliaries will alike fail—you have to create an atmosphere, you have to create attractions, else you are not going to get in abundance recruits anywhere, here, or in England or anywhere.

His Excellency the Commander-in-Chief : We have no complaint of the atmosphere. It is excellent.

Sir Deva Prasad Sarvadhikary : Well, opinions differ with regard to that.

His Excellency the Commander-in-Chief : So is recruiting.

Sir Deva Prasad Sarvadhikary : That I regard as a very important question which has to be dealt with, which can easily be dealt with without the intervention of the Imperial Government or without its embargo. His Excellency the Commander-in-Chief and his advisers would be able to deal with this part of the question and make it easy for those who want to take to soldiering in larger numbers than it is now possible.

Coming to the question of the ranks my friend has referred to the necessity of an Advisory Board. I am sorry the Honourable the Education Member is not here, but the late Education Member is here and he will be able to testify to the good work which the Educational Advisory Board that has just been abolished was doing in this direction. I was present at its last Lahore meeting, and what was it that Lahore martial people told us ? The President of that body is here and he will bear me out. We were definitely and specifically told that there was no encouragement in the Punjab for martial people to take to education that would enable them to compete for and obtain commissioned ranks. In fact the organization was quite the other way. They have not got educational facilities which would enable them to compete on equal terms with those who take these commissions in other countries and who do not always come from the educated middle classes. That I am afraid is one of the reasons why from the Viceroy's Commissioned ranks it has not been possible to find many who would have taken the commissions now going to be thrown open. They have not got enough educational qualifications, and training ; they cannot compete on equal terms with those who have already obtained these commissioned ranks. Therefore the whole question is one of providing facilities, and of propaganda work, of making things attractive so that more people may and can take to soldiering and furnish recruits for the commissioned ranks. Recruits for other walks of life have been found in abundance. I shall not refer to the success of Indians in law and legislation ; wherever there have been facilities, wherever there has been lack of discouragement, recruits have come in abundance and have justified themselves in all ranks of life. What reason have you to believe that it will be otherwise in the military line, particularly in the martial areas where people are furnishing all the recruits you want for soldiers and the ranks ? For all these reasons it appears to me that while we are about to come to an end as an Assembly some stock-taking and consequential insistence is necessary. Resolutions of this kind should therefore be pressed upon Government with all the emphasis we can command. It has often been said and said with great effect that people who cannot and will not take part in the defence of their country have no right to self-government. We are putting in large claims for self-government and we are also making our claims and our desires manifest to take our due share in the defence of the country. And, when modest proposals like these are brought forward we are told that the Imperial Government do not see eye to eye with the Government of India and therefore things have to be hung up. I quite realise that in military matters you cannot but hasten slowly. It would be foolhardy to proceed otherwise, but things that can easily be done

without detriment to any interest whatsoever should not lag behind. Therefore, Sir, I have great pleasure in supporting the Resolution and must oppose the amendment that has been moved by Mr. Burdon.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : I would like to say only a word in opposing the amendment which has been put forward by the Army Secretary. The amendment seems to furnish a clue as it were to the attitude of the Government towards popular demands since the Assembly came into existence. In the first year it was their desire to placate the members and the Resolutions that were then moved on the Esher Committee's Report were accepted by the Government. Now we find that, after two years when we want effect to be given to the recommendations an amendment is moved which is as vague and as unsatisfactory as anything can be. I hope the House would permit me to read word by word this amendment. It says that at the first favourable opportunity (and who is to be the judge of the first favourable opportunity ?) we should represent once more to His Majesty's Government the necessity and desirability of giving effect as soon as circumstances render it practicable and advisable. What do these words mean ? They mean that the Government may never give effect to any of the recommendations and never address the Government at home. In these circumstances it seems to me that the Government really by this amendment want to shelve the recommendations made by this House and accepted by the Government. I must therefore request my friends on this side of the House not to accept the amendment which has been moved by the Military Secretary.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Honourable Members seem to think that the Honourable Mr. Burdon in giving notice of his amendment and moving it was quite serious. Well, Sir, I seriously doubt whether Mr. Burdon meant all that he has put down on paper. I discern a peculiar tragic tone in the whole of his speech particularly in that passage which looked like a quotation from Lord Sydenham's speech at some Anglo-Indian dinner, where he stated that the British Army in India is one to be proud of but only so long as it is officered by English people. That is the new paraphrase.....

Mr. E. Burdon : I made no statement of that kind and in particular made no mention of the British Army.

The Honourable Sir Malcolm Hailey : It is a very gross distortion.

Dr. H. S. Gour : The British Army in India requires the steel frame of the British officer.

The Honourable Sir Malcolm Hailey : That again is a gross distortion of what my Honourable friend said.

Dr. H. S. Gour : Well, Sir, that is what he meant. It is absolutely necessary, the Army Secretary said, for the maintenance of the highest standard of efficiency of the Indian Army that it should contain a large number of British officers.

Mr. E. Burdon : That again is incorrect.

Dr. H. S. Gour : Am I then to understand that my Honourable friend is in agreement with members on this side of the House that the 25 per cent. of Indian officers that we recommended is acceptable to the occupants of the Treasury Benches ?

The Honourable Sir Malcolm Hailey : In order to prevent further misrepresentation of what my Honourable friend said, may he be allowed with your permission to read the passage to which reference is now being made ?

Mr. E. Burdon : The passage to which, I think, my Honourable friend must be referring is this :

"In the past the Indian Army has proved itself to be a highly efficient and trustworthy instrument of war and its splendid record is largely due to the ability and devotion to duty of its British officers and to their extraordinary capacity for gaining the respect and affection of their men. The present organisation of its officer establishment hinges on the employment of British officers in certain posts."

Dr. H. S. Gour : I am glad, Sir, the Honourable the Home Member asked Mr. Burdon to refresh the memory of this House on that subject and I leave it to the judgment of the House as to whether the statement I have made is not borne out by the quotation which Mr. Burdon just now read out for the information of Honourable Members. I submit, Sir, that the angle of vision of the Home Government has entirely changed with the disappearance from office of Mr. Montagu, and I submit, Sir, that the difference between the Government of India and the Home Government is due to the change in the policy of the India Office. If that be the case I sympathise with His Excellency the Commander-in-Chief and the Government of India. I can only say that if the Honourable Sir Sivaswamy's Resolution is once more re-affirmed by this House it will strengthen the hands of the Government of India in fighting their battle with the British Cabinet in accordance with the wishes of the people of this country and their representatives in this Assembly. The Honourable Mr. Burdon rightly pointed out that of all the recommendations the three that have not been carried out are the recommendations regarding the establishing of an Indian Sandhurst, the recruitment of 25 per cent. of the total of Indian officers and the eligibility of Indians to serve as officers in the Artillery, Engineers and Air Force. Honourable Members will remember that when we passed a Resolution upon the report of Lord Esher's Committee we clearly indicated that the establishment of a preparatory college at Dehra Dun or elsewhere was welcome but it was not the final solution of the problem with which we are concerned. Our sole aim then was, as it is now, that a large percentage of Indians should be employed and obtain King's Commissions in the Indian Army. The Honourable Mr. Burdon says the establishment of an Indian Sandhurst depends upon the percentage of Indians entitled to receive King's Commissions and that it would be uneconomic to establish a College for the training of 10 annual recruits. It is perfectly true. Consequently, the first and foremost Resolution which we want the Government of India to accept and to see accepted by the Authorities in England is a Resolution in favour of 25 per cent. of King's Commissions being offered to Indians. Now, Sir, it is on that point that we and the Government of India were in agreement at the time when the Resolution on the subject was passed. I have no doubt that the Government of India recommended that

percentage to the British Government, and what is the reply of the British Government ? You have had it read just now ; and you have read it in the newspapers sometime back. What is the view of Lord Sydenham and his coterie ? That is the prevailing view, and I submit therefore that the blame does not lie with the Government of India or with His Excellency the Commander-in-Chief but with the authorities at Home ; and that is the secret of Mr. Burdon's amendment in which he says : "as soon as circumstances"—political circumstances—"render it practicable and advisable to do so." Well, Sir, I suggest that if the amendment of the Honourable Mr. Burdon is passed, it practically neutralizes and negatives all the Resolutions that we have passed on a review of Lord Esher's Committee's Report ; and I therefore suggest that the House should accept the Honourable Sir Sivaswamy Aiyer's Resolution, and reiterate their previous view and reinforce the Government of India with the united voices of the Members of this Assembly that we adhere to the position we took up two years back, and that is a position from which we cannot recede,—we shall not resile. I submit that when we asked for 25 per cent. of King's Commissions being reserved for Indians, we certainly did not ask too much. Can His Excellency the Commander-in-Chief say that our demand was exaggerated ? I do not think he can say so. When we asked for 25 per cent. of Commissions, and if the Government of India's recommendation had been accepted by the War Office or by the British Cabinet, then I am certain that the question about the institution of an Indian Sandhurst would have solved itself. The objection which the Honourable Mr. Burdon raises to the paucity of candidates for the Indian Sandhurst would have been no longer tenable. Now, Sir, as regards the last point, the officering of the Artillery, Engineers and the Air Force. Honourable Members will remember that three Indians were given the King's Commission in the Air Force in England. I shall give their names. Mr. H. S. Malik, who was twice wounded, and is now serving as an Assistant Commissioner in the Punjab, Mr. L. Roy, son of Mr. P. L. Roy, late Legal Remembrancer in Calcutta—I believe he was killed in action, and another gentleman from Ceylon was given the King's Commission. I ask, Sir, that if Indians are eligible for the King's Commission and as a matter of fact were given Commissions in the Royal Air Force in England, why should they be incompetent to receive the King's Commission in their own motherland ? And I ask, Sir, what objection could there be to Indians being employed in the artillery and the engineering services ? No reply has been given. The only reply that has been vouchsafed is that these are parts of the British Army. But at the same time it cannot be forgotten that they are paid out of the revenues of India, and out of the taxes paid by the people of this country.

The Honourable Sir Malcolm Hailey : When they are in this country, when in India.

Dr. H. S. Gour : Undoubtedly, when in India. My submission is that it ought to be the policy of the Government of India to Indianise the military services and they cannot discriminate between the Infantry and Cavalry and the other branches of the military services. They cannot say 'thus far and no further.' So long as they do so the people of this country will feel that they are subjected to a racial bar and I submit

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neither the Government of India nor His Excellency the Commander-in-Chief will be a party to this and I am certain that if it was left to His Excellency the Commander-in-Chief, he will be the first to admit that Indians should be made equally eligible to serve in the Royal Artillery, Engineering and Air Force. We strengthen His Excellency the Commander-in-Chief's hands in passing the Resolution. I ask the House to reject the amendment and to support Sir Sivaswamy's Resolution.

Lieut.-Colonel H. A. J. Gidney : (Nominated : Anglo-Indians) : Sir, as a Member of the Select Committee that sat on the Esher Report I feel I must take a part in this debate. My desire to do so is, because since that report was accepted by this Honourable House, as my friend Sir Deva Prasad Sarvadikary has just said, India to-day is not what it was in 1921. I felt when I sat on that Committee, that we were like a lot of children trying to play with the report and evolve an army on paper. There were one or two of us who had a theoretical knowledge of what we thought should be done to improve the Indian Army but we very wisely allowed ourselves to be guided by the proper expert authority, His Excellency the Commander-in-Chief. Certain Resolutions were passed to which I subscribed my name. Those Resolutions have not been carried out in their entirety and to-day we find another Resolution, the one under discussion now which has been very lucidly, reasonably and very soundly moved and discussed by my Honourable friend Sir Sivaswamy Aiyer complaining of the slowness with which these Resolutions are being carried out by the Army authorities. I agree in principle with Sir Sivaswamy Aiyer's Resolution, because these Resolutions were passed by this House, but I maintain that with a very few exceptions there is not one Member in this Honourable House—I mean the non-official Members—who has done a day's military work and who therefore can adequately realise what we are asking to-day. When we talk of indianisation of the Army we must not talk of it so lightly as Indianisation of the Civil Services. They are two totally distinct things. Whereas India seems or is said to be rapidly qualifying itself for a more rapid advance in Indianisation of the Civil Services, yet, with all respect to those Members who have put forward their views and given their support to to-day's Resolution, with all respect I say to them, I consider that we must go very slowly in regard to Indianisation of the Indian Army. It is not a thing with which we can play. We have, in a measure, passed through the experimental stage in regard to the Civil Services and we have I hope gained by that experience. The experiment we are to-day undertaking in the shape of 8 Indian Army units has, I believe, proved not the success that we anticipated. The causes of this apparent failure I am not going to enumerate : but at the same time I think it is a very dangerous thing to ask us to run before we can crawl so far as the administration of the Army is concerned. Whilst I admit I supported some of these Resolutions in 1921, I feel I cannot support the Resolution put forward to-day by my Honourable friend Sir Sivaswamy Aiyer and I must give my support to the amendment moved by the Honourable Mr. Burdon, because, I prefer to be guided and to leave the administration and composition of the Army in the hands of experts and not in the hands of amateurs such as we undoubtedly are. I mean no offence to the

Honourable the Mover and his supporters when I make this blunt yet undeniable and irrefutable statement. There are however one or two points, Sir, which I think require an explanation. A reply was given by the Honourable Member in charge that only 10 per cent. (*The Honourable Sir Malcolm Hailey* : "10 places.") I mean that only 10 places or vacancies exist every year in the King's Commissioned ranks of the Indian Army. I would like him to tell me. If that is true, then, is it a fact that certain Indian regiments, according to the public press, are depleted of their normal strength of officers? The other day in the papers I read that there were certain Indian regiments that had only five and six officers where they should have 12.

The Honourable Sir Malcolm Hailey : Stated in Parliament.

Lieut.-Colonel H. A. J. Gidney : Possibly—stated in Parliament. There is another point, Sir, to which I wish to refer, *viz.*, the training schools in India for British soldiers. I submit, Sir, that we have legitimate reasons for objecting to these training schools. I submit that Sir Sivaswamy Aiyer has opened out a very legitimate and sound ground for complaint, a sound ground for retrenchment, and sound reason for asking that the money expended in those schools should instead be spent for the training of Indians to fit them for the Indian Army. Sir, we have the Honourable Member in charge of the Department stating that these British soldiers are trained not so much from an ordinary educational point of view, but are given a vocational training. He, moreover, made the astounding statement that these men were drafted or loaned or given for employment to various European commercial firms in Calcutta. I am surprised to hear the Member make this admission considering that the streets of Calcutta, Bombay and other cities are to-day lined by hundreds of our European and Anglo-Indian unemployed war heroes begging for food and unable to obtain employment even at Indian wages. If the facts are, as have been stated by the Honourable Member in charge of the Department, then, I ask this House to put a stop to it. The Indian Exchequer must not be depleted for the vocational education of British soldiers; that is the duty of the Home Government. The British soldier should enter the Army with a certain amount of education. To provide him with that education in India, at the expense of the Indian taxpayer, is, I submit, absolutely wrong in principle.

The other point to which I wish to refer is the present-day method of the selection of candidates for King's Commissions in the Indian Army. Looking through the lists of candidates it strikes me that it is not a correct way of selecting these candidates. You will find that most of those who have been selected are the sons of Nawabs and other noblemen. It evidently does not much matter what the son is, but what the father's services are or were. The result is that many a suitable and brilliant Indian lad has been tabooed and excluded from selection. I consider that the field of selection should be enlarged and should not be confined to those lucky few whose fathers have done some meritorious service. Why I ask—because a father has done good service should his son, *ipso facto*, be given preference over a boy who may be much fitter? Another point raised by an Honourable Member was that this selection

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should be thrown open to sons of the middle class Indians. In other words that the educated Indian lad should be given the same chance as what seems to be now exclusively given to what some might call, the blue-blooded Indian lad. I quite agree with the principle underlying this suggestion, but, here creeps in a very delicate and a very dangerous point, one that was very fearlessly and freely criticised when this very Resolution was moved in 1921. It is this. I personally cannot conceive of an efficient Army worked with its rank and file recruited from the martial races and its officers recruited from the non-martial races. I repeat, I cannot conceive of it. If these officers were recruited by means of a competitive examination, with India in its present state of unrest and its multiplicity of castes and creeds I consider that it would very likely tend to wreck the Indian Army. It is for this reason that I consider that we should move very slowly and cautiously in this matter. That the selection of young lads for King's Commissions should be largely confined to the martial classes I do not for a moment question, but, at the same time, I opine that those communities or those races who have not been given a fair chance should be offered some encouragement. I think I am right in saying that two-thirds of these selections are generally made from the North of India, including the Punjab, and I consider the other parts of India should be given at least an encouraging proportion. (*His Excellency the Commander-in-Chief* : "They are given a proportion.") If the selection for King's Commissions in the Indian Army, as it exists to-day, and which the Honourable Member says, depends upon the good work done by the fathers of these lads, it would be interesting to know whether this applies only to good work performed in the Military Department or also in the Civil Department? It would also be very interesting to be told whether the sons of Civilian Officers, have been taken in.....

Mr. E. Burdon : May I explain? I think the Honourable Member is confusing two issues. I referred to the grounds on which King's Indian Cadetships were granted. That is an entirely separate matter from the selection of candidates for Sandhurst. That selection is done by nomination and by competitive examination among the selected Indian candidates. One of the last boys that went to Sandhurst was the son of a daffadar, not in any sense the son of a Nawab or a rich man.

Lieut.-Colonel H. A. J. Gidney : Thank you, I see from my notes that I am wrong, I am sorry. Referring to the Incheape Committee's Report, as Dr. Gour has done in his very well known but rather monotonous style—I feel inclined to add to his oratorical efforts the words 'Alone I did it,' when he talked about the Incheape Committee's Report on Retrenchment in the Indian Army. I do sincerely hope that the Government of India will not allow the Incheape Report on Retrenchment to so influence them as to introduce into the Indian Army administration a battle royal between "efficiency" and "economy." I opine you cannot have that battle fought in the administration and formation of any up-to-date Army. The best is the only Army India must maintain and needs to-day, and, if you want the best, the Indian Army, the Territorial Army or whatever Army it may be must be maintained and judged by its "quality" and not by its "quantity."

With these words, Sir, I very heartily support the amendment moved by the Honourable Mr. Burdon and oppose the original Resolution.

Dr. H. S. Gour : You have been attacking it all the time.

Baba Ujagar Singh Bedi (Punjab : Landholders) : Sir, coming as I do from the Punjab and representing the interests of the landed and martial communities of that Province, I think it my bounden duty to say a word or two on their behalf. Sir, it is well known that the Punjab has produced many veterans and soldiers like Hari Singh Nulloo and she is ready to produce more now if proper education is afforded. Sir, I cannot allow to pass the remarks of the Honourable gentleman, Mr. Burdon, when he suspects our loyalty, when he says that trustworthy men should come forward for the Army. Sir, we have fought in the sanguinary battles like Flanders and elsewhere, and that is a testimony to our loyalty, and what more does the Government require?

Mr. E. Burdon : May I explain, Sir, that I made no such statement.

Baba Ujagar Singh Bedi : That is all I wanted to say. With these few words I oppose the amendment and support the Resolution which has been so ably moved by the Mover of the Resolution.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I rise to oppose the amendment which has been proposed by Mr. Burdon, and my first reason for doing so is that this amendment has been very wrongly worded. If by the word "favourable" is meant "distant," then honestly it ought to be directly so stated in the amendment. What is meant by saying that a favourable opportunity will be seized by the Government of India to make representations to His Majesty's Government to give effect to the Resolutions of March 1921 "as soon as circumstances make it practicable and advisable." The amendment really means that this is not a fit time to represent; nay, that for a long time to come no representation will be made by the Government of India to the Imperial Government to increase the opportunities afforded to Indians for military training, or to increase the number of Indian Commissioned Officers, or to admit Indians to all departments of the Indian Army. And, if that is not his meaning, I would request Mr. Burdon to withdraw the amendment for otherwise it does not differ from the main Resolution. Mr. Burdon's amendment, as I interpret it, will create a lot of misunderstanding. It is true, that the Government is very powerful just now; it is true, that the parties in the Assembly are disorganised just now; and possibly the Government will find it easy to carry the amendment. But that, I think, will be only a doubtful success for Government. The people feel very strongly in this matter. The soul of India pants for high responsible Government, and it would on that account be extremely undesirable on the part of Government to come forward with devices such as the one that is being employed on the present occasion. I heartily support the Resolution that has been moved by Sir Sivaswami Aiyer; and I want to point out that India will never be content if her demands for additional facilities for managing her own defence, that were reckoned reasonable in 1921, are reckoned unreasonable to-day. Why not admit Indians to the Royal Air Force? Why not admit Indians to the

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Royal Engineers? Why not admit Indians to the Royal Artillery? It has been said by Colonel Gidney that expert knowledge and expert experience are missing. But how are expert knowledge and expert experience to be acquired without training for and admission to various Army Departments. It reminds me of the story of a hunter who refused to watch the movements of a bird as it flew over his head, who chased its shadow on the ground, and who, when he was unable to grasp it, came forward to say that he concluded it was nothing. This is exactly the position that is being assumed by the Government of India and its supporters now. Give the requisite opportunities to Indians, and Indians will show themselves capable of all military art. And do not distrust them—they are loyal. I honestly state I do not wish that we should have exclusively Indian Swaraj at the present day. This is my honest opinion. I feel that we cannot yet carry on the Government of India without the co-operation of the British, and the British should, on that account and on account of the potentialities involved therein, fraternise with us. The most potent factor, moreover, in Indian life is not the Bureaucrat, nor is it the Imperial Government: it is God; and if the panting of the soul of India for responsible Government is what it is, never mind the dance of plastic circumstance in the midst of which India is placed to-day. It may appear a dreamland to some; but I think it is our real training ground for the nation's highest virtues. It would behove Government to realise this, and to avoid letting it be understood generally in India that the most cherished and legitimate aspiration of the Indian is not endorsed by the Government of India.

Mr. W. M. Hussanally (Sind: Muhammadan Rural): Sir, I had intended to give a silent vote upon this subject and support our leader Sir Sivaswamy Aiyer in the proposition he has brought forward; but a few remarks made by my Honourable friend Colonel Gidney have induced me to say a few words and not to give a silent vote.

Colonel Gidney, Sir, says that Indians, however fit they be for the Civil Services, are not fit as yet to take up a military career. I dispute that proposition, Sir, not only in the interests of the *bona fide* Indians, but in the interests of the community to which he himself belongs. I never thought, Sir, that Anglo-Indians who call themselves Indian are unfit for a military career. I thought Colonel Gidney was a champion of his own community. He belongs himself to that distinguished Service, the Indian Medical Service, and I suppose he has himself served in the Military Department for a long term of his life; and I do not think he believes in the unfitness of his community for a military career.

Lieut.-Colonel H. A. J. Gidney: Sir, may I rise to make an explanation? I am afraid my friend Mr. Hussanally is a little bit wide of the mark. He has got the bull by the wrong horn. I did not mean Indians as a nation or as a class. All my remarks were directed at the martial as against the non-martial races.

Mr. W. M. Hussanally: I see he now makes a different statement. I heard him use the words "run before crawl." We have heard these

words very often, and I believe he meant that Indians as a class were not able to crawl and therefore they were not fit to run. If we judge aright the words re used, I suppose he meant what he does not now wish to admit. Sir, I do admit that the military or martial classes of India do deserve preference so far as their selection for a military career is concerned, but I do not admit that that privilege should be given only to the martial races of India. Given the opportunities and the training required for a military career, I think every Indian will be fit to serve in the military department and fight for his country's cause. (Hear, hear.) Therefore, I think it is befitting that early opportunity should be taken to establish more institutions of the kind at Dehra Dun to train up the middle classes for a military career. The more the institutions we have, the larger will be the number of fit persons, whether they belong to the martial races or not, who will come forward to undergo training and prepare themselves for a very good military career. But at present, as has been pointed out by our leader, the only institution we have got is at Dehra Dun, and that is certainly not sufficient to train a very large number of future Indian officers required for the military services. We ought to have at least half a dozen institutions of that kind spread all over the country, and eventually a Sandhurst as well, at least one, if not more. However much we Indians and the Members of the Assembly have been grudging the enormous expenditure over the Military Department, I am perfectly certain that the Assembly will be only too glad to vote more money upon institutions of this kind, and I am sure that Anglo-Indians too will take advantage of such institutions if they are started in larger numbers. Therefore, I cannot agree with my friend, Colonel Gidney, when he says that selection for a military career should be only confined to, or reserved for, martial races, and I am perfectly certain his own community will not agree with him in that opinion, because if that is done, his community as a community will be excluded.

Sir, conscription has been advocated even in India and by Indians. Why? Because the Indians are anxious to have a military career for their sons, and they want to take an active part in fighting for their country's cause and to save their country from foreign aggression. If that is so, I do not see any reason why a sufficiently large number of persons cannot be obtained from the middle classes and from martial races as well, for all services in the Military Department. All that is required is opportunities and good training.

Sir, the amendment of my Honourable friend, Mr. Burdon, as has been pointed out by a friend of mine, creates a distrust and suspects the loyalty of us Indians; and if I may add a word, distrust begets disloyalty, and that is just the thing which the Government should avoid. Trust the people and you will make them perfectly loyal. So far as the Muhammadans of India are concerned, I have no hesitation in saying that their loyalty is proverbial. I do not think the Government will at all suffer if they trust the Muhammadans so far as their loyalty is concerned.

Mr. N. M. Joshi (Nominated: Labour Interests): What about the Hindus of India?

Mr. W. M. Hussanally: I do not, by any means, by these words mean to imply that other communities are disloyal. No, far be it from me to

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suggest it. My claim for Muhammadans is that their loyalty is proverbial, and if His Excellency the Commander-in-Chief makes a larger selection from amongst the Muhammadans in India, he will not repent it. With these few words I support heartily the proposition of our leader Sir Sivaswamy Aiyer and oppose the amendment.

Sir P. S. Sivaswamy Aiyer : Sir, I wish to make a few remarks on the amendment which has been moved by my Honourable friend, Mr. Burdon. The points which Mr. Burdon wishes to bring out by his amendment are these :

In the first place, he wants it to be recognised that some portions of the Resolutions have been already carried out. I have not the least objection to the proposition being amended, if he really considers it necessary, so as to recognise the fact that some portions of the Resolutions have been already carried out. I should be the last person to refuse to acknowledge what has been done. But, it will be clear from the language of the Resolution itself that it cannot possibly ask for giving effect to what has been already given effect to, and necessarily the Resolution implies that effect should be given to the Resolutions only in so far as effect has not been given to them. Therefore, there is really no difference in substance.

Then, the next point that Mr. Burdon wishes to bring out by his Resolution is that, instead of the words "urge upon" we should substitute the words "take the first favourable opportunity of representing once more to His Majesty's Government." Here again, I may point out that this amendment is not necessary because, when we recommend that the Governor General in Council should urge upon the Imperial Government the necessity of doing certain things, we do not mean that the Governor General in Council should do so within the next 24 hours. It certainly means that the Governor General in Council will take such time as may be reasonable for making the necessary representation to the Home Government. The language of the Resolution need not be taken to preclude the Government from taking such time as may be really necessary and reasonable for conveying our request to the Home Government and reinforcing it with all the weight of their support. Of course, we do not mean that he should take the first unfavourable opportunity. He will take a favourable opportunity and he will take the earliest possible opportunity. That is really our wish. By introducing these words "the first favourable opportunity and so on" we are afraid that it will be really shelving it and putting it off to the Greek Kalends. The words are sufficiently elastic and may be interpreted in any way. (*The Honourable Sir Malcolm Hailey :* "Reasonable steps. Would not that be better?") I have no objection to the words "take the earliest opportunity."

The next point which he brings out in his amendment is that effect should be given to these proposals "as soon as circumstances render it practicable and advisable to do so." We cannot possibly agree to that qualification which may mean anything and which may cover any amount of indefinite delay. It may mean years, it may mean decades. (*Dr. H. S. Gour :* "It may mean centuries.") The introduction of the words

"as soon as" does not have the effect of reducing the vagueness and indefiniteness of the qualification "circumstances render it practicable and advisable to do so." Of course, as to whether it is practicable and advisable to do so, etc., all these are matters which will be taken into consideration by the deciding authorities.

They won't do things which they consider impracticable or inadvisable. It seems to me, Sir, that it is not necessary that Mr. Burdon should lay stress upon this amendment, because the proposition, if accepted, does not really deprive the Government of that reasonable interval which will be necessary to enable them to place the matter properly before the Imperial Government. I quite recognise the force of some of the considerations which perhaps are present to the mind of Mr. Burdon and his colleagues, that if the Home Government has sent a despatch on the subject a few days ago or one or two weeks ago, it might not be advisable to send up a representation in the next week, and it might perhaps be desirable to allow a certain reasonable interval to elapse. But, at the same time the object of this Resolution being to give expression to the wish of the Assembly, I think that we are justified in adhering to this proposition as moved, and that it does not really deprive the Government of that reasonable interval which they consider necessary for the purpose of making the representation. It seems to me that the amendment is hardly necessary.

(*Honourable Members :* "Let the question be now put.")

Mr. President : The question is that the question be now put.

The motion was adopted.

His Excellency the Commander-in-Chief : The discussion this morning has travelled over a fairly wide area and I do not propose to wander into some of the more remote areas through which it has passed. The Honourable the Mover has raised many points some of which are, I admit, highly controversial. To a good many of these the Army Secretary has already replied. There are, however, three points which have been raised not only by the Honourable the Mover but have also been referred to by several Honourable Members, and I think it is only right that I as responsible for the Army should this morning say a few words to the Assembly. The Honourable the Mover as well as other Honourable Members have pressed the need for the admission of Indians into the Royal Air Force and into the Artillery and the Engineers, all of them British units. I think there is some misconception in the minds certainly of some Honourable Members of what they mean actually by the admission of Indians into these units. The units, as Mr. Burdon has told us, are essentially British units. For instance, the Air Force squadrons that are now serving India and that are paid for by India are British units in the sense that they are now here for a certain period. They may be here for one year or two years or three years, but then, they must pass away and go and do their various duties in Mesopotamia or Constantinople or England or wherever they may be required. I am quite sure it is not the intention of Honourable Members that Indians should go into these services and thus be obliged to serve outside India. (*Sir P. S. Sivaswamy Aiyer :* "I did not ask for it.") If you put Indians into British units they must serve outside India just as the British

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officer, and for that reason their admission into the British units is not a feasible proposition. What you can do, what you might perhaps do under certain circumstances is to have special Indian units." (*Several Honourable Members* : "That is what we said.") (*Sir P. S. Sivaswamy Aiyer* : "That is what I said.") That is what you meant, but it is not what you said. I wanted therefore to make it quite clear and so that this House might realise the position in view of this rather difficult situation. I will do all I can to help you, but I cannot get Indians into British units. I tell you that perfectly straight. I cannot do it. I am urging your case, I am doing all I can to help you but I cannot do the impossible.

The next point I want to refer to is the Territorials and the condition under which the Territorials in India now serve. The Territorials in India just as the Territorials in the United Kingdom, are liable to service beyond the frontiers both of India and of the British Isles respectively. Sir Sivaswamy Aiyer produced an ancient book from which he quoted a decision that Territorials in England were not liable to serve outside the British Isles. That is dated 1913, and is not applicable to the present time and would not be accepted by the Home Government or by the Territorials themselves at Home to-day in the light of the experience of the Great War and the magnificent services that were rendered by the Territorials in France and in India during the Great War.

It has been urged by one or two Members following Sir Sivaswamy Aiyer that the activities of the Territorials should be confined to internal defence in this country and should not be asked to serve beyond the frontiers. I very strongly deprecate anything of the kind. If you do that you will ruin your Territorial Force. I flatter myself that I know more about the Territorials, young as they are, than most Honourable Members of this House. I have been pleased and gratified with the progress that the Territorial Army has made in the very short time in which it has been in existence. I have been quite surprised at some of the units that I have had the opportunity of inspecting and I may say that in most of the areas, and in the great majority of districts in which Territorial units have been started the response has been most gratifying, the standard of efficiency that has been attained, certainly by some units in the Punjab, has been quite surprisingly good, and they have only failed in certain areas where they have not had the same encouragement. But it is curious that an Honourable Member coming from Bengal who advocated this particular condition should represent a place where the Territorial Force has been least satisfactory. We still have hopes but in Bengal they have not yet been the success that they have in other parts of India. After all I am the person responsible and whatever the Assembly may say, I would take no steps that in my view are likely to ruin the Territorials and for that reason I cannot accept the proposal that has been put forward by the Honourable Member.

Sir P. S. Sivaswamy Aiyer : I wanted an Indian unit of the Auxiliary Force.

His Excellency the Commander-in-Chief : That is a different matter. That has nothing to do with the Territorials. I know there are some representatives of the Domiciled Community who in answer to that will want an Anglo-Indian unit of the Territorials.

Dr. H. S. Gour : We welcome it.

His Excellency the Commander-in-Chief : But why ? What is the object ?

Sir Deva Prasad Sarvadhikary : In order to suit different sections of the Indian people who want Indian units, both in the Auxiliary and in the Territorials.

Dr. H. S. Gour : And to remove racial discrimination.

His Excellency the Commander-in-Chief : I am prepared to consider it, but I do not think it will be a favourable consideration. There is one other matter I wish to refer to. Mr. Burdon has given certain facts in connection with the Dehra Dun College. From what Honourable Members have said, it seems to me that there is a good deal of misapprehension, want of understanding, as to what the Dehra Dun College really is and the purpose for which it was instituted. I have been very well satisfied with the progress that that College has made. I have visited it several times and certainly the standard of education, the curriculum which is carried through, and I would add, the remarkable improvement in the physique of the cadets have been most gratifying. I am very keen about the Dehra Dun College because although that College contains only 50 or 60 students to-day I envisage a very considerable increase to that number, the College attains the degree of success which I anticipate, and I already see signs of it. We should do all we can to enlarge that College, so that it may produce young Indians capable of going to Sandhurst under the best auspices and making in the military profession a lifelong career. That is what we want the Dehra Dun College to do for India. There is one point in which I confess I have been seriously disappointed—and which I want to bring home to Honourable Members. We have established this College at Dehra Dun. Do Honourable Members realise what it means now and is going to mean in the future to India ? It has been opened by the Prince of Wales and has been called after him. It has been in existence for more than a year and yet not one single Member either of this House or the Council of State has ever been near the place. That is not right. I have been doing all I can for the College and I want the Legislature to take an interest in it and to give me their support and assistance in developing that College. Why don't you go and see it ?

In conclusion I just want to add these few words. I feel considerable sympathy with what many Honourable Members have said in this debate. I sympathise with their desire to press the questions that have been raised by this Resolution. I sympathise with their anxiety to Indianise the Army more rapidly than I think is possible. I have been doing my very best during the two years that I have been here to help them in this direction. I want their support and for that reason I wish they would accept the amendment rather than press the Resolution,

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because it makes my task more difficult. I want to do all I can to get the various proposals, which the Honourable Mover has referred to, laid before the Secretary of State at the earliest suitable moment. These things are often a matter of negotiation, that is to say, it is quite easy to put up a rather controversial matter at the wrong moment with the certainty that it will not be accepted. Honourable Members on the Government Benches have no doubt already experience of that in this House. Therefore I should have liked to have been given a little more latitude by the House's acceptance of the terms of the amendment: and would have liked the House to have trusted the Government and myself to get these things through as soon as opportunity offers. If you press us, if we are forced to put them forward at an inauspicious moment, we shall very likely not get them through at all. It is not by sitting and passing Resolutions in this House that these matters become law. If we cannot put them up reasonably and practically to the Secretary of State so that they will be accepted by the Home Government they will never be the law of this country. And surely the Government are in a better position to judge the psychological moment than is this House. For this reason I wish the amendment proposed by Mr. Burdon could be accepted. If it is not I only add that you are making our task more difficult and we must, I am afraid, press the amendment to a division.

Mr. President: Order, order. The original question was:

"That this Assembly recommends to the Governor General in Council that he will be pleased to urge upon the Imperial Government the necessity for promptly giving effect to Resolutions 7, 8, 10 and 11 of the Assembly passed on the 28th of March, 1921, in connection with the Esher Committee's Report with the concurrence of the Government of India."

Since which an amendment has been moved:

"That for the words 'urge upon' to the end of the Resolution, the following be substituted, namely:

'take the first favourable opportunity of representing once more to His Majesty's Government the necessity and desirability of giving effect, as soon as circumstances render it practicable and advisable to do so, to those portions of Resolutions 7, 8, 10 and 11 of the Legislative Assembly passed on the 28th of March, 1921, which have not yet been carried out.'

The question I have to put is that those words be there inserted.

The Assembly divided:

AYES—30.

Abdul Rahim Khan, Mr.
Ayyangar, Mr. R. Narasimha.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Bhanja Deo, Raja R. N.
Blackett, Sir Basil.
Bray, Mr. Denys.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatterjee, Mr. A. C.
Clarke, Mr. G. E.
Faridoonji, Mr. R.
Gaskell, Mr. W.
Gidney, Lieutenant-Colonel H. A. J.

Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Ikramullah Khan, Raja Mohd.
Innes, the Honourable Mr. C. A.
Mitter, Mr. K. N.
Nayar, Mr. K. M.
Perceival, Mr. P. E.
Richey, Mr. J. A.
Sassoon, Captain E. V.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanyon, Colonel Sir Henry.

NOES—52.

Abdul Hamid Khan Khudadad Khan,
Mr.
Abdul Majid, Sheikh.
Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahmed Baksh, Mr.
Aiyer, Sir P. S. Sivaswamy.
Akram Hussain, Prince A. M. M.
Asad Ali, Mr.
Asjad-ullah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Barua, Mr. D. C.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Dalal, Sardar B. A.
Das, Babu B. S.
Das, Pandit R. K.
Faizaz Khan, Mr. M.
Gajjan Singh, Sardar Bahadur.
Ghulam Sarwar Khan, Chaudhuri.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Gulab Singh, Sardar.

Hussanally, Mr. W. M.
Jamali, Mr. Ashruff O.
Joshi, Mr. N. M.
Mahadeo Prasad, Munshi.
Majumdar, Mr. J. N.
Man Singh, Bhai.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Mukherjee, Mr. T. P.
Nabi Hadi, Mr. S. M.
Nand Lal, Dr.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rajan Baksh Shah, Mukhdum S.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Singh, Babu B. P.
Sinha, Babu Ambica Prasad.
Sinha, Babu L. P.
Sohan Lal, Mr. Bakshi.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.

Yamin Khan, Mr. M.

The motion was negatived.

Mr. President: The question is that the following Resolution be adopted:

"This Assembly recommends to the Governor General in Council that he will be pleased to urge upon the Imperial Government the necessity for promptly giving effect to Resolutions 7, 8, 10 and 11 of the Assembly passed on the 28th of March, 1921, in connection with the Esher Committee's Report with the concurrence of the Government of India."

The motion was adopted.

The Assembly then adjourned for Lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock.
Mr. President was in the Chair.

RESOLUTION RE CERTIFICATION BY GOVERNOR GENERAL.

AMENDMENT OF SECTION 67-B OF THE GOVERNMENT OF INDIA ACT.

Dr. Nand Lal (West Punjab: Non-Muhammadan): Sir, I beg to move the Resolution which stands in my name and reads as follows:

"This Assembly recommends to the Governor General in Council that he may be pleased to take the necessary steps to get section 67-B of the Government of India Act amended so as to provide that the Governor General shall not use his special emergency powers of certification under section 67-B to over-rule the decision of the Indian Legislative Assembly."

Sir, I need not go into the provisions of various historic Acts, as for instance, the Act of 1773 and that of 1784, and again those of 1858, 1861 and 1909. They deal with the political changes in India and the political development in the same country. It will suffice to say that the provisions of the Act of 1861 sowed the seed of representative

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institutions in India, and the Act of 1909 quickened that seed into political life in this country. But I may say that that political change was not to the expectation of the legitimate aspirations of India. Now I wish to refer to the genesis of the present Act, namely, the Government of India Act of 1919. As you know, Sir, India is proud of her ancient civilization, her scholarship and the ability of her people. She wanted to achieve certain political rights which she, rightly deserved. Her people's unflinching loyalty and their law-abiding character appealed to England, and I am glad to say that this legitimate claim of India was appreciated and the result thereof was the Act of 1919. The policy, inaugurated in this Act, I concede, was to give better political rights to Indians, but it may be said, at once, that the rights, so conferred, were not adequate and the craving of Indians, namely, their growing aspirations were not satisfied at all. The Royal Proclamation, which was made by His Gracious Majesty, threw a flood of light on it. The consequence of the aforesaid Act was that the Reforms were brought into force. Now let us see how these Reforms were received. One section of the people, in India, did not extend reception to them (Reforms); whereas the other section, and I may say, without fear of contradiction, that a very large number received them with respect, but at the same time they held that they (Reforms) were not adequate and that they did not come up to their expectations. There was a mass of criticism against the inadequacy of the Reforms. One school of thought expressed their view saying that these Reforms were practically nothing and that they were not a whit better than political jugglery. The co-operators who had given a reception to the Reforms, as I have already submitted, received it with respect and they endeavoured to work out these Reforms and to make them a success. Some of them were elected and came to this Assembly. The work which they have done is well known to all. The quality of the work done by this Assembly does not require any elaboration to explain it. The various social measures passed by it (this Assembly) and the various useful Resolutions passed including the Resolution, which brought into being Lord Inchcape's Committee on retrenchment. The retrenchments, which were recommended, speak for themselves and the work done by this Assembly. There was a mass of criticism levelled against the co-operators. They were told that they were not doing any practical work. The critics said that this Assembly was nothing but a debating society. They further criticised it saying that the Assembly was benevolent in supplying funds to the Government of India, but that, so far as its own Resolutions were concerned, they were not carried out and that its decisions were not respected. Consequently it was a powerless body. This Assembly very rightly met this criticism and tried to combat the hostile opinions of its critics. But, Sir, with what hope? The hope was that it is the good conduct of this Assembly which would achieve the final goal, that is, full self-government, namely, Swaraj, and not the non-co-operation. That was the incentive which prompted this Assembly to maintain its equilibrium of mind and to honestly co-operate with the Government. What do we find, Sir? In March 1923, which may be considered a critical time, there occurred a great catastrophe. The question of an increase in the salt duty was placed before the Assembly.

The whole country was opposed to it; the Assembly, as its sacred duty, felt bound to oppose it and rejected the Bill. What was the result? His Excellency the Governor General certified the Bill and did not, I may be permitted to submit, pay sufficient regard to that decision. The main ground which was taken to support the certification was:

"My Government hold that, in view of the past accumulated deficits, it was essential in the interests of India to balance the Budget."

His Excellency says: "It was urged on me, the vital necessity of securing financial equilibrium".

That has been the main ground on which this special emergency power was exercised by His Excellency the Governor General. With the most profound respect for the honest convictions of His Excellency, I may be permitted to submit that at that juncture it was a political error to resort to certification and to exercise that special power.

Mr. President: Order, order. I must draw the Honourable Member's attention to Standing Order No. 29—that a Member shall not reflect upon the conduct of His Majesty the King, or the Governor General or any Governor.

Dr. Nand Lal: This is my humble and respectful submission, Sir, but I shall not repeat it. This was my submission which is based on popular opinion. The very expression, namely, the words, "with the most profound respect" clearly indicates that I am respecting the honest convictions of His Excellency; but at the same time, I must honestly state my case, otherwise I shall be failing in my duty if I do not place the message of the country before this House. After this certification, as you know, there was a great stir and the critics of the present Assembly and the Reforms substantially said, particularly in the columns of a good many papers, that it is now established to the hilt that these Reforms are practically nothing, and these Reforms have given us practically no more political rights. When our Resolutions and our decisions are not given full appreciation, then, Sir, it amounts to this that these Resolutions will remain on paper alone and we shall not, in effect, be able to do any good to the country. There were two schools of thought: One school was of this opinion, that this Assembly—specially the elected Members—should resign as a body, and that if that could not be done, then they should follow the policy of indiscriminate obstruction. The other school, whose follower I am, was of a different opinion, saying that we believe in honest and active co-operation, that we believe in making constitutional petitions, that we believe in submitting that the present law may be changed, and that we do not countenance the view of the first school that we should resign or adopt the policy of indiscriminate opposition. Some of us having been prompted by the honesty of convictions resigned and the result, which has been known to the world, is that their various constituencies returned them again, thereby showing that this was the wish and this was the real desire of their constituencies. Now, Sir, as I have submitted, we are in a peculiar predicament. We are on the horns of a dilemma and do not know what to do. If we take drastic measures, then it is quite probable that England may think that we are sentimentalists and that we have not got sufficient power of controlling ourselves. With that point in view, we thought, we must try to show ourselves fit to have full restraint over ourselves, we should endeavour to show

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that we are capable of holding responsible positions, and that we are fit to hold this responsibility which has been taken by ourselves. With this view we have been working in a very peaceful manner. Now the opinion of one section of this country is, if I rightly understand it, that our Resolutions and our measures will prove ineffectual; they will not be of any avail. On the other side, the opinion and the honest conviction of us, the co-operators, is that this, namely, honest co-operation, is the only legitimate manner in which we should steer ourselves and that we should pursue this method. We have been seriously contemplating as to what course should be adopted; and the conclusion at which most of us have arrived is that this provision, under debate now, should be amended so that there could be no repetition of this kind of certification. I may most respectfully submit that there was no justification for certification; there was no foreign invasion; there was no disturbance in the country to render this certification justifiable. You will agree with me, Sir, that "the interests of British India" did not really require that this special emergency power should be exercised. If there was the question of deficit alone, then that deficit could have been met by adequate retrenchment and by other wise methods. Therefore, the grounds on which this power was exercised, I may very respectfully submit, are not very very strong. Then naturally the fear arises, where is the guarantee that this sort of certification may not be repeated again. Hence the wise course which this Assembly has thought fit to adopt and which is contemplated by the present Resolution, is this, that the provision, so far as those powers in connection with the certification goes, may be deleted. Now naturally the other side would say, "this is a sweeping amendment. If this amendment is made, if this Resolution is accepted, then it will naturally give a higher status to India than is occupied by the self-Governing Colonies and Dominions."

In reply it may be submitted that the result of my study, of various Statutes relating to this matter in the various Dominions, is that there the Governor has the power of vetoing, of reserving and of suspending, but nowhere has the Governor got the power of certifying and overriding the decision of the Assembly in connection with money matters and money Bills. The power which has been conferred upon the Governors in the various Dominions may be considered a power of "negation," vetoing and disapproving the decision of the Assembly, but nowhere has it been laid down that the Governors have got positive powers, namely powers which may be considered the positive power of legislating. Here, in this section, which is desired to be amended, we find it laid down that, where either Chamber of the Indian Legislature refuses leave to introduce or fails to pass, in a form recommended by the Governor General, any Bill, the Governor General may certify the passage of that Bill if it is essential for the safety, tranquillity or interests of British India or any part thereof. Now you will agree with me, Sir, that placing the right construction on this provision, it means that His Excellency the Governor General has got the positive power of legislating—not the power of negation—that is, not the power of disapproving or vetoing or reserving or suspending, but the power of making a legislation in contravention of the decision of the Assembly, namely, in opposition to the popular will. It is not right to throw out

a general challenge but, in my modest way, I am prepared to submit before this House—is the Honourable the Home Member prepared to cite a single Statute in which the Governor in any Dominion, in any Colony, has been given this power? This power is an extraordinary power which has got no parallel at all. And, in the face of these facts, I think, Sir, you will accede to my contention, which I raise, that it is meet and proper that this extraordinary power may be taken away. The other criticism which could be levelled against it (my motion) would be: Then, if this power is taken away, then the Viceroy will be considered not responsible to the Parliament but to the people of India. Since the Viceroy is responsible to the Parliament, therefore he must have power which may be considered special or emergency power to veto the decision of the Assembly.

I have already submitted that this provision does not give the power of vetoing. This is much more than that, and, therefore, I submit that this House should accept the recommendation which is embodied in this Resolution. It is just probable that it may be urged on behalf of the opposite side that, if this amendment is accepted, then the various other provisions will be required to be amended. With this point in view, I have couched my Resolution in terms which suggest that the Imperial Parliament, with a view to effect this proposed amendment, may amend the other provisions, in order to maintain the consistency of the Act. So, therefore, on this ground, the Resolution, which I have moved, cannot be challenged very seriously.

The question before the House is this, whether the Government will be in favour of unconstitutional acts, on the part of some people outside the House or the legitimate and constitutional step which is contemplated by this amendment. If this is acceded to that the certification has given rise to discontent, and dissatisfaction and there is a great stir, then the official benches will agree with me that it is better to seek for some effective remedy, and the remedy which this Resolution suggests is the only remedy. I submit that the question, in the main, is this. Whether England will place the unconstitutional conduct of some people on a premium, or will she put the present peaceful and constitutional conduct of the Assembly and other co-operators on a premium? That is the main question which requires serious determination. I am afraid that if this Resolution is not accepted, then the people will be fully justified in saying that these reforms are empty reforms as they had openly said before. I submit that with a view to meet that argument, this House will be pleased to accept this Resolution which speaks for itself. I have seen some of the amendments. I need not make reference to them in the interest of economy of time. I may briefly say that the real object will be attained if this special and emergency power is taken away, especially in connection with money Bills. But when I say especially in connection with money Bills, I do not mean to say that the entire recommendation, which is incorporated in this Resolution, is such that it is not acceptable. It is acceptable. But to be on the safest side, I may repeat my submission that, in any case, so far as the question of money Bills goes, the Resolution has got the greatest possible force. With these few remarks I commend this Resolution to the House and I hope that the whole House will extend its wholehearted support to it. I can understand that the National Party

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and the Democratic Party will be in favour of it, though I entertain some doubt so far as the Official Benches are concerned. I may respectfully suggest to them, with your permission, Sir, that this is the proper time, this is a fit occasion when they should exercise their right discretion in the interests of the maintenance of peace and order and that the Resolution deserves to be supported by them also. It should never be forgotten that the law has to be made according to the wishes of the people. The wish and desire of the people is already well-known to the Honourable the Home Member and this Resolution has been moved simply to meet those wishes of the people of this country. Therefore I very respectfully submit that this House should accept this Resolution wholeheartedly.

The Honourable Sir Malcolm Hailey (Home Member) : This Resolution raises a constitutional issue so important that I address myself to it at once, and I intervene at the earliest opportunity because I wish to get the main issue clear and clear beyond any doubt. The House might well, in view of what the mover has said, be in some confusion of mind as to the exact matter on which we are arguing. Here we have the case of an exceptional power, granted by law, which has twice been utilised ; and I am aware that in this Legislature resentment has been felt at the fact that it has been so utilised. Whether the resentment has been equally great outside I prefer to offer at the moment no opinion. For the moment, I do not wish to distract attention to that point, and I content myself with expressing a doubt whether the certification of the Princes' Protection Bill has really stirred India to universal indignation, or whether that " messenger of revolution " as the certification of the salt-tax was called in this House, really produced those heart-rending results that were predicted in our last Session. At all events, this unwarrantable exercise of autocratic power has certainly caused less trouble, less harm to the peace and contentment of the country than that programme of peaceful and soulful persuasion of which we have just seen the decline and I hope I may say the fall. But let that be for the moment. Our modern Hampdens are now returning to us. They have made their protest and their sacrifice. They are returning to us not with scars of martyrdom, but with the satisfaction that they have inflicted a staggering blow at autoeracy by fighting an unopposed bye-election. Mr. Seshagiri Ayyar has failed, and I am glad that he has failed, in his attempt to punish an iniquitous bureaucracy by bringing it down to the plains to hold a special Session before the break of the rains. But as I have said, I am not for the moment on the question of the justification of the past use of certification nor am I on the question of its effect on the country. The immediate issue is different. You may have a provision of law quite justifiable in itself and based on sound grounds, but it may be misapplied in time and in place and in manner. Yet such misapplication would not necessarily imply that it must be abolished or repealed. You must keep the two propositions separate, for the proof of the first, even if conceded, would not argue the correctness of the second. When in 1871 it was proposed to abolish the purchase of commissions in the Army, the Legislature refused, and the step was carried through by Royal Warrant. Many hard things were said at that time about the use of the Royal Prerogative for the purpose, but I do not recollect that any

steps were taken to make its further use impossible. Or again, to go to another hemisphere, when Mr. Cleveland, President of the United States, exercised his power of veto no less than 301 times in the course of his tenure of office, no suggestion was made that the law of the constitution should be altered in order to remove from the President the power of exercising a veto in the future. On the contrary, as Lord Bryce tells us, the American people rather admired a President who had an opinion of his own and was not afraid to enforce it. But Dr. Nand Lal apparently is not of this type. Like the famous Captain Boanerges of old, he prefers the harder text, " if a member offend thee, cut it off ". He claims that the executive has misused its powers, and the only remedy is to repeal those powers once and for all ; for whatever the form of his Resolution, that is his meaning. He proposes that the Governor General should not be allowed to use the power of certification as against the Legislative Assembly. Then the Governor General cannot be allowed to use the power of certification at all ; for no one here, I suppose, would pretend that it is necessary to retain this exceptional power simply that it may be exercised against the Council of State.

That, then, is the proposition which I have to meet now. If subsequently any one raises the question whether these powers have been used rightly or wrongly, I will meet him ; if any one proposes modification of the law granting these powers, there again I will meet him ; but for the present, I have only to consider first whether there was any justification for the insertion of this section in the law, secondly, whether there is any justification for maintaining it, and, thirdly, what alternative can be proposed if it is repealed. And if in arguing this important issue I have to go into the history of origin of this power, it will not be from any mere desire to satisfy a craving for research. For it often happens in important constitutional laws, that the history of their enactment is not merely the explanation of their origin, but is in no inconsiderable measure the justification of their retention. I shall not take you far back ; I have no desire to follow the example of my Honourable friend, Mr. Majumdar, whom I am sure we are glad to see amongst us here again, and recall the constitutional methods of Chandra Gupta or Asoka. I merely wish to take you back to the Montagu-Chelmsford Report. Now, you will remember that the authors of that Report stipulated that " Government must have power to place on the Statute Book after full publicity and discussion measures to which the majority of Members of the popular Assembly may be unwilling to assent." The Congress League Scheme of course had postulated full control by the Legislature ; the authors of the Report said that the Congress League scheme " is compatible with Parliamentary Government but fundamentally incompatible with an executive which retains any responsibility towards the Secretary of State and Parliament." In that view, as they said, they " sought deliberately when the purpose justifies us to depart from popular methods of legislation." For the present, I note only that was their full intention. They were convinced of the necessity (I am quoting them again) " of enabling the executive Government to secure its essential legislation and supplies " and I would emphasise the word " supplies ". How then did they seek to effect that purpose ? They proposed to constitute a Council of State of 50 Members

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of which only 21 would be elected and 4 nominated with a nominated President, that should leave Government with a small working majority ; and if the Council of State with such a majority amended a Bill in a manner unacceptable to the Assembly, the Governor General could certify the amendments " as essential to the interests of peace and order or good Government," in which case the Assembly would not have power to reject or to modify the amendments. And I emphasise again their definition of good government, for it is also important in this connection. The term, they say in their summary " includes sound financial administration," and that definition is thoroughly in accord with what they say in an earlier part—" so long as the executive remains nominated and irremovable, it must be in a position to secure money necessary for its essential purposes." Well, it was with a Council of State of this composition that the Bill first came before Parliament. And I proceed to ask, how did the numerous deputations from India which met the Joint Committee in order to consider the Bill—I see some members of those deputations here—how did they criticise those particular provisions ? I may say at once that most of the deputations were opposed to a Council of State on the lines suggested by the Montagu-Chelmsford Report, but the particular point I am on is their attitude toward a provision granting exceptional powers to the Governor General. Certainly no one of them suggested that this was a function or a sign of autocracy. The necessity of it was almost universally admitted, although there was some divergence of opinion about the method. Take first the National Home Rule League, speaking by the mouth of Mrs. Besant. Mrs. Besant a short time before had compared what she called the autocracy of the British Emperor over India with similar autocracies, that of the Czar over Russia, that of the Austrian Emperor over Austria, and that of the Kaiser over Germany ; so that the word ' autocracy ' was not an entirely unusual argument with her ; yet she did not use the word ' autocracy ' in this connection. I will read what was said on behalf of the National Home Rule League ;—" We do not deny that during the period of transition the Government should have an instrument for passing what it considers to be necessary legislation." The League did not like the Council of State as then proposed ; they thought it was too certain an instrument of Government, and if they were to have two Chambers they would have preferred the old plan of a Grand Committee, for that implied the existence of reserved subjects in the Central Government. But they admitted the necessity of certification though they would have confined it to what was necessary " for peace and order or defence of the country for foreign affairs or for carrying on relations with Indian Princes." Then again, I will take the Indian National Congress. Now, in those days they were comparatively moderate people and capable of some constructive thought. In their Bombay meeting of August 1918 they had agreed to waive for a time their own Congress-League Scheme, and to accept the Reform Scheme with such modifications as they could get. They stated those modifications in their Delhi meeting of December 1918, but they also did not object to the use of exceptional powers where necessary. I will read what they said :

" In the case of reserved subjects, if the Legislative Assembly does not pass any measure desired by Government, the Governor General in Council may provide for

the same by regulations, such regulations to remain in force for one year, and not to be renewed unless 40 per cent. of the Assembly present and voting are in favour of them."

Their spokesman on this occasion before the Committee was that highly conservative person, Mr. V. J. Patel. It is true that he adopted a somewhat different test in limiting the use of the power, namely, the safety, tranquillity and defence of India ; but there the power was. Mr. Tilak representing the Indian Home Rule League had a somewhat different scheme ; there should be no second Chamber but the Governor General should have power to regard any measure as passed if 40 per cent. of Members of the Assembly were to vote in its favour. This, he said, would constitute a statutory majority. After that, it will hardly be necessary for me to quote the views of the All-India Moderate party. They of course were willing to allow certification for a year, and they clearly contemplated that the power should be a fact, for they provided that the Instrument of Instructions should contain an express injunction to the Governor that he must not frequently resort to this extraordinary action. Then, again, there was Mr. Sastri—he was a Grand Committee man on the whole ; he recognized that the Montagu-Chelmsford Report was correct in claiming that Government must have some way of getting through its essential legislation and supplies. He was quite prepared to assent to certification in some form, though he had great difficulties about its exact definition : he did not like the word " interests " but went so far as to admit legislation essential for " good government ". Take again, Sir Sankaran Nair, who certainly did not see eye to eye with us on every aspect of the Reforms Scheme as then proposed ; he was prepared for the exercise of exceptional powers, though he would make the use of them subject to the sanction of the Select Committee and of the Houses of Parliament. Is it to be wondered that in view of this evidence the Joint Parliamentary Committee accepted without a dissent the necessity for a provision of exceptional powers ? I have looked up their day by day proceedings, and I find that even Mr. Ben Spoor did not object to the insertion of some such provision, even though it might be an instrument of autocracy. It is true of course that the Joint Parliamentary Committee liberalized the original provision of the Bill regarding the Council of State. They did that in a way which I have always thought to be a little unfair towards the Governor General, for they gave an elective majority in the Council of State and put on the Governor General the whole onus of carrying through legislation of this type ; it is a burden which he has to bear alone and does not even share with his Council. At the same time they made it perfectly clear what they meant by this provision. They said that they had no doubt that " the Governor General should in all circumstances be fully empowered to secure legislation which is required for the discharge of his responsibility ".

Now for the next stage. How was that recommendation of the Joint Committee received in Parliament ? We know, from the interview that Mr. Patel gave when he arrived in Bombay immediately afterwards, that his friends in Parliament put forward every amendment he desired to suggest. What did they do with this section ? Mr. Macallum Scott merely proposed to substitute the requirements of the maintenance of discipline of our forces, or safety or tranquillity, for the words used in the Act. That is all ; and he was supported by Colonel Wedgwood. But what did

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Colonel Wedgwood say? "I quite agree that the Governor General ought not to be deprived of the opportunity of passing legislation which he thinks is essential for the safety of India or the British Empire....." the last words perhaps may cause a little resentment to some of our friends here. But they are there. All he boggled at was the exact definition that was contained in the Act. He did not object to the existence of these special powers which Dr. Nand Lal has now proposed to repeal. They took no division on the amendment. If that was the attitude of the House of Commons, it is hardly to be expected that there would be much objection in the House of Lords. Lord Sinha pointedly invited attention to this provision of the law, and Lord Selborne further declared the mind of the Joint Parliamentary Committee in words which have been often quoted. They will bear quotation again: "The powers which we propose to confer upon the Governor General are real powers, meant to be used if occasion unhappily arises, but always subject to the control of Parliament."

I have now brought you up to the passing of the Act, and I propose to take you as rapidly as possible over the intervening period after the passing of the Act. The National Congress had not yet entirely broken away from any kind of political sense. At its Amritsar meeting in December 1919 the President discussed every provision of the new Act with great care, in a speech which I may say one might still read with interest and even profit. He objected strongly to the powers being left in the hands of a single individual, and he finally concluded that, "India had now only to trust to the extra good sense and statesmanship of the race of Governors promised and to the interest in Indian affairs which the House of Commons is expected to evince in future." But what was the result when it came to be discussed by the Congress itself? This is interesting,—because the Congress at that time included so many variant elements. Mr. Gandhi, Mr. Tilak, Mr. Das, Mrs. Besant, Pandit Malaviya, I think even my Honourable friend, Sir B. N. Sarma, was there. Anyhow, there were a large number of men who are now classed as Liberals. In spite of the President's strictures, the Congress decided that as far as might be possible it would work the Reforms so as to secure early establishment of full responsible Government. That is the last I shall have to say of the Congress, because soon after it passed into that welter of destructive opposition which has been its only contribution to the history of India in the last three years. What about the Moderates? They met in Calcutta in 1919. They considered the Reforms Act in some detail. There was no word of opposition to this autocratic section; Sir Sivaswamy Aiyer presided and I know he will bear me out. Nor did his successor in 1920, Mr. Chintamani, refer to the matter. There was some discussion on the scope of Reforms in the National Liberal Federation of 1921; but there was no word about this section. Indeed it did not come to be considered definitely until the National Liberal Federation meeting of December 1922. You must remember that the Federation had in the meanwhile had experience of the certification of the Princes Protection Bill, and yet how did they view the matter? I quote from the President's speech. It characterised the use of certification as regrettable, but added that "it was open to question with the clear sight which comes after the event, whether the Assembly was wise

to refuse leave for the Bill to be introduced." There was no word about the unwisdom of leaving this section and its powers in the Act, and I think I am correct when I say that the matter was not even referred to at the National Conference of February last in which many Members of this House took so great an interest.

Well, then, how is it that at the second use of this exceptional power, its exercise has been hailed in that dramatic language to which some of our friends are prone, as the breakdown of the Reforms and the triumph of autocracy? The necessity of such a power had from the first been fully acknowledged; there was never indeed any real attempt to question it. Well, Sir, the explanation is simple enough, though the historian of the future will view it with some amazement. It was Mr. Jamnadas who first gave us the clue to the mystery last March. He confessed that he and his friends had persuaded themselves that these powers would never be used. But on what authority? Certainly not on the authority of anything that has been stated in Parliament, for from the day—the 4th of December 1919—that Mr. Montagu had emphasised the necessity of these provisions, from that day nothing has been said in Parliament that could even be misconstrued into a promise that these powers should never be used. Like many others I sought further enlightenment and at last we have found it; not indeed in the proceedings of this House but in the Press. The Duke of Connaught had said in February 1921 that the principle of autocracy had been abandoned, and in March of the same year I had used these words "If we incur expenditure it will be by your mandate; if we impose taxation, it will be by your vote." I would honestly have refrained from taking up the time of the House in mentioning these statements, if it had not been that they have been so often quoted in the press, have been repeated in the press at Home, and have actually been used as an argument. I can only say that their constant reiteration shows how very hard put to it some of our friends must have been to find any valid ground for their confident assumption of a new constitutional convention. They forget that His Royal Highness went on to define in words which were almost a warning exactly what were the limits of the new powers given to the Legislature. He said:

"It is the clear intention of the Act of 1919 that the policy and decisions of the Government of India should be influenced, to an extent incomparably greater than they have been in the past by the views of the Indian Legislature; and the Government will give the fullest possible effect,"

mark these words:

"consistent with their responsibility to Parliament, to the principle of the new constitution."

And as for my words, did anyone at the time or could anyone seriously now imagine that they were a formal declaration that the Governor General would never exercise the powers conferred by the Act? Why a second before I used them, I referred pointedly to the existence of a similar clause, section 67-A. The Governor General had addressed the House a fortnight before, and if he had intended to make any such startling abdication of his own powers and of the duty which he owed to Parliament and the Crown, it was for him and not for me, to make that statement. Did he make it? Far from it; he said that "in the interval before full self-government was

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attained, certain powers of supervision, and if need be, intervention, would be retained."

That then is the history of the reserved power almost up to the present day. As I have said, the existence of these powers was a condition precedent when the Government of India Act was passed; it was accepted as such even by critics of the Bill; and I defy anybody to quote even the shadow of a promise that they would not be fully employed. Nor are they themselves any proof that we were clinging to the methods of autocracy; they rest on the soundest constitutional basis. Do not let us mistake desires for facts, or aspirations for actualities. What was it that the Government of India Act granted to India? Parliament had never, to use Mr. Montagu's words, agreed to give to the Indian Legislature for the present anything more than a transitional constitution; as he said, "a bridge between Government by the agency of Parliament and Government by the representatives of India." The Government of India was still responsible to Parliament and not to the Indian Legislature. Lord Sinha defined the position even more fully. "Government must be in a position to secure the legislation and supplies it needs for the discharge of its responsibilities. It has not the natural means of a sure majority in the House and must therefore be given an artificial means." And again: "You will see that the Government is necessarily given the fullest powers to reject adverse votes, since its responsibility is not to the Indian Legislature but to this Parliament for the proper administration of its charge." What then would be the implications of accepting this Resolution? It would be equivalent to the grant of full control to the Indian Legislature, limited only by the power of the veto, and by the existence of a power to issue Ordinances which would be in force for six months. I certainly must have cited my authorities wrongly if this House thinks that Parliament would grant such power, and I draw no distinction at all between the Parliament which passed the Government of India Act and the Parliament which sits in Westminster to-day. The Resolution seems to propose only the simple repeal of a single section; in all truth, it involves a radical reversal of the system of transitional Government which has been sanctioned under the Government of India Act. The Executive, as was then intended, and was rightly intended, has come under the immediate influence of the Legislature to an extent never before contemplated. It has pushed forward in one way; it has held back in others. The extent of that influence over Government has been amply recognized in many quarters; I need only quote the speech of Mr. Sastri at the meeting of the Liberal Federation in 1922 as an answer to those who question the great possibilities of the influence the Legislature can exercise. But the Executive still retains, as it must retain, an ultimate power of complying with its responsibilities to Parliament. I am myself confident that any future historian, however democratic or liberal he may be in his tendencies, would agree that Parliament was on sound constitutional ground in insisting on the retention of this reserved power in the existing circumstances of India. That view was taken by the Liberal and Labour Party in 1919 and I am much mistaken if you will not find that it is again taken by the Labour Party to-morrow. Every student of politics, whether

on the practical or theoretical side, will agree that full responsibility can be given only to a Legislature on certain well acknowledged conditions; and no honest thinker could argue that these conditions are yet fulfilled in India. We have not yet an electorate which is politically conscious; it has not yet formed itself into the parties which reveal the true and permanent cleavage of interests and which not only dictate lines of policy but afford the guarantee of continuous and stable administration. Nor have we yet an electorate which has determined to exercise to the full its electoral powers. It is no use to quote to-day in this connection the facts regarding the strength of the English electorates in the pre-reform days of England. The fact is that in those days England was not a democracy at all but an oligarchy; what we are attempting now is to set up some form of democratic or representative government. Until, therefore, the Indian population decides to exercise its powers to the full, the result in the strict sense of political science is that its Legislature is rather illustrative than truly reflective of the real views of the great mass of people in India. Now, if in these circumstances the English Parliament decides that its agents here should retain in the last resort some means of enforcing their responsibility to the Parliament and Crown of England, what alternative do you offer it? Do you prefer to go back to the old plan of the Council of State with a small official majority, or the system of Grand Committee, or do you prefer that the British Parliament itself should on occasions of emergency legislate for India, or do you prefer again the exercise of the Royal Prerogative? If I were an Indian, I should on every ground prefer the retention of the present power, for it is a power over the exercise of which India can expect to exercise far greater influence than were any other alternative adopted. Moreover, are you yourselves confident that the times are such that a power of this kind can be justifiably or safely withdrawn in the best interests of India itself? Look for a moment at the possibilities of the future; it is by no means impossible that what now seems to be an obstacle to your constitutional progress may be welcomed as a safeguard and guarantee of stable government. Our Legislature was once to be swept away from outside by the peaceable and non-violent revolution which has produced so much riot and bloodshed in this country. It is now apparently to be paralysed from inside by the intrusion of pacific Goths and constitutional Huns. As I say, India may yet be grateful that her constitution contains some power which enables the executive to pass into law enactments necessary to preserve the essentials of a stable government; it may yet be grateful that it contains a provision which enables that executive to discharge its responsibilities to the Parliament which is not only the power that in the ultimate resort must protect India from external enemies, which is not only the authority which secures a fair field for the conflicting castes and communities in India, but is itself the guarantor of India's progress towards a fuller form of self-government, the foundations of which it has itself laid in the memorable legislation of 1919.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, I may at once state that it is not my intention to move my amendment. Therefore, if after making a speech I say I do not wish to move the amendment, you may think I have taken up unnecessarily the time of

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the House. I therefore wish to make the position clear. I am simply speaking on the proposition moved by Dr. Nand Lal.

Sir, the Leader of the House has spoken with that consummate skill which makes him a delightful speaker to listen to but a very dangerous opponent. Sir, he has referred to certain conclusions which I am about to show are not justified by the facts mentioned by him. The first instance he mentioned was this. He said or implied that the agitation which has been set up indoors has not found its counterpart outside the Assembly rooms; and I believe one other prominent Member on the Government Benches told me the same thing. Sir, I think that is a grave misapprehension under which the Government is labouring. I have been outside the Assembly rooms. I have been touring in the districts and I may tell them that there is a real feeling of distrust against the Government in consequence of the Salt Tax and in consequence of the certification. One unfortunate circumstance is this—and I say it in all good faith,—that the Englishmen in this country do not realise that there may be a permanent discontent which might undermine the prestige of the Government and which might make the position of Government very irksome. He only recognizes the force of circumstances when there is violence or when there is speechifying and Resolutions are passed at meetings. He apparently is not able to see that without speechifying or violence there may be discontent which will not be conducive to the administration of the country. Sir, I believe the Government are aware that a large number of people in this country have taken to non-co-operation with the Government. They do not care to have meetings or pass Resolutions protesting against the Salt Tax. They are anxious only that things should go from bad to worse and they do not care to tell you that you are wrong. But we, who want to befriend you, tell you that you are in the wrong, and you tell us to our face that there is no agitation in the country. I believe that is an attitude which the Government should not adopt, and I hope they will reconsider their position in regard to that matter. There is really strong feeling in this matter and real discontent, and I think the Government will be justified in taking note of that feeling and that discontent, and adopt measures to allay the discontent.

Sir, the Honourable the Leader of the House referred to my failure to get a special Session. I wanted a special Session in order that the prestige of the Government may be enhanced and it may get out of a very awkward situation. I can assure the Leader of the House that it would have done good if he had acceded to my request. But he succeeded and I failed, and that is why there has not been a special Session. I assure you if there had been a special Session it would have been in the interests of the Government and the people as well.

Sir, the Honourable the Leader of the House traced the history of the powers that have been conferred on the Government as regards certification. If I were inclined to doubt the wisdom altogether of certification, I would have followed the Honourable Member by quoting other sentences to show that certification was objected to; but it will be clear to the House that I do not object wholesale to certification. But I object to the exercise

of powers in the way in which it has been done, and that is my objection to the existence of the powers. He has referred to the fact that the National Liberal Federation over which my Honourable friend there presided did not say that the powers ought not to exist; and he also referred to the National Congress which met just at that time. They did not pass these Resolutions because at that time the power was not misused. The occasion for protesting against the power can only arise when you misuse it. If it is simply in the Statute Book without its being misused, there is no necessity either for the Liberal Federation or for the Congress to say that the power should not exist. When we find that an opportunity has been availed of for using it for purposes wholly inconsistent with the spirit of the Act, then we will certainly say "you should not be entrusted with this power and that it is desirable that this power should be either curtailed or wholly taken away from you." That gives the reason why the Liberal Federation and the Indian National Congress did not consider it desirable to say that the power should not exist there.

The Honourable Sir Malcolm Hailey : That covers the Princes' Protection Bill.

Mr. T. V. Seshagiri Ayyar : It was after the Princes' Protection Bill, the Honourable the Home Member will remember, that the Conference met in Delhi and said that this power should not exist. Then we were aware that the power was beginning to be used badly, but it was the second occasion that it was wholly misused, and therefore we say that, having once badly used it, and having misused it a second time, you should not be.....

Mr. President : I would draw the attention of the Honourable Member to Standing Order No. 29 (2) (iv). The Honourable Member is approaching dangerous ground. I drew the attention of Dr. Nand Lal to it when he was speaking. I will read the Standing Order again to the House.

"(iv) reflect upon the conduct of His Majesty the King or the Governor General"

Mr. T. V. Seshagiri Ayyar : Sir, if I have said anything to reflect upon the conduct of the Governor General, I would apologise to the House for any expression that might have fallen. I used that expression because I thought it was not unparliamentary, but as you say it is unparliamentary I unconditionally withdraw it.

Mr. President : It is only a warning to the Honourable gentleman and those who follow him. To say that the power has been misused is dangerously near the infringement of that Standing Order.

Mr. T. V. Seshagiri Ayyar : I consider, Sir, that the power should not have been used. I hope, that will meet the circumstances of the case. That power should not have been used at all. If that will satisfy the House, I am willing to use that expression instead of 'misuse.' What I want to point out is this. It is not only necessary that some curtailment of the power should be made in the interests of the Assembly but also in the interests of Government there should be some restrictions imposed

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on the power of His Excellency the Viceroy. If it was made clear instead of being vague, I take it that His Excellency would not have certified the Salt Bill. It is because the words are there, it is because he has been given too much power, that he availed himself of the prerogative. It is for that one reason and in the interests of Government itself there should be some restriction placed upon the exercise of the power by His Excellency the Viceroy. There can be no doubt that the country has felt that the recommendation and the certification are wrong in law. Some eminent lawyers have taken that view. The questions that arise naturally are whether the recommendation should be at the inception of a Bill, whether it can come in after it has been rejected and goes to the second Chamber and whether the recommendation can be with reference to a part of the Bill or whether it should not be to the whole Bill. These are matters upon which grave doubts have been felt by eminent lawyers. Certainly, I believe the Honourable the Leader of the House will agree with me that it is not desirable to leave the law in such a confused state as to give room for all these possible doubts, and it is desirable only for that reason that the law should be amended. Sir, then there are these three clauses which enable His Excellency the Viceroy to certify. He may certify that the passage of the Bill is essential for the safety, tranquillity or the interests of British India. So far as safety is concerned, with regard to the question of the Salt Bill, I do not think even the Honourable Sir Malcolm Hailey will say that it was necessary for the safety of the Empire that the Salt Bill should be certified. And as regards tranquillity, I do not think he would say that the tranquillity of the country demanded that the Bill should be certified. On the other hand, by certifying you have created disturbances in the country. You have made the country less tranquil than it was before by certification. Now, Sir, come the words "interests of British India." Who are to be the judges of the interests of British India? We, who are sitting here from day to day, we who move among the people and who understand their feelings, are we not better judges of the interests of India than persons—I say it with all modesty—persons who sit in the Council Chamber but who do not move among the people? Sir, I submit that we can be trusted to know the feelings of the people better in these matters—to know the interests of the people much better in these matters than the Executive Government. And yet our wishes so plainly expressed have been put aside and this certification has been made. Sir, the existence of these words "interests of British India" is capable of grave misapprehension, and it is desirable that that clause at any rate should be deleted altogether. Sir, as I said, I am not speaking on the amendment. I am only trying to follow the Honourable the Leader of the House and to point out the mistakes he has made in some of the observations he has made. I think that the time has come when the Bill should be redrafted and amended. If it is allowed to exist, it is dangerous to the Assembly and it would not be safe to the Government itself, because it is making the Government more unpopular than ever.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, the mandate I received from the constituency which I have the honour to represent—the Europeans of the United Provinces—may be put in these

words : "Take every step to justify the reforms and to move along the path of constitutional progress towards the attainment of responsible self-government within the Empire." The acts and words by which this mandate is to be given effect to have been left, as they must be left, to me. It has been my strong desire and my feeble effort not only as a Member of the Council in the United Provinces but in this higher Central Legislature, to fulfil that trust by independent and unfettered exercise of my opinion and judgment guided by the great assistance which I obtain from what is said by other Honourable Members on each particular Resolution as it comes up. I quite admit that in many cases my own judgment must be a poor guide. In this particular proposal now before the House I am following that judgment after the best consideration that I have been able to give to the question, and I readily admit that I may be wrong ; but, while I think and feel about the matter as I do, it is my duty to give utterance to that opinion. By the Government of India Act, the Imperial Parliament established for India the constitution under which we are now working, and *inter alia*, expressly provided that that constitution, as it stands, should be tried—I will not say as an *experiment*, because that word raised a good deal of controversy after it was used by the late Prime Minister in his "steel-frame" speech last year—but that this constitution should be tried as an instrument of transition from one form of Government to another and that this trial should go on for a definite period of 10 years ; after which, in the opinion of the Imperial Parliament, sufficient experience will have been gained to justify the issue of a Royal Commission to inquire into all the faults and defects, advantages, disadvantages, points of undue friction and the rest of it, of this constitution for the purpose of a report on the basis of which the Imperial Parliament would be able to frame another Government of India Act. We who have come to this House as Members of this constitution have bound ourselves to help in working that constitution as entrusted to us.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Although defective ?

Colonel Sir Henry Stanyon : We are handling its machinery under the watching eyes of the whole British Empire. What is our duty ? Surely, to try the machine made over to us, to learn its complications first, to make ourselves adept in the use and control of it, and then to point out, as we shall be in a position to point out, what are its defects, and in what respect it can be improved. Above all, we are expected and hope to gain that experience and knowledge and those qualifications in a novel form of government—novel in this country at all events—which will justify us in demanding a much larger measure of autonomy after the prescribed time shall have passed. Now, self-praise is no recommendation ; but I think that we may claim that a great deal of good, honest, solid work upon the proper lines of Parliamentary administration has been achieved. But unfortunate diversions have undoubtedly taken place. They have laid us open in some places to ridicule, in some places to those "die-hard" opponents of this form of Government who cry "Did we not say so-and-so ? Are they not unable entirely to govern themselves ? Do they not miss the substance in running after the shadow ?" and criticisms of that kind. We have had

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diversions from the path upon which Parliament placed us and which it expects us to follow. One notable form of them has been a series of futile attempts to get over the period prescribed for this trial by some system of short cuts. One of these diversions is now before the House. I have too great a respect for the high ability and ripe experience of my esteemed friends—I say so in all sincerity—my esteemed friends Dr. Nand Lal and Mr. Seshagiri Ayyar, to believe for a moment that they fail to appreciate the absolute futility of the proposal which is now before the House. Surely, they know as well as we all do, that it is from His Excellency the Governor General in Council, not the Viceroy, that certification comes. (*A Voice* : “The Governor General, not the Governor General in Council”.)

Dr. Nand Lal : It is His Excellency the Governor General who has got this special power.

Colonel Sir Henry Stanyon : I stand corrected. I thank you, Dr. Nand Lal. I said Dr. Nand Lal was my esteemed friend and he has come to my help at once. I say that we all know that His Excellency the Governor General and the Imperial Parliament will not stultify themselves by giving effect to any proposal for a premature amendment of a most material section of the Government of India Act. That Act has been carefully worked out in the way mentioned by the Honourable the Home Member and it is the result of those labours which Parliament seeks to have tried. No one pretends that it is perfect ; no one says that it is not full of defects ; but Parliament has decided that we are to take ten years to find out all those defects and then Parliament will see to putting them right. Therefore, I say that my esteemed friends who know the futility of this attempt to obtain a premature amendment have some other purpose in bringing it before us. That purpose Dr. Nand Lal, at all events, has not attempted to conceal. It is another strong protest against the imposition of the Salt Tax. Let it not be supposed that, in taking the attitude I am doing with regard to this proposal, I seek in one iota or one tittle to justify that tax. With all respect to Government, and with ready admission of the possibility that I am wrong, I say without hesitation, (as I would have said in the course of the Budget debate if I had been fortunate enough to catch the eye of the Honourable the President last March), that I regard the action of Government in insisting on that tax, after brushing aside on purely theoretical and speculative, and to my mind, in many cases, most unconvincing grounds, every alternative project advanced by the House, by Members who were as anxious to balance the budget as the Honourable the Finance Member himself—I say that in taking that course the Government fell into a political error of the first magnitude. The optimistic declarations of Government as to the incidence of that tax—the small increase that it would make in the household of every tax-payer seemed to me to have overlooked the profiteer who would make, and has made, the tax an excuse and quoted Government as the authority for doubling not merely the *duty* but the *price* of salt.

The Honourable Sir Basil Blackett : Has the Honourable Member any foundation for that statement ? (*Several Voices* : “Yes”.) (*A Voice* : “Go to the market.”)

Colonel Sir Henry Stanyon : What members say here must necessarily be near say. I heard of it in Lucknow myself. (*A Voice* : “Will the Honourable Member take the trouble of going to any market and finding out the price ?”) I am not attempting to revive the debate on the salt tax. I made this *post-mortem* examination of what is really a dead horse (which I think and I would suggest to my esteemed friends on this side of the House it is quite useless to flog) merely to anticipate and destroy any misapprehension of my attitude on the proposal now before the House. I oppose that proposal because it is futile and useless and even if it is constitutional—which I respectfully doubt—if adopted it will add nothing and take away a good deal from the reputation of this House as a Legislature of sagacity and sobriety and capacity for the management of its affairs upon Parliamentary lines. Let us think for a moment what we are trying to do. We in this Assembly are engaged now in singing our “swan song.” We are shortly to have a new Assembly. From the events that have happened with regard to municipal and other elections, I do not think that I say anything very improbable when I say that it is not unlikely that we may have an Assembly of non-co-operators hereafter, committed to destroy the reforms. Now, suppose that an Assembly like that came up. They could make government impossible if they had final power to refuse supplies for such essentials as establishment, roads, railways and posts and telegraphs. Now would this Assembly like to leave, as a legacy for that coming Assembly, a Governor General shorn of his power to correct procedure of that kind ? I do not think so. Let us by all means fight the salt tax but let us do so openly, constitutionally as men and legislators, not as children by devious means, by impulsive resignations, by perpetual obstruction and by futile proposals. An opportunity will come with the next Budget. Let us prepare ourselves for that. If the experiment of governing ourselves is to be fairly tried, the majority vote of the House, at least on a mode of taxation, must be given effect to at least for one year as a tentative measure. This constitution is under trial. Let our proposals, however bad they may eventually prove to be, be tried for one year. It cannot do much harm. If some of the proposals advanced last March had been included in the Budget, perhaps at the end of this year Government would have been able to say, ‘Look, we have tried and have failed.’ Then Government would have been in a very much stronger position to say, ‘Now we are going to try our own measures.’ But what Government did in this case was to throw out everything on speculative grounds as not likely to succeed saying, “We will only have our own measure.” That was not trying the constitution and therefore was possibly a political error. It may not have been an economical error. Probably it was not an economical error. But, at all events, it was a refusal by Government to do the very thing that the Imperial Parliament wants us to do, that is to try our methods, and if they prove inefficient, to put them aside. But that is a constitutional matter. Government are free to follow their own opinion. They acted with the very best of intentions. I for one can say that the arguments in favour of their action were immensely strong ; but there is this one argument that I have now advanced against it and that is they did not fairly try the new mode of government because they

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did not think it was likely to work. However that is how the matter now stands. So far as the certification is concerned His Excellency the Governor General had no alternative. The whole House was of one opinion that the Budget must be balanced. By the time the Bill reached the point of certification there was no other alternative between leaving the Budget unbalanced and balancing it in the way insisted on by the representatives of Government in this House. Therefore, I do not see that His Excellency used his powers on this occasion in either an exceptional manner, or that His Excellency could have used them otherwise, having regard to common sense to give effect to the unanimous opinion that the Budget must be balanced. With these remarks I would strongly urge on my friend the withdrawal of the proposal. I think the view of this House and its resentment at not being given a chance of holding the steering-wheel for a little while by itself has been sufficiently indicated, and to carry on this proposal and ask for something that there is not the slightest chance of getting will only tend to lower the reputation of this House.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I should have preferred not to intervene in this debate, but the speech of the previous speaker has impelled me to do so. Unfortunately he was not here in this Assembly when a Resolution was moved by my friend, Mr. Mazumdar for further reforms and the Government then brought in an amendment to that Resolution, and that Resolution in an amended form was carried unanimously by the House. What was that Resolution ? What was the position which Government then took ? The position which we advanced was that the 10 years' limit which had been laid down in the Act was an impossible limit, that the momentum of public opinion which would be gathered by the working of these reforms would be such that if you left them untouched for 10 years, it would be too late for you to give at the psychological moment the needed reforms and the country would demand much more revolutionary changes than perhaps you will be inclined to grant. The Government proposed an amendment and the House passed a Resolution.....

The Honourable Sir Malcolm Hailey : If the Honourable Member will allow me to correct him, Government did not propose that amendment.

Mr. N. M. Samarth : Sir William Vincent.....

The Honourable Sir Malcolm Hailey : Sir William Vincent did not propose an amendment. He helped to draft it and handed it up to the Chair and that is the only part he took in the matter. Government was entirely opposed to the Resolution ; it spoke against it and did not formally propose any amendment. Sir William Vincent only drafted it.

Mr. N. M. Samarth : I will not go into that controversy and the quibble. The proceedings are there. The amendment was handed over and the President ruled that the amendment was moved by the Honourable Sir William Vincent. It was put as the amended Resolution and the House carried it. Government never challenged it to a division and they acquiesced in it. That amendment stated that the Commission must

come before the 10 years laid down in the Act, and that is the position with which my Honourable friend was not acquainted.....

Colonel Sir Henry Stanyon : Perfectly well. I said that that was one of the diversions which this House has indulged in.

Mr. N. M. Samarth : To which the Government was a party. (*The Honourable Sir Malcolm Hailey* : "No, No.") Yes, yes.

Mr. President : The Honourable Member has brought in the name of the Chair and I think I must say a word in this connection. There was undoubtedly a misunderstanding. Where exactly it arose I was not aware at the time and I am not aware now, but I am satisfied that there was a misunderstanding. He was perfectly right in saying that the Resolution was carried unanimously by the House, but there was a misunderstanding regarding the paper handed up to me by Sir William Vincent.

Mr. N. M. Samarth : Well, the fact is there that the Resolution of the House was carried unanimously. Government did not have the courage to challenge it to a division and it stands on the records of the debates of the Assembly as having been passed by it unanimously.

The Honourable Sir Malcolm Hailey : I regret it exceedingly for I have since heard that we should have carried the day.

Mr. N. M. Samarth : Well, I do not know whence this information was received by him and who has given it. But he must not be a friend, he must be, well, I won't say, an informer but an unreliable person. Whatever it is, that is the situation, and I hold strongly that this present form of government and the present position cannot last for ten years. And if that is your conviction, why not say it, and why not bring it to the notice of Parliament ? Now, Sir, the Leader of the House has made some quotations from what took place before the Joint Parliamentary Committee and in Parliament. I do not know what he means by relying on those quotations. Does he mean to say that because some men did not object to it then, therefore it is now *res judicata*, in the language of law ?

The Honourable Sir Malcolm Hailey : They supported it.

Mr. N. M. Samarth : I am going to show what took place in the House of Commons at the time. I hold in my hand a copy of the Parliamentary Debates on the Government of India Bill. When this clause about recommended Bills came before the House of Commons, the provision for certification was in it, namely, that "the Governor General may certify that the passage of the Bill is essential for the safety, tranquillity or interests of British India or any part thereof," and Mr. MacCallum Scott proposed an amendment to it ; he said, "I beg to move, in subsection (1), to leave out the words, 'safety, tranquillity or interests' and to insert instead thereof the words 'maintenance or discipline of any part of His Majesty's naval, military or air forces or for the safety or tranquillity'; and he explained that the word 'interests' is so wide that one does not know what you mean by 'interests.'" Mr. Montagu then gave the guarantee, gave an assurance, that all that was meant was this. In the first place, he tried to outwit the mover of the amendment and said in effect :—"Look here, it is too late now to propose an amendment in this section when you left the previous section to go by unamended," and then

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he proceeded to say : " I cannot for the life of me see why you should make a difference between the maintenance of discipline of any part of His Majesty's forces and other interests. The only reason for excluding His Majesty's forces is that the Viceroy and the six Governors are responsible to the Secretary of State and to this House and not for the internal arrangements for those forces. Under the scheme of the Bill we make the Government responsible to Parliament still for the whole government of India. I know that some of my Honourable friends think that if you have an Executive responsible to Parliament not only for the maintenance of discipline in any of His Majesty's forces but also for the interests of India, you must give them power to discharge that responsibility and to pass legislation which they regard as essential." He then proceeded to say and I invite attention to what he said :—" It is not any measure which affects the interests ; it is a measure which the Viceroy can say is essential. He does not now, as he used to do, pass that legislation by means of what used to be the official block. He passes it frankly as an executive order of his Government." Then he proceeds to mention the provision as to laying it before Parliament, but he gave a further guarantee which has not been given effect to. He proceeded to say that a Member of Parliament will have in order to deal with that subject " the opportunity of a report upon the measure by the Standing Committee appointed by this House itself." " Therefore " he said " I do think that the use of the power is guaranteed both by the form and by the appeal to Parliament itself." " With these guarantees," he proceeded to say, " I do submit, if the Viceroy and his Government, who are responsible to this House for the good government of the Empire of India, feel that legislation is necessary, they ought not to be deprived of the opportunity of getting it." Then followed Colonel Wedgwood, and he said, ' well I do not know what you mean by it.' He said, ' I quite agree,' he said, and that was the sentence read out, not completely but partially. I am sorry to say, from a brief which has not been properly prepared for the Leader of the House, " I quite agree that the Viceroy ought not to be deprived of the opportunity of passing legislation which is essential to the safety of India or of the British Empire." So much was rightly read out. But what follows and which was not read out to us is this. " But what is the meaning of the word ' interest ' ; it is a perfectly vague terms."

The Honourable Sir Malcolm Hailey : I was keeping that for the Amendment.

Mr. N. M. Samarth : I am going to read it, so that.....

The Honourable Sir Malcolm Hailey : Unlike my Honourable friends I do not speak at the same time both on the amendment and the Resolution.

Mr. N. M. Samarth :

" Every piece of legislation is held to be essential in the interests of this country. But this clause gives the Viceroy carte blanche to introduce any legislation. I think that is too wide a power."

Then Colonel Wedgwood says :

" Even if this amendment is not carried, I hope the Right Honourable Gentleman will inform the Viceroy, or any one who is to have power to initiate such legislation, that by the word ' interests ' what is meant is exactly that which the Honourable Member has put down in his amendment."

Then Mr. Inskip followed and he said :

" Is not too much stress being laid on the wrong word ? Should it not be on the word ' essential ' rather than ' interest ' ? And does not the word ' essential ' ensure all the protection which is necessary ? "

and then the amendment was negatived.

The Honourable Sir Malcolm Hailey : Will you read the figures of the division ?

Mr. N. M. Samarth :

" Amendment negatived and the clause ordered to stand part of the Bill."

The Honourable Sir Malcolm Hailey : Unanimously.

Mr. N. M. Samarth : Unanimously.

The Honourable Sir Malcolm Hailey : Just like Mr. Majumdar's Resolution.

Mr. N. M. Samarth : Mr. Montagu gave the double guarantee that in the first place it is not every measure which is for the interests of British India that will be certified (Mr. Harchandrai Vishindas : Where is Mr. Montagu ?) That makes all the difference ; and secondly he gave a guarantee that even if a measure was certified, it will go to the Joint Parliamentary Committee, and then it will be placed before Parliament. With this double guarantee there was really no likelihood of any harm being done by retention of the words as they were. Now, I do say that I am not in favour of the Resolution as it stands. I do not say that in any constitution the prerogative of the Sovereign is not guaranteed in some form or other, for instance, in Dominion Acts, you have the provisions as to the Governor General's right to withhold assent to any Bill or reserve it for the assent of the Crown ; or, even if assent is given by him to a Bill, it is liable to be vetoed by the Crown. So, I am not in favour of doing away with the powers of certification altogether, but I drew attention to this debate with a view to show that the word ' interests ' was objected to at the time and it is the word ' interests ' which has been misapplied and misused, to my mind. Supposing the original wording was " safety or tranquillity of British India " not " or interests " which are the words to which objection was taken and which have been used with India rubber elasticity by the Governor General, no objectionable step could have been taken by him. Take this measure, the salt tax. My friend Sir Henry Stanyon objected to it. I objected to it. I do not want to go into its demerits in this debate. All I will say is that it is an unimaginative and short-sighted Government that could have insisted on it and it is an obstinate Government that could have persisted in it. This is not the occasion to go into it. I am only on the point that the understanding of those who took part, however humble, in seeing that the Government of India Bill went through was that this was a power which would be used under the circumstances mentioned in the debate by Mr. Montagu himself. Those have not been followed, and consequently it becomes necessary to

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limit the powers of the Viceroy and bring them into conformity with what was the understood sense in that debate ; and when it comes to voting on an amendment of the Resolution, I shall be happy to support an amendment to that effect.

Prince A. M. M. Akram Hussain Bahadur (Calcutta and Suburbs : Muhammadan Urban) : Sir, much as I should like to accord my support to a Resolution of this nature, I fear that at the present time and in the circumstances in which it has been introduced into this House, I cannot but withhold my support from it. My reasons for doing so are not the same as have been pointed out by the Honourable the Home Member. He has taken one point of view, but I take quite a different point of view, the point of view of the layman. In the first place, Sir, I think that the introduction of this Resolution is a sequel to the imposition of the salt duty, the enhancement of the salt duty, and if I may be permitted to use the expression, I think this Resolution has been conceived in a huff. I think, Sir, in the first place that for a body like ours, dignified as it is, it is unseemly that we should show any temper. In the second place, Sir, the procedure which is proposed to be adopted seems to me rather strange. At any rate, it does not seem to be a common-sense proposal. The Resolution suggests that this Assembly should recommend to the Governor General in Council that such and such a thing should be done.

The Governor General in Council is represented here. The Members of the Council are Members of this body. Do you for a moment think, do my colleagues in this House for a moment imagine that the Members of the Governor General's Council, who have in the Governor General their chief, are likely to suggest that the powers of the Governor General should be curtailed and that he should be shorn of those powers ? That seems to me, Sir, a very unreasonable view to take. Then, Sir, the Governor General is none other than the Governor General in Council. (*Cries of "No."*) The Governor General certainly is none other than the Governor General in Council. (*Cries of "No."*) I beg your pardon, but I maintain it is the same personality. (*Cries of "No."*) Is it likely, if he is responsible to Parliament, to expect that his powers should be taken away ? I doubt it very much. Well, as has been pointed out by Colonel Sir Henry Stanyon very rightly, the proper course for this Assembly to adopt would have been to ask the country to demand a committee of inquiry from Parliament to come and inquire into the working of the Reforms, and then to report to that committee that they desire the modification of section 67-B of the Government of India Act. I think, Sir, when we came as co-operators to this Assembly, it implied that we were fully pledged to all that was laid down in the Government of India Act, and I think it is only reasonable that we should abide by it for, at any rate, if not 10 years, something like 10 years. With these observations, I think this Resolution should be rejected.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I had no intention of speaking on this original Resolution, my intention being to speak when we came to the amendment dealing more specifically with financial questions, but I rise at the present moment, before we reach that

amendment, in order to make sure that I have an opportunity to-day of correcting what I think would be a very unfortunate misapprehension to go out to the country if Sir Henry Stanyon's statement in regard to the effect of the Salt Tax were not categorically denied. I am sure Sir Henry Stanyon would not have made that statement if he had been aware of the real facts. The Government of India were well alive to the danger that existed, that there were people in India who would take advantage of the increase in the salt duty to increase the price unduly. Steps were therefore taken to obtain regularly from all over the country statements week by week of the wholesale and retail prices of salt. I will not trouble the House with any very lengthy figures on this subject.....

Mr. President : Before I let the Honourable Member go further, I must point out that if I allow this explanation to be made in answer to certain remarks made, I shall have to regard anything further on the same lines as irrelevant. Having allowed the Honourable Member to refer to it, I must allow the Finance Member to make his statement.

The Honourable Sir Basil Blackett : I am grateful for this opportunity, as I think it would be a great pity if this misstatement were to go out. When the duty on salt was 1 rupee 4 annas a maund a calculation was made for typical centres in various places, and it was found that the wholesale price to the retail dealer was on the average Rs. 2-8 per maund. This was in the United Provinces. Similar calculations were made for other centres. The extra charges in the United Provinces for cost of manufacture, freight, cost of bags and departmental charges, the wholesalers' profits were on the average just Re. 1-4, the same as the amount of the old duty. When, therefore, the duty was raised to Rs. 2-8, one would have expected the wholesalers' price to rise to a little over Rs. 3-12, that is, by a little over 50 per cent. The figures are not quite the same for each province, because questions of the quality of salt, questions of freight and other things enter in. The actual figures for the week ending the 2nd of June, which I take because they are the latest monthly figures that we have and correspond almost exactly with previous month's figures, show that the average increase in retail prices in Madras is 44 per cent. (*Mr. T. V. Seshagiri Ayyar* : "Are they the retail figures or the wholesale figures ?") They are the retail dealers' prices. Whereas you would expect the wholesalers' price to have gone up—in Madras it would be a little more than 50 per cent. to the retailer—we find that the actual retail price on the average has gone up by only 44 per cent. ; in Bombay the figure has only gone up by 32 per cent. ; in Bengal by 41 per cent. ; in the United Provinces where the exact figure that I gave for expected wholesale increase was 50 per cent., the retail price has only gone up by 38 per cent. ; in the Punjab by 34 per cent. ; in Burma, 38 per cent. ; in Bihar and Orissa, 28 per cent. ; in the Central Provinces, 20 per cent. and Assam, 27 per cent. I really think, in view of these facts, that it is most undesirable that the statement should go forth either that there has been anything like general profiteering or that the result of the salt tax has been an increase in the price over and above the increase in the duty. As a matter of fact all our evidence—we are still watching—is that the increase in the price has been considerably less than the increase you would expect. There is one rather simple explanation of that, and that is that the dealers

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had an inkling that the tax might go up and there were very heavy withdrawals of salt at the lower rate of duty during January and February. But I do want the House to understand that the Government has kept a very close watch on this matter and that, so far from profiteering having taken place hitherto, the tendency has been for prices to go up less than ought to be justified by the increase of the tax.

Sir, I do not propose at the present moment to make a speech on the general subject, as I understand that an amendment will be moved, whereupon I shall have another opportunity.

Mr. President : I want to know exactly where we stand in regard to the amendments. I understand that Mr. Seshagiri Ayyar does not move his amendment.

Mr. T. V. Sheshagiri Ayyar : No, Sir.

Mr. President : Mr. Agnihotri, do you move ?

Mr. K. B. L. Agnihotri : No, Sir.

Mr. President : Lala Girdharilal Agarwala, do you move ?

Lala Girdharilal Agarwala : No, Sir.

Mr. President : Mr. J. N. Basu.

Mr. J. N. Basu (Birma : Non-European) : Sir, my amendment which runs as follows puts this matter in a nutshell :

“ That for the original Resolution, the following be substituted :

“ This Assembly recommends to the Governor General in Council that he may be pleased to take necessary steps to get section 67-B. of the Government of India Act amended as follows :

(1) The words ‘ or interests ’ occurring between the word ‘ tranquillity ’ and the words ‘ of British India ’ be deleted.

(2) The Proviso be amended as follows :

(a) The word ‘ grave ’ be inserted before the word ‘ emergency ’, and

(b) the following be inserted after the word ‘ emergency ’ :—
‘ such as foreign invasion, civil war or widespread internal commotion and in no other circumstances ’.”

It is not opposed to the original Resolution of Dr. Nand Lal or to the amendment of my Honourable friend Mr. Seshagiri Ayyar. (*The Honourable Sir Malcolm Hailey* : “ It knocks it right out.”) It really relates to the constitutional crisis brought about by the certification of the salt tax. We are not at present concerned with the economic or financial aspect of that tax. It is the constitutional aspect of the tax that ought to engage our attention to-day. The certification proceeded under section 67-B of the Government of India Act. At the outset I might say that we proceed on the assumption that every Government should have certain emergency powers. That assumption, I believe, will relieve my amendment from the onslaughts of the Honourable the Home Member.

The certification was made, as I say, under section 67-B. I beg to submit that that section has no application to any taxation measure. The only section that is applicable is 67-A. Section 67-A deals with budget affairs, and this House will find that in sub-section (7) and sub-section (8) the emergency powers are given to the Governor General

in Council, and Governor General respectively. Now sub-section (8) says :

“ Notwithstanding anything contained 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.”

I wish to invite the attention of this House to those two words “ safety or tranquillity.” The omission of the word “ interests ” is significant and is designedly made. For budget purposes, for taxation measures, the word “ interests ” was designedly omitted, and therefore if His Excellency the Governor General thinks fit to exercise this power he must do so when an emergency exists and it is necessary “ for the safety or tranquillity of British India or any part thereof.” He could not invoke this section in execution of this power in the interests of the British Empire. Therefore when there is a complete provision made by Parliament in sub-section (8) for the exercise of his emergency powers, I do not think it is permissible to any one to resort to other sections in order to avoid these restrictions placed by those words “ safety or tranquillity ” on such power. There was no question of safety ; no question of tranquillity ; there was no danger to these two things in British India, and therefore the certification could not be made under sub-section (8). Resort was had to section 67-B. Section 67-B is an omnibus section, it is a section of general legislation. It does not refer particularly to the Budget Section 67-A. It is an omnibus general section which apparently could not have meant to include the Budget powers or to deal with them. There may be cases in general legislation to provide emergency powers wider than was given in the case of Budget affairs. Therefore the word “ interests ” was added in section 67-B. Section 67-B runs :

“ Where either Chamber of the Indian Legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor General, any Bill, the Governor General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof.”

Here is a different situation. Here is a situation quite different from the Budget situation, and therefore the conditions being different, the phraseology is also different. I submit, therefore, that resorting to this section was illegal. Well, that is the opinion of my humble self, and my reading of these two sections fortifies me in that opinion, and my subsequent quotation of circumstances will also show that this opinion is similarly fortified even by the Honourable the Home Member. There is a proviso that ‘ if a state of emergency exists, the Governor General can..... etc.’ Therefore, my amendment is that the words ‘ or interests ’ should be deleted. If His Excellency the Governor General or anybody else who is in charge of the Government of India wants to apply section 67-B to the Budget affairs, then the words ‘ or interests ’ should be deleted in such a case at least, if not wholly from section 67-B. The words ‘ or interests ’ are very wide. I need not dilate upon this matter, because what my Honourable friend Mr. Samarth has just now said amply justifies my amendment to delete the words ‘ or interests.’

Then my second amendment with regard to the word ‘ emergency ’ should be preceded by the word ‘ grave ’ ; the word ‘ grave ’ should

[Mr. J. N. Basu.]

be inserted before the word 'emergency.' That was the view taken by the Joint Select Committee. What is the meaning of 'emergency'? I think its meaning is clear, namely, a certain juncture calling for immediate action. That is the definition I gather from the dictionary in the Library. Now the word 'emergency' implies grave emergency, and this is the interpretation given and accepted by the Parliamentary Joint Committee. Clause 13 of the Parliamentary Joint Committee puts the meaning clear when it says, "Should be specially consulted about acts of this character. Provision, however, is made in the Bill to avoid delay in cases of grave emergency." This is in reference to provincial matters; however, the principle is just the same, and in ordinary parlance the word 'emergency' can only mean grave emergency. I therefore think that there will be no opposition from the Treasury Benches to the proposed amendment. Now unless it is grave emergency the consequences will be far-reaching and disastrous. In this case the emergency has been created. It does not exist at all. It has been created to enable the exercise of this power under section 67-B; to provide fresh safeguards against the misapplication of this section or misusing it or creating emergencies, I have proposed a further amendment that the following be inserted after the word 'emergency.' Now that matters have been brought to a head, it is expedient both for the Government of India and for the British Empire that these emergencies should be illustrated and exemplified by the following amendment "such as foreign invasion, civil war or widespread internal commotion and in no other circumstances." "Such as" is meant to include foreign invasion, civil war and internal commotion. But there may be circumstances which might necessitate the exercise of this power not covered by my amendment. Therefore, I have advisedly chosen the words "such as" so as to include other cases as well. There can be no opposition, therefore, to my phraseology. It will include circumstances which are *ejusdem generis* but not to other circumstances. These amendments, I submit, are quite illustrative of what is meant by the Act. The amendment only defines the position more clearly and is in the spirit of the Government of India Act. The Government of India Act, under section 67-A gave full power to the Legislative Assembly to refuse or assent to any demand as they thought fit. Full power was given to us by this section, subject only to emergency powers as given in subsection (8). In no circumstances except as stated above could this power be curtailed; by the certification of the salt tax this power has been taken away. That such was our power, was strengthened by Lord Chelmsford's declaration which the House knows well—the Royal Declaration communicated through His Highness the Duke of Connaught, and the Honourable the then Finance Member, (now Sir Malcolm Hailey). In 1921, he gave that assurance that amounted to a pledge. He did not give it in his personal capacity: that pledge was given by the Government of India through the mouth of Sir Malcolm Hailey and the Government is bound by that pledge. That pledge placed the matter very clearly. We began to work the reforms under the belief that complete power over the purse was given to us, subject to exceptional circumstances. That belief was strengthened, supported and substan-

tiated by all the above references. We are fortified now in thinking that that power has been curtailed, taken away, wrenched away from us. It is further confirmed by His Excellency the Viceroy himself in accepting the Assembly's decision last year, when the budget was uglier than this year. There was no emergency then. There was no emergency for the last five years. There was no emergency in 1922 when the budget was heavier—11 crores. When did this emergency arise—when was it discovered? That seems to show that the balancing of the budget would not have thrown India into the vortex of revolution, not have subjected it to foreign invasion, nor shaken her credit; nothing of the kind, it was simply a budget affair. The Bill was passed by this Assembly with certain reductions only. It was the normal passage of a money-Bill, nothing extraordinary, nothing emergent, nothing which called for the exercise of this exceptional power. One of the reasons for the exercise of this emergency power, it was said, was that the credit of India was shaken. I do not know whether it was shaken at all. It is said that it was in the interests of India that this balancing of the budget should take place as soon as possible to establish her credit.

The Honourable Sir Basil Blackett: It has greatly improved her credit.

Mr. J. N. Basu: It would have improved even if the Budget was not balanced, and without the imposition of the salt tax. The foreign lenders have not complained anything.

Mr. President: The Honourable Member is straying from the subject. In view of the Clock, I must ask him to bring his remarks to a close.

Mr. J. N. Basu: I shall be very brief, Sir. India did not suspend her payment of interests to foreign capitalists. India did not suspend her payment of pensions. Therefore, there was no emergency. I will quote one passage only and sit down. I quote Sir Valentine Chirol's remarks that "India's credit has not suffered at all; what has suffered terribly is the reputation of British statesmen for sincerity of promise." I appeal to the House to carry this amendment and I appeal especially to those Members who supported the salt tax that this question is not an economic or a financial question. They must disburden their minds of that idea. Now they are face to face with a serious constitutional issue, and in considering this aspect of the case, I submit that they can freely, honestly and conscientiously support my amendment. We are bound in the interest of the British Empire itself to move this amendment. This power of the purse should not be taken away from us; liberty of the people lies with the power of the purse, and if it is at stake, the whole Empire is at stake. We are for the union of Britain and India, and that union is endangered by these illegal and unconstitutional use of powers of certification. It is the noblest duty of us—I think, we are in the position of His Majesty's opposition—it will be the noblest duty of us who are for that union and for the maintenance of the British Empire to see that we check the misuse of these powers, which take away the liberties of the people. I beg, therefore, to move my amendment and I appeal to the House to carry the amendment.

Mr. President : Amendment moved.

"To omit all the words after the word 'amended' in the original Resolution in order to insert the words :

'as follows :

(1) The words 'or interests' occurring between the word 'tranquillity' and the words 'of British India' be deleted.

(2) The Proviso be amended as follows :

(a) The word 'grave' be inserted before the word 'emergency'; and

(b) the following be inserted after the word 'emergency' :

'such as foreign invasion, civil war or widespread internal commotion and in no other circumstances'."

The Honourable Sir Malcolm Hailey : Our friends here do not always treat us very kindly. We are busy men, but they leave us to study a considerable variety of amendments in complete uncertainty as to which they will move and when they will subsequently withdraw. And even now, if one would ask me what is the real opinion of Mr. Seshagiri Ayyar on the subject of Dr. Nand Lal's Resolution, or indeed what are the opinions of those who have spoken after him, I should be in a state of mystery. That they are not complimentary to that Resolution is certainly true, and indeed I think that I may take it that I am summing up the general opinion of the House when I say that it is clear that that Resolution, as a Resolution, must go. It has no support. Not a single Member that I have heard has supported the main proposition that the exceptional powers.....

Dr. Nand Lal : Have you consulted every Member ?

The Honourable Sir Malcolm Hailey : ...that the exceptional powers of the Governor General should be withdrawn. Mr. Seshagiri Ayyar, apparently not agreeing with the extreme view of Dr. Nand Lal, merely suggests that it is right that the Assembly should move for the withdrawal of the word "interests." Finally, then, we come down to Mr. Basu's amendment. It is on this amendment that I have to give an answer. I purposely avoided, in the somewhat long oration which I have inflicted on the House earlier in the day, to deal with the many variations of the terms of this particular section that were from time to time suggested before the Joint Parliamentary Committee and before the House of Commons. As I informed Mr. Samarth I was keeping this for the amendment. Great efforts were made by many of the Deputations which appeared before the Joint Parliamentary Committee to provide a watertight definition of the Governor General's powers framed so accurately and minutely that the Governor General would not be able in any way to abuse or misuse them. The Congress Committee were willing to give him powers for exceptional purposes for the safety, tranquillity and defence of India. Mr. Sastri was willing to give him powers which as the result of a long examination by the Committee finally emerged as providing for purposes essential to the peace, order and good government of India. We have heard from Mr. Samarth exactly what was proposed by the representatives of the Liberal Party in the House of Commons. It was no purpose of mine to conceal from the House the discussion on exact terms of the amendment that was put forward ; but I did not consider it relevant

to the main Resolution which I was then discussing. He has given it in full now ; but the point to which I wish to call attention is that while the word 'interests' was objected to by Mr. MacCallum Scott and was also objected to by Colonel Wedgwood, the latter would have given a far wider extension to the powers of the Governor General than any one has proposed here to-day, that is to say, he would have allowed the Governor General to introduce special legislation under his own authority for the safety of the British Empire.

But I must now consider what substitute Mr. J. N. Basu proposes for the terms of the Act itself. His examination of the subject ranged over the two sections, section 67A and section 67B. Far be it from me to lay claim to any knowledge of law, but I must confess that, were I at any time in a difficult position before the Courts, I should not care to be obliged to rely upon the advocacy of Mr. Basu. For, Sir, he has hopelessly confused the relation of these two sections. He actually believes that the amendment which he has proposed in section 67B would place it entirely beyond the powers of the Governor General to pass over the head of the Assembly any law which affected finance. He believes that because he finds in section 67-A sub-section (8) a reference to the powers of the Governor General in cases of emergency to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof, the Governor General is estopped from using section 67-B to certify any legislation of a financial nature. But these two sections refer to two entirely different matters. Sub-section (7) of 67-A deals with the power of the Governor General to restore expenditure provided in the budget but refused by the Assembly ; sub-section (8) of the same section deals with the emergency power of sanctioning expenditure not provided in the budget at all ; but it is an entirely different thing for the Governor General to sanction expenditure, and for the Governor General to be able to certify legislation which would provide him with the means of incurring that or any other expenditure. One section refers to sanction or appropriation of expenditure, the other to the making of Acts of the Legislature ; and it is absurd to suggest that because reference is made to certain powers for certain definite purposes in 67-A, this fact excludes the use of an entirely separate class of powers under 67-B. In the first place therefore Mr. Basu certainly does not by his proposed amendment of the Act attain the object at which he aims, and if any Member of this Assembly desires that the Governor General should be stopped by Parliament from using his exceptional powers to certify financial legislation, then he had better not support Mr. Basu, for that certainly would not be the effect of Mr. Basu's amendment. Now I go to Mr. Basu's attempts to improve in other respects on the language of the Act. He proposes to omit the word "interests" from 67-B, that is, he would assimilate the terms on which the Governor General may use his exceptional powers of legislation under 67-B to those on which he may sanction emergency expenditure in 67-A, sub-section (8), that is only for purposes required for the safety and tranquillity of British India or any part thereof. Let us take it that the Governor General may certify that the passage of a Bill is essential for the safety or tranquillity only of British India or any part thereof, "interests" being

[The Honourable Sir Malcolm Hailey.]

omitted. Then all the numerous persons who agreed before the Joint Parliamentary Committee, and I see one at least sitting here, that the words 'good government' should be inserted were obviously wrong. I heard only a few minutes ago from Mr. Seshagiri Ayyar, who should know something about it, that people at large did not take any serious exception to the use of the certifying power in regard to the Princes Protection Bill. At least he said that when the Liberal Federation dealt in 1922 with the working of the Act, no such instance of misuse had arisen that it was necessary for them to protest against it, yet the Princes Protection Bill had been certified before they met in 1922. I take it therefore that there was no grave objection in other peoples' minds, as obviously there was no objection on the part of the President of the Federation, Mr. Sastri, to the use of the certifying power of the Viceroy in that connection. It would have been entirely excluded by Mr. Basu's amendment.

Sir Deva Prasad Sarvadhikary : Not on the question of safety ?

The Honourable Sir Malcolm Hailey : The Princes Protection Bill was not put forward in the interests of the safety of India. Now I pass on. If I found Mr. Basu confusing in his view of the law, I confess I find him an even more dreadful draftsman. Obviously he had in his mind an intention to limit and confine in some way the interpretation of "safety and tranquillity," but he actually attaches his illustrations or definitions to the proviso which only refers to purely emergency legislation, the difference of which is that it is not subject to the condition of sub-section (2) of section 67-B. But let us turn to his draft proviso.

"Provided that where in the opinion of the Governor General a grave state of emergency exists, which justifies such action, such as foreign invasion, civil war or widespread internal commotion and in no other circumstances, the Governor General may direct that any such Act may come into operation."

Now you will notice that the decisive words are of course "the opinion of the Governor General" and lawyers will I know agree with me when I say that if the matter is specifically left by Statute to the opinion of the Governor General, the opinion is final. If it is final, the insertion of the word "grave" adds nothing whatever to the case.

Let us go on. He proceeds to give a number of illustrations which are to serve as a guide to the Governor General as to what constitutes a grave emergency, such as a foreign invasion, civil war or widespread internal commotion. But they are not as he thinks illustrations; they are an exclusive list, for he adds the words "and in no other circumstances." He removes thereby the matter from the sphere of discretion; certification for any purpose not actually complying with the cases given by him would be illegal and could be contested in the Courts. But suppose he redrafted, in such manner as to clearly carry out his real intention. Then I ask Mr. Basu what would happen in such circumstances. I said that I could not foresee into the future. I do not know what class of representatives we may get in our future Legislature. On present indications there will be at all events a certain

number of persons who will not be prepared to vote supplies for carrying on the ordinary administration; I do not know whether they will be in the majority or not. Assume that they are in the majority at any time. What will then happen? The Governor General is not faced with foreign invasion or civil war or even widespread internal commotion; but on Mr. Basu's intention he could not use his certifying powers in order to get enough money to carry on the administration itself on the most economical terms. Now, this Assembly has had with us many a difference of opinion about retrenchment. We have not gone as far as they have wished; they have urged us to go further. We have had many differences of opinion again about military expenditure; they have pressed reductions which we as a Government have not thought it safe to make. But it has never been pretended here for a second that after all retrenchment possible to be made in civil expenditure had been made, after everything had been done in the way of reducing British troops and other combatants, the administration should not still be carried on or that the army should not be maintained. And if you have people here—as it is not impossible that you may have—who were to refuse to renew our annual taxation in order that they might prevent the administration being carried on at all—if you had such a party here in the majority, then the Governor General would not be able to get the necessary supplies for carrying on the administration. (A Voice—Yes, by more retrenchment). The Honourable Member will remember that my hypothesis was that we had already made sufficient retrenchment to satisfy an Assembly as now constituted and the supplies were being refused for different reasons and for different purposes by an Assembly of a different complexion. Well that is the class of emergency with which Mr. Basu would not allow the Governor General to deal. He proposes that we as an Assembly should propose to Parliament that they should enact a provision drawn up in these extraordinary terms. What we have at present is a general form of words which some of our friends tell us have been mis-used, which at all events they say are capable of mis-use. The right way to obviate that possibility is not by changing your law but by extending your influence, as it was intended you should do, over the Executive. You can do little, when you are dealing with ultimate and exceptional powers such as the Royal prerogative or the like, by attempts to forecast every direction of their use, or to define in your Legislature every possibility or contingency which may call for their exercise. The method by which progressive Legislatures have exercised their influence over the Executive or over the Crown has not been the meticulous definition of reserved or exceptional powers. As Macaulay said in a well known passage: "Constitutions, charters, declarations of right, electoral colleges, representative assemblies are not good government, nor do they, even when most liberally construed, necessarily produce good government. It is something quite different which produces good government." Equally, I say, it is something quite different, which produces a reasonable use of exceptional powers by those on whom such exceptional powers have been conferred: it is the growing pressure of an informed public opinion and the disapproval of an enlightened and responsible Legislature. But let me conclude. Mr. Basu proposes that we should ask Parliament to adopt

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this amendment of the Act—a Parliament which itself has always proceeded in such matters by means of unwritten but well understood conventions. I oppose the proposal not only on those wider constitutional grounds which I took before ; I oppose it because I do not wish this Assembly, of which I am a Member and for whose reputation I have some concern, to put itself into a position in which its proposals will be met with ridicule in Parliament. I say that if we were to propound a proposition drafted in these extraordinary terms to Parliament, there is no one there who would not smile, and there are a large number of people there who would simply deride it.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, a position has arisen out of the speech of the Honourable the Leader of the House which requires some examination. The question is one of interpretation of section 67-A and section 67-B. Section 67-A, deals with the Budget stage, supply, where the powers provided under sub-section (a) absolutely restrict the exercise of certificating powers where the safety and tranquillity, safety and tranquillity alone, are concerned.

The Honourable Sir Malcolm Hailey : No certificate is required there.

Sir Deva Prasad Sarvadhikary : I am using the expression in a generic sense : expenditure that does not find a place in the sanctioned Budget cannot be restored, (unless declared to be necessary for carrying out the Viceroy's responsibility) by that restoration procedure and is therefore illegal so far as it is in excess of sanctioned Budget. The means of meeting such expenditure is, according to the Leader of the House, provided by section 67-B.

The Honourable Sir Malcolm Hailey : No, no.

Sir Deva Prasad Sarvadhikary : What else is it ?

The Honourable Sir Malcolm Hailey : I can answer at once if the Honourable Member wishes. Sub-section (8) of section 67-A applies to sanction to expenditure or to incurring expenditure purely and simply ; the Governor General in certain emergencies has power to sanction and incur expenditure. That expenditure could be sanctioned whether we had the money, or we had not the money in the Treasury to meet it. Section 67-B refers to legislation. It is true that one way of replenishing your treasury, as the House knows very well, is by legislation in regard to finance ; but incurring expenditure and making Acts of the Legislature are two entirely different things.

Sir Deva Prasad Sarvadhikary : Absolutely so, exactly. I am glad that the Honourable the Leader of the House has taken the trouble of explaining what hardly needed explanation. But it makes my position absolutely clear, at least from my point of view. In the Budget stage you are denied powers to restore expenditure that has not been sanctioned, and you have that power only in certain contingencies, when it is required for meeting the Viceroy's responsibilities. And you can incur expenditure, namely, where the safety and tranquillity of British India is concerned. There your stage of Budget estimate or whatever you may choose to call it ends. No expenditure which does not find place there is from my point of view legal or authorised. Then comes section 67-B, which is very

general and applies to legislation *ad hoc*, not merely to Finance Bills but all Bills that could be conceived of. The inclusion of what is called a Finance Bill is a safety valve, a safeguard. With regard to sanctioning of expenditure the Finance Bill has to follow it, in order to regularise it, so to speak, and to give sanction for the levy of taxes and tariff without which such a levy would also be illegal. We come to that stage, and I therefore purposely and deliberately call it a safeguard, a safety valve. It may be something else, but it is certainly a safety valve and a safeguard, in that sequential incidents of Budget sanctions come up as a legislative measure before the Legislature for further deliberate consideration. In our first conception of things it was the Assembly alone that had to deal with sanctioned expenditure when it came up again in the shape of Finance Bill.

The Honourable Sir Basil Blackett : May I try to explain, Sir ? Sanctioned expenditure has nothing to do with the Finance Bill. The Finance Bill is a Bill to permit the raising of taxation. Sanctioned expenditure has nothing to do with that.

Sir Deva Prasad Sarvadhikary : The Honourable the Finance Member must not think that I do not follow such a very simple proposition as that. The point I want to make is this. The Finance Bill furnishes you with weapons, if I may say so, or ways and means for the purpose of collecting revenue that you could not otherwise collect. Having come to that stage, you cannot begin to think of other things and cannot say to yourself, "there was certain expenditure that I should have liked to have restored in the Budget when it came up before the Assembly but which was not restored because it had nothing to do with safety and tranquillity, or with the discharge of the Viceroy's responsibilities. But let us see whether we cannot avail ourselves of the Finance Bill." As to legislative measures section 67-B gives the Governor General powers and limitation which are detailed there. I would not call the certification of the salt section of the Finance Bill abusing or misusing but it is certainly using section 67-B for purposes that do not seem to be warranted because it is inconsistent with the earlier Budget stage detailed in section 67-A. That is the evil against which we have now to guard.

Sir, when the matter came up in connection with the salt question, some of my friends called this a constitutional crisis. I refused to subscribe to that proposition. I said it was no such thing, and I say so now in spite of what others might say. These matters are bound to arise every now and then during the course of our existence as a Legislature and if we call every one of these constitutional crisis, we do not know where we should stand. The Council of State which has nothing to do with the expenditure stage later on came to be permitted to have their say really in a circuitous sort of way because the Finance Bill as a Bill and as a legislative measure had to come before them, that is how the Council of State has now come to have their say with regard to the salt question. And I looked upon it as healthy growth of convention and not another constitutional crisis. The position that has arisen is this. This power has been construed and used in a way that is not agreeable to this House and to those they represent. I do not congratulate the Honourable the Leader of the House upon the gratification that he has allowed himself

[Sir Deva Prasad Sarvadhikary.]

because the salt tax agitation was not as violent as he thought it would be. I won't say expected and wanted, but might have anticipated. As a matter of fact there was some bloodshed.

The Honourable Sir Malcolm Hailey : Where ?

Sir Deva Prasad Sarvadhikary : In Bengal.

The Honourable Sir Malcolm Hailey : That had nothing to do with the salt tax.

Sir Deva Prasad Sarvadhikary : Let me assure the Leader of the House that the reason why the agitation was not violent was due largely to moderate leaders, who exercised restraint in the matter to an extent, at least in Bengal, that I should not have thought would have been possible. It was felt that if these public meetings and demonstrations were indiscriminately held, positions would arise which would have been extremely regrettable. Therefore they put their heads together and exercised all the restraint they could, and I believe they exercised it with some success. Well, Sir, reference has been made to the pronouncement about the regrettable action of the Assembly in not supporting the Government in regard to the salt tax, by the President of the last National Federation. If I am not mistaken, that President was the Honourable Dr. Tej Bahadur Sapru who had his own ideas in the matter formed elsewhere earlier in his existence. That sentiment to the contrary did not figure in the Presidential speech was therefore to be expected. But let that alone. The question having arisen in the shape that it has, we could deal with it only in two ways, in the way the Leader of the House has suggested by continuing influence on the Government and building up of conventions, by gradually working up constitutional steps. That would be one way. The other way would be by amendment somewhat on lines suggested by Mr. Basu in the first portion of his amendment and on the lines that found expression in Parliament and that did not arouse smiles of derision of which the Leader of the House has warned us again. Experience shows that the views then placed before Parliament must again be pressed. It is not as if by our passing a Resolution to-day we could bring it into force to-morrow. The only thing we can do is to have debates here and pass Resolutions indicating lines from time to time upon which amendments should be made in due time. Therefore I think before this Assembly comes to an end, its mind ought to be made very clearly known in regard to the position in a more effective way than Sir Henry Stanyon has indicated. From his point of view the Members of the Government who led up to a state of things that left no option but for the Viceroy to certify the salt tax would be very fit subjects for impeachment. Later on that might occur when Members of Government are responsible and the Viceroy, who represents the King, will be left alone, but that is not yet to be. What Sir Henry Stanyon said amounts to this, that the Government had bungled so hopelessly that the Viceroy had no other alternative but to certify. That is not a compliment either to the Government or the Viceroy.....

Colonel Sir Henry Stanyon : May I say I did not say the Government had bungled hopelessly ; all I said was that they had fallen into a political error.

Sir Deva Prasad Sarvadhikary : I put it in other terms. Bungling or political error does not really signify. We are anxious that such bungling should not occur in the future. The Leader of the House has already told us, and I think the temper of the House has clearly shown, that it is out of the question for it to demand that the certifying powers should be entirely taken away. We do not assent to this sweeping change. Dr. Nand Lal practically indicated these in his speech and Mr. Seshagiri Ayyar does not press his amendment ; but that is not the whole question. We are anxious that failing the building up of conventions, which it is not possible now to build up, we should recommend amendments which would adequately meet the requirements of the future. This ten year limit that we have often heard of has been regarded by some as a minimum. It has been regarded by others as the maximum period, and the talk I had with some Members of the Joint Select Committee gave me the impression that some of them, although they had not voiced their opinion in the Report, regarded it not as the minimum, but as the maximum. Be that as it may, we have Mr. Majumdar's Resolution to which reference has been made which gave the start to the subject and was not objected to nor was ridiculed ; we shall have this Resolution if we can carry it as a further land mark, and we shall have other factors soon before Parliament that will probably make it reconsider its position and induce it to take up the question of the examination at all events of the reform measures, before the whole of the ten years has elapsed. If we were to wait for the entire period of the ten years, before we at all moved in this matter, what would happen ? The Committee of Inquiry would then be appointed and begin to sit and then there would be the usual delay attendant upon such a situation, and your second set of reforms could never come at the end of 10 years. In the meantime a very grave situation might arise. Therefore, you have got to be ready and, make out your case step by step. There will be nothing amiss therefore if this House were to adopt a part at least of Mr. Basu's amendment to-day and we could now do no less. Other amendments would also be desirable. I am free to say that I do not sympathise with any portion of that amendment excepting that relating to the deletion of the words " or interests." I think he would be well advised to withdraw the rest of his amendment. * If he does not do so, I would appeal to you to put the different parts separately. We do feel that we ought not to hamper either the Government here or the authorities elsewhere to any avoidable extent. At the same time we feel it our duty to bring home to the authorities who will deal finally with the realities of the case. From that point of view I am prepared to give my support to Mr. Basu's amendment so far as the deletion of the words " or interests " is concerned. With regard to the rest of the amendment it will be difficult to give him support.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly: Non-Muhamadan Rural) : Sir, may I suggest the adjournment of the debate till to-morrow ; it is now nearly six o'clock. If it is adjourned now, it will give us time to think over the questions that have been raised.

The Honourable Sir Malcolm Hailey : To-morrow is reserved for Government business.

Sir Deva Prasad Sarvadhikary : This is Government business.

Mr. President : No. The day to which the business will be adjourned is already provided for in the Standing Orders. It must be adjourned to the next day on which non-official Resolutions are set down on the list of business, July the 10th. If this debate is postponed, it will be taken up as the first item on the list of business on July the 10th. Do I understand the Honourable Member to move that as a motion?

Sir P. S. Sivaswamy Aiyer : I move, Sir, that the debate be adjourned till the next non-official day, July the 10th.

Mr. President : Motion moved :

“ That the debate on this Resolution be adjourned till the next day upon which business of this class is set down.”

The Assembly divided :

AYES—40.

Abdul Hamid Khan Khudadad Khar, Mr.	Joshi, Mr. N. M.
Abdul Majid, Sheikh.	Mahadeo Prasad, Munshi.
Agnihotri, Mr. K. B. L.	Majumdar, Mr. J. N.
Ahmed, Mr. K.	Man Singh, Bhai.
Ahmed Baksh, Mr.	Mukherjee, Mr. J. N.
Aiyer, Sir P. S. Sivaswamy.	Nand Lal, Dr.
Asad Ali, Mr.	Neogy, Mr. K. C.
Asjad-ullah, Maulvi Miyan.	Pyari Lal, Mr.
Ayyar, Mr. T. V. Seshagiri.	Rajan Baksh Shah, Mukhdum S.
Bagde, Mr. K. G.	Reddi, Mr. M. K.
Barua, Mr. D. C.	Samarth, Mr. N. M.
Basu, Mr. J. N.	Sarvadhikary, Sir Deva Prasad.
Bhargava, Pandit J. L.	Sassoon, Captain E. V.
Das, Babu B. S.	Shahani, Mr. S. C.
Ghulam Sarwar Khan, Chaudhuri.	Singh, Babu B. P.
Gour, Dr. H. S.	Sinha, Babu Ambica Prasad.
Gulab Singh, Sardar.	Sinha, Babu L. P.
Hussanally, Mr. W. M.	Sohan Lal, Mr. Bakshi.
Ikramullah Khan, Raja Mohd.	Subrahmanayam, Mr. C. S.
	Venkatapatiraju, Mr. B.
Vishindas, Mr. H.	

NOES—33.

Abdul Rahim Khan, Mr.	Gaskell, Mr. W.
Agarwala, Lala Girdharilal.	Gidney, Lieutenant-Colonel H. A. J.
Akram Hussain, Prince A. M. M.	Graham, Mr. L.
Ayyangar, Mr. R. Narasimha.	Gwynne, Mr. C. W.
Bardswell, Mr. H. R.	Haigh, Mr. P. B.
Barnes, Mr. H. C.	Hailey, the Honourable Sir Malcolm.
Blackett, Sir Basil.	Holme, Mr. H. E.
Bray, Mr. Denys.	Innes, the Honourable Mr. C. A.
Burdon, Mr. E.	Mitter, Mr. K. N.
Butler, Mr. M. S. D.	Muhammad Hussain, Mr. T.
Calvert, Mr. H.	Nabi Hadi, Mr. S. M.
Chatterjee, Mr. A. C.	Percival, Mr. P. E.
Clarke, Mr. G. R.	Richey, Mr. J. A.
Dalal, Sardar B. A.	Sim, Mr. G. G.
Faridoonji, Mr. R.	Singh, Mr. S. N.
Gajjan Singh, Sardar Bahadur.	Stanyon, Colonel Sir Henry.
Yamin Khan, Mr. M.	

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 5th July, 1923.

LEGISLATIVE ASSEMBLY.

Thursday, 5th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

FAILURE OF ALLIANCE BANK : SPEECH OF MR. GAZDAR.

137. ***Mr. Pyari Lal :** Has the attention of the Government been drawn to the proceedings of the Creditors meeting of the Alliance Bank of Simla, held at Calcutta on the 1st June 1923 ? If so, has the Government noted the speech of Mr. H. B. Gazdar ?

The Honourable Sir Basil Blackett : The answer to the first part of the Honourable Member's question is in the affirmative, and to the second part in the negative.

FAILURE OF ALLIANCE BANK : FEELING OF INSECURITY.

138. ***Mr. Pyari Lal :** Are the Government of India aware of the strong sense of insecurity that at present exists in India, consequent on the failure of the Alliance Bank of Simla and the disclosure thereon ?

The Honourable Sir Basil Blackett : The Government do not believe that there is any general sense of insecurity. On the contrary they believe that the action taken by the Government and the Imperial Bank has been largely instrumental in obviating the dangers of a loss of public confidence which the failure of the Alliance Bank threatened.

Mr. Harchandrai Vishindas : Are the Government aware that some other banks have failed as a consequence of the failure of the Alliance Bank ?

The Honourable Sir Basil Blackett : The Government are aware of the failures of certain small banks.

Mr. Harchandrai Vishindas : Do the Government propose to adopt any measures of relief in respect of these banks ?

The Honourable Sir Basil Blackett : Not of the individual banks which have failed, which are all small concerns, not affecting the general confidence in banking in this country.

Mr. S. C. Shahani : Will the Government be pleased to state if there are any objections to the Government helping in the supervision of the liquidation of the Alliance Bank, and, secondly, if the reply be in the

negative, will the Government be pleased to take early steps to render that help ?

The Honourable Sir Basil Blackett : I think, if the Honourable Member will wait for the answer to some further questions which are down on the paper, he may get the answer to his question.

Mr. K. B. L. Agnihotri : May I ask, Sir, whether any public money was deposited in the Alliance Bank and if so, what was the amount ?

The Honourable Sir Basil Blackett : So far as I am aware, no public money in the sense of money belonging to the Government of India was deposited with the Alliance Bank. There were certain charitable funds, in which the Government of India were indirectly concerned, which were deposited.

Mr. K. B. L. Agnihotri : Were the charitable funds deposited in this Bank under instructions from the Government of India ?

The Honourable Sir Basil Blackett : I should like to have notice of the particular question, but, so far as I am aware, no funds for which the Government of India were directly responsible were deposited with the Alliance Bank. The answer, therefore, to the question just put would undoubtedly be that the Government were not responsible for the deposit.

Mr. N. M. Joshi : Were the Government of India responsible for the charitable funds placed at their disposal ?

The Honourable Sir Basil Blackett : I did not say they were charitable funds placed at their disposal. They were charitable funds in which they were indirectly interested.

Mr. N. M. Joshi : May I know the meaning more clearly ?

The Honourable Sir Basil Blackett : If a clear question is put, Sir, I shall be able to give a clear answer.

Mr. S. C. Shahani : Will the Finance Member be pleased to state if the present Government would be prepared in similar circumstances to intervene and guarantee that any other bank than the Imperial Bank of India that undertakes to pay the creditors in the case of any other banking failure will be compensated for any loss incurred by the payments ?

The Honourable Sir Basil Blackett : I would refer the Honourable Member to the answers given to questions on Monday and about to be given to-day.

Dr. Nand Lal : May I ask the nature of the guarantee which was given by the Government of India ?

The Honourable Sir Basil Blackett : I would refer the Honourable Member to the answers given to questions on Monday and about to be given to-day.

Dr. Nand Lal : May I ask whether some sort of embezzlement is suspected ?

FAILURE OF ALLIANCE BANK : INVESTIGATION.

139. ***Mr. Pyari Lal :** With a view to reassure the business community and the public generally does the Government contemplate any such measure as appointing an official committee to investigate the

position of and reasons for the failure of the Alliance Bank ; and the prosecution of the delinquent Managers, Directors and Auditors ?

The Honourable Sir Basil Blackett : The Government are not satisfied that there is any further action which they can usefully take in this matter unless and until further facts are disclosed. Should the information disclosed in the course of liquidation, or otherwise, coming to the knowledge of the Government of India, justify such a step, they will not hesitate to take suitable action forthwith.

Rao Bahadur C. S. Subrahmanayam : Sir, I would like to ask the Honourable the Finance Member about the Alliance Bank, whether he will explain the difference between the communication addressed to the Indian Merchants' Chamber, Bombay, and the statement made here on Tuesday.

The Honourable Sir Basil Blackett : I think that again is a question which arises out of a subsequent question. I shall be happy to endeavour to give an answer to it in its proper place.

AUDIT OF ACCOUNTS OF REGISTERED COMPANIES.

140. ***Mr. Pyari Lal :** Are the Government of India prepared to consider the question of introducing the necessary changes in the Indian Companies Act regarding the auditing of the accounts of the Registered Companies, so as to make the appointment of Government Auditors to work in co-operation with the Auditors appointed by the shareholders, obligatory for all companies with a subscribed capital of ten lacs and over ?

The Honourable Mr. C. A. Innes : As at present advised the Government are not prepared to amend the Indian Companies Act in the proposed direction.

FAILURE OF ALLIANCE BANK : ACTION BY GOVERNMENT.

141. ***Sir P. S. Sivaswamy Aiyer :** Will the Government be pleased to state :

- (1) Whether the Alliance Bank of Simla suspended payment on the 28th of April 1923 ?
- (2) (a) Whether on the 27th April 1923 the Financial Secretary to the Government of India wrote to the Managing Governors of the Imperial Bank of India authorising them to repay 50 per cent. of the amounts due to the depositors in the Alliance Bank and conveying the guarantee of the Government of India to make good to the Imperial Bank of India any losses incurred in making such payments ?
- (b) When did the Government become aware of the likelihood of failure of the Alliance Bank and who set them in motion to take action as indicated in the letter of the 27th of April ?
- (c) Whether by the letter of the 27th of April the Government intended to borrow the money required for payment to depositors or only to guarantee the Imperial Bank against losses ?
- (d) Whether the guarantee referred to in the said letter refers to the principal amounts to be paid to the depositors or also to

the loss of interest to be incurred by the Bank on the amount of such payments ?

- (3) Whether the Financial Secretary to Government wrote to the Managing Directors of the Imperial Bank on the 1st of June 1923 hypothecating the Government balances as security to meet outstandings which would become due to the Imperial Bank in consequence of payments to be made by them to depositors in accordance of the letter of the 27th April ?
- (4) Whether by notice of the letter of 22nd May 1923 to the Secretary to the Committee of the Indian Merchants' Chamber, Bombay, the Financial Secretary to the Government stated or suggested that the action of the Imperial Bank of India in offering to make payments to depositors was a spontaneous act of public spirit ?
- (5) Whether on in any previous occasion of failures of Indian Banks involving losses to the extent of crores the Government of India ever came forward to the rescue with any similar undertaking of guarantee ?
- (6) Whether the Government is prepared to formulate the principles and conditions on which they will extend similar relief to other banking concerns in future ?
- (7) Whether it is a fact that the depositors of the Alliance Bank include a very large number of Government Officials and Europeans ?

The Honourable Sir Basil Blackett : Perhaps I might explain for the information of Honourable Members that these questions were put down on the notice paper two or three days ago with the request that the answer might be expedited and the answer has, with the consent of the Honourable the President, been expedited. I was not aware in answering the earlier questions that Honourable Members had not got these further questions in front of them and it was for that reason that I deprecated answering certain supplementary questions. I have already dealt with most of the points raised in the Honourable Member's question in my replies to previous questions in this House and shall endeavour therefore to reply succinctly. The answers are :

- (1) Yes.
- (2) (a). Yes.
- (b) For several weeks before the date of failure the Government were aware that in the absence of a successful result of negotiations in which the Bank were engaged in England the failure of the Bank was probable. It was not until the 26th April that they learned that failure was inevitable. The Government acted on their own initiative.
- (c) The letter of the 27th April contemplated a loan to the Government.
- (d) The guarantee refers to the principal amounts to be paid to depositors.
- (3) Yes.

- (4) The letter in question did not describe the action of the Imperial Bank as spontaneous, but as public-spirited—as in fact it was. The letter did not profess to deal with the circumstances under which the Bank was put in a position to take action.
- (5) No.
- (6) The Government cannot undertake to formulate principles and conditions of universal application ; in answer to the question asked by Mr. Manmohandas Ramji I endeavoured to put before the House the principles which guided Government in the present instance and the financial conditions at the time which were an important factor in determining the action of Government.
- (7) Yes. The depositors in the Alliance Bank also include a very large number of Indians.

Dr. H. S. Gour : May I ask the Honourable the Finance Member whether in view of the subsequent disclosure, i.e., the announcement made by the Honourable Member in this House, Mr. McWatters' letter to the Indian Merchants' Chamber and Bureau in Bombay describing the action of the Imperial Bank as out of public spirit was not a terminological inexactitude ?

The Honourable Sir Basil Blackett : I think terminologically it was entirely exact.

Sir Deva Prasad Sarvadhikary : With reference to the charitable institutions in which the Government are indirectly connected, as the Honourable the Finance Member has told us, were those funds withdrawn in time ? If so, when ?

The Honourable Sir Malcolm Hailey : Perhaps I might be allowed to answer that question. I am connected with so many of these institutions in different capacities that I have perhaps a more intimate knowledge of the question than the Honourable the Finance Member. The institutions to which Sir Basil Blackett referred just now are institutions such as the Lady Dufferin Fund, the Lady Minto Fund, the Lady Chelmsford League, certain funds held by the Soldiers' Board, and taking a different category, funds held by such institutions as the Silver Wedding Fund, Indian Red Cross Society and the St. John Ambulance Association. If the deposits which were held by the Bank on behalf of such funds were to disappear entirely, nevertheless, there would be no loss to Government at all ; the loss would be entirely to those funds. When it is said that Government was indirectly concerned with them, it is only to this extent that various Government officers, some of them Members of Council, some of them Secretaries, some of them in other capacities, have at different times given their services to the management of these funds, and they are interested purely to that extent. Sir D. P. Sarvadhikary asked if these funds were withdrawn.

Sir Deva Prasad Sarvadhikary : In time.

The Honourable Sir Malcolm Hailey : In time. I have myself at different times had under my control, in my capacity as President or

Chairman of the Executive Council of a number of these Societies, considerable sums of money deposited in the Alliance Bank. I as a Member of Council was aware of the circumstances in which the Alliance Bank stood. I of course felt myself unable to take advantage, either on my own behalf or on behalf of the Societies in which I was interested, of knowledge which came to me as a Member of Government. It might have been unfair to other depositors. I have had conversations with other Members of Government equally interested in these Societies, and I may say with perfect confidence that no single case has come to my knowledge in which any officer of Government connected with any of these Societies felt himself entitled to take advantage of his knowledge of the affairs of the Alliance Bank to withdraw their deposits. I should like to go just a little further. I have heard of cases of men in our Secretariat, clerks not officers, who in their position as confidential shorthandwriters and the like, knew also what was happening in the Alliance Bank, whose whole savings and whose families' savings were in the Alliance Bank, and yet they themselves have not issued a word of warning to their friends or availed themselves of the information which came to them in the course of their official duties.

Mr. K. B. L. Agnihotri : What is the total amount of deposits made by the Members of the Executive Council in the Alliance Bank ?

The Honourable Sir Basil Blackett : I am afraid I did not catch the question.

Mr. K. B. L. Agnihotri : What could be the total amount of money deposited by the individual Members of the Executive Council in the Alliance Bank ?

Mr. President : Order, order. That is a matter in which the Governor General in Council has no concern.

Dr. H. S. Gour : May I ask the Honourable the Finance Member or the Honourable the Home Member whether it is not a fact that under the rules of the Government of India, all trust deposits are to be made with certain approved banks, and whether the Alliance Bank was one such approved bank ?

The Honourable Sir Basil Blackett : I should like to have notice of that question, because I am not confident of giving a completely accurate answer spontaneously.

Dr. Nand Lal : Will the Honourable the Finance Member enlighten this Assembly whether the Government of India is in receipt of any information that embezzlement was committed in the Alliance Bank ?

The Honourable Sir Basil Blackett : The answer is in the negative.

RUPEE LOAN.

Rao Bahadur C. S. Subrahmanayam : Sir, I shall be obliged if the Honourable the Finance Member can give us any information as to the progress which the rupee loan has made up to date.

The Honourable Sir Basil Blackett : I am very happy to be able to inform the House that over Rs. 16 crores out of the Rs. 24 crores for which we asked was subscribed on the first day.

The Honourable Sir Malcolm Hailey : Poor bankrupt India !

UNSTARRED QUESTIONS AND ANSWERS.

CONNECTION OF BADRINATH WITH RAILWAY.

97. Lala Girdharilal Agarwala : 1. Are the Government aware that Badrinath (District Garhwal) is the most sacred place of Hindu pilgrimage where H. H. Jagat Guru Shankracharya established Jotin (or Joshi) Math ?

2. How far is Badrinath from the nearest Railway station and what proposals have been made to connect it by rail and by what time is it likely to be so connected ?

The Honourable Mr. C. A. Innes : 1. Government are aware of the sanctity attached by Hindus to Badrinath.

2. Badrinath is about 130 miles from Rikhikesh Road, the nearest railway station.

A preliminary survey for a line of railway from Hardwar to Karanprayag on the way to Badrinath was carried out in 1920 but the financial prospects of the line were not sufficiently favourable to justify its construction.

TEA AND COFFEE ROOM AT MEERUT.

98. Mr. Pyari Lal : Are Government aware that the sign board of the " Tea and Coffee room " Cantonment station, Meerut, bears the words " for Europeans only " and that there exists no separate refreshment room for Indians, at all ? Are there any reasons for this special reservation under the circumstances ?

Mr. G. G. Sim : Yes. There are no reasons for this special reservation. The wording on the sign board is being altered to " Tea Room " only.

MEMBERSHIP OF ADVISORY PUBLICITY COMMITTEE.

The Honourable Sir Malcolm Hailey (Home Member) : With your permission, I wish to make a motion in regard to the membership of the Advisory Publicity Committee. The House will remember that at the close of the last session they agreed that Members should be elected by the Assembly for this Committee in such manner as the Honourable the President should direct. An election is a somewhat cumbersome process, and I have thought it well to collect a number of names with the assistance of various friends in the House, with a view of suggesting that instead of holding an election it should agree to the Members I propose to mention as Members of the Advisory Publicity Committee. The names I suggest are :

Mr. T. V. Seshagiri Ayyar,
Dr. H. S. Gour,
Mr. Ahmed Baksh,
Sir P. S. Sivaswamy Aiyer,
Mr. J. N. Mukherjee,
Maulvi Abul Kasem, and
Lieut.-Colonel H. A. J. Gidney.

[Sir Malcolm Hailey.]

Seven names were required and I merely put these forward, as the House will understand, for the convenience of the House in order to avoid the trouble of an election.

Mr. President : The question is :

"That Mr. Seshagiri Ayyar, Dr. H. S. Gour, Mr. Ahmed Baksh, Sir Sivaswami Aiyer, Maulvi Abul Kasem, Mr. J. N. Mukherjee, and Lieut.-Colonel H. A. J. Gidney be elected to serve on the Publicity Advisory Committee."

The motion was adopted.

THE INDIAN NATURALIZATION BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I beg to move :

"That the Bill to consolidate and amend the law relating to the naturalization in British India of aliens resident therein, be referred to a Select Committee consisting of Mr. Samarth, Mr. P. E. Percival, Mr. J. N. Mukherjee, Dr. H. S. Gour, Rao Bahadur C. S. Subrahmanyan and myself, with instructions to report on or before the 17th July 1923."

As the original motion stood it was proposed to ask that the name of Mr. Abul Kasem be on the list of members of the Select Committee, but I am not certain whether he will arrive in Simla in time, and therefore without Mr. Samarth's permission I have substituted his name; but I have done so as Mr. Samarth is a Chairman, and in that capacity he is, I am sure, glad to render us this service.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I suggest that the name of Sir Henry Stanyon be added to the list proposed by the Honourable the Home Member?

The Honourable Sir Malcolm Hailey : I have no objection.

The motion that the name of Colonel Sir Henry Stanyon be added to the said Select Committee was adopted.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : I propose the name of Mr. Harchandrai Vishindas.

The Honourable Sir Malcolm Hailey : I have no objection.

The motion that the name of Mr. Harchandrai Vishindas be added to the said Select Committee was adopted.

Mr. President : The question is :

"That the Bill be referred to that Select Committee as increased by these two names."

The motion was adopted.

THE MOORSHEDABAD (AMENDMENT) BILL.

Mr. Denys Bray (Foreign Secretary) : I beg to move :

"That the Bill to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891, be taken into consideration."

The Bill is so simple that it is unnecessary to add to the remarks contained in the Statement of Objects and Reasons or to the few remarks I

made in introducing the Bill. It is wholly non-contentious in character. It is designed merely for the better development of the estate and the better safeguarding of the interests of succeeding heirs.

The motion was adopted.

Clauses 1, 2, the Title and the Preamble were added to the Bill.

Mr. Denys Bray : I move that the Bill be passed.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : I wanted to ask one question on this subject. I am told that the Nawab of Moorshedabad has already entered into negotiations and borrowed money. If so, will this Bill affect those transactions and those from whom he has already borrowed large sums of money on the understanding that he will give leases on *Salami*. Of course, I do not know the particulars and I want to know the real facts.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, may I stand and object to my friend's remarks? What have the Government of India got to do if the Nawab Bahadur of Moorshedabad is arranging for loans or has borrowed money on the understanding that he will lease out his property? There is his power of course, to grant 21 years' lease. He is entitled to do it and of course to get *Salami* also—that is the object stated in the Bill. I do not think that any Member of this House will be justified in getting up and asking whether the Government will be pleased to make a statement with regard to the internal matters of the Nawab Bahadur of Moorshedabad. Certainly not. This Bill seeks to modify the Moorshedabad Act of 1891, and the Statement of Objects and Reasons gives the full explanation why the Governor and Executive Council Members' sanction is necessary in granting leases, and I think that is enough.

Mr. Denys Bray : I am not quite sure whether I understood the question aright, but I would draw the Honourable Member's attention to the proviso :

"Provided that nothing herein contained shall affect anything done, or any right or liability which has accrued or been incurred, under any such lease or demise before the commencement of this Act."

I may also explain that the necessity for this Bill arose out of the case of certain house properties in Calcutta. The property had been leased out on a 21 years' lease. The buildings, unfortunately, were destroyed by fire and the Nawab Bahadur has failed to secure any offer for a building lease for the short period of 21 years. Hence one of the main reasons for the Bill. He has now received an offer for a lease for a term of 42 years, the rent already paid in advance on the twenty-one-year lease being treated as *Salami* or 'fine' for the 42-year lease. I think that is a sufficient explanation for the Honourable Member.

The motion that the Bill be passed was adopted.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I move :

"That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, be taken into consideration."

[Sir Malcolm Hailey.]

The Bill is before the House. I explained its objects when I introduced it, and it is of so simple a nature that I think no further comment on my part or commendation is necessary.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : I beg to move :

“ That the Bill be circulated for public opinion.”

At the time of the introduction of the Bill.

The Honourable Sir Malcolm Hailey : Might I interrupt for one moment ? I have looked through the papers on my desk and I find no notice of this proposal on the part of the Honourable Member.

Mr. K. B. L. Agnihotri : Might I take the objection that the Bill cannot be taken into consideration to-day under standing order 38 because three days' time has not been allowed ?

Mr. President : Three days have elapsed.

Mr. K. B. L. Agnihotri : No, Sir.

Mr. President : Order, order. Two and three make five.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : To my mind this Bill seems to be a very useful measure and I give credit to the author of this Bill. Some of the Government servants, who are very poorly paid, are troubled, to a great extent, by the relentless creditors.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Why should there be creditors ?

Dr. Nand Lal : I am very glad that this measure has been introduced and it deserves universal commendation and support. I support it wholeheartedly.

The motion that the Bill be taken into consideration was adopted.

Clause 1 was added to the Bill.

Mr. President : Clause 2.

Mr. N. M. Joshi (Nominated : Labour Interests) : I only want to know why the Government have restricted the use of this section to Government servants and public officers and not to other people serving in private offices.

After all the principle is the same—that the poor man should not be deprived of his bread by the usurious sowers and if that is the principle of the Bill the necessity for protecting the servants of the private companies and of private individuals against usurious practices is as great as the necessity for protecting Government servants. I should therefore like to know from Government why the scope of the Bill is restricted.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : I think I may answer Mr. Joshi's point. While the emoluments received by Government servants can be ascertained from the record you cannot ascertain the emoluments received by private men. A man who appears to be very rich may be very poor, while a man who appears very poor may be very rich and have treasures.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : May I ask why Mr. Joshi has not sent in an amendment ?

The Honourable Sir Malcolm Hailey : The answer to Mr. Joshi is a simple one. I have only to repeat what I said when introducing the Bill, that is to say, that the Bill is not intended as any safeguard against the extension of usurious practices, nor is it in itself in any way directed against the operations of the money-lender or the shop-keeper. The motive which influenced the legislature when they first introduced this measure was simply the protection of the State. As I stated before, it is clear that if a Government servant, I said before the low paid Government servant, but in modern times I must add even the high paid Government servant falls into debt, and is pressed by his creditors to such an extent that the whole of his salary is attached, then he becomes practically useless to the State, for, when he is deprived of his means of subsistence, either he cannot carry on his duties at all or he is subjected to temptations to receive gratifications which must be injurious to his employer, the State. This regulation is quite in line with the rest of our legislation on the subject of preservation from attachment. As the House is aware, we preserve the articles of primary necessity in the case of certain classes from attachment. We preserve necessary wearing apparel, cooking vessels of a judgment debtor, his wife and children. We preserve the tools of artisans. We preserve the house and other buildings of an agriculturist, and we do so for the reason that if a man falls into debt, it is not right to allow the law to press him to such an extent that he is deprived of his means of subsistence; in the case of Government servants we go somewhat further and lay down the exact limits which we attach to the meaning of subsistence. May I add one word regarding this motion. I say with perfect truth to the House that I had no intention of trying to press this forward as a matter of urgency or in any way to deny the full consideration which Honourable Members wish to give to it. I was quite unaware that Mr. Agnihotri would desire to move the circulation or would desire to move any amendment. If he had given me warning I should have been glad to put the Bill down for another day. But the matter is so simple and I believe is so generally approved by the House that I would suggest that the House can proceed to the consideration of it.

Dr. H. S. Gour : I do not think the Honourable Member has answered the Honourable Mr. Joshi's objection. If reasons of State prompt the Government to protect their clerical servants, reasons of public utility should equally dictate a measure of protection to be extended to railway servants and other servants in public employ, private companies, the large public corporations, industrial concerns, mining concerns and so forth. The reasons which the Honourable the Home Member has given—that a servant if he is overwhelmed with creditors is not able to discharge his public functions with the same degree of diligence as he would otherwise do and that if his property and his salary is attached, his financial resources being crippled, he might be exposed to other temptations, are perfectly true and in that view I support the Bill. But I hope the Honourable Member will not understand this House to endorse the proposition that that Bill and the principle underlying it cannot be extended

[Dr. H. S. Gour.]

to other public servants and other private servants of corporations and companies, receiving small salaries of the nature described in the Bill.

The Honourable Sir Malcolm Hailey : If I may be allowed to intervene again, it is mainly for the sake of information. The Honourable Member will realise that the servants of the railway companies under the Act already stand exactly in the same position as Government servants proper. He will also remember that the wages of labourers and domestic servants are also protected from attachment, though we do not of course give the same sort of protection as we have given to Government servants. The reason why we hold that we can justifiably single out Government servants in this connection, apart from the reason I have already given, is perhaps clear. In the first place they are very much easier to define than the servants of public utility companies and corporations. The servants of corporations which are local bodies are already protected in the same way as Government servants ; but with regard to other utility services it might be somewhat difficult to define in an Act exactly the extent to which it is suitable to protect them. There is a further point and that is that all Government servants, whenever they fall into debt and are pursued by debtors, must produce an account of their affairs to their employer, the State. That rule does not apply to other cases. But, Sir, the Honourable Member has raised a question of general principle. I could not support a wide amendment of the Code in this direction without a general reference to all interests concerned on that point. If he wishes to take the point up, it had better be treated as an entirely separate question and not connected with this specific piece of legislation, which only seeks to amend certain figures already contained in the Act.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, the point raised by Mr. Joshi is one which will commend itself to every lover of justice. If this Bill becomes law as it now stands the clerk of a railway drawing Rs. 40 a month will have his entire salary exempted from attachment, but if I have a clerk on Rs. 40 a month, his salary will not be protected. That seems anomalous and unjust. I do not think it could rightly be said that it will be any easier to get half the salary from the railway than it will be to get half the salary from me. But the logical reason for the form of this Bill—and as to that I have been anticipated by the Honourable the Home Member—is this. That the particular clause of the Civil Procedure Code which it is framed to amend only with regard to certain figures, is itself a clause of limited application, and what we are here to do is merely to amend that clause as it stands. It is a very much wider question as to whether that clause of the Civil Procedure Code itself shall be extended. I do not think that in a small Bill like this a very much larger question like that, which no doubt was taken up at the time when the Civil Procedure Code was prepared for enactment, should be gone into. For that reason, and that reason only, I do not think that the suggestion of Mr. Joshi can prevail. I would support the Bill as it stands.

Dr. Nand Lal : Sir, this protection to my mind should not be extended to the servants of private companies or firms. My reason for opposing

Mr. Joshi is that the servants of private companies and the employees of private men have no restrictions put upon them in regard to their engaging in other business. They can make money from different sources ; here is no obstacle in their way. To support my position I may give an illustration. A is a Government servant drawing Rs. 40 a month. He cannot enter into trade or do any other business. Now let us take the case of B, employed in a private company. He gets also Rs. 40 a month from that company but he is not debarred from opening any other business or shop. (Dr. H. S. Gour : “ That depends on the terms of his employment.”) I beg your pardon. Kindly do not interfere. He can make money from various sources, but the Government servant, as I have already submitted, cannot. The object at the back of his Bill is to protect the salary of the Government servant, so that he may not be tempted to stoop low, to go to this man and that and place himself under obligations which are sure to be impediments in the proper performance of his duties. But in the case of a private servant, there is no clog in his way. That is the object which has prompted the author of this Bill and for that reason I thank him highly for the service he has rendered. Why should we be hard on poor Decree holders indiscriminately ? We are giving this special concession only to Government servants whose salary is rupees forty a month, for a very noble reason and a very honourable cause, which reason and which cause cannot come to the assistance of a servant who is employed in a shop or private firm or company, for the reason that section 161 of the Indian Penal Code is not applicable to private servants, whereas the poor public servant, if he stoops so low on account of the inadequacy of his salary or on account of temptation, will be hauled up. The private servant may accept any gratification without coming within the clutches of the law. There are, therefore, a number of reasons why this Bill ought to have the unanimous support of the House, and it has pained me to see so many Honourable gentlemen of light and learning opposing a measure of this kind.

Mr. President : I am very loth to interrupt the flow of eloquence on behalf of the private employee, but I must point out that this debate is becoming rather disorderly. It will not be in order to move any amendment except one relating to the figures dealt with in clause 2. Honourable Members must therefore confine themselves to the terms of clause 2, which are very narrow indeed.

Mr. K. B. L. Agnihotri : Sir, as no amendment can be moved at this stage of the Bill, there is no other alternative but to oppose the passing of this clause 2.

The Honourable Sir Malcolm Hailey : I will not object to any amendment that the Honourable Member wishes to put forward ; I merely opposed the proposal for circulation on the ground of lack of notice.

Mr. K. B. L. Agnihotri : I must thank the Honourable the Home Member for his kindness in allowing me to move an amendment. Though I have given notice of an amendment of a different nature still, in the light of the suggestion made by the Honourable Mr. Joshi and if I be in order and be permitted, I would move the amendment :

“ That clause 2 shall apply equally to private servants as well.”

Mr. President : I have just pointed out to the House that that is precisely the kind of amendment that cannot be moved. An amendment may be moved altering the figures. As this Bill is concerned solely with figures, therefore the amendment must be solely concerned with figures.

Mr. K. B. L. Agnihotri : I had already said, Sir, that if I was in order I would move that amendment. As the Chair has ruled me out of order in respect to that amendment, I beg now to move :

“ That in clause 2 of the Bill the figure 30 be substituted for the figure 40 and the figure 60 for the figure 80.”

It has been said that owing to the increase in the cost of living and the rise in prices the amount of salary for exemption from attachment should be raised and Rs. 40 should be substituted for Rs. 20. I do not think that the pay of the subordinate staff was increased by Government in a corresponding proportion. If I remember aright, there is not a single case in which the initial pay of any subordinate has been doubled. I therefore do not understand the necessity for raising the amount from 20 to 40. I do realize that the cost of living has gone up and the amount for exemption should be raised and I am therefore willing to extend the exemption to the extent of 50 per cent. For a similar reason I also suggest the substitution of 60 in place of 80. While we are here giving protection to Government clerks, we should not lose sight of the rights and position of the money-lenders or the creditor-decree-holders. Why should the decree-holder be deprived of his right of recovery of his amount by attachment in the execution of his decrees. His case should equally be considered by the House. I therefore submit that an increase by 50 per cent. in the salary exempted from attachment is quite sufficient. There is one more point. If we except the pay of clerks drawing Rs. 40 from attachment, the result will be that many of these men will lose their credit. The creditor will consider that he cannot attach the clerk's pay or get any return in satisfaction of his debt ; and so he will not advance him any money and it will result in greater hardship to the poor and low paid Government servants and for these reasons I commend my amendment to the House.

Mr. President : Amendment moved :

“ In clause 2, line 5, substitute the word ‘ thirty ’ for the word ‘ forty ’ and the word ‘ sixty ’ for the word ‘ eighty ’.”

Dr. Nand Lal : I oppose this amendment. I do not know why the Honourable Mr. Agnihotri is so unkind to the poor Government servants who are poorly paid. A, a Government servant, has a wife and son, taking a hypothetical case. A Government servant, a clerk, draws a salary of Rs. 40. According to Mr. Agnihotri's suggestion, the amount should be reduced to Rs. 30, so far as protection goes. His salary is Rs. 40. He says the amount should be reduced to Rs. 30. A sum amounting to Rs. 40 cannot be allowed to remain.

Dr. H. S. Gour : No.

Dr. Nand Lal : That is what he means.

Dr. H. S. Gour : No, he does not.

Dr. Nand Lal : I beg your pardon, you heard him differently. I think that is his object. He says that the sum proposed, Rs. 40, may be reduced to Rs. 30 ; that is, a concession at the rate of 50 per cent. may be given. Is it not so, Mr. Agnihotri ?

Mr. K. B. L. Agnihotri : Yes.

Dr. Nand Lal : My Honourable friend, Dr. Gour, heard you differently.

Mr. President : The Honourable Member had better address his remarks to the Chair.

Dr. Nand Lal : I will resume my illustration. A Government servant who is drawing Rs. 40 has got a number of other persons dependent on him, and his salary is not exempted from being attached. The question arises, how will he be able to support those who are dependent on him. He shall have to seek for ulterior avenues or sources which may consolidate his pay in any manner, whether legitimate or illegitimate. So therefore this amendment practically does not prevent a poor Government servant, whose salary is only Rs. 40, from stooping low and accepting presents but gives an encouragement so that he may try to have his palms greased and get a gratification. Only some months ago on the floor of this House a number of speeches were made, and I was one of those speakers who urged that corruption should be stamped out ; but I am sorry to see that a suggestion has emanated from one Honourable Member that this very useful provision, which to all intents and purposes will operate, to a certain extent, as a prevention against the poorly paid clerk's stooping low, should be objected to. I oppose this amendment ; it has got no force.

Mr. H. R. Bardswell (Madras : Nominated Official) : Sir, I also wish to oppose the amendment moved by the Honourable Member. There is, I submit, very good reason for the figures Rs. 20 and Rs. 40 now being raised to Rs. 40 and Rs. 80 respectively, since, as it seems to me, what we have to consider is the different purchasing power of money at the time when the Code containing them was first brought into force and at the present time. I understand that Rs. 20 and Rs. 40 are figures which were first adopted in 1871 with reference to the value of the Rupee as it was then, and I think it is within the knowledge of all of us that the purchasing value of money at the present time has gone down to at least half of what it was in 1871. If that is the case, as I believe it to be, and if the principle that underlies the exemption in section 60, sub-section (1), of the Civil Procedure Code is correct, and as to that there appears to be no question, then I think we ought to restore the position of affairs, with reference to the value of money at present, to what it was at the time when the provision first came into force, and that such being the case, the appropriate figures are 40 and 80 as proposed by the Honourable the Home Member and not 30 and 60 as proposed in the amendment. For these reasons, Sir, I oppose the amendment.

Colonel Sir Henry Stanyon : Sir, I strongly oppose this amendment. I oppose it upon the ground that it is a needless taking up of the time of the House. It is a purely capricious proposal which has come forward as

[Sir Henry Stanyon.]

the result of an inability to propose an amendment of a totally different kind.

Mr. K. B. L. Agnihotri : I take exception to Sir Henry's remarks. I had already given notice of this amendment.

Colonel Sir Henry Stanyon : If that is so, I withdraw the word 'capricious'.

Mr. K. B. L. Agnihotri : On a point of order. Is the Honourable Member in order in ascribing motives to me in moving my amendment?

Mr. President : The Honourable Member in question has just withdrawn the word of which the Honourable Member complained. I consider it ungracious on his part not to acknowledge it.

Mr. K. B. L. Agnihotri : I am very sorry ; I did not hear that.

Colonel Sir Henry Stanyon : I would submit that this Central Legislature ought not to allow its time to be wasted on what to my mind is a triviality. There is a perfectly simple Bill before the Legislature. No doubt the figures in it have been carefully thought out by those responsible for the Bill, who are in a position to decide what are the proper proportionate figures. I therefore strongly suggest that this matter be now closed, and that the House be asked to decide for or against clause 2.

(Honourable Members : "I move that the question be now put".)

The motion was adopted.

Mr. President : The original question was :

"That clause 2 stand part of the Bill."

Since which an amendment has been moved :

"That in line 5, substitute the word 'thirty' for the word 'forty'."

The question I have to put is that that amendment be made.

The motion was negatived.

Mr. President : Further amendment moved :

"That in line 6, substitute the word 'sixty' for the word 'eighty'."

The question I have to put is that that amendment be made.

The motion was negatived.

Clause 2 was added to the Bill.

The title and preamble were added to the Bill.

The Honourable Sir Malcolm Hailey : I beg to move, Sir, that the Bill be now passed.

Mr. President : The question is :

"That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, be passed."

Lala Girdharilal Agarwala (Agra Division : Non-Muhummadan Rural) : Sir, I want to point out one aspect. At the present day Government servants are living beyond their means, some of them at least, as, for example, village Patwaris who are Government servants getting only Rs. 15 to Rs. 20, but they keep buffaloes ; similarly Naib Tahsildars whose pay is Rs. 70—their mode of living is very high. Then, I see,

Sir, that overseers, many of them, keep motor bikes and motor cars. Is there no rule for restraining these Government servants from borrowing money beyond their means at this time ? For example, take another case, that of sub-inspectors of police whose pay is only Rs. 60 or 70, but they generally keep two or three horses and so on, and so forth. There should, I submit, be some rule preventing these Government servants from living beyond their means and borrowing money under the influence of their position. The money-lenders are first entrapped into lending them money. A decree is passed but when the time for payment comes these people put forward this plea. At the time which they borrow the money, it is said, "oh, he is the son of a Nawab, and is very good even for Rs. 10,000 or 15,000", but when the time for payment comes, of course they shelter themselves behind this plea. I just want to impress upon the authorities, if they think it proper, that they should make a rule preventing Government servants from borrowing money beyond their means.

The Honourable Sir Malcolm Hailey : I do not think that the proposal arises strictly out of the very restricted measure that we have suggested, but I think it necessary to say, in defence of public servants generally, that in the matter of living beyond their means, I doubt whether they are worse than the rest of the population. I am a Government servant, Sir ; occasionally I have lived beyond my means ; though at the present moment I do not fall under the strictures of Mr. Agarwala, because I do not happen to be keeping a buffalo. But looking round this House, which contains both Government servants and non-Government servants, I ask non-Government servants to say whether they one and all have always and at every time kept within their means ? I ask them again to say also whether it would be possible for Government to pass a law or issue a general regulation that no man should ever live beyond his means ?

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Sumptuary laws of this kind have been tried in the past and have invariably failed. As for preventing Government servants from getting into debt, it is well known that if a Government servant is found to be badly in debt, particularly to persons with whom he has official relations, he is called to account. It is said that by this measure we are putting a certain hardship on money-lenders and we are doing nothing to prevent Government servants from getting into debt. Now, we are putting no hardship on money-lenders at all. Money-lenders as a rule know their way about the world as well as most other people, and knowing that they cannot recover more than a certain amount under the law from Government servants, they naturally will restrict the amount which they lend to that class. Again, so far from assisting Government servants to overspend, by this very Act you are doing a great deal to prevent Government servants getting into debt, for obviously if you restrict their credit, then they cannot indulge in overliving. Indeed among the many opinions we have received on this Bill, there are some which refer to this particular point, and object to the measure on the ground that it restricts the credit of Government servants. I think, therefore, that the general consideration which has been imported into the discussion by Mr. Agarwala can be safely put aside and the House can pass this Bill without feeling either that it is doing an injury to money-lenders or that it is encouraging Government servants "to keep buffaloes."

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, I had not the least idea of speaking at this stage of the Bill, but I think I cannot let my friend, the Honourable Mr. Agarwala's remarks pass without any comments from me. He has made certain strictures about Government servants whom this Bill does not affect at all. He has not said that this Bill is primarily meant for people who have got a salary up to Rs. 80. But his strictures were directed against some of the Government servants who get salaries above that. He has given the instance of Naib Tahsildars, Tahsildars and probably he meant in his word 'etc.' the higher class of Government servants too. It is for the money-lenders to see when they are advancing money whether they are advancing it to the proper person who can afford to repay the debt or not. He asked the Government to put some kind of restraint on the people who want to borrow for their necessity. That is not in any way justifiable when we are discussing this Bill. This could have been discussed in connection with another Bill which was dropped by this Assembly last time in Delhi. Now, he has given another reference about the patwaris, saying that a village patwari getting Rs. 15 is keeping a buffalo and is borrowing money and living beyond his means. I wonder if my Honourable friend seriously means that a patwari is living beyond his means by borrowing money. I am a zemindar. I belong to the zemindar class of people. My family happens to possess a number of villages, and I suppose there are a good many Members here in this Assembly who belong to the zemindar class of people. They know what the patwari is, and whether he is living beyond his means by borrowing money or by extorting from agriculturists by playing one game.....

Mr. President : That is a long way from the subject of this Bill.

The question is that the Bill be passed.

The motion was adopted.

THE INDIAN INCOME-TAX (FURTHER AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg leave to move :

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be taken into consideration."

I do not think that at this stage I can add anything usefully to what was said when the Bill was introduced and to the Statement of Objects and Reasons. As each clause of the Bill comes up, I shall be very happy to give such assistance as Honourable Members desire in explaining the exact purpose of the Bill. I beg leave to move that the Bill be taken into consideration.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I oppose this motion. It cannot be denied, Sir, that our financial position is not very good and I cannot be considered wrong, if I say, that our financial condition is bad. But the fact, that financially we are feeling embarrassed, should not induce us to become too greedy. I could not allow

us to do things which ought not to be done. Now, income-tax is levied, if I rightly understand, on two grounds. One of those grounds is this, that the man who makes a profit, that is the man who gets an income, has received and does receive the protection of the State, he gets the advantage or a number of advantages at the place where his business is. In consequence of that protection and in return for those advantages which he derives, he is called upon to pay the proportionate quota of income to the State, because the State looks after his property, the State tries to do things which promote his income. But a business man, a merchant, a trader who works in Egypt, whose seat of business is in Africa and who gives credit to his mother-country, India, and who has gone to Egypt or Africa, the enterprising man, the man who has got great go and activity in him, the man who makes money and brings that money to India, he is called upon to pay income-tax in this country (India). To my mind this is unjustified. He earned the money in other countries, he got the protection of the State in other country, he got the advantages of promoting and increasing his income in that country. India has got no right to call upon him to pay income-tax. What is his fault? He earned money there and he brought that money to India, so that the existence of that money in India may make an addition to the wealth of this country. Has he committed this mistake? Are you going to impose this fine upon him because he has brought in the money, which he earned outside your country, so that your industry and your commerce may be developed on account of the circulation of that money here? He should be given credit. His conduct should be placed at a premium; he should be allowed a concession. Instead of doing that, this Bill is going to place his good conduct at a discount. To my mind it seems to be anomalous.

Mr. President : I think the Honourable Member had better reserve his remarks till we come to clause 2; he is devoting himself entirely to clause 2.

Dr. Nand Lal : I will resume my remarks to clause 2, when we reach it.

Mr. President : The question is that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, be taken into consideration.

The motion was adopted.

Clause 1 was added to the Bill.

Mr. President : The question is that clause 2 stand part of the Bill.
Dr. Gour :

Dr. Nand Lal : I think, Sir, I was given an understanding that I would be given an opportunity when clause 2 came to be considered.

Mr. President : Dr. Gour !

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Clause 2 raises a very important question. Honourable Members will remember that there is a very heavy income-tax, now reduced to 4s. 6d. in the

[Dr. H. S. Gour.]

pound in the United Kingdom. Now suppose Englishmen in this country receive an allowance from England or other foreign countries. That allowance has already paid an income-tax at the rate, say, of 4s. 6d. in the pound. It comes to this country and by this clause it will be subject to another tax, which may be anything from one anna in the rupee to 7 annas and 6 pies in the rupee, that being the maximum of the income-tax *cum* super-tax in this country. Now I venture to ask whether it is right and proper that these allowances that travel to and fro should be subjected to the payment of income-tax in each country. I think at one of the Imperial Conferences this question was agitated, and if I remember aright—I speak subject to correction—it was decided that some relief should be given against the levy of double income-tax in the British Empire. Now I submit that this is a question which the Honourable Finance Member should consider in this connection. Take another case. I am giving you an instance of an Englishman resident in this country receiving money from overseas. But take the very large number of cases that might be imagined of residents in British India receiving money from the Indian States. I do not know whether there is such a thing as income-tax in all the States, but I do know that in some of the States income-tax is levied. Now a firm, say in Hyderabad or Mysore, having branches in British India receives money in the ordinary course of industrial or mercantile transactions which have already paid an income-tax in the country of origin, if I may so put it, and it comes into British India, and if this clause is passed, it will be subject to the levy of income, and possibly, super-tax. Now I submit that is a question well worthy of serious consideration. I submit further I do not agree with the last speaker when he said income-tax is levied in lieu of protection granted by the State. That is not the principle of income-tax; it is levied simply because the State wants the money. There is no underlying principle behind the income-tax, and I submit therefore that, if clause 2 is passed, it will lead to the payment of a multiplicity of taxes in all the countries through which money passes. Let me give you an instance. A banker in India has got branches in four or five countries outside British India and in British India. He receives money, we shall say, from London, Paris and New York. The amount which he has received has been subject to the English and foreign income-taxes. He transmits that money to Hyderabad; has paid another income-tax. It goes to Mysore; pays another income-tax; comes to British India, and pays income-tax for the fourth time. (Mr. K. Ahmed: "What about barristers?") My friend ejaculates about barristers. I remember, Sir, a late Member of this House, and a distinguished Member of my profession once vehemently complained to me that the Collector of Calcutta had asked him to pay a large sum of money which he had received as fees in Hyderabad. That was about three or four years back. I can give the name privately to the Honourable Member if he wants it. Now I submit that the Government is not justified in levying these multiple and multitudinous taxes upon the mere transit of money which has not been earned in British India. If it be the principle, a principle which I do not conceive, but a principle which has often been enunciated in justification of all

these direct taxes, that the State extends to you the protection and is therefore entitled to a certain pecuniary contribution from all its subjects, if this be the right principle of taxation, then I ask, how has the British Government given me protection in regard to the money which I have received and which I have earned in a Native State?

Mr. Denys Bray (Foreign Secretary): I rise to a point of order. Is the Honourable Member in order in referring to Native States?

Mr. President: He should refer to Indian States.

Dr. H. S. Gour: I think, Sir, I have corrected myself. When I looked at the furious face of the Honourable Mr. Bray, it at once occurred to me that I had trodden on his pet corn, and I hastened to correct myself before he had the opportunity to correct me.

Now I submit, Sir, that these are questions which do call for a reply, and it seems to me that on first principles we should resist the motion of passing clause 2 of the Bill.

Colonel Sir Henry Stanyon (United Provinces: European): Sir, before we pass this clause, there is another point connected with its incidence which perhaps deserves the attention of the House. Under the previous law the practice was to estimate the income of a coming year and obtain payment of tax on the estimate. When the year for which the estimate was formed had passed, if the actual income fell below the estimate, the practice was to refund the excess amount of tax which had been drawn. Under the 1922 Act the officers of Government have taken up the position, even where the estimate made under the earlier Act for the year 1922-23 was grossly in excess of the income actually realised in the year estimated for, not to return the excess which had been taken in advance, but to pocket it and call it a hard case.

Now, it is an important point whether this sort of interpretation of the 1922 Act will fall on the Shipping Companies, that is to say estimates made.....

Mr. President: Order, order. The Shipping Companies are not in clause 2, as far as I understand. Are they?

The Honourable Sir Basil Blackett: No; clause 3.

Mr. President: We are on clause 2 now, solely relating to profits and gains arising from business outside of British India. The shipping clause is clause 3.

Colonel Sir Henry Stanyon: I bow to the decision of the Chair and end my remarks.

Dr. Nand Lal: Sir, I adopt the same argument which I have advanced before, but I shall make.....

Mr. President: I must remind the Honourable Member that there is a Standing Order against repetition.

Dr. Nand Lal: The Honourable gentleman who stood up first to oppose the passing of clause 2 made a reference to certain principles of taxation, but I should not take up the time of this House on questions

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which require academical debate. He and I can enter into that kind of debate somewhere else, but here to save the time of the House I may simply say, with due deference to his learning and knowledge in that connection, that he is not correct.

Now, Sir, my learned friend made a reference to a certain condition, which condition may help him. He will be pleased to see section 49. I have got to make a reference to it, in connection with the speech, which he (the first opposer to this clause) had made. Section 49 says :

“ If any person who has paid Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax officer that he has paid in United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to, and obtained, relief under that section.”

My reading of this section leads me to believe that my learned friend's part of the argument was fallacious and wrong and it may be traceable to the fact that he owing to the lack of time failed to see this provision to-day.

Resuming my argument, and confining those arguments strictly, according to the orders of the Chair, to clause 2, I must submit that the income made in other countries and received in India, if taxed, will lead to very undesirable results. It cannot be denied, and that should be conceded by the Honourable the Finance Member as well, that the credit of the country, in many cases, depends on the wealth of the country. If the income gained or made in other countries or gains got in other countries is not brought to India, then the credit of this country will be comparatively less. Has the Honourable the Finance Member any doubt about this proposition ? I believe not. Only in the month of March he was harping on the credit of this country. That was one of his main grounds ; that was his mainstay. He said that the credit of this country requires that there should be an enhancement in the salt tax to balance the budget. Now, here is a point which is strictly in contradiction of what he urged then, if you are going to place this clause as an obstacle to the influx of money into this country, which was made in other countries, then, to my mind, eventually it will prove detrimental to the credit of this country. So, please do not resort to this suggestion that the money received in India may be saddled with this tax. People are already hard hit, so far as the exorbitant rate of income-tax goes ; it is not an ordinary rate of income-tax. When a person issues cheques for hundreds and thousands, he comes to know how far he is parting with his money and feels the pinch. Therefore, on this ground, which is a financial ground, the Honourable the Finance Member, learned as he is and expert as he is, will accede to this contention that it is wrong to provide clause 2 in the Bill. I think it is honourable to accede and to concede. Our principal guide should be what is just and right. I hope the Honourable the Finance Member will accede to this proposition which I am placing before him. Now, the second part of this clause 2 is more defective than the first part. You will please see,

Sir, the wordings, especially referring *inter alia* to that part which is more defective according to my way of thinking :

“ for the words ‘ shall be deemed to be profits and gains of the year in which they are received or brought into British India,’ the following words shall be substituted, namely, ‘ shall, if they are received in or brought into British India be deemed to have accrued or arisen in British India ’.”

I think this is grammatically wrong. One should feel surprised so far as the grammar goes. Accrue where ? According to the fallacy which is involved in this clause, this clause tells the people of this country that you should think that that income accrued in India. Nothing could be more fallacious than this. May I ask the Honourable the Finance Member how it could be said that the income, actually accrued elsewhere, could be considered as accrued here. I believe he fully understands the significance and grammatical meaning of the word “ accrual.” It could not be considered for a moment that it accrued in India. The people will laugh at us ; in any case the grammarians and lawyers will simply smile and they will just wonder how this clause has been passed by an Assembly which is composed of some trained lawyers and expert financiers. Therefore, I take exception to this. The second part of the clause, as I have already submitted, is much more defective than the first part.

With these few remarks I oppose the clause and I submit that it should be deleted.

Mr. W. Gaskell (Finance Department : Nominated Official) : Sir, I do not propose to deliver a thesis on income-tax, especially as this Bill, or rather this clause, is only designed to carry out the intention of this House when legislating last year. The words actually used in section 4 (2) have been considered to be doubtful. As a matter of fact, those profits and gains are being taxed, but we wish to avoid references to the High Courts and unnecessary litigation. No business man wants that, and it is to make the purport of the section clear that this amendment is now proposed.

With reference to double taxation, as Dr. Nand Lal has said, relief is provided both in the British Finance Act of 1920 and in our Act of 1922. As regards Indian States, the matter is already under consideration ; the results are not apparent yet, but we hope that relief will be secured.

Dr. H. S. Gour : Are there not other foreign countries, like America, France, Japan, etc. ?

Mr. W. Gaskell : That raises another question. The question of foreign taxation is a very wide one but, as has already been laid down in the Act, so far as the profits made in India are concerned, those profits should be taxed here, and any profits made by residents of this country in foreign countries shall also be taxed when those profits are brought here. It is not a question of income generally, but of profits and gains in a business belonging to persons resident in British India.

The Honourable Member has referred to taxation of professional fees paid in Indian States. That is already distinctly provided for in section 11 (3), which reads “ professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits

[Mr. W. Gaskell.]

or gains chargeable under this head," i.e., under the head professional earnings.

I think that there is no other point needing a reply at this moment and that this clause should be enacted.

Captain E. V. Sassoon (Bombay Millowners' Association : Indian Commerce) : Sir, as far as I can see this clause it is merely an amplification of an existing enactment which has been going for many years past. Now, Sir, Dr. Gour is very bitter or appears very bitter because on his investments in America which have already paid American taxation; when he brings them to India, he finds that he will have to pay Indian taxation as well. That is perfectly true. All I can say to Dr. Gour is that he should be very glad that he is resident in India and not in England, because if he had been resident in England—I am not sure about residence anywhere else—but if he had been resident in England, and had been amenable to English taxation as an Englishman in England, he would have not only have to pay taxation on any profits earned out of England that happened to come into England, but on all his profits whether they were brought there or not; and I think that as long as we only tax the profits made out of the country that are actually brought into the country with the proviso that already exists, that as long as a profit made in one year is left abroad for three years it then comes in as capital and is not then subject to any taxation, that we have really no serious cause for complaint. That proviso, I think, exists under the original Act, and I take it, will remain in force under the amendment before the House. The answer, to Dr. Nand Lal's point is this : that if a resident in India makes a profit in Egypt and leaves it in Egypt for three years, he can bring it back to India without paying any income-tax to the Indian exchequer. If, on the other hand, he brings it in before the three years are up, he, a resident in India, will then have to pay Indian taxation. On the other hand, if an Indian in Egypt chooses to send a present to Dr. Nand Lal or anybody else here, he then does not have to pay any income-tax at all, because as Dr. Nand Lal well knows, gifts are not liable to taxation.

Clauses 2 and 3 were added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Basil Blackett : Sir, I beg to move that this Bill be passed.

The motion was adopted.

THE INDIAN PAPER CURRENCY (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

"That the Bill further to amend the Indian Paper Currency Act, 1923, be taken into consideration."

Here again, Sir, I think that in view of the long and full statement of objects and reasons, it will be more for the convenience of the House

if I give any explanations, which Honourable Members may desire, on the clauses of the Bill rather than make a general speech on introduction.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I move that the discussion of this motion be postponed. This Bill was introduced by the Honourable the Finance Member on Monday last, and while introducing it he threatened this House that he was in a position to make a three-hour speech, if necessary, to explain the purport of the measure. He has not yet given effect to that threat. When he made that statement I did not think that we would be asked to take the Bill into consideration barely three days after it was introduced, because I thought that that statement made by the Honourable Finance Member was an index of the intricate nature of the measure, and I thought that we should have all papers before us before we could be asked to pass such a measure. Now, Sir, beyond the statement of objects and reasons we have got nothing as yet to guide us in our consideration of this Bill. Some time ago we read in the papers that the Honourable Finance Member had made certain promises while at Bombay, and that this Bill was brought forward in fulfilment of those promises. We also had occasion to read extracts from opinions which the different commercial bodies had expressed upon the provisions of this measure. I speak from recollection, but I think that there was some amount of difference of opinion among the commercial bodies, at least in regard to the amount by which the note issue should be increased under the provisions of section 20. Now, Sir, I briefly refer to the provisions of this Bill. There are two provisions in this Bill. The first one relates to section 20 of the consolidated Act of 1923. That section was the outcome of a recommendation made by the Babington-Smith Committee in paragraph 80 of its report. I have got that Report with me and I will quote just a few words from it. The Babington-Smith Committee said :

"We think it desirable to provide a further limited power of expansion with a view to meeting the seasonal demand for additional currency. We recommend that it should be tried experimentally in India on a small scale, as the basis for the special power of expansion which we find to be advisable. The requirements of the case would, we think, be met by authorising in the first instance the issue of notes up to 5 crores on the security of commercial bills of exchange in addition to the normal issue. The issue would take the form of loans to the Presidency Banks on the collateral security of bills endorsed by the Presidency Banks and having a maturity not exceeding 90 days. The interest charged to the banks for such advances should be not less than 8 per cent. per annum. The advances should be outside any loans made from Government Treasury balances. The bills tendered as collateral should be *bona fide* commercial bills against goods for export, not only because such bills would lead to the automatic retirement of the emergency note issue on their maturity, but also because such bills are more easily identifiable as representing a definite commercial transaction than internal bills which may be created for purposes of finance or against goods held for speculative transactions."

The House will note that the Babington-Smith Committee was very cautious in putting forward this recommendation. They said that this might be tried as an experiment, and we are entitled to know as to how far that experiment has succeeded during the last two years, and whether our experience justifies us in increasing the limit laid down in section 20 by more than 100 per cent. I am perfectly aware that the addition to the note issue under section 20, not being a permanent addition, cannot lead to any permanent inflation of the currency. But, Sir, the amount

[Mr. K. C. Neogy.]

by which it is proposed to increase the limit of note issue is so very large that I think we should have better information before us, before we can agree to it. At least we should be in possession of all the papers relating to this question, and we should have time to go into the opinions of the various commercial bodies.

The second point relates to the valuation of bullion in the reserve. Now, Sir, I find that it is proposed to value the silver bullion which may be obtained by melting the coins not at its proper bullion value, but at the fixed rate of one rupee per 165 grains troy of fine silver, which is the amount of fine silver contained in a silver rupee. As is well known, the rupee is a token coin; therefore, by this proposal we are perhaps appreciating our metallic reserve in so far as we propose to value the silver content of the rupee at more than its bullion value. Sir, on these two points I think we are entitled to have some more information. I speak with all humility, because I do not profess to be an expert in this matter, and I hope the Honourable the Finance Member will agree to my motion for adjournment of this debate.

Mr. President : The question is that the debate be now adjourned.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I want to speak on the motion for adjournment.

Mr. President : If the Honourable the Finance Member wishes to reply he is entitled to do so.

The Honourable Sir Basil Blackett : I think, Sir, it will be for the convenience of the House if I get up at this stage. The House will have observed that the Honourable Member who has just spoken confined himself, except in the last few words, to what is really the important clause of this Bill, namely clause 3, and if I did not give any further explanation when I first moved the motion for introduction, it was because I thought that it could be more simply done in connection with clause 3. As the House is aware, the main purpose of this Bill is to raise the limit of 5 crores which is at present fixed for the amount which can be utilised for giving special facilities for expanding the currency in times of seasonal stress. This matter has been under discussion with the business community for some little time and came to a head at the time when I had the advantage of seeing the Indian Merchants' Chamber and Bureau in Bombay in April when the matter was discussed. There are two quite separate points in this question. One is the total amount to which the maximum should be raised, and that is to be fixed by the Bill; and the other, which is a matter of regulation, is the moment at which the Imperial Bank shall be able to obtain advances of the kind contemplated in the Bill. As regards the total, our proposal is to increase it from 5 to 12 crores. There is no special virtue in 5 crores. It was an experimental figure, as the Honourable Member who has just spoken explained. It was an experimental figure tentatively suggested by the Babington-Smith Committee so that experience might be gained of what the possibilities were of this rather special method of providing seasonal currency for seasonal demands. There is no special

one should go. The only clear deduction that can be made, I think, from the experience that we have had so far is that 5 crores is insufficient. We do not know yet whether 12 crores will be too much or too little or what is the right amount. It cannot perhaps be too much because it is subject to the restriction that it will be under the control of the Government and under the advice of the Imperial Bank, no doubt, too, that the decision will be taken to what extent it is to be used. Another very considerable difficulty is that, as things are at present, it is very doubtful whether the security in the form required to be deposited for such advances from the Paper Currency Act could be got together to a total exceeding 12 crores. It certainly could not be done at present. At the present moment 12 crores is probably rather more than the amount that could be covered by hundies in the hands of the Imperial Bank. No doubt, the Imperial Bank will take steps to increase the amount of hundies that they hold and convert other forms of credit into the hundy form, and no doubt the fact that there are advantages to be obtained in the way of seasonal currency by the use of hundies rather than other instruments will gradually tend to an increase in the amount available; but for the moment, 12 crores is certainly more than is likely to be or as much as is likely to be available, and therefore 12 seems a reasonable figure to fix for the total amount of seasonal currency to be issued from the Paper Currency Reserve to the Imperial Bank. If the experience of another year or two makes it evident that another figure would be better than 12, it will be open to the Legislature and to the Government to introduce amending legislation fixing some other figure. I do not know whether the House would desire me to go into a further explanation. The problem that has to be met is one that is common to other countries but is probably rather more severe in India than elsewhere. The point is that the seasonal currency problem in India arises from the fact that, when the crops have been harvested, payment has to be made for them by dealers whose balances have to be kept in the form of credit to growers whose balances are kept in the form of cash, so that, during that period, the dealers have to draw out the rupees required and, if they have not sufficient balances at the bank, have to borrow. The cash resources of the banks are diminished and the loans required from the bank have been increased. If the banks have no other means of obtaining fresh currency, they are bound to defend their cash resources by raising the rate of interest and discount. The system which we are now considering enables the Government to lend from the paper currency to the Imperial Bank and so to increase the cash resources of the banks during the season when, owing to this outflow of currency, the cash resources of the money markets are reduced, subject to an arrangement that, when those rupees come back from circulation, they will be again withdrawn and will not become a permanent addition—or will not be in danger of becoming a permanent addition to the circulating medium of the country. If they did, the effect of the first flow of additional currency out might very well be to start the usual vicious circle of inflation and raise prices and do all the things against which every currency system has to guard. The advantage in this system is that, owing to the nature of the security which the Imperial Bank has to put up for these advances—which is self-liquidating as the

[Sir Basil Blackett.]

seasonal demand for it is over. I admit that it is not quite clear what the ultimate results of the existence of this power will be or may be. We have not had sufficient experience of it at present. One of its results might possibly be to cause an additional lock-up of cash in the period during the summer when money is usually easy with the result that the additional currency in the winter would merely fill a gap in the normal currency and not supply additional currency. I think, however, the various conditions attached to this arrangement are sufficient, so far as we can see, to guard against any such danger. There is, of course, the condition that the total amount of additional currency, that can be created is limited. That is the condition in the Act. There is the further condition, laid down by rules framed by the Government of India, that the amounts to be borrowed cannot be borrowed as things stand at present unless the bank rate is as high as 8 per cent. That, we think, is too high, and we have a plan which we propose to put into force if the Bill is carried to reduce the minimum rate from 8 to 6, and arrange that the advances shall be made on a sliding scale :—Not more than 4 crores so long as the bank rate does not exceed 6 per cent. ; a further 4 crores or rather a maximum of 8 crores while the bank rate does not exceed 7 per cent. ; and a further 4 crores or another maximum of 12 crores so long as the bank rate does not exceed 8 per cent. ; the bank all the time paying interest at bank rate for the time being on these advances. I think that these safeguards are sufficient to prevent possible dangers. At the same time, it is a system which I say is experimental and will have to be watched. It is not exactly parallel to any system that I know of in any other part of the world, though it is very like the system that has been tried and found useful—I think Germany was the best example of it—before the war of a sliding scale of rate of interest at which extra currency could be provided by the Imperial Bank of Germany at times of seasonal pressure. The scale which I have mentioned is the scale which the Government propose to adopt for the present, but that again is experimental. The Government will be in a position without further power from Parliament to modify that scale and to reduce, if they wish, or to increase the minimum bank rate at which advances can be begun to be made. In a case of this sort, what you want is elasticity and the trouble about rules is that they are not elastic. There are no doubt years of booming trade in which the minimum of 6 per cent. is very likely too low. There are years when trade is not booming or is even not flourishing when 6 per cent. may be much too high. However, one has to some extent to work by rule of thumb in a matter of this sort. It would upset the market if they did not know in advance at what minimum rate the bank could begin to borrow. At any rate, as I have said, the whole thing is an experiment. All that we ask for in the Bill is power to raise the maximum from the present figure of 5 crores to the total of 12 crores, to give an opportunity for the experiment already begun to be continued in circumstances which will give it a better opportunity of proving its value, the one thing that is clear from the present experience, being that 5 crores is too little. So far as I am aware, there is general agreement among the business community who have been consulted that the total should be raised. I think also that the figure of 12 crores, provided that it is an experimental

figure, is accepted fairly generally. Everybody has a scale of his own as to the minimum and maximum rates at which advances should be made and as to the amounts which are to be made at each rate. But generally speaking, so far as I can judge,—Honourable Members, I think, will support me—there is a general consensus of opinion among those who have studied the subject that this is a clause which ought to be passed and which will be for the benefit of India's currency and credit machinery. As regards clause (2), the position at present is that silver bullion in the reserve has to be valued at the price in rupees at which it was purchased. We have been for some little time receiving back from circulation subsidiary silver coinage, and as things stand, we have no option but to recoin it. I mean worn subsidiary coinage. It is just a small provision in the existing legislation where a lacuna has been found. Where worn silver coin comes back from circulation, the natural thing to do is to melt it down, and if you want more silver coins, rupees or subsidiary, to recoin it. At the present moment there is no need for additional coinage, as to some extent the existing circulation is redundant, that is to say, the amount of it in reserve is ample and there is no need even for subsidiary coinage to be re-issued at the present time.

But the present law obliges us to re-issue—re-coin—although we do not need to do so. If we do not re-issue it, we have of course to keep it in reserve,—but we have actually to re-coin. That is really mere waste. I am not quite sure whether this was actually mentioned by the Incheape Committee, but this point came to notice as the result of an examination of the Mint accounts at the time of the Incheape Committee Report. In order to save ourselves from the unnecessary labour and cost of re-coining subsidiary silver we propose to take power to keep it in the form of silver bullion. The exact rate at which it should be valued should be, in accordance with the existing Act the price at which it was purchased, namely, its value as the subsidiary coin when withdrawn from circulation. For the moment it is true that there is some slight difference between the value of silver in the form of bullion and its value at this automatic rate, but it is a very small portion of the Reserve that is affected by this withdrawal of subsidiary coinage and there is every reason to suppose that the small difference will be made good again as soon as the subsidiary coinage comes to be re-issued. It did not seem desirable that there should be a considerable charge on the revenues of the year to make good to the Paper Currency Reserve what is really a purely book deficit for the moment, which might be a surplus if the value of silver changed, and as none of the silver in the reserve that is held is valued at the rate of the day but at the rate at which it was purchased. We are in this case following in the spirit the same rule, that subsidiary bullion that comes into the Reserve as the result of withdrawal of subsidiary silver shall be valued at the rate at which it was purchased.

(At this stage Mr. S. C. Shahani rose.)

Mr. President : Does the Honourable Member wish to speak on the motion for adjournment ?

Mr. S. C. Shahani : Yes, Sir, on the question of adjournment. I beg to point out that it will be undesirable to adjourn the discussion of this

[Mr. S. C. Shahani.]

very beneficial measure. I think congratulations are due from the Assembly to the Finance Member for introducing this Bill and thus responding to public opinion. We have witnessed a tragic performance in the early part of the year when whatever the public opinion the Government shaped its action according to its own conceits. It is very refreshing to see that the Finance Member on this occasion has not been impervious to public opinion. Our currency has been very inelastic. The official bank rate of interest in India during 1921 and 1922 has been unduly high. It has been 8 to 9 per cent. When that is the rate of interest of the Imperial Bank of India we can easily realise that the bazar rate for small merchants and shop-keepers, who form the backbone of the Mercantile Community, will be in some cases automatically raised to double that rate. At any rate, it will be quite safe to state that the average bazar rate that comes to prevail when the Imperial Bank rate is 8 per cent. will be 12 per cent. or more. In these circumstances when the blessings of cheap credit are unknown, I think, it is extremely necessary that the Indian small tradesmen should be somehow aided. This measure will not meet all the needs of the country. Nevertheless it will be a step in the right direction. This measure affects internal commercial Bills of exchange or hundis, and not the foreign Bills of exchange, for which there already is a means of making our currency more elastic, viz., the sale of council drafts and reverse councils, whereby the Secretary of State expands or contracts the money circulating in India. No doubt this arrangement has proved at times highly artificial, and we have known its breakdown. But still at times it has been found very useful. A similar arrangement ought to exist in India with regard to internal Bills of exchange too. Unfortunately the issue of notes is entirely the monopoly of the Government of India. In seasonal scarcity the banks here have no power to manufacture money. The Finance Member came forward to state that the measure that was being proposed by him had no parallel in other countries. How could it have any parallel in other countries where the issue of notes is delegated as an important subtle trade function to the national banks. Here our banking is in a primitive condition and the Government manages the issue of notes. No doubt the Government realises certain revenue from this monopoly. But then if on account of this monopoly it does realise some revenue, it also is tempted to inflate the Currency of India to finance its Schemes, and, as happened last year, does seek to swallow the revenue from the paper currency reserve to wipe out budget deficits. It will be remembered it was seriously proposed last year that a large part of the revenue derived from the paper currency reserve should be applied to the covering of the deficit—an absurd proposal, which, however, found acceptance with not a few who did not understand the question of currency and exchange. Then again the reserve of paper currency no doubt comes from the home pressure to be invested in depreciated British securities. Of course, if Government required merely the revenue, it might enter, as has been done in the Netherlands, into a kind of profit sharing agreement with the Imperial Bank. But the Imperial Bank as a note issuing bank would need to be made more national than it is at present. It is the bigger Indian merchant and the European merchant whose interests dominate its

present constitution. The transfer of the note issuing function is, however, an ideal for the future. For the present the measure under consideration will not only relieve the situation but to a certain extent anticipate and prevent monetary stringency. Only it is to be hoped that the Finance Member will contrive a situation in which instructions could be issued to the Imperial Bank of India for utilizing the expanded currency that is placed at its disposal by the Government more freely for the benefit of the commoner merchants and the smaller business men in India, so that the trade of India may be carried on with greater facility and the industries of the country may be aided. The measure is, as I have said, a very beneficial measure. In normal times the people will pay less for their borrowings. The maximum limit of the issue of notes is to be raised from 5 to 12 crores. 12 crores is no doubt an experimental figure. But one is to be guided by instinct in matters such as this the fixing of limits to the issue of notes. The limit of 12 crores will probably prove satisfactory. I am not at all satisfied that the loans should be granted when the bank rate comes to be 6 per cent. and not lower. My own idea is that the rate at which the grant of loans should be started should be 5 per cent. It is true that the general rate of interest at which the Government of India raises loans is 5½ per cent., mainly because the general rate of interest runs high. But then you have got to bear in mind the fact that Government realises a great deal of profit from this monopoly of the issue of notes; and if it incurs even some loss in order to bring down the prevailing rate of interest and thus accommodate the smaller merchants and facilitate the working of industries in India it would be only discharging its heavy responsibility as a note issuing Government. The rate of interest at which the additional Currency should be available for loans should be lowered. It should be 5 per cent. instead of 6 per cent. This is thus on the whole a distinctly beneficial measure, subject to the considerations to which I have just referred; and I think we ought not to postpone but pass it.

Mr. President : The question is that the debate be adjourned.

The motion was negatived.

Mr. President : The question is :

“ That the Bill further to amend the Indian Paper Currency Act, 1923, be taken into consideration.”

The motion was adopted.

Clauses 1, 2, 3 and 4 were added to the Bill.

The Honourable Sir Basil Blackett : Sir, I move that the Bill be passed.

The motion was adopted.

THE INDIAN STAMP (AMENDMENT) BILL.

Mr. President : I have to announce at once that as we have practically completed the business on the List of Business to-day, the Select Committee on the Stamp Bill which was summoned to meet at 4 o'clock this afternoon will meet at 2-30.

THE INDIGO CESS (REPEALING) BILL.

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : Sir, I beg to move :

"That the Bill to repeal the Acts which provide for the levy of a cess on indigo exported from British India be taken into consideration."

When I introduced this Bill, Sir, I explained that the purpose for which this cess had been imposed had been fulfilled. It is therefore desired not to collect it any longer and to repeal the Acts.

The motion was adopted.

Clauses 1 and 2 and the Title and Preamble were added to the Bill.

Mr. M. S. D. Butler : Sir, I beg to move that the Bill be passed.

The motion was adopted.

THE PUBLIC ACCOUNTS COMMITTEE.

Mr. President : I understand that the Public Accounts Committee was summoned to meet to-day at 4 o'clock. Owing to the despatch of business here, it has now been summoned to meet at 3-15 this afternoon.

AMENDMENT OF STANDING ORDERS.

Mr. President : The last item on the list of business is a motion that the report of the Select Committee on the Standing Orders be taken into consideration. Honourable Members may no doubt feel that it is a little irregular for any motion to be moved from the Chair ; but a motion of this character stands in a peculiar situation. Under the Standing Order relating to the amendment of Standing Orders the President of the Legislative Assembly is the Chairman of the Select Committee. Though I should have preferred to have moved this motion from the floor of the House, Rule 3, I think, effectively prevents me from doing so, because my Deputy or a Chairman of the Panel can only preside in my absence, and I do not think that by any conceivable ingenuity I could claim I was absent from the Chamber even though at this moment I am addressing it in the character of Chairman of that Select Committee.

The Report of the Select Committee has already been presented and I think a very few words only are needed to explain the circumstances out of which these new Standing Orders arose. On the 15th September, 1921, Sir Maanekji Dadabhoi moved a Resolution in the other Chamber asking for the appointment of a Committee to deal with the general question of petitions to the Legislature. The debate which arose out of that proceeded on lines which show that the other Chamber desired to endorse the Resolution ; but the Resolution itself was actually withdrawn

and an undertaking given by the then Home Member that the Government would take the matter up. Thereupon,—I am not sure whether the Governor General in Council or the Home Department appointed a Committee under the chairmanship of my Honourable Colleague, the President of the Council of State, the Committee consisting of 6 members who sat in the early part of 1922. The Committee produced a report which I have no doubt Honourable Members have all read. It went into the historical origin of the presentation of petitions to the Imperial Parliament, and showed that whereas at a certain time in the parliamentary history of England, petitions played a very large and effective part in the public life of the country, as the functions both of the Legislature and of the Judiciary developed, these petitions lost much of their importance. None the less, they still play some part in parliamentary proceedings in England, and the Committee thought it proper to recommend that they should also play some part in the proceedings of the Indian Legislature. Sir Alexander Muddiman's Committee's Report was duly transmitted to the Home Department, and I understand that the other Chamber took action upon it some months ago.

The House will remember that as far as we are concerned, the Home Member moved on the 21st March of the present year a motion for a Select Committee to which he desired to refer the draft of a petition which found a place in the original report of Sir Alexander Muddiman's Committee. But meanwhile, though the motion of the Honourable Home Member referred only to petitions in relation to Bills pending before the Legislature, a precedent had been established here last September when the House received a largely signed petition from the Presidency of Madras, on the subject of provincial contributions to the central exchequer ; and though, in receiving that petition, I was aware that I was setting up a precedent, I think it was not an improper precedent. At the same time I warned the presenter of that petition that the procedure then adopted must not be regarded as laying down a procedure on those lines for all time. While the motion of the Honourable the Home Member, which was duly carried, referred certain draft Standing Orders to a Select Committee, and the Report of the Select Committee now before you points out that their consideration was restricted to the subject of petitions relating to Bills pending before the Legislature, the Committee, as you will observe, said :

"We think that it is beyond our functions to propose any procedure for the presentation to the House of petitions on other public matters. At the same time, we desire to remind the House that petitions on another matter have been presented to the House, and we record our opinion that it is desirable that the Standing Orders should be further amended to regularise the practice."

The regularization of that practice remains for another time. The Report of the Select Committee, I think, speaks for itself, and all that remains for me to do now is to commend the motion that the Report of the Select Committee on the Standing Orders be taken into consideration.

The motion that the Report of the Select Committee on the Standing Orders be taken into consideration was adopted.

Mr. President : I propose to read each Standing Order individually to the House.

[Mr. President.]

The question is :

“ That after Standing Order 76 the following be added as Standing Order 77 under the title of Chapter XIII.—Petitions relating to Bills :

‘ 77. Petitions relating to a Bill which has been published under rule 18, or which has been introduced, or in respect of which notice of a motion has been received under the Standing Orders, may be presented or submitted in accordance with the Standing Orders ’.”

The motion was adopted.

Mr. President : The question is :

“ That the following shall be added as Standing Order 78 in the same Chapter :

‘ 78. Any such petition may be presented by a Member, or be forwarded to the Secretary, in which latter case the fact shall be reported by him to the Chamber, and no debate shall be permitted on the making of such report ’.”

The motion was adopted.

Mr. President : The question is :

“ That the following be added as Standing Order 79 :

‘ 79. A Member presenting a petition shall confine himself to a statement in the following form : ‘ I present a petition signed by....., petitioners regarding.....Bill,’ and no debate shall be permitted on this statement ’.”

The motion was adopted.

Mr. President : The question is :

“ That the following be added as Standing Order 80 :

‘ 80. (1) A Committee on petitions shall be constituted at the commencement of each session and shall consist of the Deputy President who shall be chairman and four Members nominated by the President of whom one shall be a chairman of the Assembly. In the absence of the Deputy President the chairman of the Assembly shall preside.

(2) The President may, if he thinks fit, fill up any vacancies occurring on the Committee during the session ’.”

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I beg to point out that one or two changes are necessary in the Standing Order which is to be numbered 80, and which says that a Committee on petitions shall be constituted at the commencement of each session and shall consist of the Deputy President who shall be Chairman and four members nominated by the President of whom one shall be a Chairman of the Assembly. It is only desirable that Members should be elected by the Assembly and not nominated by the President. Election according to me would be more satisfactory. Some make themselves very disagreeable by plainly and directly speaking out their ideas. In these circumstances, Sir, we shall be only serving the purposes for which this Assembly is intended if we go in more and more for the principle of election. I therefore move an amendment to the effect that for the words “ nominated by the President ” the words, “ elected by the Assembly ” be substituted.

Mr. President : Amendment moved :

“ To omit the words ‘ nominated by the President ’ in order to insert the words ‘ elected by the Assembly ’.”

The Honourable Sir Malcolm Hailey (Home Member) : Might I point out to the Honourable Member the exact functions of this

Committee ? If he will refer to the proposed Standing Order No. 82, he will see exactly what that Committee has to do. It has to examine a petition and report to the Chamber stating the subject-matter of the petition, the number of persons by whom it is sent and whether it is in conformity with the Standing Orders. Simply that and nothing more. Does the Assembly really wish to proceed to the trouble of electing Members among its body simply in order to discharge these somewhat ministerial functions ? They are hardly discretionary ; they do not depend on the constitution, parties or views of the Members. They have nothing to do with politics or with the attitude of members to Government.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I would oppose the amendment as inconsistent. We already have a Standing Order to the effect that a panel of four Chairmen shall be appointed by the President to preside, in the absence of the President and Deputy President, in the Assembly generally.

Mr. S. C. Shahani : Even that should be altered.

Colonel Sir Henry Stanyon : Surely it is consistent with that Standing Order that this very much less important thing should be left to the discretion of the President.

Dr. Nand Lal : (West Punjab : Non-Muhammadan) : Sir, on principle I should like that everything, which has to be done in connection with any affair relating to the public, may be done, seen, examined, and performed by elected Members. The time has come when the question of nomination should be in the background. I whole-heartedly endorse the amendment, which to my mind is very important. I will not go into the same points which have been urged. I will content myself with this remark that the Honourable the Home Member, I believe, will withdraw his opposing remarks and support the amendment, which will eventually prove more useful and which will relieve him, as the Leader of the House, of some responsibility. Apart from that if anything is done by elected Members, the responsibility of those who now nominate will be very much minimised. If I were so fortunate as he is, I would have really preferred the course which has been recommended by the amendment.

The Honourable Sir Malcolm Hailey : I do not nominate ; the Honourable the President nominates.

Dr. Nand Lal : Certainly, I know that. I am not forgetful of that. But you, Sir, have opposed the amendment and practically supported the original motion.

The Honourable Sir Malcolm Hailey : I have greater reliance on the Honourable the President than Dr. Nand Lal appears to have.

Mr. President : I should entirely agree with Mr. Shahani and Dr. Nand Lal if this were a Committee in any way dealing with matters of opinion or policy. There I think the principle of election is necessary and has been provided for in all Committees which deal with matters

[Mr. President.]

of that kind. But this is a Committee which has quasi-judicial functions of a peculiar character, and as a rule in the House of Commons Committees of this kind are appointed either by the Speaker or by the Committee of Selection. I think, on the whole, the sense of the House is opposed to the principle of election here. I put the amendment :

"In proposed Standing Order No. 80, omit the words 'nominated by the President' in order to insert the words 'elected by the Assembly'."

The question is that that amendment be made.

The motion was negatived.

Mr. President : The question is that Standing Order No. 80 be adopted.

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 81 :

"81. Every petition after presentation by a Member or report by the Secretary, as the case may be, shall be referred to the Committee."

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 82 :

"82. The Committee shall examine every petition referred to it, and shall report 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 that it 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, and, where circulation has not been directed, the President may in his discretion direct that the petition be circulated. Such circulation shall be of the petition in extenso or of a summary thereof as the Committee or the President, as the case may be, may direct."

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 83 :

"83. Every petition shall :

- (i) either be in English and in print or if not in English be accompanied by an accurate English translation in print ;
- (ii) if presented by a Member, be counter-signed by him ; and
- (iii) be couched in respectful and temperate language."

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 84 :

"84. The full name and address of every signatory to a petition shall be set out therein and shall be authenticated by the signatory, if literate by his signature, and if illiterate by his thumb impression."

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 85 :

"85. Every petition shall be addressed to the Legislative Assembly and shall conclude with a prayer reciting the definite object of the petitioners in regard to the Bill to which it relates."

The motion was adopted.

Mr. President : The question is that the following be added as Standing Order No. 86 :

"86. The general form of petition set out in Schedule II, with such variations as the circumstances of each case require, may be used and, if used, shall be sufficient."

The motion was adopted.

Mr. President : The question is that the following Schedule be added to the Standing Orders as Schedule II, namely, in the form appearing on the paper.

" SCHEDULE II.

FORM OF PETITION.

(See Standing Order 86.)

TO THE LEGISLATIVE ASSEMBLY.

WHEREAS a Bill entitled a Bill*

is now under the consideration of the Indian Legislature the humble petition of
sheweth:

and accordingly your petitioner (or petitioners) pray that†

and your petitioner(s) as in duty bound will ever pray.

Name of petitioner.	Address.	Signature or thumb impression.

Countersignature of Member presenting."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 9th July, 1923.

* (Here insert title of Bill.)

† (Here insert name and designation or description of petitioner or petitioners in concise form, e.g., "Ram Lal and others" or "the inhabitants of....." or "the municipality of....." etc.)

‡ (Here insert concise statement of case.)

§ (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.)

LEGISLATIVE ASSEMBLY.

Monday, 9th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

STATEMENTS LAID ON THE TABLE.

Mr. L. Graham (Secretary, Legislative Department) : Sir, I lay on the table the information* promised in reply to an unstarred question by Mr. Raghubir Sinha on the 2nd July, 1923, regarding the Resolutions adopted by the Council of State and the Legislative Assembly during the Delhi session, 1923, and the action taken by Government thereon.

Statement showing the Resolutions adopted by the Legislative Assembly during the Delhi Session, 1923, and action taken by Government thereon.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
1	24th January.	Mr. R. Venkataraju.	Grant of 25 scholarships to Indians for Research work.	Department of Education, Health and Lands.	No action taken on account of financial stringency.
2	1st February.	Mr. A. H. Ley	Workmen's compensation in agriculture.	Department of Industries and Labour.	In accordance with the terms of the Resolution the Government of India decided to take no further action at the present stage in respect of the draft convention relating to workmen's compensation in agriculture and the recommendation relating to the protection before and after child-birth of women wage-earners in agriculture. This decision has been communicated to the Secretary General of the League of Nations.
3	Ditto ...	Ditto ...	Protection before and after child-birth of women wage-earners in agriculture.	Ditto ...	
4	1st and 10th February.	Mr. J. Hullah	Emigration to Ceylon	Department of Education, Health and Lands.	
5	10th February.	Ditto ...	Emigration to Straits Settlements, Malay States, etc.	Ditto ...	Notification embodying the terms and conditions of emigration of unskilled labour to Ceylon, the Straits Settlements and the Malay States were issued on the 17th February 1923 in the form in which they were approved by the Legislative Assembly and emigration is taking place in accordance with them.
6	16th February.	Mr. Jannadas Dwarkadas.	Adoption of a policy of protection for India.	Department of Commerce.	In pursuance of part (b) of the amended Resolution as finally adopted by the Legislative Assembly, a Tariff Board is under constitution to institute the necessary enquiries.
7	22nd February.	Rai Bahadur G. C. Nag.	Equality of status for Indians in Kenya.	Department of Education, Health and Lands.	The Resolution was communicated by telegram to the Secretary of State for India on the 24th February 1923.

* Vide page 4142 of these Debates.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
8	27th February.	Maulvi Miran Asjad-ul-lah.	State management of all railways in India.	Railway Department.	The motion as adopted in the Legislative Assembly was in the following terms:— This Assembly recommends to the Governor General in Council that he may be pleased, on expiry of their leases, to take over both the East Indian Railway and the Great Indian Peninsula Railway for management by the State. The contracts of these two lines expire on 21st December 1924 and 30th June 1925 respectively and meantime preliminary questions are being considered.
9	9th March	Mr. J. Hullah	Emigration to Mauritius.	Department of Education, Health and Lands.	Notification embodying the terms and conditions of unskilled labour to Mauritius was issued on the 22nd March 1923 in the form in which it was approved by the Legislative Assembly.
10	10th March	Mr. K. M. Nayar.	Communal representation.	Home Department.	A copy of the Resolution as adopted by the Assembly has been forwarded to all Departments of the Government of India and the Subordinate Offices with the request that the policy of Government announced in the course of the debate should be borne in mind when making recruitment for services under their control.

Statement showing the Resolutions adopted by the Council of State during the Delhi Session, 1923, and action taken by Government thereon.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
1	31st January 1923.	The Hon'ble Mr. D. T. Chadwick.	Workmen's compensation and social insurance in agriculture.	Department of Industries and Labour.	In accordance with the terms of the Resolution, the Government of India decided to take no further action at the present stage in respect of the draft convention relating to workmen's compensation in agriculture and the recommendation relating to the protection before and after child-birth of women wage-earners in agriculture. This decision has been communicated to the Secretary General of the League of Nations.
3	Ditto	Ditto	Protection of women and children wage-earners in agriculture.	Ditto	
3	15th February 1923.	The Hon'ble Rao Bahadur Sir B. N. Sarma.	Terms and conditions of emigration of unskilled labour to Ceylon.	Department of Education, Health and Lands.	Notifications embodying the terms and conditions of emigration of unskilled labour to Ceylon, the Straits Settlements and the Malay States were issued on the 17th February 1923 in the form in which they were approved by the Council of State and emigration is taking place in accordance with them.
4	Ditto	Ditto	Terms and conditions of emigration of unskilled labour to Straits Settlements and Malay States.	Ditto	
5	18th February 1923.	The Hon'ble Mr. Yaman Govind Kale.	Industrial finance and industrial banks.	Department of Industries and Labour.	The Government of India have decided to take no action on this Resolution, as the subject of industrial finance is primarily a matter for the provinces, some of which have already taken action on the lines suggested by the Industrial Commission by means of legislation regulating the grant of industrial loans.

Serial No.	Date on which moved.	By whom.	Subject of Resolution.	Department concerned.	Action taken by Government.
6	16th & 19th February 1923.	The Hon'ble Sir Dinshaw E. Wacha.	Census of production of British India.	Department of Commerce.	The proofs of the first issue of the collection of statistics in consolidated form have already been received and most of them have been checked. The publication should not now be much delayed.
7	28th February 1923.	The Right Hon'ble V. S. Srinivasa Sastri.	Appointment of Indians as Secretary, Joint Secretary and Deputy Secretary to every Department of the Government of India Secretariat.	Home Department.	A copy of the Resolution has been forwarded to all local Governments and Departments of the Government of India with the decision of Government that, while no fixed ratio could be agreed to, the principle of appointing Indians in increasing numbers was accepted and that for this purpose the possibility of obtaining suitable and competent Indian Officers from Provincial Secretariats should be definitely considered on the occurrence of vacancies in the appointments in question.
8	Ditto	The Hon'ble Rai Bahadur Lala Ram Saran Das.	Appointment of Indians to the Traffic Inspector cadre (Transportation Section) on State Railways.	Railway Department.	Railway Administrations were advised to look into the matter so that qualified Indians may be advanced to the position of Traffic Inspector along with Anglo-Indians and Europeans.
9	5th March 1923.	The Right Hon'ble V. S. Srinivasa Sastri.	Rights and status of Indians in Kenya Colony.	Department of Education, Health and Lands.	The Resolution was communicated by telegram to the Secretary of State for India on the 6th March 1923.
10	21st March 1923.	The Hon'ble Rao Bahadur Sir B. N. Sarma.	Terms and conditions of emigration of unskilled labour to Mauritius.	Ditto	Notification embodying the terms and conditions of emigration of unskilled labour to Mauritius was issued on the 22nd March 1923 in the form in which it was approved by the Council of State.

QUESTIONS AND ANSWERS.

RETRENCHMENTS, ETC., DUE TO INCHEAPE COMMITTEE'S REPORT.

142. *Sir D. P. Sarvadhikary : Will the Government be pleased to state :

- How many Indian Superintendents, clerks and menials have been retrenched as a result of the Inchcape Committee's recommendation ?
- How many European and Anglo-Indian Superintendents, Assistants and clerks have been similarly retrenched ?
- The names of European and Indian officers of and above the status of Assistant Secretary who have been retrenched ?
- Will the Government be pleased to state the designations of new appointments which have been created in the Government of India Secretariat and Attached Offices since the 1st January 1923 and the names of those who have been appointed to fill them, the pay of such appointments and the respective reasons for making the same ?
- Will the Government kindly state the names and qualifications of officers in the Government of India Secretariat and

Attached Offices who as a result of the reorganisation following the Incheape Report have been provided with posts carrying higher salaries than those which they drew in posts occupied by them on January 1st, 1923 ? How many of these are Europeans and how many Indians ?

- (f) Will the Government kindly state how many vacancies there have been in the Government of India Secretariat and Attached Offices since the 28th February 1923 ? How many of these have been filled by Indians and how many by Europeans ?

Mr. C. W. Gwynne : (a) and (b). The information is as follows :

Indian Superintendents :

Permanent	5
Temporary	Nil.

European and Anglo-Indian Superintendents—

Permanent	9
Temporary	1

Indian Assistants and Clerks—

Permanent	175
Temporary	61

European Assistants and Clerks—

Permanent	23
Temporary	11

Menials—

Permanent	247
Temporary	61

These figures include not only retrenchments effected as a result of the Incheape Committee's report, but also retrenchments carried out during the year preceding the publication of the report, that is, since about May 1922 when departments began retrenchment operations. Retrenchment of permanent men was, wherever possible, effected by the retirement of those who had reached or were very near the age of superannuation or who were unfit physically or were less efficient than those retained. Of the permanent clerical establishment retrenched, other than those who have been retired on these grounds, 40 have been re-employed, in vacancies effected by distributing retirements over departments, in order that departments where retrenchment was greatest might not be prejudicially affected. Of those 6 are Europeans and Anglo-Indians and 34 are Indians. Of the temporary men retrenched, viz., 73 as shown above plus 46 men who were acting in leave vacancies and who were also retrenched, altogether 94 have so far been found re-employment by the Staff Selection Board. Of the 94 men re-employed 6 are Europeans and Anglo-Indians, and 88 Indians.

(c), (d), (e) and (f). The information is being supplied separately to the Honourable Member. I summarize it as follows. In a list referred to in (c) there are 33 posts of which 29 were held by Europeans and 4 by Indians. List (d) there are 18 posts including Assistant Secretaries

outside the ministerial establishments. In list referred in (e) there are really only two names, the other four names representing officers who receive allowances or higher pay for doubling up the work of two posts and the like. List (f) is difficult to analyse ; but there have been about 20 real vacancies in the Civil Secretariat, i.e., vacancies of posts not subsequently brought under retrenchment, of which fourteen have been filled by Indians.

Sir Deva Prasad Sarvadhikary : Is the Government in a position to state the total amount of savings under the recommendations of the Incheape Committee as distinguished from the voluntary retrenchments—if I may so call them—made by the Government before the Committee's recommendations ?

The Honourable Sir Basil Blackett : I will have the matter looked into and see if it is possible to give such figures, but in a great many cases retrenchments were made temporarily pending the result of the Incheape Committee and then became permanent as the result of that Committee. So the question is obviously a little difficult to answer.

Mr. S. C. Shahani : Is the Government aware (1) that what is true of the Government of India Secretariats and attached offices is true of other Departments ? (2) that Deputy Superintendents of Police and Deputy Collectors are serving no useful purpose and that these posts may even be abolished ? And (3) that the present is the right time for issuing orders that as far as possible the number of policemen should be reduced ?

The Honourable Sir Malcolm Hailey : I am not disposed to answer that question, as it does not arise out of the question relating to the Government of India Secretariat.

Dr. Nand Lal : May I ask why a very large number of clerks and menials have been brought under retrenchment and why posts carrying very fat and high salaries have not been reduced in number ?

The Honourable Sir Basil Blackett : Sir, I think probably that is for me to answer. It is usually the position that an officer on high salary—a Secretary, for example,—is employing more than one clerk and that between them they are employing a good many peons. It would be rather pointless to double the number of peons and abolish the top post, which seems to be what Dr. Nand Lal suggests.

Dr. Nand Lal : Have you fixed any ratio, e.g., that to one officer drawing a very big salary, in proportion to that reduction so many clerks should be retrenched ?

The Honourable Sir Basil Blackett : My impression is that we have reduced all possible posts without respect to any ratio between peons and Secretaries.

Dr. Nand Lal : Does the Honourable the Finance Member remember the suggestion which was offered by this Assembly on the occasion of the Budget that the reductions mentioned should not affect only the clerks and menials and that the principle of reduction should also be applied to high-salaried officers ?

The Honourable Sir Basil Blackett : Yes, Sir.

Dr. Nand Lal : Has that principle been brought into practice ?

The Honourable Sir Basil Blackett : Yes, Sir.

Dr. Nand Lal : How many officers have been served with notice, Sir ?

The Honourable Sir Basil Blackett : I think I had better refer the Honourable Member to the answer that was just given.

Dr. Nand Lal : May I respectfully submit that that answer is not adequate.

Mr. N. M. Joshi : May I ask a small question, Sir ? Is it a fact that one peon in the Secretariat died by the shock of the retrenchment proposals ?

The Honourable Sir Malcolm Hailey : I believe, it was the case that a duffry did die, but whether it was directly connected with the retrenchment proposals or not, I am not aware.

HARDSHIPS OF INCOME-TAX.

143. *Dr. Nand Lal : 1. Is Government of India aware that the present heavy rate of income-tax has worked a great hardship on the Income-Tax assesseees in the Punjab ?

2. Will Government of India be pleased to state the number of Income-Tax assesseees in the Punjab who are defaulters ?

3. Is Government of India aware that this heavy rate of income-tax has materially affected the commercial classes and the trade in the Punjab, specially in Amritsar, Lahore, Rawalpindi, Multan and Gujranwala ?

The Honourable Sir Basil Blackett : The answer to the first part of the question is in the negative. The information asked for in the second part of the question is not available at present, but will be supplied to the Honourable Member at a later date.

The answer to the third part is in the affirmative or negative according to the interpretation put on the words " materially affected."

Dr. Nand Lal : Will the Honourable the Finance Member enlighten the Assembly whether the Government of India has been in receipt of representations from the assesseees of Amritsar that they have been very hard hit on account of this very exorbitant rate of income-tax ?

The Honourable Sir Basil Blackett : No doubt, complaints have been received.

Dr. Nand Lal : May I ask the Honourable the Finance Member what effective steps have been taken by the Government of India to redress those grievances ?

The Honourable Sir Basil Blackett : I think if the Honourable Member will refer to the debate which took place on the demand for grants in connection with the income-tax, and to the understanding which he was given on that occasion he will not require a further answer.

Dr. Nand Lal : My submission is, what steps have been taken subsequent to the receipt of the complaints from Amritsar ?

The Honourable Sir Basil Blackett : Representatives of the Board of Revenue are always available to receive complaints. They are in the habit of travelling round and making themselves available to see assesseees who have a grievance, and I am not aware that there is any serious case to which attention has not been fully given.

Dr. Nand Lal : May I ask the Honourable the Finance Member whether he has received a telegram purporting to show that the citizens of Dera Ismail Khan held a meeting at which they passed a Resolution purporting to say that the Income-tax Department is treating them very badly and levying income-tax indiscriminately, and that assumptions are being made with regard to percentage profits which are very heavy ?

Mr. President : Dera Ismail Khan is not referred to in the original question and the question is therefore out of order.

Dr. Nand Lal : It refers to the main head " Income-Tax."

Dr. H. S. Gour : May I ask the Honourable the Finance Member to state for the information of this House what is the maximum income *cum* super-tax in this country and what is the maximum in the United Kingdom now ?

Mr. President : This question refers to rates of tax and not to the yield.

Dr. H. S. Gour : I submit the yield is connected with the rates.

Mr. President : No doubt ; but notice should be given of the question if he wants an answer.

Mr. K. Ahmed : Is not the eliciting of further facts on the matter in issue a ground for a supplementary question, Sir ?

The Honourable Sir Basil Blackett : I would refer the Honourable Member, if he wants to know the rates of tax in the United Kingdom and in this country, to many published documents which contain those facts.

Dr. Nand Lal : With your permission, Sir, may I ask a few questions which are of the greatest possible importance in these days ? They relate to.....

Mr. President : They are not on the paper.

RELEASE OF MISS ELLIS : STEPS TAKEN BY GOVERNMENT.

144. *Mr. Ahmed Baksh : (a) Will the Government please state as to what steps were taken to effect the release of Miss Ellis ?

(b) Whether or not any force was sent for the purpose ?

(c) If the answer to (b) is in the affirmative, will it also be stated as to how much money was spent on such expedition and to what head such expenses were debited ?

Mr. Denys Bray : With your leave, Sir, I will take advantage of the question to explain the political significance of the Kohat Tragedy. The public interest in it has been great ; the public sympathy with the victims has been great, and the public admiration of the heroism it evoked has been great. The political significance of it has in the meanwhile been somewhat overlooked.

(a) The Kohat tragedy was not an isolated crime : it was the last link in a definite chain of tribal events. It linked up with the murder of Colonel and Mrs. Foulkes at Kohat in October in 1920 ; the theft of 46 rifles from the Kohat Police Lines last February ; and their recovery in a counter-raid into the Kohat pass three weeks later. With all these events the perpetrators of the Kohat tragedy were directly or indirectly concerned. In the Foulkes murder they were heavily involved. The Afridi jirga had recently undertaken to coerce the Tirah Jowakis to settle up their share in that grave case ; and an early date had been fixed for the final settlement in Peshawar. Now such a tribal settlement involving, as it of course would, the payment by the tribes of a heavy fine in money and rifles, would have placed these ruffians once and for all beyond the pale. They therefore resolved to render a tribal settlement with Government impossible by the commission by an act against Government of such a nature as would drive Government into hostility with the whole tribe, force Government into extending to themselves a free pardon against the release of Government hostages, and, finally, deter Government in future from exacting redress for tribal raids into British India by means of counter raids into tribal territory. Their first plan was to kidnap two British Officers from Kohat. This miscarried owing to the bungling of one of their members. The Kohat tragedy followed a few weeks later. There is no reason to believe that the murder of Mrs. Ellis was part of their premeditated plan. On the contrary, the mother would in all probability have shared her daughter's vicissitudes and like her have been alive to-day, had she not laid down her life in the attempt to save her daughter by raising the alarm.

Fortunately a large body of Afridi and Orakzai opinion was incensed against the ruffians from the very outset. This was partly due to the peculiar brutality of the crime but chiefly no doubt because they had deliberately set out to perpetrate a crime that would be a definite challenge to Government and drive Government into open hostilities with the whole tribe. Government's efforts therefore were concentrated on consolidating tribal opinion against the murderers and enlisting tribal pressure to secure Miss Ellis' release. The task was rendered the more difficult because the murderers had carried their captive into the heart of Tirah and claimed the protection of that powerful trans-frontier Mullah, Mahmud Akhunzada. Under tribal and Government pressure the Mullah was induced to denounce the miscreants and to order them to surrender their captive. But success might have been impossible, and would certainly have been dangerously delayed, but for the hazardous journey into the heart of Tirah of a gallant English lady and two gallant Indian Officials.

(b) The challenge to Government was answered and the attempt to embroil Tirah with Government was frustrated without a single sepoy

or soldier crossing the frontier except for a march along the Kohat pass road.

(c) therefore does not arise.

RELEASE OF MISS ELLIS : EXPENSES OF.

145. ***Mr. Ahmed Baksh :** Will the Government please state as to whether :

- (a) Any money was paid to the captors of Miss Ellis for her release and if so, what is the amount of such money and to whom was it paid and from what source ?
- (b) Any and if so how many rifles were given and returned to anybody for the above purpose, and if so, to whom and whether they were Government property or tribal ?
- (c) Major Ellis had to pay anything from his own pocket ?

Mr. Denys Bray : (a) Government paid no money to the captors. To Mullah Mahmud Akhunzada, who had to organise and conduct tribal deliberations and entertain a great number of people, Rs. 15,000 was paid from Political funds, a sum that falls far short of what is being recouped by fines imposed on the tribes concerned.

(b) No rifles, Government or tribal, were handed over.

(c) Major Ellis incurred no expenditure beyond the large expenditure involved in the enforced break-up of his home and his enforced departure with his daughter to England.

Dr. Nand Lal : May I ask a supplementary question, Sir ? Did the Government of India take any effective steps or any action before this in cases in which Indian girls and Indian women were kidnapped or abducted ?

Mr. Denys Bray : I think the Honourable Member will find part of the answer at any rate in an answer I shall presently give.

RELEASE OF MISS ELLIS : TERMS OF.

146. ***Mr. Ahmed Baksh :** (1) Will the Government please lay on the table the terms on which the release of Miss Ellis was secured ?

(2) Was it also one of the terms to release some under-trial prisoners belonging to the tribe of the captors of Miss Ellis, and if so, what were the offences they were charged with ?

Mr. Denys Bray : I will take (1) and (2) together. The only terms were the release of one trans-frontier tribesman arrested on suspicion of having taken part in the theft of the Kohat police rifles and of another tribesman arrested on suspicion of having harboured the rifle thieves.

MURDER OF MRS. ELLIS : PUNISHMENT OF CRIMINALS.

147. ***Mr. Ahmed Baksh :** Whether any measures have been taken to punish the murderers of Mrs. Ellis ?

Mr. Denys Bray : The murderers have been driven from their homes and their homesteads have been burnt and their fellow-tribesmen have undertaken to capture them should they return. They have fled to

Afghanistan and are now endeavouring to elude arrest by the Afghan authorities. Tribal and territorial responsibility has been enforced by the imposition of fines on their fellow-tribesmen and on sections which gave them passage. And the opportunity has been taken to turn this tragedy to the public good by forcing the tribesmen to expel outlaws from their limits and to accept a tighter Government control over the Kohat pass.

Dr. Nand Lal : Has the Government of India tried to find out whether any local man was or any local men were also in conspiracy with these raiders, so far as the kidnapping of Miss Ellis goes ?

Mr. Denys Bray : The whole case has been subjected to the most careful investigation.

Dr. Nand Lal : What has been the result ?

Mr. Denys Bray : As far as I am aware, no local men have been found to be connected with the affair.

Dr. Nand Lal : Not connected ; but having any part in the conspiracy ?

Mr. Denys Bray : I used the widest word I could find.

ABDUCTIONS BY TRANS-BORDER PEOPLE.

148. ***Mr. Ahmed Baksh :** Will the Government please state as to how many Indians were carried away by the Trans-border people during the last 3 years and what amount was paid to their captors by the Government by way of ransom to secure their release ?

Mr. Denys Bray : Exact up-to-date figures of Indians carried away into the trans-frontier during the last three years will be supplied to the Honourable Member as soon as they are obtained from the Local Government. Government have paid nothing in ransom, but foremost among the reasons that forced Government into the Waziristan operations, on which so much money has been expended, was of course this orgy of kidnapping.

KIDNAPPING OF K. S. MOHAMMAD HAYAT KHAN.

149. ***Mr. Ahmed Baksh :** Is it a fact that one K. S. Mohammad Hayat Khan, an Assistant Political Officer, was kidnapped by the tribesmen and eventually released ? Will it be stated as to what amount of money was paid by the Government by way of ransom for his release ?

Mr. Denys Bray : Yes. K. S. Muhammad Hayat Khan with others was kidnapped by Mahsuds while we were still at war with them and was released some 8 or 9 days later under Government and tribal pressure, exerted largely through two Indian Officials who ventured into tribal country in response to the call of public duty. Government paid no ransom but of course incurred expenditure over the negotiations.

Dr. Nand Lal : Has the Government of India shown its kindness in cases of non-official men who were kidnapped or abducted by these ruffians and raiders of the trans-border of the North-West Frontier Province ? The gentlemen referred to in the answer were officials.

Mr. Denys Bray : I feel inclined to read out again a portion of the answer :

“ Foremost among the reasons that forced Government into the Waziristan operations on which so much money has been expended was of course this orgy of kidnapping.”

And I may add this : Kidnapping northwards of Waziristan is now practically extinct, thanks to the very elaborate and drastic arrangements which have been instituted and prosecuted during the last two or three years. In Waziristan also, thanks to the military operations, the evil is, I trust, becoming obsolescent.

Mr. Harchandrai Vishindas : Is it a fact that it is mainly owing to Dr. Nand Lal's Resolution in 1921 that these operations have been conducted or quite independently ?

Dr. Nand Lal : May I ask at this juncture, because the question has got great relevancy, is the Government of India prepared to give free licences, for arms, to the people in this part of the country—I mean to say the North-West Frontier Province—to defend themselves against these raiders who have made themselves a perpetual menace to the loyal subjects of His Majesty in that province ?

Mr. President : I am afraid that does not arise out of this question.

COMPENSATION TO MAJOR ELLIS.

150. ***Mr. Ahmed Baksh :** Whether or not any money has been paid to Major Ellis by the Government for the loss of his wife and the abduction of his daughter and if so, what amount ?

Mr. Denys Bray : Not a penny.

KHYBER RAILWAY.

151. ***Mr. Ahmed Baksh :** Will the Government please state the following :

- (a) Total estimated length and cost of Khyber Railway under construction ?
- (b) The length of the line completed and the expenses incurred thereon ?

The Honourable Mr. C. A. Innes : (a) The estimated length and cost of the Khyber Railway are 27 miles and Rs. 1.97 crores, respectively.

(b) No portion of the line has been entirely completed. The expenditure on the line up to 31st March 1923 amounts to Rs. 1,39,00 thousands.

Dr. H. S. Gour : May I inquire of the Honourable Member for Commerce whether this amount has been included in the military expenditure ?

The Honourable Mr. C. A. Innes : No, Sir.

FRANCHISE IN NORTH-WEST FRONTIER PROVINCE.

152. ***Mr. Ahmed Baksh :** (1) Will the Government please state as to whether franchise has been given to the municipalities and the District Boards in the North-West Frontier Province ? If not, whether it is intended to do so ?

(2) Is it a fact that the late Sir George Rooskeppel had a scheme to give powers of election to Peshawar Municipality ? If so, what happened to the same ?

Mr. M. S. D. Butler : (1) The answer to the first part of the question is in the negative. As regards the second part Government are not in a position to make any statement.

(2) Efforts were made in 1919 to come to an arrangement acceptable to all parties but without result. The unsettled conditions which have since prevailed have prevented any further action in the matter.

Dr. Nand Lal : Will the Government of India enlighten this Assembly as to when they are going to publish the Report in connection with the North-West Frontier Inquiry Committee ?

Mr. President : I don't think that question arises out of this.

Dr. Nand Lal : With due deference, I may submit that the question relates to the safety and tranquillity of the people of that part of the country.

NOMINATIONS TO FINANCE AND AUDIT DEPARTMENTS.

153. ***Mr. K. Ahmed :** (a) Will the Government be pleased to state the number of candidates who were nominated each year to appear in the competitive examinations for the Indian Finance and for the Indian Audit and Accounts Service for the last 5 years, and the number of appointments made on the result of those examinations ?

(b) Will the Government be pleased to explain the principle on which the nomination of candidates for the above examination is made, and the reason why only a small number of candidates are nominated to appear in the above examination ?

(c) Is it a fact that owing to the small number of nominations, many brilliant students are prevented from appearing in the above competitive examination ?

(d) Will the Government be pleased to consider the desirability of nominating every year a larger number of candidates to sit for the competitive examination for the Indian Audit and Accounts Service, in similar proportion to the number of candidates allowed to appear in the I. C. S. Examination held in India ?

(e) Will the Government be pleased to consider the desirability of altering the syllabus and rules for the above examination so as to make it similar on principle to those of the I. C. S. Examination held in India ?

The Honourable Sir Basil Blacket :

(a)				Number nominated.	Number appointed.
1918	..	..	..	35	3
1919	..	..	..	38	7
1920	..	..	..	62	6
1921	..	..	..	56	8
1922	..	..	..	49	4

(b), (c) and (d). The rule is that a register of candidates is kept by the Finance Department from which not less than three candidates for

each vacancy will be nominated. As the figures just given show, the number nominated is much larger than the minimum. The nominations for each examination depend upon the number of vacancies and the number of candidates on the register, possessing the necessary qualifications. The Government consider it undesirable to nominate a larger number irrespective of the number of vacancies, and they have no reason to think that many brilliant students are prevented from appearing in the competition under the present system.

(e) The Government have considered the question of altering the syllabus recently, but decided that no change was called for.

Mr. S. C. Shahani : Will the Government be pleased to state if the principle of communal representation is observed to any extent in the nomination or appointment of candidates for the Indian Finance Audit and Accounts Services ?

The Honourable Sir Basil Blacket : I don't think that question arises out of the answer which I have just given.

MEDICAL EXAMINATION FOR INDIAN CIVIL SERVICE EXAMINATION.

154. ***Mr. K. Ahmed :** (a) Is it a fact that owing to the very strict medical examination, a large number of candidates were not allowed to appear in the I. C. S. Examination held in India during the last two years ?

(b) Is it a fact that the instructions of the Civil Service Commissioners were that the candidates for the I. C. S. Examination should not be declared medically unfit simply because they are slenderly built, unless they are suffering from incurable diseases or serious constitutional defects or bodily infirmities ?

(c) Do the Government propose to bring to the notice of the Medical Board of each province the above instructions of the Civil Service Commissioners ?

(d) Is it a fact that a new rule has been made for the candidates for the Indian Civil Service competitive Examination held in India which requires that " Every candidate shall satisfy the Civil Service Commissioners that his character is such as to qualify him for employment in the Indian Civil Service " ?

(e) Will the Government be pleased to state the reason for making this change in the above rule ?

(f) Will the Government be pleased to state what is precisely meant by the above new rule, and what qualities must a candidate possess to satisfy the Civil Service Commissioners that his character is such as to qualify him for employment in the Indian Civil Service ?

(g) Is it a fact that the Montagu-Chelmsford Report recommended that the percentage of Indians recruited from India for the Indian Civil Service should be increased every year ?

(h) Are the Government prepared to consider the desirability of increasing the number of recruits for the Indian Civil Service on the results of the next competitive examination in India, in accordance with the above recommendation in the Montagu-Chelmsford Report ?

The Honourable Sir Malcolm Hailey : (a) Local Governments have been asked for information. A reply will be given after their reports have been received.

(b) The instructions of the Civil Service Commissioners are that the Medical Boards should bear in mind that the table of physical measurements was originally framed for Europeans and should be applied with discretion in the case of Indians.

(c) This has already been done.

(d) Yes ; and a rule in the same terms is to be included in the regulations for the examination in London.

(e) The rule was suggested by the Civil Service Commissioners but the reasons seem sufficiently obvious.

(f) The attention of the Honourable Member is invited to the note explaining rule 11 appended to the regulations, a copy of which is laid on the table ; but Local Governments are entitled to make such further inquiries as they may consider necessary.

(g) Yes.

(h) The recommendation of the Montagu-Chelmsford report refers to Indian recruitment from all sources and is being followed.

Character (Rule 11).—A candidate must send in with this form copies of three certificates (and not more) of good private character, one from his University or College and two from responsible persons unconnected with his University or College. Copies only are to be supplied at this stage ; they will be retained by the Civil Service Commissioners and not returned. Successful candidates will be required to produce the originals.

RETURN TICKETS ON EASTERN BENGAL RAILWAY.

155. ***Mr. K. Ahmed :** (a) Is it a fact that in the Eastern Bengal Railway, the period for which the ordinary return tickets are available for distances exceeding 50 miles but not more than 65 miles have been recently reduced from 14 days to 2 days ?

(b) Is it a fact that this change is causing great hardship to the travelling public ?

(c) Will the Government be pleased to state the reason for this sudden change by the Eastern Bengal Railway ?

(d) Will the Government be pleased to state the income which the Eastern Bengal Railway expect to derive in a year as a result of this change, and the proportion it bears to the total yearly income of the Eastern Bengal Railway ?

(e) Do the Government propose to consider the desirability of re-introducing the old rule regarding the return tickets in the Eastern Bengal Railway, so that ordinary return tickets for distances over 50 miles may be available for return in 14 days ?

The Honourable Mr. C. A. Innes : (a) The answer is in the affirmative.

(b) Government are not aware that this is the case.

(c) The change was made because the zone of local trains extends to 65 miles from Calcutta and fraudulent use was being made of tickets available for the longer period within this zone.

(d) The change has not been made with a view to getting Revenue but with a view to prevent abuse as already stated.

(e) The re-introduction of the old rule is not considered desirable.

Mr. S. C. Shahani : Is the Government in a position by now to state if return tickets or no return tickets mean more revenue to Railways ?

The Honourable Mr. C. A. Innes : I must ask for notice of that question.

APPRENTICES IN BENGAL NAGPUR RAILWAY WORKSHOPS.

156. ***Mr. K. Ahmed :** (a) Is it a fact that in the Bengal-Nagpur Railway, no Indians are admitted for training as apprentices in their Mechanical and Electrical Workshops at Kharagpur and elsewhere, while Anglo-Indians and Europeans are admitted ?

(b) Will the Government be pleased to state the cause of this distinction in the Bengal-Nagpur Railway ?

(c) Do the Government propose to consider the desirability of asking the Bengal-Nagpur Railway to make arrangements for proper training of a suitable number of Indian apprentices every year in their Mechanical and Electrical Workshops at Kharagpur and elsewhere ?

The Honourable Mr. C. A. Innes : (a) It is not the case.

(b) and (c) do not therefore arise.

Mr. S. C. Shahani : Will Government be pleased to state if any other Railways too exclude Indian apprentices from their workshops ?

The Honourable Mr. C. A. Innes : As far as I am aware, the answer to the question is in the negative.

SAVINGS BANK AND MONEY-ORDER DEPARTMENTS : HOURS OF CLOSING.

157. ***Mr. K. Ahmed :** (a) Is it a fact that in the post offices in Bengal, the Savings Bank and Money-order Departments are closed at 3 P.M., and no deposits or money-orders are accepted after that hour ?

(b) Is it a fact that owing to this early closing of these departments, there is always a very great rush in the windows of the post offices, and the public are suffering great inconvenience and hardship in consequence ?

(c) Do the Government propose to send instructions to the post offices in Bengal to close the Savings Bank and the Money-order Departments later than 3 P.M. ?

Mr. G. R. Clarke : (a) Yes.

(b) There has always been a rush at closing time in big cities and it is no greater at present than when the closing time was 4 P.M. No complaint of inconvenience and hardship has been received from the public.

(c) Postmasters-General have been instructed to alter the hours of business whenever necessary in order to suit the local convenience and Government do not intend to interfere with the existing arrangement which obtains throughout India.

METEOROLOGICAL DEPARTMENT REPORTS.

158. ***Mr. K. Ahmed :** (a) Is it a fact that Meteorological observations of a particular day are taken at 8 A.M. on the following day, and the reports are published in the newspapers on the morning of the third day ?

(b) Are the Government prepared to consider the desirability of taking the meteorological observations in the evening, instead of in the morning, and sending the observations and forecasts for publication in the newspapers at night, so that they may be published in the following morning ?

(c) Will the Government also consider the desirability of expediting the publication of these forecasts and observations in the newspapers in any other way ?

The Honourable Mr. A. C. Chatterjee : (a) The observations are taken at 8 A.M. daily, and represent current conditions *plus* the last occurring maximum and minimum temperatures and the rainfall of the preceding 24 hours. Newspapers in general receive forecasts by telegram at about 2 P.M. the same day, and publish them in the issue printed the same afternoon or evening.

(b) and (c). Government have considered these suggestions, but have decided that a change in the hour of taking the observations is undesirable.

PASSENGER AND PLATFORM TICKETS, HOWRAH.

159. ***Mr. K. Ahmed :** (a) Is it a fact that in Howrah Railway Station, no platform tickets are issued to the friends and relations of the Inter class and third class passengers, who wish to enter the platform from which the Bombay and the Punjab Mails are about to start ?

(b) Are the Government aware that this restriction in the issue of platform tickets is causing great inconvenience to the travelling public and their friends and relations ?

(c) Are the Government aware that the platforms in the Railway stations are public places where the public ought to be freely admitted ?

(d) Do the Government propose to ask the East Indian Railway authorities to abolish this restriction in the issue of platform tickets, and to allow the public freely to enter the platforms from which any train is about to start ?

(e) Are the Government aware that owing to the insufficiency in the number of windows for selling third class tickets in the Howrah Railway Station, great inconvenience is felt by the travelling public in buying third class tickets ?

(f) Do the Government propose to consider the desirability of asking the East Indian Railway authorities to provide more windows for selling third class tickets in the Howrah Railway Station ?

The Honourable Mr. C. A. Innes : (a) There is no such restriction in connection with the two mail trains mentioned.

(b), (c) and (d) therefore do not arise.

(e) and (f). Rearrangements and improvements of the third class booking facilities at Howrah have already been sanctioned.

Dr. Nand Lal : A supplementary question, Sir. Is it true that the title holders are allowed to go to the platform without purchasing platform tickets ?

The Honourable Mr. C. A. Innes : Not that I am aware of, Sir.

PRICE OF KEROSENE OIL.

160. ***Mr. B. Venkatapatiraju :** Will the Government be pleased to state :

(a) Whether it is a fact that the price of a tin of kerosene oil was Rs. 2-4-0 in 1914 and is now Rs. 3-11-0, an increase of 72 per cent. ?

(b) Whether there was an Anti-profiteering Act in England to kept down the price of kerosene at a reasonable level ?

(c) Do the Government propose to introduce an anti-profiteering measure to afford relief to the people in India ?

The Honourable Mr. C. A. Innes : (a) It is not clear from the Honourable Member's question to what particular brand of kerosene oil he refers. Before the war the price for inferior yellow kerosene in bulk was Rs. 2-14-0 per unit of 8 gallons. To-day it is Rs. 4-4-6 per unit which if the excise duty of 8 annas be deducted is equivalent to Rs. 3-12-6 per unit of 8 gallons bulk, an increase of 32½ per cent. over pre-war rates. As explained to the House on March 6th the Burmah Oil Company have maintained their price for this brand of kerosene at Rs. 2-14-0 per unit since 1905, and still so maintain it, using it by means of the pooling arrangement to lower the cost of the kerosene which owing to the increasing consumption in India must be imported. If it were not for this arrangement, the price of Burma Kerosene would be governed by the price at which kerosene of the same quality can be imported and the price of inferior yellow kerosene in India would be very much higher.

(b) There was a profiteering Act in England, but the Government of India do not know whether the Board of Trade applied that Act to kerosene oil.

(c) The answer is in the negative.

Mr. B. Venkatapatiraju : A supplementary question, Sir. Is there a combination between these three companies, the Asiatic Petroleum Company, the Burma Oil Company and the United States Standard Oil Company ?

The Honourable Mr. C. A. Innes : As I explained on March 6th, there is a pooling arrangement, but I am not aware that that is a combination.

Mr. S. C. Shahani : Will the Government be pleased to state, if it be in a position to do so, whether anti-profiteering Acts are not a great hindrance to trade and secondly, whether they ought not to be passed only in abnormal times ?

The Honourable Mr. C. A. Innes : I have noted the Honourable Member's opinion with very great interest.

PRICE OF PETROL.

161. *Mr. B. Venkatapatiraju : Will the Government be pleased to state :

- (a) Whether it is a fact that the price of petrol per gallon was 14 annas in 1906 and is now Rs. 1-8-0, exclusive of 6 annas excise ?
- (b) Whether the Burma petrol is sold in England at the same price or lower price than in India in spite of additional transport charges ?
- (c) Whether the Government propose to take any and if so what action to reduce the price to a reasonable level ?

The Honourable Mr. C. A. Innes : (a) The Government have no record of the price of petrol in 1906, but undoubtedly it was very much lower than it is now. The present price in Calcutta is as stated by the Honourable Member.

(b) The prices of petrol in England and India are very similar if the excise duty be left out of consideration.

(c) The Honourable Member is referred to my speech in the Assembly on March 6th last when I explained fully the implications of this problem. The Government do not propose to take any action.

Mr. Harchandrai Vishindas : Is it not a fact that the price of petrol in other places is much higher ? For instance, in Delhi, it was Rs. 2-7-6 per gallon and the prices are high elsewhere.

The Honourable Mr. C. A. Innes : I am not quite sure to what places the Honourable Member refers.

Mr. Harchandrai Vishindas : First of all, I said Delhi. During the last session petrol was sold at the rate of Rs. 2-7-6 per gallon.

The Honourable Mr. C. A. Innes : The price of petrol in up-country stations is very largely governed by the cost of transport from the port.

Dr. H. S. Gour : Has the Honourable Member verified the statement which was made in the House about the time the Honourable Member refers to that the prime cost of petrol is Re. 0-1-6 and the rest is profits and that all these companies have combined to sell petrol at a uniform rate ?

The Honourable Mr. C. A. Innes : I have made many attempts to verify the point to which the Honourable Member refers. I think I am in a position to say that the statement that the cost price of petrol is Re. 0-1-6 per gallon is ridiculously untrue. But I don't think that anybody outside the petrol trade knows what the exact cost of producing petrol is. Moreover, that cost varies from country to country.

Mr. K. Ahmed : Is it not a fact that the Government of India or the Finance Department got memorial after memorial for the reduction of the price of petrol from the town of Calcutta ?

Dr. H. S. Gour : And is it not a fact that the Automobile Association have memorialised the Government and stated there that the prime cost of petrol is Re. 0-1-6 and that statement has never been contradicted by the producing companies ?

The Honourable Sir Malcolm Hailey : But not proved.

The Honourable Mr. C. A. Innes : There have been many such memorials printed in the press and sent to the Government of India and otherwise. As my Honourable Colleague has just remarked, the statement about the cost price of petrol in those memorials, though it has not been challenged by the Oil Companies, has not been proved by those who made the statement.

Mr. K. Ahmed : Are the Government going to consider the complaint that the price should be reduced, and if so, what action are they going to take ?

The Honourable Mr. C. A. Innes : I have already answered that question.

Dr. H. S. Gour : What action does the Government propose to cheapen the production of motor fuel ?

The Honourable Mr. C. A. Innes : I have already said that the Government do not propose to take any action.

APPOINTMENT OF PRESIDENT, TARIFF BOARD.

162. *Mr. B. Venkatapatiraju : Will the Government be pleased to state :

- (a) Whether Mr. George Rainy, Chief Secretary of Bihar and Orissa Government, is appointed as President of the Tariff Board ?
- (b) Whether the Fiscal Commission recommended an appointment of a High Court Judge ?

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

(b) No. The majority of the Members of the Fiscal Commission in their Report made no such recommendation.

Mr. K. C. Neogy : Is it a fact that the Fiscal Commission recommended that the Board must be one which will command the confidence of the country ?

The Honourable Mr. C. A. Innes : I think the Honourable Member is correct.

Mr. K. C. Neogy : What special qualifications has Mr. Rainy to be appointed President of the Tariff Board ?

The Honourable Mr. C. A. Innes : I will refer the Honourable Member to the press notice which has already been issued on the subject.

Mr. S. C. Shahani : Will the Government be pleased to state categorically which of the recommendations of the Fiscal Committee have been accepted and which rejected ?

The Honourable Mr. C. A. Innes : I do not think that that arises out of this question.

Mr. Harchandrai Vishindas : Is it a fact that the minority report of the Fiscal Commission recommended a High Court Judge ?

The Honourable Mr. C. A. Innes : Yes, Sir.

(Mr. President then called upon Mr. P. L. Misra in whose name stood questions Nos. 163—171 and the Member was absent.)

Procedure in regard to Questions of absent Members.

Mr. Harchandrai Vishindas : If it is correct that anybody can ask the questions in the absence of the Member, I put the questions for Mr. P. L. Misra.

Mr. President : Has the Honourable Member got the authority for asking the questions ?

Mr. Harchandrai Vishindas : I have no authority.

Dr. H. S. Gour : Will you refer to the Standing Order which allows any Member to ask the question in the absence of the person who gave notice. It refers to no particular Member.

Mr. President : In the absence of the author of the question I must take it for granted that unless he has issued special instructions to any particular Member, he does not particularly want it to be put. But if any Member of Government desires to answer any of these questions 163—171, he is entitled to do so.

Mr. W. M. Hussanally : I have been asked by Mr. Pyari Lal to ask questions on his behalf.

SAW BUSINESS IN AMBALA.

172. *** Mr. Pyari Lal :** (a) Is it a fact that some two or three years ago the Head Clerk and the Oetroi Superintendent of Ambala Cantonment started a joint business of Saws ?

(b) Is it a fact that these saws were ultimately given to one Lala Kundan Lall Iron Merchant of Ambala for disposal on behalf of the partners ?

(c) Is it a fact that the sale proceeds of these Saws were given by Lala Kundan Lall to the Head Clerk and the Oetroi Superintendent respectively ?

(d) Will the Government be pleased to state if cantonment servants are authorised to carry on business ?

MAJOR DOCKRELL'S ASPERSIONS ON ALL-INDIA CANTONMENTS ASSOCIATION.

173. *** Mr. Pyari Lal :** (a) Is it a fact that in connection with the Association's demand for compelling Pundit Shugan Chand, Head Clerk, Ambala Cantonment to vindicate his character in a Law Court, Major Dockrell left a note in which he has cast a slanderous aspersion on some of the local members of the All-India Cantonments Association ?

(b) Is it a fact that this note was read by Major Paterson, the present Cantonment Magistrate in an ordinary meeting of the Cantonment Committee held on 3rd May 1923 ?

(c) Is the Government aware that the Secretary, All-India Cantonments Association requested the Cantonment Magistrate to furnish him with a copy of the note to enable the Association to take such legal action as may be necessary about the defamatory remarks made therein against some of its members ?

(d) Is it a fact that in spite of several reminders the copy of the note has not yet been supplied to the Association ?

(e) Do the Government propose to direct the Cantonment Authority, Ambala to supply the Association with a copy of the note without any further delay ?

Mr. E. Burdon : With your permission, I propose, Sir, to answer questions 172 and 173 together.

The Government of India have no information on the subject but are inquiring. I will let the Honourable Member know the result as soon as possible.

CORRESPONDENCE FROM HONORARY SECRETARY, ALL-INDIA CANTONMENTS ASSOCIATION.

174. *** Mr. Pyari Lal :** (a) With reference to the letter No. 677-R.-2, dated 5th December 1922 from the Honorary Secretary, All-India Cantonments Association, will the Government be pleased to state if the Government has arrived at a decision in the matter ?

(b) If so, will the Government be pleased to inform the House of their decision ?

(c) If not, do the Government propose to take immediate action in the matter ?

Mr. E. Burdon : (a)—(c). In the absence of information as to the subject of the letter and the person to whom it was addressed, I regret that I am unable to answer this question. If the Honourable Member will give me the necessary particulars I shall be glad to go into the matter.

BUILDING LEASES.

175. *** Mr. Pyari Lal :** (a) Has the attention of the Government been drawn to an article headed " An Indefensible Act " published in the " Cantonment Advocate " of 25th January 1923 ?

(b) Is it a fact that a lease is demanded when an old site is sub-divided or is extended or when a building is used for a purpose different from one for which it is constructed ?

(c) Is it a fact that the Cantonment Reform Committee has declared the demand of leases in such cases to be illegal and unjustifiable ?

(d) Will the Government be pleased to state under what law the demand is being enforced and why the recommendation of the Cantonment Reform Committee in this connection is ignored ?

Mr. E. Burdon : (a) Government have seen the article referred to :

(b), (c) and (d). The attention of the Honourable Member is invited to the reply given on the 11th September 1922 to starred question No. 285. It has been laid down that a fresh lease should only be demanded in cases where it is desired to put the site to a use which is not covered by the terms of the original grant. Government have been advised that this procedure is legally correct.

Procedure in regard to Questions not on the Agenda Paper and of which Private Notice has not been accepted.

LALA LAJPAT RAI.

Dr. Nand Lal : Is the Government of India aware that Lala Lajpat Rai is in the present state of his health being detained in prison under a charge as to which the Government's own Law Officer had admitted in court that it had not been proved against him and which he did not press ?

The Honourable Sir Malcolm Hailey : I wish to ask whether the Honourable Member has obtained your permission, to put this question.

Mr. President : The Honourable Member handed these questions to me and I said that I was prepared to allow them provided Government desired to answer them ; but in the general terms in which they are couched they are matters in which the Local Governments are primarily concerned.

The Honourable Sir Malcolm Hailey : I think it is the practice of this House, if an Honourable Member desires information, either to put the question down in due course as provided by the rules, or to give private notice of it, and if private notice is given, the question is asked only if that notice is accepted. The question has not been put in the ordinary form nor has private notice been accepted. I fail therefore to understand why the Honourable Member is asking the question.

Dr. Nand Lal : It is quite true that the Honourable the Home Member did not accept the private notice, but I think I am entitled to ask the question.

Mr. President : Order, order. I think in that case the Honourable Member had understood from me before that if the Honourable the Home Member consented to the question being asked I would waive the provisions of the Standing Orders but not under any other condition.

Dr. Nand Lal : Quite true. Subsequent to that I made a special request to the Honourable the Home Member that the question being important should be answered and that private notice might be accepted, but he declined to accept that request.

The Honourable Sir Malcolm Hailey : Then I beg to call your attention to the action of the Honourable Member in putting this question, leaving you under the misapprehension that I had accepted private notice.

Dr. Nand Lal : Sir, I never said you accepted it.

Mr. President : The interpretation put by the Honourable the Home Member on the action of the Honourable Member from the Punjab is correct. The Honourable Member by his action in rising did lead me to suppose that he had obtained the assent of the Honourable the Home Member and I hope he will desist from practices of that kind in the future.

My attention has been drawn to the fact that I was acting under the unamended Standing Orders, but under the new Standing Orders Mr. Harchandrai Vishindas or any other member has a right to ask questions standing in the name another member.

Dr. H. S. Gour : Do I understand, Sir, that I was correct.....

Mr. President : Order, order. Mr. Harchandrai Vishindas.

Mr. Harchandrai Vishindas : That was exactly the point I was going to draw your attention to, but I am glad you have put that interpretation under the new Standing Orders.

(Mr. Harchandrai Vishindas then put Question 163 on the Agenda Paper.)

RAILWAY FINANCE.

163. ***Mr. P. L. Misra :** With reference to paragraph 3568 of the evidence tendered before the Committee on Indian Railway Finance and Administration, 1907, will Government kindly state what decision was arrived at in the matter of publishing the powers of the Board to Railway Audit Officers ?

Mr. G. G. Sim : As all sanctions accorded by the Railway Board are audited by the Accountant General, Railways, before issue, a schedule of the Board's powers is of no practical interest to the other Railway Audit Officers and hence they have not been furnished with copies thereof.

RAILWAY COMMISSION.

164. ***Mr. P. L. Misra :** With reference to the reply given to unstarred question No. 210 last Delhi session, regarding the expenditure proposed to be incurred on the Railway Commission, will Government kindly state when they expect to refer the proposals to the Assembly ?

The Honourable Mr. C. A. Innes : The question of the reconstitution of the Railway Board is under correspondence with the Secretary of State.

RAILWAY ESTABLISHMENT ROLLS, ETC.

165. ***Mr. P. L. Misra :** With reference to the reply given on 29th January 1923, to starred question No. 282, will Government kindly state :

- (a) how many copies of the establishment rolls and working estimates are printed when copies are printed for the use of the railway ;
- (b) what is the cost of printing the copies ; and
- (c) what additional expense will be entitled by supplying copies to members of the Legislature ?

Mr. G. G. Sim : (a) A list is laid on the table giving the information asked for.

(b) and (c). Information is being collected from Railway Administrations and will, when received, be furnished to the Honourable Member.

List showing the number of copies of Establishment Rolls and Working Estimates printed by Railways.

Railways.	No. of copies.
Great Indian Peninsula Railway	150
Madras and Southern Mahratta Railway	100
Bengal-Nagpur Railway	100
Eastern Bengal Railway	100
North-Western Railway	100
South Indian Railway	90
Burma Railways	90
Assam Bengal Railway	82
East Indian Railway	80
Oudh and Rohilkhand Railway	75
Rohilkund and Kumaon Railway	60
Bombay, Baroda and Central India Railway	55
Bengal and North-Western Railway	40

SARA SERAJGANJ RAILWAY LOAN.

166. *Mr. P. L. Misra : With reference to the answer given on 6th September 1922, to unstarred question No. 85, will Government kindly state :

- what is the period for which the loan of Rs. 7½ lakhs has been granted to the Sara Serajganj Railway Company ; and
- why a lower rate of interest is charged to the company than what Government pays for its own loans ?

Mr. G. G. Sim : (a) The loan has not been given for any definite period but the Branch Line Company has been advised to arrange for the repayment of the loan as soon as market conditions permit of funds being raised for the purpose on reasonable terms.

(b) The rate of interest is in accordance with the terms of the contract between the Secretary of State and the Company.

Mr. S. C. Shahani : What is the rate of interest charged ?

Mr. G. G. Sim : The rate is 5 per cent.

TRAINING OF INDIANS FOR RAILWAYS.

167. *Mr. P. L. Misra : With reference to item 2 in the Statement printed at page 2606 of the Legislative Assembly Debates, Volume III, do Government propose to furnish members of the Central Legislature with a copy of the report on the training of Indians for both superior and subordinate grades of all Departments of Railways ?

The Honourable Mr. C. A. Innes : Copies of Mr. Cole's Report have been placed in the Library.

ALLOCATION OF INTEREST ON CAPITAL COST OF RAILWAYS.

168. *Mr. P. L. Misra : With reference to the reply given on 20th January 1923, to starred question No. 209, will Government kindly state why interest on that portion of the capital cost of a railway which is left unproductive by dismantlement is charged to the Indian Government and what is the total amount of such interest ?

Mr. G. G. Sim : In the case of State-owned lines the cost of dismantlement and the estimated cost of replacement were realised from the Imperial Government and no further claims could equitably be made.

COAL RATES ON RAILWAYS.

169. *Mr. P. L. Misra : With reference to the answer given on 15th January 1923, to unstarred Question No. 80 (a), will Government kindly state (a) whether the differential rates came into effect from 1st April 1920, as a result of the rates for public coal having been enhanced or as a result of the lowering of the rates for railway coal, and (b) why the cheaper rates are granted to railways in the working of which the State is not financially interested ?

Mr. G. G. Sim : (a) As a result of the enhancement in rates for public coal.

(b) The Honourable Member is referred to the answer given on the 6th September 1922 to Question No. 25 asked by Mr. N. M. Joshi. Railways not owned by the State are required under the terms of their contracts to carry Government stores at the rates fixed for State Railways. Consequently State Railways carry the coal required for those Railways at the rates fixed for Railways generally.

PROGRAMME FOR REHABILITATION OF RAILWAYS.

170. *Mr. P. L. Misra : With reference to paragraph 12 of the report of the Railway Finance Committee published in the Supplement to the Gazette of India, dated the 17th December 1921, will Government kindly state when the capital programme of Rs. 150 crores for the rehabilitation of the railways during the five years commencing with 1922-23 will be available for the information of the Assembly ?

Mr. G. G. Sim : The programmes for the years 1922-23 and 1923-24 have already been placed before the Legislative Assembly as Appendix C to the detailed estimates and demands for grants.

As recommended by the Retrenchment Committee the remainder of the programme is being overhauled and re-examined from the financial point of view.

EXPENDITURE ON NEW RAILWAYS.

171. *Mr. P. L. Misra : With reference to the reply given on 15th January 1923 to starred Question No. 27, is it permissible for Government, according to their rules of audit, to spend on new lines which were not specifically included in the Railway Capital Budget as passed by the Assembly ?

Mr. G. G. Sim : The reply is in the affirmative.

Reductions in the Strength of the Army.

His Excellency the Commander-in-Chief : Sir, with your permission I desire to make an announcement to the House on the subject of the reductions in the strength of the Army, which were recommended by the Incheape Retrenchment Committee, and which have recently been under consideration.

His Majesty's Government, after reviewing the recommendations of the Government of India, have agreed to the following measures :

- (1) Reduction in the strength of each of the 45 battalions of British Infantry by 130 men. This I may say has been previously announced.

- (2) Reduction of one battery of Royal Horse Artillery and its Ammunition Column.
- (3) Reduction in the Royal Field Artillery establishment of men and horses on a scale sufficient to secure a financial saving approximately equivalent to that which would be obtained by the abolition of one Royal Field Artillery brigade.
- (4) Reduction of one Cavalry Brigade Headquarters.
- (5) Reduction of one full Field Troop of Sappers and Miners.
- (6) Reduction of 64 men in each active Infantry and Pioneer battalion of the Indian Army other than Gurkhas and Hazaras, coupled with the addition of 77 Class I reservists per battalion.
- (7) Withdrawal from India of two British Cavalry Regiments.

The withdrawal of a third British Cavalry Regiment had been recommended by the Retrenchment Committee and the Government of India. This proposal is still under discussion, and a final decision has not yet been reached.

On the other hand, in order to compensate for the cavalry reductions which have actually been approved, it has been agreed that steps should be taken as soon as possible to complete the establishment of Armoured Car Companies in India up to the authorized number, namely, 3, which is already laid down in the post-war organization of the Army in India, as a measure complementary to the large reduction of cavalry, both British and Indian, which formed part of the first post-war re-adjustments, and had been carried out before the Retrenchment Committee was appointed. At present only 6½ companies of Armoured Cars are in being.

In giving my support to the proposals of the Retrenchment Committee for the reduction of combatant troops, I made it clear that my acquiescence must not be construed as meaning that I reject once and for all as unnecessarily high the standard of defence which had previously been adopted in the post-war organization of the Army in India. I held, and I still maintain, that the reductions have been determined primarily by financial considerations, and I accepted them in order to balance the budget.

I have from the first advised that, if and when the resources at the disposal of the Government of India increase, the Government of India, as they will aim at making more liberal provision for schemes of social and material betterment, should also be prepared to allot funds for increasing the strength of the fighting troops. His Majesty's Government have signified that they attach special importance to those views, and they have sanctioned the reductions on the understanding that the Government of India will do their utmost to give effect to my advice when the financial situation improves. It is perhaps hardly necessary to explain that the reductions which I have just announced are without prejudice to the other retrenchments of military expenditure which have been proposed by Lord Inchcape's Committee. These are being dealt with separately, but the annual saving involved by the reductions in combatant troops, which I have to-day announced, amounts to rather more than Rs. 2½ crores.

In conclusion, I trust that the House will realise and appreciate the fact that, with the exception of the reduction of one cavalry regiment, which is still under consideration, His Majesty's Government have given effect to all the reductions of troops recommended by the Government of India on the advice of the Inchcape Committee and myself.

STATEMENT RE ALLIANCE BANK.

Dr. Nand Lal : Will the Honourable the Finance Member give us the nature and the extent of the guarantee given by the Government of India to the Imperial Bank in respect of the liability of the Alliance Bank. The Honourable the Finance Member had told us that he will kindly enlighten us with a statement on Monday.

Mr. President : Has the Honourable Member given notice of that ?

Dr. Nand Lal : The Honourable the Finance Member himself had told us that he would make a statement on Monday.

Mr. President : The question is whether the Honourable Member has informed the Finance Member that he was going to put this question ?

The Honourable Sir Basil Blackett : This is the first time that I became aware either that any question on this subject was to be put to-day, or that I had fixed the 9th as the date on which I should make an epoch-making announcement.

Mr. President : This is the second time that the Honourable Member has committed this indiscretion and I warn him.

UNSTARRED QUESTIONS AND ANSWERS.

RAILWAY ANNUITIES.

99. **Mr. P. L. Misra :** Will Government kindly state in sterling the total amounts of annuities that will remain to be paid between 31st March 1924, and the date of their termination in respect of the different railways ?

Mr. G. G. Sim : A statement containing the information asked for by Mr. P. L. Misra is placed on the table.

Statement showing in sterling the total payments due in respect of annuities after 31st March 1924.

Railways.	Amounts. £
Eastern Bengal Railway (including Bengal Central) ..	3,953,450
North-Western Railway (including old Sindh Punjab and Delhi).	12,997,641
East Indian Railway	33,642,833
Great Indian Peninsula Railway (including Indian Midland).	31,245,461
Madras and Southern Mahratta Railway (including old Madras Railway).	15,872,302
Total ..	<u>97,711,777</u>

X'MAS CONCESSIONS.

100. **Mr. P. L. Misra** : With reference to the reply given on 29th January 1923, to starred Question No. 292 will Government kindly lay on the table a statement shewing the increase both in the number and the amount obtained on account of the X'mas concession as compared with the latest year in which the concession was not allowed ?

Mr. G. G. Sim : The Government regret that the required figures are not available. They would prefer not to put Railway Administrations to the trouble of compiling them.

STRATEGIC RAILWAYS.

101. **Mr. P. L. Misra** : With reference to the reply given last Delhi session to starred Question No. 170, will Government kindly lay on the table a copy of the proceedings of the Central Advisory Council regarding the separation of strategic railways and state what decision has been arrived at on the recommendation made by the Council ?

Mr. G. G. Sim : (a) An extract of the proceedings is placed on the table.

(b) The recommendations of the Council are still under consideration and no decision has yet been arrived at on the subject.

Extract from Proceedings of the 5rd Meeting of the Central Advisory Council held on 1st September 1922, at 2.15 P.M. on the subject of "Strategic railways"

It was agreed that the Council should recommend that in future the railway capital budget should show under distinct sub-heads the expenditure proposed for :

- (a) strategic railways,
- (b) other lines.

As a necessary preliminary to this being done it was recommended that the list of lines now classed as strategic should be reconsidered, and this classification should in future be applied only to lines which had been constructed and were still worked mainly for military as distinguished from commercial purposes.

2. It was agreed that it would be impracticable to recommend that a similar distinction should be carried into revenue budget, but that the existing procedure in respect of accounts should be maintained, that is to say, that separate figures relating both to earnings and expenditure of railways which on the above principle were in future classed as strategic should be shown both in the administration report and in the financial accounts of the railway itself and in the published accounts of the Government of India.

RAILWAY APPOINTMENTS REQUIRING ENGINEERING QUALIFICATIONS.

102. **Mr. P. L. Misra** : With reference to part (d) of the reply given on 12th February 1923, to starred Question No. 338, regarding posts in the Railway Board which require engineering qualifications, will Government kindly state the names of the railway administrations of whom inquiries were made on the last occasions when the posts fell vacant by the incumbents going on leave or otherwise ?

Mr. G. G. Sim : In 1921 on a vacancy occurring owing to an officer of the Railway Board's staff going on leave the services of a suitable officer to replace him were obtained from the Bengal-Nagpur Railway.

The Railway Board receive and have on record annual reports on all officers of the Indian State Railways. They also have histories of their services, and it is therefore, generally speaking, an easy matter to select a suitable officer for appointment without making inquiries of Railway Administrations. The Board, however, do not intend to restrict appointments in the Railway Department Secretariat to State Railway Officers, and Company-worked lines will be addressed in cases where it may be considered that the services of a more suitable man may be obtained.

R. AND K. RAILWAY CLAIM FOR WOOD FUEL.

103. **Mr. P. L. Misra** : With reference to the reply given on 17th January 1923, to starred Question No. 152, regarding the Rohilkund and Kumaon Railway claim for wood fuel, will Government be pleased to state the total liability involved and the amount of the claim preferred by the Company ?

Mr. G. G. Sim : The total liability involved is Rs. 2,40,000 or Rs. 7,30,000 according as the existing contract is determined in 1932, by notice of purchase or terminates in 1981 by efflux of time.

The Company did not prefer a claim for any specific sum of money ; they claimed the enforcement of the terms of their contract or a reference to arbitration.

MINIMA PASSENGER RATES.

104. **Mr. P. L. Misra** : Will Government kindly state the basis on which the minima rates, particularly for first class passengers traffic, were last fixed ?

Mr. G. G. Sim : The basis was the estimated average cost of the service rendered.

RAILWAYS UNDER CONSTRUCTION.

105. **Mr. P. L. Misra** : Is it a fact that the railway lines at present under construction will involve an estimated expenditure of only Rs. 512.35 lakhs out of the capital programme of Rs. 150 crores ; if so, what other specific lines are contemplated for construction against the allocation of Rs. 1,449 lakhs given in paragraph 31 of Part II of the Report of the Indian Retrenchment Committee of 1922-23 and what return is anticipated from each of them ?

Mr. G. G. Sim : The expenditure out of the Rs. 150 crores programme on lines under construction is now estimated at Rs. 607.95 lakhs.

The distribution of the 150 crores given in paragraph 31 of the Retrenchment Committee's report was provisional and the whole of the allocation and all the proposals for capital expenditure are now being re-examined.

NUSHKI EXTENSION RAILWAY.

106. **Mr. P. L. Misra** : Has the attention of Government been drawn to the note on "The Nushki Extension Railway" appearing at page 71 of "The Indian Railway Gazette" for March 1923 ? Who has paid the cost of building the Nushki-Duzdap Railway ? Is there any truth in the rumour referred to therein ?

Mr. G. G. Sim : Government have seen the note referred to. The east of the section from Nushki to Mirjawa was met by the Government of India and that of the remaining section to Duzdap by His Majesty's Government. The whole question of the future of the extension is at present under consideration.

PILFERAGE OF LETTERS.

107. Dr. H. S. Gour : (1) Is the Government aware that since the enhancement of postage there have been numerous complaints of the pilferage of letters and their non-delivery to the addressees ?

(2) Will the Government be pleased to state what action it has taken to prevent the pilferage of letters ?

(3) Is it a fact that in the Post Office at Nagpur no record is made of the postmen employed to clear the letter boxes ?

(4) Is Government aware that in Nagpur there have been wholesale thefts of letters and packets and that the delinquents have not been traced ?

(5) Do the Government propose to institute an inquiry through an independent officer into the causes of these thefts ?

Mr. G. R. Clarke : (1) No.

(2) Does not arise. All complaints are always investigated carefully.

(3) Letter-boxes at Nagpur are cleared by letter-box peons and not by postmen. Every letter-box peon has a fixed number of letter-boxes to clear at fixed hours.

(4) Five complaints regarding the loss of unregistered articles posted in Nagpur have been received by the Postmaster-General since October 1922. Inquiries into these cases were unfortunately unsuccessful. Beats of letter-box peons have in some cases been changed and their work carefully watched.

(5) No.

THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

MR. NEOGY ADDED TO SELECT COMMITTEE.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I rise to make a motion in regard to the Legal Practitioners (Amendment) Bill which was referred to the Select Committee on the 27th March last. As the House will remember that Bill was introduced by my friend Mr. K. C. Neogy who was the Member in charge of that Bill. Subsequently he resigned his seat in this House with the result that the Member in charge of the Bill was not on the Select Committee. He has now been re-elected as a Member of this House and I move that his name be added to the Select Committee on that Bill.

Mr. President : The question is :

"That the name of Mr. K. C. Neogy be added to the Select Committee on the Legal Practitioners (Amendment) Bill."

The motion was adopted.

THE ABOLITION OF TRANSPORTATION BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I move :

"That the Report of the Select Committee on the Bill to provide for the abolition of the punishment of transportation in respect of criminal offences be taken into consideration."

The report of the Committee is before the House, and I do not desire to make any remarks of any length on it. Some comment is, however, I think, required from me as representing Government. We stand bound by our previous declarations to repeal the law relating to transportation, and frankly, I do not wish that we as a Government should be under any imputation of a desire to delay in implementing our undertaking. Let me explain shortly how we have arrived at our present position. The problem which we had to face arose under the following circumstances. We had originally in our criminal law provision for sentences of imprisonment graduated by the framers of the Code in varying degrees of severity to suit the nature of the offence. To that we added transportation. Now, however, transportation was viewed by the original framers of the Code, it is in the present age somewhat different in nature from imprisonment, that is to say, its most important aspect is that of a measure of reclusion, a means, that is, of removing a criminal from the society to which he might be a danger. The original framers of the Code provided practically everywhere for transportation for life and they did not attempt themselves to graduate the term of transportation to suit the nature of the offence. The consequence is that you will find in our Code, that transportation is given as an alternative or combined punishment for a large number of offences. It is given as an alternative to a sentence of death, to sentences of imprisonment which vary from 14 to 3 years. In only a very few cases, and those exceptional, such as the crime of being a Thug, is it a substantive punishment in itself. There is another consequence also flowing from that fact. A certain number of offences, and grave offences at that, were left with terms of rigorous imprisonment and no alternative sentence of transportation was provided. Thus, you will find in one instance that a term of 14 years' rigorous imprisonment can be given for highway robbery at night, and no alternative term of transportation is provided. The consequence is that under the terms of the Act the courts are confined to long sentences of rigorous imprisonment for certain offences which judging by the ordinary standards would be better met, or at all events suitably met, by long terms of reclusion from society. We have now decided to abolish transportation. I am not going back into the merits of that question save otherwise than to remark this, that transportation, whatever its other disadvantages, had one advantage from the penal aspect, that is to say, that you could exclude from society criminals for a long term of years without necessarily at the same time attaching to their reclusion all the incidents of jail life—hard labour, solitary confinement and the like. In fact in other words transportation to the Andamans had this advantage, that in itself it almost automatically provided for the graduation of punishment. But having decided to abandon it, we have now to readjust our law and to find in terms of imprisonment suitable substitutes for transportation as now provided in the Code. That has been a work of great difficulty, not on account perhaps of any purely legal or technical reason but for the reason of substance, to which I have already referred, namely, that transportation is in itself a different kind of punishment from imprisonment. If we simply take the maximum term of transportation and convert it into the maximum term of imprisonment, there is little

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doubt that it would now be held that the substituted term, for instance imprisonment for life was more severe than transportation for life. It is true that transportation for life has come in practice to mean 20 years and the ordinary maximum of imprisonment in practice is 14 years. But even so, there is little doubt that 14 years' rigorous imprisonment

12 Noon.

would now be considered a more severe punishment than 20 years' transportation, or so it would be held at all events in the greater part of India, for there are parts of India where the mere fact of transportation is considered a punishment in itself. Our attempts to find a solution of this somewhat difficult problem have been criticised from two aspects. There were those who claimed that in attempting to find a substitute for transportation in terms of imprisonment we fell into the error of rendering criminals liable to long sentences of rigorous imprisonment which are in themselves a far more severe punishment than the preceding sentence of transportation. It was criticised also from the opposite aspect, namely, that in order to meet this difficulty we had in some cases actually reduced the terms of imprisonment, and it was felt by some judicial authorities that we were in danger of reducing their powers or ordering a criminal to be excluded from society for a sufficient length of time. Now, I should at once deprecate any criticisms based on the supposition that rigorous imprisonment in an Indian jail is throughout the term of that imprisonment, necessarily a penalty of a very severe nature. It is not, I think, comparable to what is known as hard labour in the English jails. Still, even taking that fact into consideration, one must admit that there was some substance in the first part of the case which was levelled against the solution we proposed in our draft Bill. In those circumstances we ourselves had already come to the conclusion that it was necessary to go somewhat deeper into the matter. We were as a matter of fact considering a proposal for dividing rigorous imprisonment into two classes, that is to say, rigorous imprisonment with hard labour and rigorous imprisonment with less severe conditions. In England of course the problem to which I have been referring was met by the institution of penal servitude. I think you will find in England that the maximum imprisonment with hard labour which is ordinarily given is a term of two years; after that, if a longer period of punishment is required, the sentence begins with three years' penal servitude. Now, it was impossible for us at the moment to consider this solution, because the institution of penal servitude in India would mean the construction of penal settlements. They must essentially be different from jails; and that would involve Local Governments in an amount of expenditure which we could not force on them in their present financial circumstances. We fell back therefore as I say on the proposal to divide rigorous imprisonment into two classes, and that coincides, in essence at all events though not necessarily in detail, with the proposal which our colleague on the Select Committee, Sir Henry Stanyon, put before us. Now I feel myself that, undesirable as delay may be in this matter, the difficulties are so great that it is necessary for us to go further back than was proposed in our Bill and to reconsider the possibility of re-adjusting the whole system of our penal provisions. As for Sir Henry

Stanyon's precise proposal, I should like to say that for myself I regard it as an open question; we do not accept its details, especially as regards simple imprisonment, but we look on it as a proposal which we are willing to examine and examine with great sympathy. The Select Committee recognized that, whatever the delay involved, we could not undertake a step of this importance without referring the matter to Local Governments; for the construction of jails, the maintenance on jails, and their administration and management, are all concerns of the Local Governments. It is possible that the division of rigorous imprisonment into two classes may involve structural changes in the jails; at all events it would certainly mean a very considerable change in rules affecting jail discipline, jail work and the like. We recognized therefore that it was necessary to consult Local Governments on the subject, and I say again, that if as a result of this consultation and reconsideration of the question we can make a substantial advance in penology, then there is no disadvantage in the delay, on the contrary there is a gain. For the present, of course, delay would not affect our actual practice in regard to transportation. We have closed transportation save for exceptional cases such as those of the Moplahs which cannot be provided for elsewhere. The Act would stay as at present, the practice would remain as at present; but it is possible that we may, as a result of re-consultation and re-consideration of the question, be able to put before the House what would be a substantial advance in the penal treatment of our convicts.

Mr. P. E. Percival (Bombay : Nominated Official) : Sir, as the only official Member on the Select Committee besides the Honourable the Home Member, I would like to make a few observations on the report of the Select Committee. I wish just to emphasise two points. Possibly there will be some criticism of the report of the Select Committee, not so much by Honourable Members inside this House as by officials outside the House, such as Inspectors General of Prisons. They will say, "well, here is a Select Committee which has no special knowledge of jail administration, and the Members have proposed drastic changes in the jail administration of the country." To that criticism, Sir, I would say, as a Member of the Select Committee, that the course we adopted was one which we were driven to adopt. We tried all the other possible alternatives, and we found that none of them was workable. In the first place, as has already been stated, transportation to the Andamans has definitely been abandoned.

The next proposal was contained in the original Bill of the Government of India which substituted rigorous imprisonment for transportation. Now the great objection to that proposal, as has been particularly pointed out by the Madras High Court, was that the courts would have to pass a sentence of rigorous imprisonment for life, that is, practically for 20 years, which would be a very severe sentence. What we want to arrange is that the courts, in passing a sentence of rigorous imprisonment for a long period, should know exactly what they are passing: They would know, if the proposal of my friend Sir Henry Stanyon is carried out, that the maximum term of rigorous imprisonment of the first class will be for a period of three years only, and that the rest of the term of imprisonment will be of a much milder character. It was

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really the criticism of the Madras High Court, and especially that of Mr. Justice Coutts-Trotter, which was the main cause why it was found impossible to proceed with the Bill as originally proposed. Moreover it is not possible by merely altering the Bill to get over the difficulty. What you want is a long sentence, in order to get rid of a dacoit, for instance, and put him away from society; but at the same time you do not want to treat him with undue severity. That was the main objection to the Bill as originally proposed. A mere sentence of rigorous imprisonment in place of transportation cannot therefore meet the requirements of the case.

The third proposal was that of penal servitude, that is, servitude in a penal settlement. Now I venture to suggest that that is really the best solution of the difficulty; and if in time the Report of the Select Committee leads to the institution of a penal settlement in the country, then it will have a very good judicial and penal result. But unfortunately at the present moment we are not in a position to carry out that proposal, because there is no penal settlement; nor could a penal settlement be instituted for a long period. So, that alternative, although a very desirable one, is also impossible. The result was that, after taking all the various alternatives into consideration, we were finally driven to the alternative proposed by my Honourable friend, Sir Henry Stanyon as being the only practical one in the circumstances of the case. It was, I may mention, very similar to the proposal made by the Madras Government, which was to the effect that there should be three kinds of imprisonment; the Honourable Sir Henry Stanyon goes a little further, and he proposes four kinds of imprisonment. At any rate the present arrangement cannot be continued, I think, and we must have an alternative scheme consisting of at least three kinds of imprisonment, namely two kinds rigorous and one kind simple; or, if possible, two kinds of rigorous and two kinds of simple imprisonment, as proposed by Sir Henry Stanyon and approved by the Select Committee.

The other point, which I wish to emphasise, is one that has already been referred to by the Honourable the Home Member. I wish to say that speaking for myself and the other Members of the Select Committee, and I think also for Sir Henry Stanyon himself, we merely approve generally of the principles laid down by Sir Henry Stanyon. What we say in the Report of the Select Committee is this:

“We are of opinion that the only practical solution at present is a system developed on the lines suggested by our colleague, Sir Henry Stanyon.”

What we suggest is that a scheme should be worked out, no doubt after consulting the Inspectors General of Prisons of the various Provinces, which should be generally based on the scheme of Sir Henry Stanyon.

I should like to take this opportunity to ask Sir Henry Stanyon one or two questions which he might be able to answer for the benefit of the House, because there are a few points in his note which, I think, are somewhat ambiguous. The first point I would ask is whether he proposes that these various kinds of imprisonment should apply to short

sentences also, namely, sentences of 6 months or of two years say,—because that point is not quite clear from his note. Another point I would like to ask him is, how he would distinguish rigorous imprisonment of the second class from simple imprisonment of the first class. That, I think, is going to be the chief difficulty. The jail authorities will probably say:

“Well, we can provide three kinds of imprisonment, but we find it difficult to provide four kinds.”

Then there is another point which is not quite clear, I think, from the Honourable Member's note, and that is this. Does he intend that the Courts, when they pass their order, should specify the exact amount of the different kinds of imprisonment of the different classes? What I mean is this. Suppose a Court sentences a man to 20 years' imprisonment, should it specify that there should be three years' imprisonment of the first class rigorous, four years of the second, and so forth, or is that to be left to the rules? It seems to me that the whole thing should be settled by the Courts,—that the Courts should specify definitely the different periods of the different classes of imprisonment.

On the whole I venture to suggest that the details in Sir Henry Stanyon's note are a little bit too elaborate. What has struck me is this. Suppose you take the case of a literate man sentenced to 20 years' rigorous imprisonment. Well, he is given writing work to do. Now, if you follow very strictly the provisions in the note, you have to say under what class writing work comes. Suppose you regard writing work as rigorous imprisonment of the second class. In that case you could employ that man on writing work only for 4 years out of the whole 20 years? The point I want to make is that, while we entirely agree with the proposals of Sir Henry Stanyon, I think they should only be taken as a general guide and not pressed upon the Inspectors General of Prisons, if they find out that they are too elaborate to work out. It seems to me that the main basis of our proposals is roughly as follows:—that the period of imprisonment should be the same as the period of transportation, say 20 years. That is the first point. The second point is that there should be at least three kinds of imprisonment, if possible four, but at any rate three kinds. That is the second point. The third point is that in no circumstances should a man undergo more than three years' rigorous imprisonment of the first class, so that the Courts may know that they will not be charged with passing a brutal sentence in any case. That is what Sir Henry Stanyon has proposed, and that is also in accordance with the proposals of the Madras Government. The fourth point is that the order in which the various kinds of imprisonment should be fixed should be the same as that laid down by Sir Henry Stanyon, namely, that the more severe kinds of imprisonment should come first, and the milder kinds should come afterwards.

In regard to the remaining question, namely the delay in the abolition of transportation, as has already been pointed out by the Honourable the Home Member, executive orders have been given that the sentence of transportation should be abolished; and the Local Governments are

[Mr. P. E. Percival.]

using section 55 of the Indian Penal Code. Under that section they can substitute 14 years' rigorous imprisonment for transportation for life. Well, that is a rough and ready method of doing away with transportation; it is not a desirable plan as a permanency; but it is a method which will work more or less satisfactorily for the next few months until this Bill has been amended and put into correct form.

For these reasons, I support the proposals contained in the report of the Select Committee.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, when I drew up my note less than a month ago, I had no idea whatever that it would be honoured with criticisms in this Assembly. It was written to save a certain amount of time in talking on the Select Committee, and in order to put into a form better than one could do in *ex tempore* conversation certain difficulties which the proposal to substitute imprisonment for transportation seemed to me to involve. The problem before us was not only one of criminals in the future; there was also the question, though it was not specially mentioned in my note, of what we were to do with those transportees who are to be brought back from the Andamans. There are persons there undergoing transportation for life who have served various terms of that sentence. I thought it would be a matter of difficulty to bring them back to imprisonment in India, if all that we had to substitute for transportation was rigorous imprisonment, which is either *rigorous* imprisonment, i.e., imprisonment with hard labour as defined in the Indian Penal Code, or *simple* imprisonment, which is supposed to be only confinement without any compulsory labour. The Select Committee have been good enough to take a favourable view of my poor note. I claim no originality for it; the principle of penology which is embodied in it comes from the Honourable Judges of the Madras High Court while, as the Honourable the Home Member has mentioned, the idea of dividing rigorous imprisonment into two classes as is done in England, notwithstanding the provision of penal servitude, had already occurred to the Government of India. Therefore I did not intend to speak on this motion to-day. But as Mr. Percival has asked me certain questions, I rise to answer them. The note that I have put up is not a Bill; it is not even a proposal which I ask to be accepted as it stands. It is merely a note containing suggestions of the lines upon which I think we might proceed in abolishing transportation. It will be seen from the concluding paragraph of the note that I framed a rough draft of a Bill in which many of the questions which Mr. Percival has asked will be found answered. That Bill recommends the maximum term of each class of imprisonment to be combined in a long sentence; it also provides for a discretion being left to the Court to vary such term. But I will say at once, that my note was not intended to suggest any graduation of short sentences; though here also I would not unduly fetter the discretion of the Court. Even in a short sentence a Court should be able to order rigorous imprisonment of the second class.

It might, for example, be expedient to direct rigorous imprisonment of the second class only in the case of a criminal whose physique made it

evident to the Court that rigorous imprisonment of the first class in his particular case would be too severe a punishment. My idea is that in long sentences where the Court gives no direction otherwise there should be a gradation of punishment by fixed terms; while in short sentences in cases calling for rigorous imprisonment, rigorous imprisonment of the first class should generally be used as a sharp punishment to operate as a deterrent, in the way mentioned by Mr. Justice Coutts-Trotter in his opinion from which I have quoted. The only point upon which I would control the Court is the *order* in which the several forms of imprisonment should be imposed. I would not allow a Court to give imprisonment of the second class or simple imprisonment of the first class before rigorous imprisonment of the first class. Then, as to the difference between rigorous imprisonment of the second class and simple imprisonment of the first class. I think that would be a perfectly easy matter of jail administration. The two class of rigorous imprisonment would be imprisonment with *labour*, as we understand that term; the labour might be exactly of the same kind in both classes, but in the second class might be imposed for fewer hours per day. The oil mill, extracting aloes fibre and earth work, and whatever else is recognised as severe labour, could easily be arranged and put into two classes of severity in jail. But simple imprisonment of the first class would be a much lower grade of punishment, a form of penal servitude, if I may use that term. In this form you would exact work, literary work, or other sorts of work, but merely work. With regard to the fourth form suggested by me, which I have called simple imprisonment of the second class, that is really a special provision, the idea of which was suggested to me by present day conditions. It is a class by itself. It is called simple imprisonment of the second class for convenience of retaining the two *descriptions* of punishment, so often referred to by use of the words "imprisonment of either description" throughout the Indian Penal Code. But it is a different thing altogether from the other three forms. It is intended to be reserved for a class of offenders for whom the degradation of jail, such as wearing jail clothes and undergoing other degrading rules in the jail, is not suitable and would offend the public sentiment. My idea was that taking advantage of this reform in our system of imprisonment we might provide for that special class of offenders. It would present no difficulty; properly speaking it would not be a fourth class in gradation from the other three forms. Those three are in a gradient; but simple imprisonment of the second class would be a form quite apart from the rest. Then, with regard to the question of periods, I think the Act itself when it comes into force should provide that where the Court does not exercise its discretion, imprisonment in long sentences shall be suffered in a particular way. I have indicated that way in a scale set out in my note; but again, I would leave the Court, by a provision in the enactment itself, with a discretion to alter and vary the extent of the period of each class of imprisonment. But, I repeat, Sir, that my note is nothing except a mere suggestion to enforce a principle of penology which is recognised in England, America and other countries. At this date I do not see why the Indian criminal should in that respect be in a worse position than the criminal in England or in America.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, all the previous speakers have referred to the Transportation Bill and have

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drawn analogies from English law. I wish to point out to the House that while English law has been advancing in distinct stages towards the leniency of sentences, Indian Criminal Law remains stationary, and I further point out that the remedy suggested by the previous speakers will only mitigate cases of offences punishable with transportation for life, that is to say, only 50 offences in the Indian Penal Code which are so punishable, and if we were to accept the view of the Select Committee that the provinces should be addressed on the subject on this short Bill, we shall leave intact a very large number of serious offences punishable under the Indian Penal Code with long terms of imprisonment which will remain unaffected even if the provinces and the Government of India were to decide to substitute an equation more humane than what was suggested in the original Bill. Honourable Members will remember that in England the sentence of transportation was legal for a very long time and it was brought under the Statute by an Act passed in 1824. It lasted till 1853 when by the Penal Servitude Act, the sentence of transportation was abolished and penal servitude substituted in its place. By an Act of 1891, the sentence of penal servitude was further mitigated, for it is provided in section 1, sub-clause (2) of the Act that whenever a sentence of penal servitude is passed, it shall be commuted into imprisonment, but no imprisonment involving hard labour shall be inflicted for a period more than two years. Consequently, since the enactment of the Penal Servitude Act of 1891, it is not legal for the Courts in England to inflict a sentence which involves hard labour for more than two years. The Honourable the Home Member has pointed out that there are offences in this country punishable with rigorous imprisonment which may extend to seven years and more than seven years (*A Voice* : "14 years") to 14 years. Now, the point, therefore, that I wish to make is this. When the Indian Penal Code of 1860 was enacted, Lord Macaulay was influenced by the then existing English law and when he recommended the introduction of the sentence of transportation, it was not merely with the object of excluding the offender from society, as was pointed out by the Honourable the Home Member, but also with the object of striking terror in the minds of the family and other persons with the then prevailing dread of crossing the *Kalapani*. Let me give to the Honourable Member the exact words of Lord Macaulay's Committee on that subject. They wrote as follows :

"The consideration which has chiefly determined us to retain that mode of punishment is our persuasion that it is regarded by the natives of India, particularly by those who live at a distance from the sea, with peculiar fear. The pain which is caused by punishment is an unmixt evil. It is by the terror which it inspires that it produces good, and perhaps no punishment inspires so much terror in proportion to the actual pain which it causes as the punishment of transportation in this country. Prolonged imprisonment may be more painful in the actual endurance, but it is not so much dreaded beforehand, nor does a sentence of imprisonment strike either the offender or the bystanders with so much horror as a sentence of exile beyond what they call the Black Water."

That is what induced Lord Macaulay's Committee to introduce a sentence of transportation. He was not moved by the feeling that the offender should be excluded from society, and his mere exclusion from society would not attack the mischief. His object was, as I have pointed out, in a note which he penned as Chairman of the Committee which framed

the Penal Bill. Now Honourable Members will find that he also wanted that Europeans and Americans should be likewise transported, and he deprecated the sentence of imprisonment on the ground, as he said, that it would place them in a most degrading situation, stigmatised by the court of justice and engaged in the ignominious labours of the jail. But the passing of the English Statute in 1849 left the Indian Legislature with no option, but to confine the sentence of penal servitude upon Europeans and Americans, with the result that we find two sections in the Indian Penal Code which are very relevant to our present purpose. As regards the commutation of the sentence of transportation, our Code provides that a sentence of transportation may be commuted with the consent of the offender to a term of imprisonment not exceeding 14 years. That is section 55 of the Indian Penal Code. Then we have a section dealing with Europeans and Americans, that is section 56. It is there provided that whenever a person, being a European or American, is convicted of an offence punishable under this Code with transportation, the court shall sentence the offender to penal servitude instead of to transportation according to the provisions of Act XXIV of 1855. Honourable Members will thus see that, while Lord Macaulay's Committee began by prescribing one uniform sentence, of transportation, for all offenders, the interposition of an English Statute compelled the English Legislature to discriminate between Indians and European and American offenders, with the result I have already stated. In that view I welcome the present Bill, which abolishes the sentence of transportation. I venture to submit, and I hope I have the whole House with me, that this sentence should have been abolished long ago. But then comes the next question, and a question of very great importance. Having abolished the sentence of transportation, what shall be its exact and equal substitute? Well, the Select Committee were at one time inclined to commute the sentence of transportation in accordance with a set rule of seven years as equal to four and so on. But it was pointed out to them, and they now agree that the criticism is just, that the equivalent sentence recognised as equal to the sentence of transportation is more severe than the sentence for which it is provided as a substitute. This raises the question as to what is an exact equivalent for the sentence of transportation, and I have no doubt that, after consulting the authorities and the public concerned, the Government of India would be in a position to modify the provisions of the Bill now before this House. But I submit that that amendment alone will not deal with the general question of sentences, and if you were to provide that in all cases where the offence is punishable with transportation for life, the maximum sentence of rigorous imprisonment was not to exceed two years, there would still remain a large number of cases which are punishable under the Penal Code with sentences of 7 to 14 years' rigorous imprisonment, and for which you provide no solution. The result would be that, while cases of a most heinous character will be dealt with by the Bill and their rigour mitigated, a very large number of cases which would equally and logically require a corresponding reduction of sentences remain unaffected. I therefore submit that the terms of reference to the Provinces on this general law of sentence should be enlarged and the Government should address a more general request to the Provinces to state whether the time has not come when the large sentences of rigorous imprisonment should not be reduced,

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and Indian law on the subject of rigorous imprisonment brought into line with that which prevails in England, where sentences of hard labour for more than two years cannot be passed in substitution for penal servitude. That I submit is a question of a more general character upon which the Government should invite the opinion of the public and the Provinces. I do not think that the Government will be justified in confining their reference merely to the question of asking the Provinces for their opinions on what they regard as a suitable substitute for a sentence of transportation. That I submit is interlinked with the large question of general penology to which the Indian Legislature must address itself now. I have pointed out to Honourable Members how the English law has been marching in the direction of greater humanity and larger leniency, and how the Indian law has remained stagnant ever since 1860 when the Penal Code was enacted. Honourable Members will remember that Members of this House have from time to time asked the Government to revise the Indian Penal Code. When Lord Macaulay's Committee sat they pointed out that in the disturbed state of the country, with a civilization different to that of the framers of the Penal Code, rigorous sentences were necessary, and it was then pointed out by the Committee that, as soon as the people of this country become more settled and more civilized, the sentences which they had suggested for all the crimes in the Indian Penal Code might suitably be revised. Now, I ask, Sir, has that been done? I submit it has not, and I think that this opportunity should be taken by Government not merely to deal with the short question of the transportation sentence but with the larger question referred to by my Honourable friend, the larger question of penology, the adequacy of sentences under the Indian Penal Code and other allied penal laws.

Now, my Honourable friend Mr. Percival, whilst supporting the motion of the Honourable the Home Member, seems to have struck a somewhat discordant note by alluding a little frequently to a gentleman called the Inspector General of Prisons. There seems to have been an undertone in his speech that the Legislature had better leave the consideration about the substitution of these sentences to the executive authorities. Well, Sir, if that was the implied intention and the undercurrent of my Honourable friend's speech, I would strongly deprecate it. I think it is not the business of the Inspector General of Prisons or indeed of the executive Government but of the Central Legislature to state what they consider to be the true scope and measure of punishment for offences described in the Indian Penal Code and other penal statutes of the land. It is true that the Indian Penal Code contemplates transportation for life and it is equally true that the executive Government under their general administrative authority have laid down that the sentence of transportation for life shall mean a sentence of transportation for 20 years. So far, we are obliged to the executive Government, but I ask what is there to prevent the executive Government from rescinding that executive rule and laying down that what is prescribed in the Penal Code as a sentence of transportation for life shall be literally carried out. I therefore suggest that what the executive Government has established as a practice should now be embodied in an Act of the Legislature, and it should be published to all and sundry that the Central Legislature regards the maximum punishment of transportation

as equivalent to 20 years and that its equivalent in terms of rigorous and simple imprisonment are such as the Legislature may hereafter decide upon and fix.

Then, Sir, a suggestion has been made by my Honourable and learned friend Colonel Sir Henry Stanyon regarding the gradation of sentences and Mr. Percival asks, "What are you going to do? Are you going to have rigorous imprisonment in two divisions and two degrees?" And my Honourable friend the Home Member I have no doubt quite casually mentioned that the sentence of rigorous imprisonment in this country is not so severe as penal servitude in England (*The Honourable Sir Malcolm Hailey*: "I said 'hard labour,' Sir.") well, as hard labour in England. I must respectfully differ from both of them. Turning to the Honourable the Home Member I beg to ask what sentence could be severer than a sentence of rigorous imprisonment in this country. He must also pay due regard to the climatic conditions of this country. Is he prepared to suggest a greater and severer sentence than the sentence which constitutes rigorous imprisonment in this country? I submit, Sir, that the sentence of rigorous imprisonment in this country is far too severe, far too humiliating and does not serve the true purpose of modern penology, the object of which is that incarceration in jail should serve a double purpose of not merely correcting but reforming the criminal. To imprison these people, ask them to crush aloe fibre, to break stones or to grind corn whilst standing for eight hours a day (*Lieut.-Colonel H. A. J. Gidney*: "No, it is never done in the jails."). (*Mr. K. B. L. Agnihotri*: "It is.") Well, my friend Colonel Gidney may have a closer acquaintance with the jails than my Honourable friend who says that grinding corn whilst standing for eight hours a day is an established form of rigorous imprisonment. I repeat this, Sir, on the authority of my learned friend unless my friend on the other side is able to correct him from his personal experience.

Then, Sir, turning to my Honourable friend Mr. Percival, he asks in what way are you going to grade rigorous imprisonment? Might I ask my Honourable friend to turn to the English Statutes on the subject and he will find that there the sentences are graduated and sub-divided into three divisions according to their rigour and clemency. And what is possible in England is equally possible in this country. I beg further to suggest that the sentence must be such as is suitable to the social condition and life of the prisoner. Fancy a man of the highest education, of the greatest refinement and culture, sentenced, it may be for a political offence, to rigorous imprisonment for the long term of six or seven years, compelled to undergo the degrading and demoralising penalty of grinding corn or crushing stones. Would such a thing be tolerated by public opinion in England? I have known cases in which educated men in England have been sentenced to long terms of imprisonment and I have visited jails and seen with my own eyes the sort of punishment they undergo. I submit, Sir, that it is not desirable that we in this country should have one measure of punishment for all sorts and conditions of men, and I think the time has come when a discrimination should be made between the kinds of labour which the offenders in the Indian jails should be made to perform.

With these words, Sir, I support the motion and hope that the Honourable the Home Member will enlarge the terms of his reference

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and ask the provinces generally to pronounce upon the general law of sentence in this country and their mode of execution.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : May I rise to inform my friend Colonel Gidney that a friend of mine who served as a Member of the Jails Committee tells me that corn is ground in jails whilst standing.

Colonel H. A. J. Gidney (Nominated : Anglo-Indian) : Sir, I know very little about the law of penology, but Dr. Gour's apparent knowledge of this commands admiration. Indeed he seems to know something of everything, his fund of knowledge ranging from measles to murder. But he evidently knows very little about the administration of Jails and the apportioning of labour in them. I have been Superintendent of jails including a very big central jail, so I can talk from personal experience about jail administration. (*Mr. K. B. L. Agnihotri* : "In which part of the country, please ?") In Bengal and in Assam. Sir, before I deal with the question of jail administration, I rise to support the motion before the House, and I wish to offer a few remarks on Sir Henry Stanyon's note on this subject. I fear that Sir Henry Stanyon, who has tried to evolve a substitute for transportation, so far as the nature of labour to be given to long term prisoners is concerned, has allowed his heart to get the better of him. He has evolved a substitute which any officer of the Jail Department will tell him is not workable. His views of criminology are to my mind antithetical to the well known and accepted theory as expounded by Mercier.

Mercier divides criminals into three broad classes—the first offender, the chronic or habitual criminal who takes the line of least resistance, and the moral degenerate, or the man who really requires the attention of a Doctor rather than detention in a jail. The division or separation of labour to long term prisoners, as suggested by Sir Henry Stanyon in his note on this Bill, would so upset the present system of labour as practised in our Jails, as to render its introduction impracticable. It would moreover allow a free intercourse between the first offender and the chronic offender and this would have a ruinous moral effect on the juvenile and first offenders whose reformation is our primary duty. Apart from that, I consider, from my experience of jails, that it would not be workable at all.

I now come to what Dr. Gour, the Honourable Member who hails from the land of oranges, says. He asks "Why consult the executive in this matter ?" I wonder whether Dr. Gour wants us to consult only himself ! How could you possibly introduce such a new and radical measure like this without consulting the executive—I mean the Jail administrative officers ?

Dr. H. S. Gour : Sir, I rise to a point of order. I never said that the Government should not consult the Executive. My friend is unconsciously misrepresenting me.

Lieut.-Colonel H. A. J. Gidney : I am glad to be corrected, but I believe I did hear Dr. Gour say "Why should we refer to and consult

Inspectors General of Prisons ?" Well, I think this is a subject which should and must be referred to them, for their opinion would be of the greatest value as they administer our Jails in India.

I stand here, Sir, to repudiate, with all the emphasis at my command, that labour as allotted in our Indian Jails, is such a severe thing as Dr. Gour tries to make out ; and, as regards the labour given to political prisoners, why, they are so well treated that I would not be surprised if we had a question asked in this House to-morrow as to whether ice-cream was served up hot to them in the Jails. I repeat Sir, the labour exacted from prisoners in the jails is not of a severe and terrifying form, and to state that prisoners are made to grind corn for hours in a standing posture is a travesty of fact. Prisoners in the Indian jails, I know from experience, are treated in many ways much better than at their homes. They are fed better, clothed better, and looked after better ; so much so that some of them are most sorry to leave. And some of them have been only too glad to come back when the police have had occasion to recharge them.

Sir, I support this measure very strongly as it is a distinct advance in the right direction.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, as a non-official member of the Select Committee the report of which is now before the Assembly, I think, I should say a word or two in order to clear the atmosphere of certain misconceptions which seem to exist with reference to the report itself and the course of action which it suggests.

Sir, the question before the House is, that after the Jails Committee have recommended that transportation should be abolished, and after Government have accepted their suggestion, that is to say, after they have decided that transportation should be abolished, what should be the course the central legislature should adopt with reference to the creation of a substitute in place of transportation ? That, I submit, Sir, is the short question before the House now ; and therefore any consideration of details before opinion is taken from local Governments and from other bodies entitled to pronounce an opinion on the fundamental issues, must, I submit, be considered as premature. The Resolution before the House is that the Report of the Select Committee be taken into consideration. This, I suppose, means that the report should be taken into consideration in the light of the suggestions made therein. I take the Resolution to mean that before further action is taken in the matter, the House should give us a mandate as to the line that should be adopted with reference to the solution of the problem before it. That is the only question for consideration ; and we have got to justify before the House the course which the Select Committee have suggested. Now, in the fourth paragraph of the Report, the Select Committee have said :

"We have considered the possibility of substituting for the present sentence of transportation, a sentence of penal servitude, and we think that in some respects legislation on these lines might be a satisfactory solution."

We are faced, therefore, with the question, can we solve the problem before us straight off by substituting a term of penal servitude for an equal term of transportation ? Then, again, we have got a very able note

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put up by Sir Henry Stanyon which suggests a more or less satisfactory solution of the whole question of punishment by imprisonment; not merely of the question of penal servitude, but of all punishments where imprisonment with hard labour is prescribed by law. Now, Sir, it has been very exhaustively demonstrated by the Honourable the Home Member, as well as by my Honourable friend Dr. Gour, that the time is now ripe for a reconsideration of the general question of punishments as provided by the Indian Penal Code and other correlated Acts which prescribe rigorous imprisonment, so far as it is incidental to the question of abolition of transportation. Let us see whether it is possible for us to avoid consideration of a somewhat comprehensive question like the above. My submission is that it is impossible now to avoid the consideration of the larger question in the spirit in which the Report suggests it should be considered. And why? There is always great difficulty whenever we have to find out an equivalent for transportation in terms of rigorous imprisonment. And this difficulty we cannot obviate by merely substituting penal servitude, generally, for transportation. Even there, we have to meet the question of gradation of punishments in relation to imprisonment. In connection with penal servitude in England, we find a system of gradation of punishments actually in existence. Various instances have been given demonstrating the necessity for taking up the larger outlook with reference to gradation of punishments, and I fully lend my support to the inference deducible from those instances which have been pointed out by Honourable Members who have preceded me. And the very able and painstaking note of Sir Henry Stanyon deals with that larger question also. Now, let us see, whether the simple process of substitution of penal servitude for transportation without any further elaboration, I mean to say, whether the solution of the question of abolition of transportation, as it was effected in India in 1855, by the mere substitution of penal servitude without further statutory elaboration can now afford us a self-contained solution of the whole question. My idea is, that it cannot. It is not as if the question has presented itself for solution in India for the first time now. The Government had to solve the problem when transportation was abolished in India, with reference to Europeans and Americans, in 1855.

Although, no doubt, we can say, as it was said in Act XXIV of 1855, that we should substitute a period of penal servitude for an equal period of transportation, we cannot follow, in the present instance, the course that was taken by that piece of legislation, namely, enact that the Local Governments be empowered to frame rules for the purpose of disposing of questions of detail regarding penal servitude, that is to say, determine how such people who are sentenced to penal servitude are to be dealt with, or where they are to be kept or confined in serving out their term of penal servitude. The question that was dealt with by Act XXIV of 1855 was a small question because it dealt with the question of penal servitude in the case of Europeans and Americans only—quite a handful of men. As has been pointed out by my Honourable friend Dr. Gour, this Act of 1855 followed the English procedure on the subject, though I may add not to the fullest extent. Transportation was abolished in England in the Fifties; and because in respect of the English people it was abolished, it became

incumbent upon the Government in this country to consider the question with reference to those very people who, if in England, would have been subjected to the law of England of that time, and therefore the Government of India solved the question in respect of the Europeans and Americans in India, somewhat in the same way as the Parliament of England solved it for the British people, namely, by prescribing a period of penal servitude in lieu of an equal period of transportation but leaving all details to be dealt with by rules to be framed by Government. Now, the question has arisen again, not with reference to a very small section of the population, but with reference to the entire population of India, and by simply saying—let penal servitude be substituted for transportation,—we shall not be able, to my mind, to remove the difficulty. We shall have to make provision for work and detention in cases where the sentence of penal servitude is given in lieu of transportation. This means an extensive organisation in order that a new situation may be met and for that purpose the opinion of Local Governments on a new situation will have to be taken, and perhaps the country will have to be consulted also before the proposed step is taken. According to the English Penal Servitude Act, however, I may state, it is not necessary always that there should be a penal settlement for the accommodation of persons sentenced to penal servitude. The English Act provides:

“In such cases every person who under this Act shall be sentenced or ordered to be kept in penal servitude may during the term of the service be confined in any such prison or place of confinement in any part of the United Kingdom or in any river, port or harbour of the United Kingdom in which persons under sentence or order of transportation may now be liable to be confined or in any other prison in the United Kingdom or in any part of His Majesty's Dominions beyond the seas or in any port or harbour thereof, as one of His Majesty's principal Secretaries may from time to time direct.”

Therefore, Sir, my submission to the House is that, although it may not be absolutely necessary to have a penal settlement, something in the nature of an extensive organisation is, in any event, indispensably necessary. The question as a whole has to be considered over and above the question of gradation of punishments. I mean to say, that even in the case of persons sentenced to penal servitude, if they be employed in some dock or harbour or port, in respect of them also some separate arrangement will have to be made and that can only be made after consulting Local Governments and by taking the line of action suggested in the Report. So that, whatever point of view may be taken, I submit the solution offered by the Select Committee seems to be the only solution—making allowance, of course, for the fact that one is always partial to his own opinion. To me as a non-official member of the Select Committee—it seems to be the only way in which the whole question can be satisfactorily approached. Therefore, Sir, my submission to the House is that it should take into consideration the practical suggestions which have been made by Sir Henry Stanyon as a member of the Select Committee,—should take also into consideration the other solution of the question which at one time engaged public attention and which bear the impress of Legislative action in the enactment of 1855. Take all these into consideration, and reconsider the whole situation. Instances have been referred to—and I do not wish to repeat them—where 14 years hard labour has been prescribed as a punishment in the Indian

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Penal Code, but where, according to modern penology, a different treatment would suggest itself. The time has arrived now for a reconsideration of the whole subject. The Indian Penal Code was passed in 1860. More than 60 years have elapsed since then. In Europe and America, a more humane system of punishments than is to be found in the Indian Code has been developed during this interval. I think, Sir, the time has come when the line of action suggested by the Select Committee and that suggested by my Honourable friend, Sir Henry Stanyon, should be taken into consideration. The details cannot certainly be solved here, in this House; the preliminary constructive work must be done elsewhere; but we want a mandate from this House to the effect that the course suggested by the Select Committee be adopted, and that, I submit, Sir, is the point now before the Assembly; and I take it the House is prepared to consider it in that light.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadian Urban) : Sir, the report of the Select Committee now before us is a refreshing departure from ordinary methods, upon which I think it is up to the House to congratulate the Government. The report is signed by a number of Members of the Select Committee headed by the Honourable the Home Member, and is a concession to public opinion, as brought out by the Select Committee with regard to the whole question of punishments. Sir Malcolm Hailey has told us that the Government itself intended to take up some of the matter that the Select Committee had brought out, and it is unfortunate that that was not done earlier. The Bill came before the House in a way that in the light of the investigations of the Select Committee had absolutely no justification. The Government has taken the right step in graciously acknowledging this. Unfortunately, unless a Bill of the kind that is indicated in the last but one paragraph of the Select Committee's report is immediately, of course after investigation by the Local Governments, brought before this House, the position of affairs will be much more difficult for those who have been transported than it will be by the passing of this Bill into Act. Under section 55 of the Indian Penal Code, without the consent of the offender, the punishment of transportation can be turned to one of imprisonment of either description for a term not exceeding 14 years. That was present in the minds of the framers of the Bill when the Bill was framed, though we have the statement by the Leader of the House that the Government had pressed upon itself the question of easing the situation with regard to punishment under the penal law of the country. This was not reflected in the Bill that was framed. I say, therefore, that it was unfortunate that the Bill was brought before the House in the way it has been done, and I do think that it is a very important concession to public opinion that the Honourable Sir Malcolm Hailey has made in signing this report and in agreeing to the suspension of a measure of this imperfection and to consider the whole question of punishments which has long stood in need of reconsideration in the light of modern experience—the doctor and the school-master are more useful than the jailor. I do not think it is necessary. We have practically decided to postpone the question and I do not think we need go very elaborately into the details of the measure that is to

replace the Bill and in the case of the Assembly turn its imprisonment from simple to rigorous for the time being.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I do not wish to inflict any rigorous imprisonment upon the House as suggested by my Honourable friend Sir Deva Prasad Sarvadhikary. I am also aware that I am neither an Inspector General of Prisons nor a Superintendent of Jails nor a Judge nor a Lawyer. Still, Sir, as a citizen, I claim some knowledge of the conditions of prisons in India and in Europe as well as America. I also claim some acquaintance with the mentality and character of the class of people who are considered to be criminals. Still, Sir, I do not propose to go into the details of this question. I am glad that the Select Committee has recommended that the Government should consult Local Governments as regards the whole question of the system of punishment by imprisonment. I agree with my Honourable friend, Dr. Gour, that our system of punishment by imprisonment requires a great deal of improvement. It is an antiquated system. Therefore, I am very glad that the system is going to be examined.

But I should like to know from Government information on one or two points. They appointed an Indian Jails Committee which has already reported. In that Report the Committee has recommended that when a prisoner is sent to jail, if he shows signs of improvement while in jail, he should be released on probation and that while on probation he should be placed under the supervision of some special officers known as probation-officers. Sir, this system of probation is followed by all advanced countries. I therefore feel that we should also introduce that system in our country. The Indian Jails Committee has recommended that although the system cannot be introduced in all parts of the country, still it can be introduced in large cities and towns in this country. I therefore want to know from Government whether, while they are consulting Local Governments on the question of punishment by imprisonment, they are going to consult them on the question of the practicability of introducing a system of probation. Sir, the Indian Jails Committee has also discussed the subject of indeterminate sentence. My Honourable friend, Dr. Gour, has already told the House that the object of punishment is not so much to frighten away other people into not committing crimes, but to reform the individual who commits the crime. Sir, judging from this criterion, punishment with a limited period of hard labour or simple imprisonment is not suitable. It has been found by all advanced countries that the indeterminate sentence is much better suited for that purpose. If a man goes to jail and shows signs of improvement, when the jailor finds that the man is no longer a danger to society, but when released he will be a good citizen, he ought to be released whatever be the period of sentence pronounced by the Judge. I am aware that the Indian Jails Committee has come to the conclusion that India is not yet quite suited for these advanced principles of penology. I do not know what is there in the climate of India or in the mentality or in the character of the Indian people that this system should not be suitable for our country. But, Sir, I do feel that it is a system which will do a lot of good, which will tend to improve the criminal classes in our country. After all, by sending people to jails you are not

[Mr. N. M. Joshi.]

detering other people from committing crimes. That has been the experience not only of this country but of the whole world. When a man commits a crime he does it as a habit and these people are called habitual prisoners. Therefore, I want to know from Government whether they are going to consult Local Governments on the system of indeterminate sentence. Then, Sir, the Indian Jails Committee has also recommended that the Government of India should introduce the system of periodical revision of the sentences given. I hope the Government will give their consideration to this matter and will also consult Local Governments on this subject and that when they introduce their next legislation the proposals which I have put forward before the House will be embodied in that legislation.

The Honourable Sir Malcolm Hailey : If the House will allow me to do so, I will begin with the last speaker first and supply as far as I can the information which he has asked. With regard to the question of releasing prisoners on probation he asks whether it is our intention to consult Local Governments on this point also. I do not think that this is a point arising out of the Report of the Select Committee, but I may say that we already have the opinions of the Local Governments on the Jail Committee's Report. The question was very carefully considered by the Local Governments, and they found that the chief difficulty in adopting the system now so widely used in America and elsewhere, the system of releasing prisoners on probation, is that of finding suitable probation officers, nor do the Local Governments at the present moment find themselves in a financial position to appoint officers on any considerable scale for the purpose. We have however accepted the principle, and recommended to Local Governments to adopt it when and where they can. That is as far as we ourselves can go. It is the Local Government which has to release on probation, and not ourselves, for even if we could under the powers which we possess in the Criminal Procedure Code direct the release of an offender, we should have ourselves no means of seeing that the probation conditions are properly carried out.

Mr. N. M. Joshi : Is no legislation necessary ?

The Honourable Sir Malcolm Hailey : No. The Local Government can at present under section 401 release a prisoner on such terms as it desires. Then again as regards the indeterminate sentence, that was also dealt with as a result of the Jail Committee's Report. I think the Honourable Member will find that the amendments that were made in section 562, Criminal Procedure Code, last March will go far to effect the purpose he has in view. Finally he asked me for information regarding the periodical revision of sentences. We suggested to Local Governments, following the report of the Jail Committee, that they should appoint advisory committees which would go through the sentences of convicts and advise whether in all the circumstances the sentence could be revised. At least two Local Governments, and I think three, have appointed such committees and they are now at work. Coming to the main question ; we had an interesting discussion this morning revealing a very considerable study and knowledge of the question, and on the whole I think that the proposals of the Select Committee have been thoroughly approved in the

House. I shall not therefore attempt to go into the various opinions that have been expressed. On such points as the comparative gravity of sentences of hard labour in England and here, I admit that a variety of considerations arise, such as climatic and social conditions ; it would perhaps be difficult to establish any definite equation between the two. I would only refer to the well known fact that there are in Indian jails many milder forms of labour, such as carpet making, lithography, chick making and the like, on which prisoners can be employed, but which are nevertheless classified as hard labour. I refer to that fact only in justification of the statement that a sentence of 14 years' rigorous imprisonment does not necessarily mean that throughout that period a prisoner must be given labour as hard as he would get in England on a sentence of two years' hard labour. I confine myself merely to that statement, and it is unnecessary for the moment to draw any further comparison of the two, for we have admitted in principle the advisability of dividing rigorous imprisonment into two classes. I only wish, therefore, at this stage to make clear the limits of the inquiry, for it was on that point I think that most of the remarks were addressed to us. My Honourable friends who have spoken on our side have I think fully justified our proposal to consult both Local Governments and executive officers. Let me add that I should be very unwilling to decide a question of this kind without taking into consultation those officers who are in actual charge of the administration of jails. Not only are many of these officers skilled in penology, not only have many of them visited numbers of American and European jails in order to bring their knowledge up to date on the subject, but they are the officers who can give us first-hand information as to how far it would be possible in existing circumstances to carry out any prescription, of the law regarding division of rigorous imprisonment into two classes. But it is also necessary to define the limit of our proposed inquiry. It was never the intention I think of the Select Committee, certainly it was never my intention, that the discussion with Local Governments should range over the whole subject of the adequacy or inadequacy of punishments now provided in the Penal Code. It was not the object of this particular inquiry that we should take the whole Code and inquire into the scale of punishments provided by that Act or its allied Acts. After all, our inquiry arose out of the abolition of transportation, and the attempt to find a definite and properly graduated substitute. If in the course of our inquiry we may have to deal with punishments provided in the Code for which there is no alternative sentence of transportation, that would arise not from any intention of reconsidering the whole question of our penal sections, but merely from our desire to see that long sentences of rigorous imprisonment provided in the Code were adequately graduated. To that extent therefore, but only to that extent the inquiry would range over a somewhat wider sphere than the immediate question of the substitution of other punishments for transportation. Nor again could I myself agree to the proposal that the reference to Local Governments should be made the occasion for a re-inquiry into the whole of the management of jails, the system of discipline followed therein and the cognate questions to which Dr. Gour referred. We have just had one extended inquiry of that nature, and it would be unjustifiable, on the important but somewhat limited reference that we now have suggested, to demand that

[Sir Malcolm Hailey.]

Local Governments should again go into the whole question of the manner in which imprisonment sentences are executed in Jails. If, therefore, the House will accept the inquiry in the terms that I have stated—and they are of course exactly the terms that you will find in the Report of the Select Committee,—then we will do our best to make the inquiry as thorough as possible within the scope I have laid down ; and I have no doubt that as a result of this discussion, we shall be able to put forward before the Assembly important changes of law. If the House will accept this, then, Sir, if you will allow me to do so, I will make a formal motion, that the House approve of the action which it is proposed to take in paragraph 6 of the Report of the Select Committee ; and if the House approves this, it will for the time being dispose of the motion before it.

Mr. P. E. Percival : May I inform Mr. Joshi that the Committees mentioned by him have existed for a long time in the Bombay Presidency, —for the last six months at least.

Mr. President : Do I understand by the Honourable Home Member's motion that he intends it to take the place of the similar motion ?

The Honourable Sir Malcolm Hailey : Certainly, Sir ; Yes. The House having now considered the matter and having, as I understand, decided to accept our proposals, I suggest that all it need do now is to approve of the action which the Committee propose to take in paragraph 6 of their Report.

Mr. President : The present motion is, by leave, withdrawn.

The Honourable Sir Malcolm Hailey : I beg to move :

“ That this House approve of the action set forth in paragraph 6 of the Report of the Select Committee.”

Mr. President : *Proposed action ?*

The Honourable Sir Malcolm Hailey : Yes.

Mr. President : The question is :

“ That this House approve the proposed action set forth in paragraph 6 of the Report of the Select Committee on the Bill to provide for the abolition of the punishment of transportation in respect of criminal offences.”

Dr. H. S. Gour : May I suggest, Sir, a simpler course to that suggested by the Honourable Home Member,—that the Report of the Select Committee be circulated to the provinces, and the Select Committee be advised to reconsider the Bill after collecting the opinion of the provinces—that the Bill be recirculated for the opinion of the provinces ?

The Honourable Sir Malcolm Hailey : I am afraid, that the Select Committee will not be in existence when the opinions of the provinces come back to us : it will be necessary probably for us to frame an entirely new Bill and to have an entirely new Select Committee.

Dr. H. S. Gour : Then, Sir, I would suggest a simple course, that the Bill be re-circulated for eliciting public opinion. That I think will meet all that the Honourable the Home Member has suggested, and the speeches

of the Honourable Home Member and of the other Honourable Members of the House will be sent out and a general report of the opinion of the public will be obtained, and then the Bill might be proceeded with.

The Honourable Sir Malcolm Hailey : Public opinion would probably be confused by this proposal. If we send out for opinion the old Bill, with a great number of speeches on it, I am afraid that it would not receive the same attention as a definite carefully-worded statement of the points on which we seek opinions.

Mr. President : Do I understand the Honourable Member to move that amendment ?

Dr. H. S. Gour : Yes, Sir.

Mr. President : The original question was :

“ That this House approve the proposed action set forth in paragraph 6 of the Report of the Select Committee on the Bill to provide for the abolition of the punishment of transportation in respect of criminal offences.”

Since which an amendment has been moved :

“ That the Bill be re-circulated for the purpose of eliciting opinion.”

The question I have to put is that that amendment be made :

The motion was negatived.

Mr. President.: The question is :

“ That this House approve of the proposed action set forth in paragraph 6 of the Select Committee's Report.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 10th July, 1923.

LEGISLATIVE ASSEMBLY.

Tuesday, 10th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

MEMBERS SWORN.

Mr. Eric Cecil Ansorge, M.L.A. (Finance Department : Nominated Official) ; Mr. Probodh Chandra Chatarji, M.L.A. (Bengal : Nominated Official).

QUESTIONS AND ANSWERS.

SUBORDINATE HOSPITAL STAFF.

176. *Mr. B. Venkatapatiraju : Will the Government be pleased to state the necessity of employing 12,065 subordinate Indian personnel in 1922-23, referred to at page 78, staff of Hospitals in the final estimates of expenditure on military services for the year 1923-24, and how 6,916 are found sufficient for 1923-24 at a saving of over 10 lakhs ?

Mr. E. Burdon : 12,066 Indian officers, Indian other ranks and followers (the figure 12,065 is a typographical error) is the establishment of the Indian Hospital Corps and this number is considered necessary for the efficient staffing of the British and Indian station hospitals in India, and for the maintenance of a certain reserve to complete field medical units on mobilisation.

The revision of this establishment is under consideration, but so far no reduction has been made, and the same strength has been budgetted for in 1923-24 as in 1922-23. The apparent discrepancy is explained by the fact that provision for 5,150 members of the Indian Hospital Corps, who are not specifically attached to any individual hospital but are maintained as a reserve to field medical units on mobilisation, has, under the system of cost accounting, been transferred to 'Head I—Maintenance of the Standing Army.' The details of this provision, viz., 19 Indian officers, 4,639 Indian other ranks and 492 followers, will be found at page 22 of the 'Final estimates of expenditure on military services.'

REDUCTION OF RAILWAY STAFF.

177. *Mr. B. Venkatapatiraju : In view of non-justification for large increase in administrative and clerical staff of the Railways referred to

in the Incheape Committee report what steps were taken for the reduction of staff and if so, how many Europeans, Anglo-Indians and Indians were removed and at what amount of saving ?

The Honourable Mr. C. A. Innes : I hope to include in next year's Budget memorandum information of this kind.

Mr. S. C. Shahani : Will Government be pleased to state if in each case of retrenchment of subordinates they make careful preliminary inquiries as to their utility ?

The Honourable Mr. C. A. Innes : I have no doubt that their agents make those inquiries.

RAILWAY RENEWALS.

178. ***Mr. B. Venkatapatiraju :** (1) What amount was finally sanctioned for renewals on Railways, as judicious repairs instead of renewals were recommended by the Incheape Committee ?

(2) Whether Programme for renewals is strictly limited to actual commitments and if so, what was the amount ?

Mr. G. G. Sim : The provision for Programme Revenue expenditure was cut down to Rs. 9 crores for 1923-24 as recommended by the Incheape Committee and renewals were in the cases recommended by that Committee limited as far as possible to actual commitments pending re-examination of the question of the necessity for other renewals.

Mr. B. Venkatapatiraju : What was the amount ?

Mr. G. G. Sim : 9 crores is the amount in the Budget.

EMPLOYMENT OF INDIAN CIVIL SERVICE CANDIDATES.

179. ***Mr. J. N. Basu :** (a) Will the Government be pleased to state how many appointments are to be given to those candidates who stood below the first nine at the last Civil Service Examination held at Allahabad ?

(b) If so, in what way and how many of them are to be distributed in each province ?

The Honourable Sir Malcolm Hailey : No decision has yet been reached in the matter.

FAILURE OF ALLIANCE BANK : CORRESPONDENCE RELATING TO.

180. ***Mr. W. M. Hussanally :** (a) Has the attention of Government been drawn to the report of the proceedings in the Bombay High Court, *in re* injunction against the Imperial Bank of India restraining the said Bank from paying 50 per cent. of the debts of the Alliance Bank published in the *Pioneer* of June 27 ?

(b) Was there any correspondence between the Indian Merchants' Chamber of Bombay and the Government upon the subject ?

(c) If so, did the Government lead that Chamber to understand directly or indirectly that the Government were not concerned with the offer of the Imperial Bank to pay half the deposits of the defunct Bank, or that it was the Imperial Bank itself who took the initiative in the matter without the intervention of Government ?

(d) Will the Government be pleased to lay on the table the correspondence between them and the Chamber ?

The Honourable Sir Basil Blackett : The answers to parts (a) and (b) are in the affirmative.

As regards part (c), the arrangements between Government and the Imperial Bank by which the latter were put in a position to take action were not referred to in Government's letter to the Chamber. I would refer the Honourable Member to the reply which I have already given to the question asked by Mr. Mannohandas Ramji.

As regards part (d), the correspondence has already been published.

Mr. K. C. Neogy : Is the Honourable Member aware that in his judgment the learned Chief Justice of the Bombay High Court has observed that Mr. McWatters in his reply to the Chamber used language which cannot be easily reconciled with what is now revealed ?

The Honourable Sir Basil Blackett : If the Honourable Member will wait for the day when the question on the paper on this point is answered, he will receive his answer.

ADVANCE BY IMPERIAL BANK TO ALLIANCE BANK.

181. ***Mr. W. M. Hussanally :** (a) Is it a fact that Mr. McWatters interviewed Sir Robert Aitkin and Sir Bernard Hunter on April 27 at Bombay, on behalf of the Government of India and requested those gentlemen on behalf of the Imperial Bank to advance 50 per cent. of the debt due to depositors of the Alliance Bank, as stated by Sir Robert Aitkin in his affidavit ?

(b) If so, had he authority of the Government to do so ?

The Honourable Sir Basil Blackett : (a) and (b). Yes.

GOVERNMENT AUTHORITY FOR ADVANCE BY IMPERIAL BANK.

182. ***Mr. W. M. Hussanally :** (a) Is it a fact as stated by Sir Robert Aitkin in his affidavit that subsequently he received two letters from the Government authorising the Governors of the Imperial Bank to pay 50 per cent. of the amounts standing at credit of the depositors in the Alliance Bank, the Government guaranteeing to make good to the Imperial Bank any loss incurred by the Bank in making such payments and further authorising the Bank to hold as security for such payments so much of the Government balance as might be necessary to meet outstandings due to the Bank in this respect ?

(b) Will the Government please lay on the table the correspondence between the Imperial Bank and themselves on the subject and also the correspondence between them and the Alliance Bank ?

(c) Are Government prepared to extend similar help to other private Banks in the country which are under liquidation like the Trust of India Limited and the Oudh Bank or any other Bank that may hereafter go into liquidation ?

The Honourable Sir Basil Blackett : (a) The answer to the first part is in the affirmative.

(b) There has been no correspondence between the Imperial Bank and Government other than the two letters referred to by Sir Robert Aitken and there has been no correspondence between Government and the Alliance Bank.

(c) In regard to the last part of the question Government cannot give any general undertaking of the character in question.

REGIMENTAL FUNDS WITH ALLIANCE BANK.

183. *Mr. W. M. Hussanally : (a) Has the attention of the Government been drawn to the paragraph in the *Pioneer* of June 27 announcing as an Army Instruction that in the case of regimental funds which were in deposit with the Alliance Bank at the time when it went into liquidation, the Imperial Bank were prepared to allow overdrafts to officers in whose names accounts stood at the Alliance Bank up to the total amounts at their credit with the Alliance Bank ?

(b) Has the Government of India authorized such an announcement ?

(c) Has the Imperial Bank consented to make such payments in full ?

(d) If so, did the Government move the Bank in that respect ?

(e) If so, will the Government state reasons for allowing preference to regimental funds over private depositors ?

(f) Have Government hypothecated public revenues in this case also ?

(g) Will Government be pleased to place on the table correspondence relating to this matter ?

The Honourable Sir Basil Blackett : (a) to (d) : Yes.

(e) The regimental funds are fully covered by deposits of Government paper held as security by the Military Accounts Officers. The payments referred to have been authorised pending realisation of these securities.

(f) The answer is in the negative.

(g) There has been no correspondence on this matter.

Mr. S. C. Shahani : Will Government be pleased to state if such Army Instructions would be in keeping with the Indian Constitution even in its transitional stage and secondly if these Army instructions are not an encroachment on the powers of the Assembly ?

The Honourable Sir Basil Blackett : I think the answer to the first part of the question is in the affirmative and to the second part in the negative, but I should like to have notice in order to make quite sure.

REGIMENTAL FUNDS DEPOSITED WITH ALLIANCE BANK.

184. *Mr. W. M. Hussanally : Why were regimental funds deposited with the Alliance Bank in preference to the Imperial Bank especially at stations where a branch of the Imperial Bank does exist ?

The Honourable Sir Basil Blackett : The deposit of regimental funds against the security of Government paper is a practice of long standing dating from a period when the Presidency Banks had few branches at important Military Stations, and the Imperial Bank of India had not yet come into existence.

Mr. W. M. Hussanally : Supplementary questions, Sir. I have given private notice to the Honourable Sir Basil Blackett.

Mr. President : Supplementary questions arise out of the question on the paper. A question by private notice is presumed to be a question which stands on its own merits. Questions by private notice must come at the end of question time.

Mr. W. M. Hussanally : I have finished my questions, and therefore

Mr. President : If the questions which the Honourable Member proposes to ask are supplementary, he is entitled to ask them.

Mr. W. M. Hussanally : Yes, Sir, they are. What are the terms of the agreement between Government and the Imperial Bank ? Do Government pay any.....

Mr. President : That does not arise out of the question on the paper.

DEATH OF CHELLA MUTU IN MALAYA.

185. *Mr. K. B. L. Agnihotri : (a) Has the attention of the Government been drawn to the death of one Chella Mutu, an Indian garden coolie in Malaya ?

(b) Will the Government be pleased to give the circumstances under which he lost his life ?

(c) Is it a fact that his death was due to kicks administered by one Mrs. Athorne, the wife of the Manager of the garden, for having pulled out some ferns along with the weeds ? If the answer be in the affirmative, will the Government please state as to what action has been taken against the offender ?

(d) Has she been prosecuted for having caused his death ; if not, why not ?

(e) What compensation has been paid to the widow of the deceased and by whom was the amount fixed ?

(f) What steps has the Government of India taken to bring the offender to justice ?

Mr. M. S. D. Butler : (a) to (f). The Government have seen accounts of this matter in the press and are making inquiries from the Government of the Federated Malay States.

Mr. S. C. Shahani : Will the Government be pleased to state if they will take early steps to punish those police officers who have made the default in not having proceedings instituted against Mrs. Athorne ?

Mr. M. S. D. Butler : I have said that the Government are making inquiries from the Government of the Federated Malay States under whose orders these officers are working.

Mr. K. Ahmed : Will the Government of India expedite the matter of inquiry so far as it is in their power ?

Mr. M. S. D. Butler : The Government of India have no authority over the Government of the Federated Malay States. On receipt of the reply to the inquiries which they have made they will consider what action will be suitable.

Mr. K. Ahmed : Will they expedite the matter of the inquiry ?

The Honourable Sir Malcolm Hailey : Expedition must come from the other end.

Mr. K. Ahmed : It comes from both ends.

EXTENSION OF CANTONMENT ACT TO BHAGUR VILLAGE.

†186. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether it is a fact that on the 8th of January 1919, a notification was published in Bhagur, a village near the Deolali Camp in the District of Nasik, to the effect that the inhabitants and traders of Bhagur, Shingne and the proprietors of bungalows in Nasik Bhagur and Dhondi Roads will henceforth be considered as inhabitants in the jurisdiction of Deolali Cantonment and they will be guided by the rules and regulations of the said Cantonment ?

(b) If the answer to (a) be in the affirmative, will Government be pleased to explain the reason for this extension of the Cantonment Act to the Bhagur village ?

(c) Will they be further pleased to lay on the table the rule or rules, as the case may be, under which the Cantonment Act was extended to the Bhagur village ?

(d) Will they, also, be pleased to state whether any previous notice was given to the people of Bhagur to the effect that the Cantonment Act was going to be extended to their village before the Act was actually applied ? If not, why not ?

PROTEST AGAINST CANTONMENT ACT AT BHAGUR.

†187. *Mr. N. M. Joshi : Will Government be pleased to state whether it is a fact that from the time when the Cantonment Act was extended to the Bhagur village, the people of that place have sent a number of petitions and memorials to every constituted authority such as the Cantonment Magistrate of Deolali, the President of the Cantonment Committee, the Collector of Nasik, the Commissioner of the Central Division of the Bombay Presidency, the Governor in Council of the Bombay Presidency, and His Excellency the Viceroy, strongly protesting against the extension of the Cantonment Act to Bhagur and praying for its immediate withdrawal ? If so, what steps have they or the authorities concerned taken in the matter of looking into the grievances of the Bhagur people ?

APPLICATION OF CANTONMENT ACT TO BHAGUR.

†188. *Mr. N. M. Joshi : (a) Will Government be pleased to state what were the taxes and duties that were levied on the people of Bhagur as a result of the application of the Cantonment Act to that village ?

(b) Will they be further pleased to state the amount that Government were able to collect from each tax and duty that was levied, from the time the Cantonment Act came into force in that village to the end of May 1923 ?

(c) Will they also state how much money out of the taxes collected so far has been spent upon the Bhagur village and its people and what has become of the remaining balance ?

TAXATION IN BHAGUR.

†189. *Mr. N. M. Joshi : Will Government be pleased to state whether, at the time of the application of the Cantonment Act to Bhagur, they had issued a list of articles that were going to be taxed under the Act and announced it in the village ? If not, why not ?

† For answer to this question—see answer below Question No. 198.

INCIDENCE OF TAXATION IN BHAGUR.

†190. *Mr. N. M. Joshi : Will Government be pleased to give the average incidence of local taxation per head in the village of Bhagur before the Cantonment Act was applied to it and the average incidence of taxation per head under the Cantonment Act in the same village after the said Act was applied to it ?

EXCLUSION OF BHAGUR FROM DEOLALI CANTONMENT.

†191. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether it is a fact that the Government of Bombay recommended to the Government of India in the latter part of the year 1921 that the Bhagur village and certain bungalows on the Nasik and Dhondi Roads should be excluded from the limits of the Deolali Cantonment ? If so, when was this recommendation first received by the Government of India ?

(b) Will Government be further pleased to state whether they took any action regarding the recommendation of the Government of Bombay ? If so, what action did they take ? If not, why not ?

SUSPENSION OF TAXES AT BHAGUR.

†192. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether they are aware that His Excellency the Governor of Bombay paid a visit to Deolali in August 1922 and received in deputation some of the leading citizens of Bhagur and, as result of His Excellency's intervention, some of the taxes and duties under the Cantonment Act were suspended from September 1922 pending the decision of the Government of India regarding this matter and the people of Bhagur were informed to that effect ?

(b) If so, what were the taxes and duties that were suspended ?

(c) Will Government be further pleased to state whether this suspension of the taxes and duties was brought about with the knowledge and consent of the Government of India ?

CANCELLATION OF SUSPENSION OF TAXES ORDER, BHAGUR.

†193. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether it is a fact that the Cantonment Magistrate of Deolali in his notice of the 17th November 1922 intimated to the people of Bhagur that the suspension of taxation had been cancelled and the old taxes would be renewed from the 1st January 1923 ?

(b) If so, why was the suspension cancelled and under whose orders ? Was it cancelled with the knowledge and consent of the Government of Bombay and the Government of India ?

TAXATION AT BHAGUR.

†194. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether they are aware that the Honourable Sir Ibrahim Rahimtoola, the then Member of the Government of Bombay, announced in the Bombay Legislative Council on the 20th of February 1923 that Government had decided to request the military authorities at Deolali to suspend the collection of taxation in Bhagur under the Cantonment Act pending the consideration of the matter by the Government of India ?

† For answer to this question—see answer below Question No. 198.

(b) If the answer to (a) be in the affirmative, will they be pleased to state whether the military authorities at Deolali acceded to the request of the Bombay Government? If not, why not?

(c) Will Government be further pleased to state whether the announcement of the Bombay Government referred to in (a) was made with the knowledge and consent of the Government of India? If so, and if the answer to (b) be in the negative, how is it that the military authorities at Deolali did not accede to the request of the Bombay Government?

HARTAL AT BHAGUR.

†195. *Mr. N. M. Joshi : Will Government be pleased to state whether they are aware that the people of Bhagur have been observing *hartal* from the 1st of January 1923 as a protest against the renewal of the suspended taxes?

GRIEVANCES OF BHAGUR.

†196. *Mr. N. M. Joshi : Will Government be pleased to state (a) when this matter of the agitation of the Bhagur people first came officially before the Government of India, (b) what efforts they have since then made to understand the grievances of the people of Bhagur and remove them, and (c) what steps they propose to take hereafter to remove the still unredressed grievances of the Bhagur people?

WITHDRAWAL OF CANTONMENT ACT FROM BHAGUR.

†197. *Mr. N. M. Joshi : Will Government be pleased to state whether they intend to withdraw the Cantonment Act from the limits of the Bhagur village? If so, when? If not, why not?

INCLUSION OF BHAGUR IN DEOLALI CANTONMENT.

198. *Mr. N. M. Joshi : Will Government be pleased to place on the table the whole correspondence that may have passed between the Government of India and the Government of Bombay, and, also, the Government of India and the military authorities, regarding the inclusion of Bhagur in the limits of the Deolali Cantonment area and the agitation of the Bhagur people for the exclusion of their village from the said area? If not, why not?

Mr. E. Burdon : Sir, I propose to answer questions 186 to 198 together, so far as it is possible for me to do so to-day.

The village of Bhagur was included in the Cantonment of Deolali in November 1918, by action taken in proper form under section 3 of the Cantonment Act, 1910, with the concurrence of the Government of Bombay. The reason for the action so taken was that the existing condition of the village and its immediate surroundings constituted a grave menace to the health of the troops in Deolali and it was agreed that the sanitary control considered necessary could best be secured by including the area in the Cantonment. For some considerable time past the inhabitants of Bhagur have been exerting pressure on both the civil and military authorities, with the object of having the area once more excluded from cantonment limits. They find the rigours of cantonment administration

irksome and they complained that the scale of cantonment taxation is, to their circumstances, oppressive.

A memorial which they presented on the subject was referred, in the first instance by the Government of India to the Government of Bombay. The latter made a very thorough re-examination of the case and on the 27th March 1923 reported that in their opinion a reasonable standard of sanitation could be secured in the village without retaining it within the cantonment area. They therefore recommended exclusion. After obtaining the opinion of the local military authorities on this proposal the Government of India on the 26th June decided to agree to it, on the understanding that the Government of Bombay would make themselves responsible to enforce, as a matter of civil administration, the sanitary arrangements which are necessary in order to safeguard the health of troops.

The Government of Bombay have accepted full responsibility for this and a notification excluding the village will be issued as soon as possible. In the meantime the collection of cantonment taxes has been stopped by executive orders. If after hearing these facts the Honourable Member still desires to receive information on the remaining points included in his questions which are not covered by the statement I have made, I shall be happy to obtain the information for him. But in order to do so, I shall have to make certain inquiries from the Southern Command and I should imagine that in the light of the announcement I have made the remaining points are no longer of practical importance.

Mr. N. M. Joshi : I am satisfied with the answer and I thank the Honourable Member on behalf of the people of Bhagur.

"INDIA OF TO-DAY" BY DR. RUSHBROOK-WILLIAMS.

199. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether their attention has been drawn to a series of books published recently, called "India of To-day"?

(b) Will they also state whether they help, in any way—monetary or otherwise, the preparation and publication of the books in the said series?

(c) Are Government aware that the series of books mentioned above is edited by Dr. Rushbrook-Williams?

(d) Is it permissible for any officer of the Government of India to undertake duties for private monetary gain without the sanction of the superior authorities? If so, will the Government of India be pleased to state whether Dr. Williams is paid for his editorship and if the answer is in the affirmative, will they also be pleased to state whether they had given permission to Dr. Rushbrook-Williams to undertake the editorship of this series?

(e) Will Government of India be further pleased to state whether Dr. Rushbrook-Williams is or is not responsible for the statements of opinions expressed in the books of this series?

The Honourable Sir Malcolm Hailey : (a) Yes.

(b) The Advisory Publicity Committee recommended the publication of a series of brief well-written booklets dealing with subjects of current interest in India. The procedure followed is that when a subject is approved by the Advisory Publicity Committee, the Director,

† For answer to this question—see answer below Question No. 198.

Central Bureau of Information, engages to find an author who can write on it with authority, and the book, when ready, is made over to the Oxford University Press for printing and publication. Beyond this, neither the Government nor the Central Bureau of Information help in any way, monetarily or otherwise, in the preparation and publication of the books in the "India of To-day" series.

(c) Yes.

(d) Professor Rushbrook-Williams does not receive, directly or indirectly, any remuneration for editing the series. Therefore, the other parts of this question do not arise.

(e) No. The writers are responsible for the opinions expressed.

STATEMENTS IN "DEFENCE OF INDIA" BY DR. RUSHBROOK-WILLIAMS.

200. *Mr. N. M. Joshi : (a) Will Government be pleased to state whether their attention has been drawn to a book, called "Defence of India," belonging to the series called "India of To-day" and, also, to a statement in it made on page 91 to the effect that India will not be fitted for self-defence without British aid within three generations ?

(b) Has the attention of Government been also drawn to a suggestion made in the same book on page 94 that an investigation should be made to find out whether the amount of the total budget of the Government of India cannot be increased so that the proportion of the military expenditure to the total budget may appear smaller than it is to-day ?

(c) Will Government of India be pleased to state whether Dr. Rushbrook-Williams is responsible for the statements contained in (a) and (b) above ?

(d) Will Government be further pleased to state whether the author of the book mentioned in this question who has assumed the name of "Arthur Vincent" is or is not an officer of the Government of India ?

Mr. E. Burdon : (a) and (b). The Government of India have seen the book and the statements to which the Honourable Member refers.

(c) The answer is in the negative. A general editor is responsible for selecting authors and making arrangements with publishers, but is not responsible for individual opinions expressed by an author.

(d) The author of the book is an officer of the British Army serving in India.

Mr. N. M. Joshi : Can any officers of Government express opinions against the policy of this Assembly ?

The Honourable Sir Malcolm Hailey : I am an officer of Government and I am afraid I have offended in that direction more than once.

Mr. N. M. Joshi : May I ask whether the Members of the Advisory Committee had seen this book ?

The Honourable Sir Malcolm Hailey : To the best of my recollection, no. The Advisory Committee chooses subjects and suggests to the General Editor that he should find suitable authors for those subjects. As I have said, the General Editor, in accordance with the ordinary custom which prevails in such matters, is only responsible for the selection of the authors and details regarding publication and the like, not for individual opinions.

Mr. N. M. Joshi : I want to know whether the officers of Government can engage themselves in propaganda which is directed against the aspirations of this Assembly.

Mr. W. M. Hussanally : And I would add an officer outside this Assembly.

The Honourable Sir Malcolm Hailey : We discourage propaganda on the part of officers of Government. But I have glanced through this book and I cannot find anything in it in the nature of propaganda to which the Honourable Member refers.

Mr. N. M. Samarth : Supposing in the "India of To-day" series there is a publication which describes India of yesterday ?

Mr. President : The Honourable Member can answer his own hypothesis.

Mr. N. M. Joshi : May I ask whether Government in the Finance Department have considered the suggestion contained in B Part of 200, where the author of the book suggests to the Government of India that they should increase their civil expenses in order that the proportion of military expenditure should appear small ?

The Honourable Sir Basil Blackett : The answer, Sir, is in the negative, categorically.

STATUS OF POSTMEN.

201. *Mr. N. M. Joshi : (1) Will Government be pleased to state the exact status of Postmen in the Postal Department ? Is it different to-day from what it was in 1906 ? If so, what is the difference and what are the reasons that led to make this difference ?

(2) (a) Will Government be pleased to state whether it is a fact that before the year 1906 the Postmen were considered, for all the purposes of salaries and increases in them, as servants holding rank just below that of the clerks of the Postal Department, while after that year, the Postmen came to be considered as servants holding rank just above that of the menials in the Postal Department thus creating a very great difference between the proportion of the salaries of the clerks and those of the Postmen ? If so, why was this difference made ?

(b) Will Government be further pleased to state the comparative proportion that existed before the year 1906 and after that year between the salaries of the Postal Clerks and the Postmen ?

Mr. G. R. Clarke : (1) There has been a considerable improvement in the position of postmen since 1906. Not only has their pay been substantially increased, but their prospects of advancement in the Department have also been very materially enhanced, inasmuch as all departmental branch postmasterships have now to be filled by promoted postmen and the clerical ranks of the Department are open to all postmen possessing the requisite qualifications.

(2) (a) There has been no change in the relative position of postmen in the organisation of the Department.

(b) In 1913-14 when the scales of pay were better than in 1906, the average pay of a clerk was Rs. 40.1 per mensem. As the result of the revision sanctioned in accordance with the recommendations of the Postal Committee, 1920, the average pay was increased to Rs. 75.5 or by 88 per cent. The increase in the average pay of postmen during the same period was from Rs. 10.7 to Rs. 21.3 or by 101 per cent.

INCREASE OF SALARIES OF POSTMEN AND MENIALS.

202. *Mr. N. M. Joshi : Will Government be pleased to state whether they are considering the necessity of increasing the salaries of Postmen and menials in the Postal Department ? If so, when are they likely to announce their decision ?

The Honourable Mr. A. C. Chatterjee : No such proposals are at present under consideration.

RESERVE POSTAL STAFF.

203. *Mr. N. M. Joshi : Will Government be pleased to state whether it is a fact that in the matter of keeping Reserve Staff, the Postal Department observes different proportion with regard to (i) clerks, (ii) postmen, and (iii) menials ? If so, what is the proportion of the percentage of Reserve Staff for the three classes of Postal servants referred to above and why has this difference been maintained ? Will Government be further pleased to state whether they intend to shortly remove this difference ? If not, why not ?

The Honourable Mr. A. C. Chatterjee : Yes. In the case of clerks the work of an absentee cannot be carried on except by a man who has been properly trained for a fairly long period and, in order to grant the working staff a sufficient amount of leave, it is necessary to maintain throughout the country a standing paid reserve equal to 17 per cent. of that staff. When a postman requires leave, there is usually a menial in the same Office who is fit to carry on his duties and there is very seldom any difficulty in finding a suitable outsider to fill the place of the menial. There are, however, several places where it is necessary to maintain a paid reserve of postmen and the percentage of the reserve on the working staff varies with the locality. There are also a few places where a 5 per cent. paid reserve of menials has been found to be essential and has accordingly been provided. Government see no reason for altering the arrangements described above.

HOUSE-RENT FOR POSTMEN IN POONA.

204. *Mr. N. M. Joshi : Will Government be pleased to state whether they are prepared to consider the question of granting house-rent allowance to the Postmen serving in Poona and Thana Districts, in view of the shortage of housing accommodation and high prices prevailing at these places ?

The Honourable Mr. A. C. Chatterjee : In accordance with the recommendations of the Postal Committee, 1920, the same scale of pay, viz., Rs. 27—45, was sanctioned for the postmen in Bombay, in the Poona head office and its town offices and in a number of post offices in the Thana District which are in the vicinity of Bombay ; and the necessary distinction in

favour of the men in Bombay was made in the shape of a house-rent allowance of Rs. 7 a month. The postmen in other portions of the Thana and Poona Districts were placed on a scale of either Rs. 20 rising to Rs. 32 or Rs. 18 rising to Rs. 24. At certain places in the Thana District where the grant of a house-rent allowance was considered essential, this has been sanctioned ; but it is not considered necessary to grant such allowances to postmen in all the offices of the Thana and Poona Districts.

Mr. S. C. Shahani : Will the Government be pleased to state whether, for similar reasons, they are prepared to consider the question of granting house-rent allowances to the postmen serving in Karachi ?

The Honourable Mr. A. C. Chatterjee : I do not think that question arises, Sir.

PENSIONED POSTMEN IN BOMBAY.

205. *Mr. N. M. Joshi : Will Government be pleased to state the proportion of Postmen in the city of Bombay who have retired on pension during the last five years, to their total number and how many of them have enjoyed or are enjoying their pensions for more than a year ? How does this proportion compare with the similar proportion in the case of clerks ? If the proportion in the case of clerks is smaller, will Government be pleased to explain the reason ?

The Honourable Mr. A. C. Chatterjee : The number of postmen in the city of Bombay and the number who retired on pension during the last five years were :

			Number of Postmen.	Number that retired.
1918-19	..	..	897	4
1919-20	..	..	942	1
1920-21	..	..	956	0
1921-22	..	..	1,100	9
1922-23	..	..	993	14

It is impossible to say, without elaborate inquiry from Local Governments and Treasury Officers all over the country, how many of these men have enjoyed or are enjoying their pensions for more than a year. The class of men recruited as postmen, the kind of work they have to do, and their habits of life are so different from those of clerks employed in the Post Office that, in my opinion, no useful inferences can be drawn from a comparison of the figures relating to these two different types of employees.

Mr. N. M. Joshi : Does the Honourable Member think that the postmen are so different from clerks that the postmen should not live sufficiently long to get pensions ?

The Honourable Mr. A. C. Chatterjee : I do not think, Sir, that that inference arises from my answer.

RAILWAY CONCESSIONS TO BOY SCOUTS.

206. *Mr. N. M. Joshi : (a) Will Government be pleased to place on the table the rule or rules, if any, prevailing on Indian Railways, which allows or allow Boy Scouts to travel at concession rates on Railways ?

(b) Will Government be pleased to state whether it is a fact that the Oudh and Rohilkhand Railway issue tickets at concession rates to the Indian Boy Scouts Association having its headquarters at Lucknow, while it has refused the same privilege to the Boy Scouts of the Seva Samiti Association of Allahabad? If so, why has this distinction between the two Associations been made?

(c) Do the Government propose to issue orders to the Railway authorities of the Oudh and Rohilkhand and other Railways to give the same privileges to the Seva Samiti Boy Scouts Association of Allahabad as are given to the Lucknow Association? If not, why not?

The Honourable Mr. C. A. Innes : (a) The rule is as follows :

“On production of a certificate signed by the Scout Master, Boy Scouts in uniform, when in parties of not less than four, are allowed return tickets at a single fare of the class of carriage occupied.”

(b) Yes. The Railway has hitherto recognised only those Boy Scouts who are Members of Baden Powell Boy Scouts Association incorporated by Royal Charter.

(c) The Honourable Member's suggestion will be taken up with the Agent.

Mr. S. C. Shahani : Will the Government be pleased to state if they would be prepared to have a rule passed to enable cricketers, footballers, hockey or other players to travel at concession rates on Indian railways?

The Honourable Mr. C. A. Innes : That is a matter for decision by the Agent concerned.

SALARIES OF ORDNANCE CORPS.

207. ***Mr. N. M. Joshi :** (1) Will Government be pleased to give the following information :

(a) Is it a fact that the revision of salaries of Indian clerks of the Indian Army Ordnance Corps was made one year after the revision of certain other Military Departments? If so, why?

(b) Is it also a fact that on account of this late revision in the case of Indian Army Ordnance Corps, the clerks of this Department have been losers both in pay and pension as compared with their compeers in other Military Departments? And if so, how do they propose to make good the loss of the clerks of the Indian Army Ordnance Corps?

(2) Will Government be pleased to state whether it is a fact that the increases sanctioned for Indian clerks in the Indian Army Ordnance Corps and the percentage of higher appointments are much smaller than those sanctioned for Military Accounts Department and certain other Military Departments? If so, will Government explain the reasons for this difference?

Mr. E. Burdon : (1) (a) Revised rates of pay for clerks of the I. A. O. C. were sanctioned with effect from the 1st April 1921. In the

case of certain other departments the corresponding dates were as follows :

M. W. S.	.. .. .	1st January 1921.
S. and T. Corps (temporary revision)	.. .. .	1st April 1920.
M. A. D.	.. .. .	1st April 1920.

The revision of the rates of pay of clerks of different Army Departments was taken up in turn as the cases came forward in proper form. It was impracticable to deal with all simultaneously and it was impracticable to adopt the same date for the introduction of new rates in all cases.

(b) Yes. Government do not propose to take any action of the kind suggested by the Honourable Member.

(2) The percentage of increase in pay sanctioned for clerks of the I. A. O. C. is the same as that sanctioned for the M. W. S.; it is higher than that sanctioned for clerks of the S. and T. Corps and lower than that sanctioned for the Military Accounts Department. The percentage of higher appointments is lower than in the M. W. S., the S. and T., and the M. A. D.

The revision of pay and the distribution of posts varied with the requirements of each department.

MEMORIAL BY ALL-INDIA ARSENAL CLERKS' ASSOCIATION.

208. ***Mr. N. M. Joshi :** Will Government be pleased to state whether it is a fact that the All-India Arsenal Clerks' Association had sent a memorial demanding further increases or equality of treatment? If so, will they be pleased to state whether they propose to accede to some extent to the demands made therein?

Mr. E. Burdon : The memorial referred to has just been received. I am afraid I can hold out no hopes to the Honourable Member that any further increases of pay will be given.

CONVEYANCE ALLOWANCE FOR ORDNANCE CORPS.

209. ***Mr. N. M. Joshi :** (a) Will Government be pleased to state whether it is a fact that the clerks in the Indian Army Ordnance Corps who are compelled to live at a distance of over three miles from the centre of their work, are not given conveyance allowance while such clerks in the Military Accounts Department are given this allowance? If so, what are the reasons for this difference?

(b) Will Government be pleased to state whether they intend to extend this privilege of conveyance allowance enjoyed by the clerks in the Military Accounts Department to the clerks in the Indian Army Ordnance Corps? If not, why not?

Mr. E. Burdon : (a) and (b). The conveyance allowance to clerks in the Military Accounts Department is not given to those working in the central offices of Controllers of Military Accounts; it is restricted to those who are attached to units and other formations in connection with the preparation of their pay or cost accounts and who accordingly have to work away from their parent offices. The arrangement is a

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temporary one and the question of revising it is now under consideration.

POSTAL INSURANCE POLICIES.

210. *Dr. Nand Lal : (1) Will Government of India be pleased to state :

- (a) the number of public servants who have taken Postal Insurance Policies ;
- (b) the total amount for which they are insured ;
- (c) the net profit which the Government made during the last ten years ?

(2) Are the Government of India prepared to consider the advisability of distributing the net profit among the Insured ?

Mr. G. R. Clarke : (1) (a) 37,020.

(b) Rs. 5,77,25,867.

(c) Government do not make any profit from the Post Office Insurance Fund.

(2) This is being done since 1907 when the valuation of the Fund was first made.

Dr. Nand Lal : If the Government does not get any profit, what is the real object of maintaining this institution ?

Mr. G. R. Clarke : The real object, Sir, is for the benefit of Government servants.

AMALGAMATION OF NORTH-WEST FRONTIER PROVINCE AND PUNJAB JUDICIARY.

211. *Dr. Nand Lal : Will Government of India be pleased to state as to when the Judiciary of North-West Frontier Province shall be amalgamated with that of the Punjab ?

Mr. Denys Bray : As the Honourable Member is aware, the expediency of judicial amalgamation was one of the subsidiary terms of reference referred to the North-West Frontier Enquiry Committee. The Committee was as sharply divided over this question as over the main question of complete amalgamation. The whole subject, which is one of great complexity, is still under the consideration of Government.

Dr. Nand Lal : Will the Honourable Member be pleased to enlighten the Assembly as to the probable date ?

Mr. Denys Bray : I cannot inform the Honourable Member.

Dr. Nand Lal : Will the Honourable Member be kind enough to enlighten this Assembly whether this Session or next year ?

Mr. Denys Bray : I have already given the Honourable Member his answer.

Dr. Nand Lal : Cannot you oblige us by giving us a definite answer ?

Sir P. S. Sivaswamy Aiyer : May we know when the report of the Frontier Committee will be published ?

Mr. Denys Bray : I am afraid I cannot answer that question either. Government do not propose at present to publish the report.

Mr. N. M. Samarth : Is it a fact that Sir John Maffey in a recent speech at Peshawar stated that the report of the Frontier Committee will be soon published ?

Mr. Denys Bray : The fact is correct ; the statement was incorrect.

Sir Deva Prasad Sarvadhikary : Has the decision of the Government to withhold the publication of the Frontier Committee's Report anything to do with recent happenings on the Frontier ?

Mr. Denys Bray : Nothing at all, Sir. It has a great deal to do with the recent happenings in the Punjab and the recent great increase of Hindu-Moslem tension in Northern India.

Dr. Nand Lal : Will the Government of India be pleased to take steps towards the free issue of licenses for arms ?

Mr. President : Order, order. That question does not arise.

DISMISSAL OF WATERMEN ON NORTH-WESTERN RAILWAY.

212. *Dr. Nand Lal : (1) Will Government of India be pleased to state as to whether it is true that the watermen on the North-Western Railway, specially on its Branch Lines, as for instance—

- (a) Lala Musa to Shorekot ;
- (b) Lala Musa to Kundian ;
- (c) Malakwal to Khewra ;
- (d) Malakwal to Behra ;

have been dismissed ?

(2) If the answer to this question be in affirmative then do Government of India propose to consider the advisability of directing the Railway Department to reinstate them or appoint new watermen in their places ?

(3) Is Government of India aware that this dismissal has caused a great inconvenience to the passengers—specially third and intermediate ones ?

The Honourable Mr. C. A. Innes : (1), (2) and (3). Government have no information. The matter is one which is within the competence of the Agent, North-Western Railway, and if any reductions in the numbers of watermen have been made Government are satisfied that the requirements of passengers have been carefully considered.

Dr. Nand Lal : Is the Government of India in receipt of any complaint in this connection ?

The Honourable Mr. C. A. Innes : Not that I am aware of, Sir.

Dr. Nand Lal : Is the Government of India contemplating taking action to fit a water reservoir in third class and intermediate class carriages for the convenience of passengers and to obviate the present difficulty ?

The Honourable Mr. C. A. Innes : I believe that question is under consideration.

Dr. Nand Lal : Can it be expected that the result of that consideration will be out very soon ?

The Honourable Mr. C. A. Innes : I can give no assurance on the subject.

DISMISSAL OF PEONS AND CLERKS.

213. ***Dr. Nand Lal :** Will the Government of India be pleased to state if it is true that many peons and clerks have been served with notice, that their services are no longer required, instead of bringing in reduction some of the fat salaried posts, or dispensing with the services of some very highly paid officers ?

The Honourable Sir Basil Blackett : The posts in the Government of India Secretariats which have been abolished in the course of retrenchment range from appointments of Secretary to the Government of India to posts of peon. There is no foundation for the suggestion that retrenchment has been limited to low-paid posts. Some such posts have of course come under reduction, but the Government of India have done, and are doing, their best to minimise the hardship caused to individuals who have been thrown out of employment.

Dr. Nand Lal : Will the Honourable the Finance Member be pleased to tell us how many posts carrying very high salaries have been brought under reduction ?

The Honourable Sir Basil Blackett : I think the answer that was given a week ago in answer to Sir Deva Prasad Sarvadhikary last week.

Dr. Nand Lal : Will you kindly repeat the same ?

The Honourable Sir Basil Blackett : The answer in question, as far as remember, ran to forty pages of print.

Dr. Nand Lal : Cannot you remember the gist of it, Sir.

Mr. President : Order, order.

SALE PROCEEDS OF RAILWAY TICKETS.

214. ***Dr. Nand Lal :** Will Government of India be pleased to state :

- (a) as to what has been the increase or decrease in the sale proceeds of the railway tickets, with effect from the date of the increase in the railway fares up to the end of May 1923 ?
- (b) as to what has been the increase or decrease in income on account of increase in Post Card, letter postage and other postal charges ?

Mr. G. G. Sim : (a) The increases in fares were introduced by individual Railways on different dates during May, June and July 1922. An accurate estimate of the increase in the earnings from passenger traffic due to the enhanced fares cannot therefore be made from figures for the period mentioned.

The coaching earnings, however, of 14 of the most important railways for which figures are readily available were Rs. 40,83,84,294 from 3rd June 1922 to 2nd June 1923, against Rs. 37,43,56,352 for the

same period of 1921-22 which is an increase of Rs. 3,40,27,942 or 9.09 per cent.

(b) The total increase due for the financial year ending 31st March 1923 is not yet known, but from the returns received up to date it is estimated roughly at about 100 lakhs.

ENHANCEMENT OF TELEPHONE RATES IN LAHORE.

215. ***Dr. Nand Lal :** (1) Will Government of India be pleased to state as to how many old customers the Government Telegraph Department has lost by increasing the telephone rent charges in Lahore, the enhancement being from Rs. 150 to Rs. 250 per annum ?

(2) Will Government of India be pleased to state as to how much loss it (the Government Telegraph Department) has sustained, or how much monetary profit it has made, by enhancing the aforesaid telephone rental charges in Lahore ?

(3) Will Government of India be pleased to state as to how many new customers the Government Telegraph Department has secured, in connection with the telephone in Lahore, with effect from the date of the enhancement in rate ?

Mr. G. R. Clarke : During the 12 months from the date of revision of rates—

- (1) 96 old subscribers gave up their connections.
- (2) The revenue increased by Rs. 60,875.
- (3) 111 new subscribers came on to the exchange and 13 were on the waiting list at the end of the year.

Dr. Nand Lal : May I ask the Honourable Member to enlighten this Assembly if the old customers would not have given up, then would there not have been a still greater increase in the revenue ?

Mr. G. R. Clarke : I do not think that question arises out of it.

Dr. Nand Lal : Is not the Honourable Member of this opinion, that there has been some appreciable decrease on account of some of the old customers having abandoned the instrument ?

Mr. G. R. Clarke : Sir, I beg to assure the Honourable Member that there is an increase, not a decrease.

Dr. Nand Lal : What I beg to ask is this, if the old customers had not abandoned the telephone would there not have been a still more appreciable increase in the revenue of Government ?

Mr. G. R. Clarke : I cannot say what are the inner workings of the mind of the old customers.

Captain E. V. Sassoon : Is it not a fact that as long as there is a waiting list it would not be possible to have the old customers as well as the new customers ?

Mr. G. R. Clarke : That is quite true.

DESPATCH OF SALT DUST FROM KHEWRA.

†216. **Dr. Nand Lal :** Is Government of India aware that—

- (a) in the last two years disproportionately great quantity of salt dust was despatched or consigned from Khewra,

† For answer to this question—see answer below Question No. 218.

- (b) a number of representations, in connection with these grievances, were made to the Commissioner, Salt Department, Agra,
- (c) Salt Department was charging heavily for gunny bags in which the salt was despatched,
- (d) that a number of Salt Agents (salt licensees) and Salt Merchants suffered materially due to this salt dust having been sent to them and the heavy charges for gunny bags?

REPRESENTATIONS OF MERCHANTS AND SALT LICENSEES.

+217. *Dr. Nand Lal : (1) Will Government of India be pleased to state as to whether the Commissioner, Salt Department, has given some favourable response to the representation of the merchants and salt licensees?

(2) If the Commissioner, Salt Department, has not given any favourable response as yet, will Government of India be pleased to state—

- (a) as to why these grievances of the public have not, till now, been adequately attended to by that department;
- (b) as to what steps they propose to take in order to redress these grievances?

SALT DUST.

218. *Dr. Nand Lal : (1) Do the Government of India propose to direct the Salt Department to avoid mixing of salt dust with lump salt?

(2) Will Government of India be pleased to state the rules in connection with the ratio of the dust salt with one maund of lump salt?

The Honourable Sir Basil Blackett : With the Honourable Member's permission I will answer Nos. 216, 217 and 218 together.

The information asked for by the Honourable Member is being collected and will be furnished when available.

Dr. Nand Lal : May I ask the Honourable the Finance Member whether he will kindly take effective steps so that salt dust may not be mixed up with lump salt till the answer to my question is conveyed to me?

The Honourable Sir Basil Blackett : I did not quite catch the question, but I may say in answer that no salt dust is being issued.

Dr. Nand Lal : Not wholly or solely, but part of the lump salt is mixed up with salt dust. That is what I mean. May I ask the Honourable the Finance Member if he will kindly enlighten me whether he will be kind enough to give me that undertaking.

Mr. President : Order, order. I think the Honourable Member had better wait for the information which is on its way to him.

PRICE OF SALT.

219. *Dr. Nand Lal : (1) Will Government of India be pleased to state as to at what average rate the salt used to be sold, in market, to the consumers directly, by the salt merchants and salt licensees, namely, what was the retail sale price of salt per maund during last year ending with February, 1923.

† For answer to this question—see answer below Question No. 218.

(2) Will Government of India be pleased to state as to at what rate the salt is being sold, in market, to the consumers directly, by those shopkeepers who deal in salt, namely, what has been the retail price of salt per maund since April last and what is it actually in the current month?

The Honourable Sir Basil Blackett : The retail prices of salt in the various districts are published every fortnight in the Supplement to the *Gazette of India*. These prices vary considerably from province to province and from district to district on account of the incidence of railway freight and so on. It would, therefore, involve a great deal of difficulty to work out average prices for the whole of India at different periods for purposes of comparison. I would, however, invite the Honourable Member's attention to the statement made by me in this Assembly on the 4th instant in the course of which I gave figures showing the actual percentage increase in retail prices which has taken place in the various provinces.

Dr. Nand Lal : May I ask the Honourable the Finance Member to enlighten me whether the old system of salt licences is still in existence for all practical purposes? Has the monopoly in salt sales been abandoned or is it still in continuance?

The Honourable Sir Basil Blackett : I do not think that question arises, Sir.

Mr. S. C. Shahani : Will the Government be pleased to state if they will be pleased to ascertain whether it is true that in Sind a seer of salt which used to sell for one anna before the Finance Bill now sells for two annas?

The Honourable Sir Basil Blackett : If the Honourable Member will give me evidence on which he bases that statement, I shall be very ready to look into it.

Mr. S. C. Shahani : I am a zamindar myself and I have intimate contact with the cultivators of my own part. I have made enquiries there and find.....

Mr. President : The Honourable Member may ask a question and not give information.

SALES OF SALT.

220. *Dr. Nand Lal : Will Government of India be pleased to state as to how much the decrease or increase, in the sale of salt from Khewra mines, has been since the first of March last up to the end of June 1923, when compared with the same period of last year, namely, from the 1st March 1922 to the end of June 1922?

The Honourable Sir Basil Blackett : I cannot give figures of sale during the period in question, but only of indents. During the 4 months March, April, May and June 1923, there was a decrease as compared with the previous year of 14,83,369 maunds. Total issues from Khewra during the year ending the 31st March 1923 were, however, 9½ lakhs of maunds in excess of the issues of 1921-22, and in the total issues of all the Northern India sources there was an excess of over 19 lakhs of maunds.

Dr. Nand Lal : May I ask the Honourable the Finance Member as to what the decrease relating to the former part of the question was due to or is due to ?

The Honourable Sir Basil Blackett : The increase in the earlier period.

CONSUMPTION OF SALT.

221. ***Dr. Nand Lal :** Will Government of India be pleased to state as to how much the decrease or increase, in the consumption (retail sale to the consumers directly by those shopkeepers who deal in salt) of salt has been since the 1st of March last up to the end of June 1923, when compared with the same period of last year, namely, from the 1st March 1922 to the end of June 1922 ?

The Honourable Sir Basil Blackett : The Honourable Member is referred to the answer given by me on the 2nd instant to a similar question asked by Mr. J. N. Basu.

Dr. Nand Lal : Does the Honourable the Finance Member remember what answer was given ? Will he kindly enlighten us ?

The Honourable Sir Basil Blackett : Both I and he have eyes and I imagine we can read if we look at the debates.

UNSTARRED QUESTION AND ANSWER.

NEW SUPERIOR APPOINTMENTS ON RAILWAYS.

108. **Mr. N. M. Joshi :** Will Government kindly lay on the table a statement showing, for the State-worked and Company-worked State Railways, the new appointments in the Officers' grades since the 31st March 1914 and the scale of each such appointment ?

Mr. G. G. Sim : The State Railway Classified List, a copy of which is in the Library, will give the information regarding the State Railway Establishments. The Government of India have not got the information regarding the Company-worked lines.

THE INDIAN NATURALIZATION BILL.

The Honourable Sir Malcolm Hailey (Home Member) : Sir, I beg to lay on the table the report of the members of the Select Committee to which the Bill to consolidate and amend the law relating to the naturalization in British India of Aliens resident therein was referred.

THE INDIAN STAMP (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to lay on the table the report of the Select Committee to which the Bill further to amend the Indian Stamp Act, 1899, was referred.

RESOLUTION *RE* CERTIFICATION BY GOVERNOR GENERAL.

AMENDMENT OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT.

Mr. President : The Assembly will now resume the debate upon the Resolution moved by Dr. Nand Lal. The original question was :

"This Assembly recommends to the Governor General in Council that he may be pleased to take necessary steps to get section 67B of the Government of India Act amended so as to provide that the Governor General shall not use his special emergency powers of certification under section 67B, to overrule the decision of the Indian Legislative Assembly ;"

to which an amendment* has been moved, to leave out all the words after "amended" in order to insert the words as follows :

"(1) The words 'or interests' occurring between the word 'tranquillity' and the words 'of British India' be deleted.

(2) The proviso be amended as follows :

(a) The word 'grave' be inserted before the word 'emergency', and

(b) the following be inserted after the word 'emergency' :

'such as foreign invasion, civil war or widespread internal commotion and in no other circumstances'."

The Assembly will observe that the amendment in Mr. Basu's name raises two issues and I propose to put them separately and therefore for the purposes of the debate now about to be resumed, the amendment to omit the word "interests" in section 67B is now the subject under discussion and the debate will be restricted to that subject.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : Sir, I beg to support Mr. Basu's amendment in its first part, as you have been good enough to rule that these two parts will be separately debated. I might as well say that I believe Mr. Basu will drop the second part of his amendment, because he feels that the sense of the House is not in favour of the second part of the amendment ; and in supporting this amendment I may be permitted to make the following observations.

Sir, as you are aware I am one of those "modern Hampdens" to whom the Honourable the Home Member so playfully referred the other day, "as having come back to the mother assembly without having received any scars of martyrdom on our bodies with the boast that we have inflicted a great blow upon Government by coming in unopposed at the re-election." I may tell the Honourable the Home Member that I do not grudge him the pleasure of indulging in cheap sneers at my expense. The redoubtable knight of Government is quite welcome to break his lances of wit on my devoted head ; for after all it will be scarcely sportsmanlike on my part to grudge the members of the Government the pleasure and the solace of hiding their discomfiture by laughing to scorn, a gesture which can have only one interpretation, namely, a reflection upon and a disapproval of the action of Government. Government members are after all human beings ; they ought not to be angels and they are not : and even a character like Shylock said "Hath not a Jew eyes ? Hath not a Jew organs, dimensions, passions and affections ? If you prick him, does he not bleed ? If you wrong him,

* By Mr. J. N. Basu.

[Mr. Harchandrai Vishindas.]
will he not be revenged ? ” And why should not Government members have the same possession ? But I can assure them that so far as I am concerned the Honourable Sir Malcolm Hailey’s shafts of jeers will have as much effect upon me as buck-shot can have upon rhinoceros.

The Honourable Sir Malcolm Hailey (Home Member) : I did not pass that reflection upon the Honourable Member’s skin.

Mr. Harchandrai Vishindas : Upon whatever part of my body, whether it was the skin or nose or elsewhere, it was aimed at, it has glanced off. Now, Sir, I have received these gibes and jeers with the utmost composure and good humour. I can only say this much, that whatever view the Government members may take, resignation is a recognised form of protest and my constituency desired and recognised it as such and to mark their sense of appreciation and approval it returned me unopposed however much that may form part of Sir Malcolm Hailey’s derision.

Now, Sir, the next thing that I will say in this connection is that I expect and I solicit reciprocity from Sir Malcolm Hailey ; that he will also observe the same kind of composure and good humour when I proceed to expose the thorough hollowness of his arguments.

Sir Malcolm Hailey in his very able speech the other day, that is, Wednesday last, first of all said that he was aware that resentment had been felt at the exercise of this power of certification in this Assembly ; but he would not offer any opinion as to whether any such resentment had been excited outside the Assembly. Now, Sir, do I understand that the Honourable the Home Member, who, like Atlas ; bears upon his shoulders the burden of the great Indian Empire, is not aware of what is going on all round him ? Is he, who so assiduously preserves extracts from the proceedings of Congresses and Conferences of which we had a very elaborate presentation the other day, is he not aware of the opinions expressed in all the Indian newspapers on this subject ? I dare say he could not be unaware of the fact that there is scarcely an Indian-edited newspaper, whether of the co-operating or non-co-operating persuasion, whether moderate, liberal or extremist, and there is scarcely a politician who has not expressed his condemnation—and that in no uncertain terms—of this power of certification. Mrs. Besant, an erstwhile staunch supporter of Government, Sir Tej Bahadur Sapru, Mr. Chintamani, late Members of Government, not to mention other names, all these persons have expressed and declared themselves against the exercise of this power ; and there have been several associations who have sent memorials to Government to the same effect. But no greater proof of this can be had than the speeches of some non-co-operators who welcomed this power, not because they approved of it, but because they think that it verifies the prognostications they held out from the beginning that these reforms were a mere sham and that the moderates were simpletons and dupes and now they should join their ranks. I say, Sir, that all these circumstances go to show that public opinion, I mean Indian public opinion, not Anglo-Indian public opinion, has expressed itself in no uncertain terms against this power of certification.

That being the case the two illustrations that the Honourable Sir Malcolm Hailey gave, go by the board, in my opinion. He first of all cited the instance of the abolition of the Army Commission purchases. Now, this instance took place in 1871, more than half a century ago, and it shows how hard put to it must Sir Malcolm Hailey have been that he could not cite any more recent instances at all. But even then, I presume that it is not a parallel case ; the purchase of Army Commissions was to my mind a kind of corrupt practice ; and if the legislature refused to abolish this purchase, then the legislature’s decision was a morally perverse one and there was no wonder that the royal warrant was invoked in order to effect its abolition ; and although, as Sir Malcolm Hailey might tell us, there was a howl against the use of the royal prerogative at the time, I gather that public opinion in England must have been against this immoral practice. But public opinion I say has been entirely against the certification ; therefore the two cases are not similar.

Then again he quoted the instance of President Cleveland’s 301 instances of his exercise of the power of veto, and he followed that up by saying that according to Lord Bryce that was approved by the public. I say, Sir, that illustration also goes by the board, because here certification has not been approved by the public. But before we leave Lord Bryce, I had better quote a passage from him which shows how far the powers of self-government should be conferred upon a people. He says :

“ The possession of political rights since it gives self-respect and imposes responsibility does of itself make men fit to exercise those rights, so that citizens who enjoy liberty will be sure to value it and guard it.”

After this Sir Malcolm Hailey proceeded very jubilantly and triumphantly to trace back the history of this power of certification, to give the opinions of members, Congresses and Conferences here and of the labour party in England, to show that almost all sections of opinion which could be respected were united in the introduction of these powers. I do not quarrel with that. Who disputes that ? But is it any argument that because you have once started a scheme you must adhere to it through thick and thin to the end, although it should be found to be a failure ? This is the first time I hear an argument like that. It is quite clear according to us—I know the Government will not agree with us—but according to us this power has been wrongly used ; and once it has been wrongly used it is an occasion when we should review our position and make all efforts to see that these powers are not wrongly used in future.

Mr. L. Graham (Secretary, Legislative Department) : On a point of order, Sir ; does the Honourable Member intend to reflect on the action of the Governor General ?

Mr. Harchandrai Vishindas : If I am not entitled to reflect on the action of the Governor General, I will rub it in to his advisers. I say those who advised the exercise of these powers advised wrongly.

The Honourable Sir Malcolm Hailey : Do you know who they are ?

Mr. Harchandrai Vishindas : I can very easily imagine. I have got common sense and I could see meetings being held that day which prevented the Honourable the Home Member from being present in the Assembly to oppose Mr. Agarwalla’s Bills, as he himself told us the other day. Sir,

[Mr. Harchandrai Vishindas.]

Colonel Wedgwood himself pointed in the passage which was quoted by my friend Mr. Samarth the other day, that the word "interests" is so very vague that it opens a wide door for the exercise of this power on all occasions, whether opportune or otherwise, and events have proved that such apprehensions are not unfounded, because we now see that for paltry things this power is being exercised. I do not propose to go into the question whether this doubling of the salt duty is right or wrong; because if I do so I shall be repeating what has been already said at great length both in this House and outside it, and it will really serve no useful purpose. Government will never be in accord with us. As the Punjabee proverb says: *Tūn ākhen main na mansān, bāzi tain jitti ke main.* "If you say and I do not accept, who scores the victory? you or I?" So there is no use going over that ground at all. But I will say this much that the doubling of the salt-tax was not at all called for. The other day, as you will remember, Sir, a question was put to Finance Department as to how far the 24 crores rupee loan that had been floated had been subscribed, and the Honourable Sir Basil Blackett replied that on the very first day 16 crores had been actually subscribed, that is two-thirds, and the Honourable Sir Malcolm Hailey with his usual smartness interposed an interjection "poor bankrupt India" by which he evidently meant that India is not poor.

The Honourable Sir Basil Blackett : Thanks to the doubling of the salt tax.

Mr. Harchandrai Vishindas : Now, Sir, 4 crores more or less to the Treasury will not make any difference. A past master of repartee like Sir Malcolm, who could ward off the onslaughts of the valiant Kabiruddin Ahmed on whispers and inspirations by referring him to the wireless department of the Government of India, will at once retort with the remark "Ah, but that is all due to the balanced budget."

Mr. President : The Honourable Member should understand that we are not now discussing the salt tax, nor are we on the Finance Bill.

Mr. Harchandrai Vishindas : Well, Sir I shall refrain from pursuing this point any further. What I was submitting was that this salt tax has given rise to the use of the power of certification, which, as I have said, is not at all justified, and I will stop short there.

Now, Sir, while supporting only Mr. Basu's amendment, I have to make this remark that the Honourable Sir Malcolm Hailey read out the other day several quotations to prove that several schools of thought both in India and England were in favour of the retention of some such powers. I quite agree with that remark, because I think that some such powers ought to be retained. Therefore I am not in favour of the sweeping proposition of my friend Dr. Nand Lal for the wholesale abolition of the powers of certification, but only for the deletion of the word "interests," and in this connection, as a matter of drafting, I would suggest that while you drop the words "or interests" the word "or" ought to be inserted between the words "safety" and "tranquillity." Well, I do not think by the withdrawal of this power the foundations of the Empire would be

shaken in the least; especially when in matters of finance in which the Legislative Assembly or the House of Commons are considered to be the custodians of the purse, I think it is desirable that in such cases no temptation should be given to the Governor General to interfere with this power.

Now, Sir, surely it cannot be said that this power should be exercised by the Government on each and every occasion when they are in a minority in the Assembly. The gravity of the occasion is the acid test. We say that this occasion was not so grave as to flout and disrespect the opinions so repeatedly expressed by this House. We are unfortunately under the sway of a Government who cannot be expected to uphold the rights of the Assembly. I daresay Mr. Montagu never contemplated the exercise of these powers on occasions like the one we are criticising, and if the present régime continues, I think that there will be many occasions for the exercise of this power, unless these powers are withdrawn, and the whole voice of the Assembly will be nugatory. Now, Sir, we are under the direction of men who exercise a great deal of influence; although not on the surface of the Cabinet, still they exercise a great deal of influence upon the deliberations and the decisions of the present Government in England. These are those men whom Mr. Montagu in his speech on the second reading of the Bill in the House of Commons described thus:

"Lord Sydenhams of the future would like to remain on their thrones untrammelled by control from above and undismayed by criticisms from below."

These people are also described in his famous book "Hope of Europe" by Sir Phillip Gibbs in these terms:

"There is one type of man in England who is hard in his Imperialism, reactionary against any effort of change or progress, disliking all aliens and a firm believer in resolute rule with machine guns and tanks. He was the defender of the Amritsar massacre. He is all for the shooting down of the unemployed if they make themselves annoying. He writes letters to the 'Morning Post' which is published exclusively for his class and ideas."

Sir, one does not know for how long this Government will go on. When the reform proposals were on the *tapis*, if this class were in power they would have seen that these reforms and their authors were relegated to a place which it would be unparliamentary for me to mention. Hereafter, if the same state of things continues at the end of the statutory period of 10 years, I think the hands of the clock will be put backwards and not forward.

Now, Sir, I shall conclude by making a quotation for the benefit of those who are intoxicated with the lust of power engendered by the possession of machine guns and air forces, and that quotation is from Macaulay. He says:

"The evils of submission are obviously greater than those of resistance. A time comes when fear itself begets a sort of courage and warns autocrats not to presume too far on the liberty, the patience and forbearance of the subjects."

Mr. L. Graham : Sir, I will first deal with the personal matters which Mr. Harchandrai Vishindas has put before the House. The nature of his return to this House has, I think, in some way added interest to this debate. He has represented this House as his mother, and I say to him that I welcome an erring child back. We think that he has been very foolish,

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perhaps a little naughty ; we see no political significance in it at all. Mr. Harchandrai, to the best of my recollection, left this House a moderate, opposed to the salt tax, opposed to certification. He comes back to this House, so far as I can judge from his speech, a moderate opposed to the salt tax, opposed to certification. Mr. Harchandrai

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next proceeds to say that many notable moderates have given voice to their disapproval of the certification of the salt tax. Sir, we are not here in this House to decide or even to suggest, or to debate the question, whether the salt tax was duly certified or not. The verdict on that point has been given in another place by a notable majority.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Indians had no voice.

Mr. L. Graham : I believe certain representatives of this House were at home working very hard on that occasion. On the points relating particularly to Finance I have no doubt that the Finance Member will give an adequate reply. I will now turn to the debate, Sir, generally, and in the first place, I would venture to resurrect Mr. Basu in order to make one or two points against him, which my Honourable friend the Leader of this House omitted to make. I venture to say "resurrect", Sir, because the Honourable the Home Member, with his usual skill, slaughtered and buried Mr. Basu on the last occasion. I would hardly find it necessary to refer to Mr. Basu but for the fact that he so grievously misled my venerable friend Sir Deva Prasad Sarvadhikary. Mr. Basu, I might almost say, threw a bombshell into this House, which was filled with poisonous gases generated by the hasty workings of a confused mind. His mind was quite incapable of taking the very obvious differences between section 67 A and section 67 B of the Government of India Act. Now, Sir, that question was really adequately dealt with by the Home Member, but after all, Members have short memories and I do not know how many at the present moment have got copies of the Government of India Act with them. Section 67 A, as I said before, deals entirely with expenditure whereas section 67 B deals with legislation, and as is generally known, I hope, our Finance Bill is a measure of legislation by which we impose taxation. Mr. Basu said that under sub-section (8) of section 67 A it was open to the Governor General to use his extraordinary powers and certify the Finance Bill. In view of the fact that some Members have not got copies of the Act with them, I think it necessary to read sub-section (8). It says :

"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."

You will mark that Mr. Basu has construed the words "authorise such expenditure" as equivalent to "pass such legislation".

Mr. J. N. Basu (Burma : Non-European) : Restoring.

The Honourable Sir Malcolm Hailey : Not restoring. That is sub-section (7).

Mr. L. Graham : The Governor General could certify under sub-section (8) if "to authorise such expenditure" meant "to pass such legislation." I was amazed that the House did not rise in horror at

Mr. Basu putting that proposal before it. I can only assure the House that had the Governor General taken such liberties with the interpretation of that section of the Government of India Act, there would have been nothing but rebellion in British India. The meaning is perfectly plain. Unfortunately, the matter is not at an end there. As I say, this poison generated by Mr. Basu has affected my friend Sir Deva Prasad Sarvadhikary. He comes before the House and says, "the Governor General's exceptional powers under section 67 A are limited to cases where the safety or tranquillity of British India are affected. Why then should not his extraordinary powers under section 67 B be limited in the same way?" Surely, this might seem a plausible proposition to any one who had not taken the trouble to consult the Act. What are the extraordinary powers under section 67 A? They are two, and they are vested in two separate authorities. There is the extraordinary power vested in the Governor General in Council under sub-section (7) of section 67 A. There is the extraordinary power vested in the Governor General under sub-section (8) of section 67 A. On what occasions can the extraordinary power vested in the Governor General in Council be used? For, that is the power to which Sir Deva Prasad Sarvadhikary was referring when he said, "Your powers of restoration are to be exercised only where the safety or tranquillity of British India is concerned." Sir, I doubt if a more incorrect statement of law was ever made on the floor of this House. The power of restoring a grant which has been refused by this Assembly is vested in the Governor General in Council, and it can be used in the following circumstances, namely, in any case in which the Governor General in Council declares that he is satisfied that any Demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities. If you are going to seek for an analogy between section 67 A and section 67 B, you will find the material for that analogy not in sub-section (8) but in sub-section (7). It would be quite justifiable, following that analogy, to contend that in section 67 B, the Governor General should have power of certification whenever he found it essential to the discharge of his responsibilities, and in fact, that is the meaning of the words in section 67 B. It says that "the Governor General may certify that the passage of the Bill is essential for the safety, tranquillity or interests of British India." In passing, Sir, I might be allowed to remind the House what is the true purpose of sub-section (8) of section 67 A. Fortunately or unfortunately—I leave it to the House to decide which—this Assembly is not continuously in Session throughout the year. Were this Assembly to continue to be in Session throughout the year there would be no occasion for resort to sub-section (8). But it may arise, when this Assembly is not in session, that expenditure must be incurred. There are long intervals of time when this Assembly is not sitting and events may then occur which may affect the safety or tranquillity of British India. It is not possible to call a sudden meeting of the Assembly, and in those cases, the Governor General takes the place of the Assembly and authorises expenditure of money. It is very fit and proper that he should be allowed to take the place of the Assembly only in cases where the safety or tranquillity of British India is concerned. But, Sir, because in those particular cases a restricted power is vested in the Governor General, that affords no argument for saying that his powers under section 67 B should be restricted in

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the same manner. The positions are entirely different. If you want an analogy, you must seek the position where the Assembly has refused a grant, not merely where the Assembly is not there to give a grant.

Now, Sir, I would like to turn—and I must apologise to the House for it—to a few hard facts of history. It is generally supposed that these words “safety, tranquillity, or interests of British India or any part thereof” are a haphazard collection of words strung together, a sort of omnibus collection of words, to give the Governor General power so that you may make sure that there is no loophole. Now, that is not so. This expression “safety, tranquillity or interests” is no new expression hurriedly strung together to make sure that the reforms should not be too effective. It is an expression which, Sir, has a history in the Government of India Act of 50 years. I do not know if members would be surprised to hear that the expression has its origin in the disputes between Warren Hastings and his Council. I think nobody wishes a position of that sort to be restored. Lord Cornwallis before he came to India stipulated that he should not be put in that sort of position. An Act was passed in 1786 and its provisions were re-enacted in 1793, and the important words which I would cite from those provisions are :

“Be it enacted, that when and so often as any measure or question shall be proposed or agitated in the Supreme Council at Fort William in Bengal, or in either of the councils of Fort Saint George and Bombay, whereby the interests of the said united Company, or the safety or tranquillity of the British possessions in India, or in any part thereof, are or may, be essentially, etc., etc.”

That is the origin of the phrase. The phrase occurs, in the form in which we have it now, first in the Government of India Act, 1870, which provided :

“Whenever any measure shall be proposed before the Governor General of India in Council, whereby the safety, tranquillity, or interests of the British possessions in India, or any part thereof, are or may be, in the judgment of the said Governor-General, essentially affected,”

It was necessary for the Governor General and for the Provincial Governors *vis-a-vis* the Executive Councils to have special powers of overriding them because the Governor General and the Governors as the case might be were responsible to Parliament. So, when under the reforms a large elected popular majority entered the Legislature it became necessary to provide a measure of special authority by which the Governor General should be able to force his will in matters essential to the discharge of his duties. A recommendation was made in favour of the Governor General in Council originally in the Montagu-Chelmsford Report. The idea was that there should be a second chamber containing a Government majority and through that second chamber the Governor General in Council should by certification be able to pass laws which would have the same operation as if they had been passed by both chambers and the limits which were suggested were these, “where such amendment or legislation was essential to the interests of peace, order or good government.” Now, Sir, the Crewe Committee when they were examining this Bill preparatory to its being introduced in the House of Commons, tentatively suggested that the words “safety, tranquillity or interests of British India or any part thereof”

appeared to be of a somewhat wider import than those contained in the Report, that is to say, “peace, order or good government.” The Government of India, Sir, would be quite satisfied if the words “peace, order or good government” occurred in section 67B and not the words “safety, tranquillity or interests”. Both of them cover the whole range of the responsibilities of the Governor General to Parliament, and it is because the certifying powers of the Governor General must be exactly co-extensive with his responsibilities to Parliament that the words which now occur in section 67B were introduced there. The proposal which is before us now is to strike out the words “or interests”. None of the speakers who have so far supported this amendment have ventured to show what the effect of it will be. Possibly they do not know, possibly they wish the House not to know. The effect of withdrawal of these words would, I submit, be nothing less than disastrous. It would be moreover a violation of the constitution. The constitutional position is, I may remind Members of this House, that special powers are granted in so far as the Governor General and the Governor, as the case may be, are not responsible to the electorate of this country but to Parliament. With the permission of the House I will draw the attention of Members to the provisions of section 72E of the Government of India Act—I would turn your attention, that is to say, to the provinces. The Governor in a Province has powers of certification. It is true they have not yet been used, but he has those powers and what are the limits on those powers? The Governor in a Province may certify “any Bill relating to a reserved subject” (*Voices* : “Reserved subject”)—“the Governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject.” Now, Sir, it is not to be so in respect of a transferred subject. Under the Government of India Act as it stands, we are well aware that by an amendment of the rules made under section 45A without an amendment of the Act, if we transfer subjects which are now reserved to the list of transferred subjects, the effect of such transference will be that the powers of the Governor under section 72E will automatically shrink, will be reduced *pro tanto*, and when the time comes when all the provincial functions become transferred subjects, the powers under this section will be entirely spent and the Governor will have no powers at all. That, Sir, is a very useful section as giving an indication of the line along which attempts to introduce reforms should proceed. I put it to the House that the Honourable Member is starting from the wrong end of his problem. The Governor General has responsibilities in respect of all his powers. He is not responsible to the Indian electorate; he is responsible to Parliament, and this point was very clearly laid down by Mr. Montagu in the debate on Mr. MacCallum Scott's amendment on this very clause. The objection raised was that these powers were far too wide. The reply was that they could not be too wide because they were co-extensive with the responsibilities. Mr. Montagu said :

“Under the scheme of the Bill we make the Government responsible to Parliament still for the whole of the Government of India.”

Consequently for that reason the House negatived without a division Mr. MacCallum Scott's amendment that the words “or interests” should be removed.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : After guarantees given by Mr. Montagu.

Mr. L. Graham : What were those guarantees ? They were certainly not guarantees to be introduced in the Bill and there was no proposal to have an amendment of the Bill. All he said was this :

“ That a member of Parliament will have an opportunity of discharging his true functions as the trustee of the Indian electorate and that he will have in order to deal with that subject the opportunity of a report upon the measure by a Standing Committee appointed by this House itself.”

There was no such provision in the Government of India Bill, as my friend will admit, and there was no suggestion that such a provision should be put in. I have no doubt that Members of the Houses of Parliament have had ample opportunities of finding out what is the value of a measure which has been certified by the Governor General and that the House of Commons was fully aware of the circumstances under which this Bill was passed. But that is a very minor point. Mr. Montagu's point was this that so long as the Government of India and the Governor General are wholly irresponsible to the Indian electorate certain powers must be vested in the Governor General to enable him to discharge his responsibility to Parliament. One more point, Sir. That is, that the law does provide adequate safeguards against the abuse of this power of certification. In the first place, I trust, Sir, that I am in order in saying this, you have the conscience of the Governor General. You will remember that the original proposal was that the Governor General in Council should certify. Now, Sir, it is notorious that corporations have no conscience, though I should not be understood as saying that the Government of India has no conscience but I will say that it is far more difficult for the conscience of an aggregate body of men to function effectively than it is for the conscience of a single individual. I would say that the Governor General being the authority empowered and being a single individual is responsible to his own conscience which provides an adequate check. Even if that check were not enough, you have the control of Parliament. Every Bill which is certified under this section has to be reported to Parliament. It may or may not according to circumstances require the assent of His Majesty. You know very well that if His Excellency thinks that a state of emergency exists, he may direct that his certification may come into operation at once. In such a case the assent of His Majesty is not required but the Act is subject to subsequent disallowance by His Majesty. I suggest, Sir, or rather I wish to emphasise the fact, that these two provisions of the law do furnish an entirely adequate safeguard and lastly, Sir, I put it to this House that the supporters of this amendment are attacking the problem from entirely the wrong end. It is as if you were trying to pull down a house by removing the bottom bricks first. The special powers of certification are required by the Governor General so long as he has the degree of responsibility to Parliament which he now has. Reduce that degree of responsibility to Parliament and you can at once *pro tanto* reduce the certifying powers of the Governor General. But at the present stage I oppose this amendment and I ask Members of this House to join with me in opposing it because it spells not a reform of the constitution but a mutilation of the constitution.

Rai J. N. Majumdar Bahadur (Presidency Division : Non-Muhammadan Rural) : I cannot withhold my sympathy from the Resolution

or rather the spirit of the Resolution which has been moved by my Honourable friend, Dr. Nand Lal, for he attempts by this Resolution to advance the cause of Indian autonomy which is prized so much by the Members of this House and with which I am glad to say the feeling of official members two years ago was in full sympathy. It has been denied by the Honourable the Home Member that that was not the case but I may point out to him that the then leader of the House, Sir William Vincent, said this :

“ I do not say for a moment that these decisions are like the law of the Medes and the Persians or that they cannot be altered. Nor do I personally believe that the present transitional scheme of this Government can last as long as is expected. I think we and the Government of India appreciate that as much as any one. Indeed the Secretary of State dealing with this matter himself said that if there is an unforeseen development in Indian conditions within the short space of ten years, because ten years is a very short period, the Act does not tie the hands of Parliament and there can always be a commission in the interval.”

The Honourable Sir Malcolm Hailey : Are you asking for a Commission now ?

Rai J. N. Majumdar Bahadur : If it is possible. Why not, Sir ? If you can have a commission within the short space of two years only for increasing the salaries of the Civil Service, why does not the constitution of the Government require another commission now ?

The Honourable Sir Malcolm Hailey : That is not the Resolution.

Rai J. N. Majumdar Bahadur : I am only answering your question. I know, Sir, that is not the Resolution. But what I submit is this : that this House is in full sympathy for restricting the powers of the Governor General in matters relating to the Financial Bill or any other Bill. I know, Sir, that it is very good to have an autocrat like Chandragupta or Asoka, to which allusion was made by my Honourable friend, because when we do not like him we can pull him down and put another autocrat. In this case we cannot do it and the British Government has not thought fit to give us an autocrat. The British Government has given us a Parliament, a mock Parliament we might call it. We have been given all the paraphernalia of Parliament, but at the same time we have not got any real power. What is the use of this snare and delusion of Parliament when we cannot use our powers and cannot be masters in our own House. Take this House away and let us have an autocrat. Let the Governor General do everything. I shall not have the least objection personally to that and the country will be quite satisfied. All this huge expenditure of money will be saved. But if this House is really to have some powers, then we must restrict the powers of the Governor General as much as we can. Two years ago we were led to believe that we have got some real powers and the Leader of the House then complimented us on having secured real powers. I shall again read what he said on that occasion. ‘ May I point out ’ Sir William Vincent then said, ‘ that he who holds the purse strings really controls the administration.’ We believed in holding the purse strings. But in this case where have the purse strings gone ? They have gone out of our hands ; the Governor General has taken hold of them all. The Parliament did not intend that the Governor General should exercise his powers on all and every occasion indiscriminately ; he was intended to exercise his powers discriminately in

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order to permit this House some exercise of its powers. Now, Sir, it has been said that the imposition of the doubled salt tax has created no feeling in the country. Sir, I join issue. I come from a district where the Bengal Provincial Conference was held this year. I know the feeling of the country. The feeling of the country is that the salt tax should never have been doubled. The fact is that the Government of India itself has always been against the imposition of the salt tax. Has not this salt tax been retained as a permanent tax in this country as a sort of apology, and has not every Governor General from time to time tried to reduce the salt tax whenever occasion arose? Has not every Governor General tried to be popular by reducing the salt tax?

Mr. President : The Honourable Member must not go into the merits of the salt tax. It has nothing to do with this debate.

Rai J. N. Majumdar Bahadur : I am not going into the merits of the salt tax. Let the salt tax be good or bad, but the question is whether the Governor General should be entrusted with the powers. It is not as if Parliament intended that he should be unrestricted. The Parliament has already restricted his powers to a certain extent, but, as it has been said, only in case of the safety or tranquillity or in the interests of British India or any part thereof can the Governor General interfere with the powers of this House. The powers of this House are real. I have been told that the powers of the Governor General of interference are also real. Quite so; but at the same time you ought to remember that the powers of this House are as real as the powers of the Governor General. If the powers of this House are not real, what is the use of having a House of this kind; and these powers of the House were not intended to be interfered with on occasions like this, and as in this particular instance of the salt tax, even though it had not been imposed, the Government could still be carried on. The Assembly has got some responsibility; it is not an irresponsible House. The more you take away the powers of this House the more you will make it irresponsible and reduce it to a mere advisory body; and what is the use of an advisory body. If you really want to make this House the master of the situation you should restrict the powers of the Governor General. I should say also that that requires a total amendment of the Act. You cannot transfer responsibility from the Governor General to this House unless you amend the Act itself and redraft the whole Act. I think that is a very reasonable suggestion. We should not deal piecemeal with legislation of this sort. If we want powers we must have the whole Act revised and that earlier than 1930. The Honourable the Home Member might say, you are going back upon the Resolution that was moved two years ago by yourself. I say, if this House had then done what was asked for and if the Parliament had given us what we wanted, we would have been saved this unpleasant task of moving a Resolution against what is called this Viceroy's power of certification as a sort of protest against it. The feeling in this country is strong and we must express our dissatisfaction, our sense of protest by moving some amendment restricting the powers of the Governor General in order to bring home to the House of Commons that we in India shall not take it lying down, that we shall exert ourselves to the utmost, constitutionally of course. I do not belong to that group which wants the Government of

this country to abdicate. I do not want to sever our connection with the British. I want the British here and to go on pulling well with each other. But at the same time we want to be citizens of the Empire, to be citizens of the British Commonwealth, not to be guided by a single autocrat. We want the same position which has been assigned to the people of England, though not immediately at least at the end of 10 years. But in the interval we must keep ourselves in evidence. We must keep the subject of the advancement of the cause of Indian autonomy prominently before the British public; we should educate the House of Commons. I know, Sir, that the House of Commons has approved of the certification of the salt tax, but that does not prove anything. It only proves that the House of Commons has not been properly enlightened on this matter. If the House of Commons had been properly enlightened, they might not have been satisfied with the Governor General's action in this connection. At the same time the trend of the discussion in the House of Commons will bring it home to everybody that though they did not fully approve of the act of the Governor General they did not like to pass what is called a vote of censure on the Governor General. For the disallowing of the Government's action would have virtually amounted to a vote of censure on such a wise and experienced statesman as our present Governor General is. I know, Sir, that what the Governor General did he did with the best of intentions; and our Finance Member who had come recently from England knew what is called the conditions of the money market there, and perhaps he thought that the balancing of the Budget by the doubling of the salt tax would make the financial position of the Indian Government better and thus make borrowing in the money market there easier than it was. But if he had given a little more consideration to the circumstances of the country, if he had given his thought to the fact that economically the salt tax is most objectionable because it is a tax on a necessary of life and not on a luxury—a necessary of life both for man and cattle—he would have seen that the tax ought to have been remitted long ago. It must not be thought that there is no feeling in the country. Those who mix with the masses know that there is much feeling in the country. That they have not come out in large mobs to attack Government houses is no argument that the feeling does not exist. We who have mixed with the people know that there has been a wave of political feeling throughout the country on account of the salt tax, and the Government should take note of it. It is not our wish, Sir, that the people should come out and be guilty of rioting in order to show their feelings. But this sort of discontent which runs underground is more dangerous than open rioting. The latter can be suppressed. Therefore I submit, Sir, that some sort of restriction on the powers of the Viceroy is necessary. But it is said, supposing this power is taken away from the Viceroy, how can the Government be carried on? I should say that then the Viceroy would be compelled to reduce expenditure, or he would say "I am not able to carry on the administration". The Home Government would then send another Viceroy to act according to the instructions of this Assembly. The object of this Resolution, Sir, is to make the Governor General responsible to this House and not to the Secretary of State as at present. That is what we aim at and that is what we intend to do, if not now at least in a

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few years. I am at one with Sir William Vincent when he says that ten years will not be necessary for this. We have been told to be patient, to wait till the ten years have passed. But what about the Treaty with Irak, which was to last for 20 years? A year has passed since the Treaty with Irak was concluded and it is going to be revised and Irak is going to be a fully independent State. Is Irak so much more advanced as compared with India? And if Irak can have full self-government in the course of a year, I do not see what objection there can be to giving India full autonomy even at the end of 10 years, for which I moved my Resolution two years ago and with which, Sir, the entire House was in perfect unanimity.

I know, Sir, that on that occasion something was attempted by my Honourable friend, Colonel Gidney,—after the Resolution had been moved and passed unanimously. The next day Colonel Gidney gave a nostrum in the form of a letter to cure the House of the malady to which it had been subjected on the previous day, by saying that that was not in order, and I shall show this House what he said in his letter to the President :

“ I have submitted a letter to you asking for certain information on the Resolution which stood in the name of Rai Bahadur Majumdar and to ask a statement from you, Sir, as to how you accepted the statement made by the Honourable the Home Member yesterday, whether that was accepted in the form of an amendment from this House or whether it was accepted in the form of an assurance from the Government on the termination of yesterday's discussion.”

You, Sir, said :

“ The Resolution standing in the name of Rai Jadunath Majumdar Bahadur was duly amended, by the decision of the House, by the insertion of the words handed in at the table in the form of an amendment standing in the name of Government. Therefore the Resolution as finally passed was that which contained the assurance given by Government, and embodied in the amendment.”

Therefore, Sir, it was not a good thing on the part of my Honourable friend to say that the Government was not a party to that amendment.

I think, Sir, that the temper of the House, I think the temper of the official Members of the House, was a little different from what it is now. I am sorry to say that. But I think it is not they alone who are responsible for it, for to a certain extent we are also responsible for it, for we ought to remember what happened since. I now address my own countrymen ; we ought to remember what happened since that Resolution had been passed. We know what insult was offered to the Prince of Wales who was our guest, the future Emperor of the Empire, by a section of the community, and which created a revulsion of feeling not only in this country but in England also,—and all our hopes were dashed to the ground on account of an agitation which began with the boycott of schools and ended in seducing the army and the police, and also in insulting the future Emperor of the country who came as our guest ! It produced a very bad effect at home and here,—and what was considered quite feasible and practicable and within the range of practical politics is now considered impossible. It produced a very bad feeling. The Royal House, as you know, is something like a Hindu idol ; that is, the officiating priest does everything, as the Ministers at home do everything, but at the same time everything is done in the name of that idol, which is held in high respect ; the Royal House is considered the emblem of the unity of the

Empire ; and the people of England and the people of the Empire took that insult to the Prince of Wales as an insult to the whole British Commonwealth, and that was evident from the speech which was delivered by Mr. Montagu immediately after the Prince of Wales' return, when he said that the people of India behaved very badly. The people of India had stood by the Empire in the time of the war.....

Mr. President : Order, order. I allowed the Honourable Member to use that as an illustration. He is now making it an argument. That is now out of order.

Rai J. N. Majumdar Bahadur : It is said, Sir, that there is a great deal of difficulty in the matter of the law. It is quite true, just as the Honourable Mr. Graham says that section 67-A is intended for one purpose, and section 67-B is intended for a quite different purpose. One is for sanctioning expenditure on an emergent occasion when the House is not sitting and the Governor General has not the means of passing the Finance Bill ; the other section, 67-B, applies both to financial and other Bills, and some sort of power is necessary in order to carry on the administration. But I submit, Sir, there are circumstances and circumstances. I am going to say at least that no such circumstances have arisen up to this time that the Governor General's powers of certification were necessary, or that it was necessary to enforce the Act all at once before getting the sanction of Parliament. This Assembly feels that when such a distinguished statesman as the present Governor General, Lord Reading, finds it necessary to go against the wishes of the Assembly and certify a Finance Bill,—and not only to certify it but to put it into execution at once, it feels if that can happen in the case of the present distinguished Viceroy, there might be worse fellows hereafter who might abuse the powers of certification.....

Mr. President : The Honourable Member is getting much too near the Standing Order.

Rai J. N. Majumdar Bahadur : I withdraw, Sir, I did not mean anything, I meant worse Governors General ; what I submit is that there is a real, genuine fear in the mind of the Assembly that these powers of certification might be used a little too frequently. I am quite sure that this power of certification is not going to be used very frequently. I am quite sure, Sir, that the Governor General himself may at the end of this year repeal the salt tax if he finds that possible, but at the same time you cannot, Sir, remove that feeling of suspicion in the mind of this House as well as of the public outside ; and the people who are trying all this time to get more and more powers do not like, Sir, the use of certification in this way. They do not like that the Governor General should be able to do so. On the other hand, Sir, I know that a Resolution in this House is a mere pious Resolution, it has no effect, and I am sure, Sir, that it will not be passed by the House of Commons, but at the same time this Resolution is something like a protest, a strong protest, against the powers of certification of the Viceroy. This House wants to keep its demand in evidence before the British public that they do not like the powers of certification. Therefore, Sir, I support the first part of Mr. Basu's amendment that the words ' or interests ' should be deleted.

Mr. President : Reference has been made in the course of the debate more than once to the second half of the amendment standing in the name of Mr. Basu, but there is a suggestion that the Honourable Member from Burma is ready to withdraw it. Do I understand that that is the case ?

Mr. J. N. Basu : That is so.

The Honourable Sir Basil Blackett (Finance Member) : Sir, the first speaker this morning, amid the applause of the House, gave vent to the statement that the members of the Government of India are human. I admit the soft impeachment. It would give me great satisfaction to be able to answer that large part of the Honourable Member's speech which was not delivered, but you have told us, Sir, that to-day we are not discussing finance. We are not discussing the question whether or not the salt tax should or should not have been imposed. We are not discussing the question whether it should have been imposed by certification or not. We are discussing the question whether a particular restriction should be put on the existing powers of the Governor General for dealing with emergencies. Probably, with the withdrawal of the second part of the amendment, it has come down simply to the statement that the House is of opinion that the Act should be amended by the omission of the words 'or interests.' I should very much have liked, Sir, to have done a little arithmetical sum and pointed out how many crores have been saved by the presence of those words,—for example, after telling the House which I have great pleasure in telling them, that the loan of 24 crores has been fully subscribed and closed—I should have liked to show how much has been saved (*A Voice :* 'Poor bankrupt India') to the tax-payers of India in principal and in interest through having regard to their interests. But that, Sir, would be outside the scope of to-day's discussion. I think the Honourable Member who has just spoken summed up the position very well. He said there is a feeling of irritation in the country at the existence of this power and fears of its being abused. I could not make out from his speech until he actually stated categorically at the end that he supported the amendment whether he was speaking for it or against it. I would make the same remarks to the speech which Mr. Seshagiri Ayyar made last week. In both cases they seemed to me to be arguing very sensibly against either the original Resolution or the amendment. In the present case the Honourable Member who has supported the amendment that is now before the House said that he did not believe in amending the Government of India Act piece-meal. I agree with him. I think that it would be a mistake to vote for this amendment because I think it would be a mistake to put it into force. There is really extraordinarily little difference when all is said and done between the Government Benches and the rest of the House—I should say the occupants of the Government Benches, because Dr. Nand Lal suggested that the Government Benches would vote with him and I am sure they would not be so wooden—there is very little difference, I think, between those who are discussing this matter to-day. Several references have been made to the fact that the Government of India is not so sympathetic as it was. It is always pleasant to praise past times especially when thereby you can get at someone in the present. But the Government of India is human and it has a conscience and it thoroughly sympathises, I think, with the

feeling that is behind this discussion to-day. There is a feeling that there is danger possibly in the future of an abuse of the power of certification. I feel quite sure that if it ever is used again—and I am sure the Government of India is at one with the House in hoping that it will never have to be used—if it ever is used again, one member after another in the House will get up and say 'As regards the Princes Protection Bill, there was something to be said for it. After all, we had to balance our Budget and we saved our money by certification, but on this occasion it is quite wrong.' It is always a particular occasion of the use of the power of certification that causes difficulty. The power of certification is an essential part of the Government of India Act and of the present transitional stage in the constitution of India. It is necessary to enable the Governor General and the Government of India Act to carry out that part of their responsibility which is to the British Parliament and it is sometimes naturally difficult to combine that with the responsiveness which they do feel and ought to feel towards the wishes of the Assembly. But the difficulty is there.

You cannot get it away simply by tinkering with the Act. The Government of India are human. They as much as this House find difficulties in the restrictions in the present transitional stage of the constitution. They and the House are, I think, at one in the desire to work the existing constitution in such a way that it may lead on to a fuller development of responsibility of the Indian Government to the Indian Parliament. It is a question of degree and of time only I think that creates the differences between the two sides of the House. Sir Henry Stanyon, who spoke last week, drew attention to that. He disagreed with some of us with regard to the particular use of the power of certification, but he pointed out that it is necessary in this transitional stage; and that the present of all moments is not the moment to get rid of it. To sacrifice things which are essential to the interests of India at this moment surely is not desirable. We are working this transitional constitution and we all want to work it so that at the earliest possible moment it may lead on to more. If I may be allowed a reference to the circumstances of last March, I am sure the argument that weighed most strongly with me, at any rate, and I believe with the Government of India, was that it is essential to the proper working of the Reforms that our finances should be in order. So long as finance is neglected there are difficulties in the way of making progress. Let us get that in order and we shall be able to get on with the Reforms. However I do not want to argue the rights and wrongs of that occasion. I do want to put it to the House that we have got a constitution which does reserve big powers, real powers, to the Governor General and to the British Parliament. It does not give full responsibility to this House. The reserved powers are meant to be real powers. But as the Honourable Member who spoke last said, the powers of this House are real, and they are meant to be real, and it is possible to work them so that they will be real and to make them more real. During the last fortnight I have been sitting as a member of two committees, the Standing Finance Committee and the Public Accounts Committee. I am sure that those who sat with me and those who know the work that we have been doing, will admit at once that the work done by those two Committees is a

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complete refutation of the silly argument that is made outside, that this House is a sham House and the Reforms are shams, and the power of control over the purse is a sham. Sir, it is not a sham. The Public Accounts Committee has been going through the accounts of the year 1921-22, the first year in which grants were voted by this House, and it has been examining with great care to see whether the Government of India did or did not carry out the directions of this House in regard to voted expenditure, calling attention to every case where it has not done so, calling attention to difficulties and possible remedies which led to a failure fully to observe the directions of this House, making suggestions for modification of technical methods in future so as to make the control more real. The whole attitude of the Government of India, Sir, towards voted expenditure has had to be reorientated as the result of these Reforms. Prior to the Reforms, the Government of India was responsible to no authority in India for its expenditure. Now it is responsible to an authority other than itself in India, and one after another the Members of the Departments who came before the Public Accounts Committee explained that the year 1921-22 was the first year in which they had to deal with this outside authority; that their methods of working did not admit of their realising soon enough how far they were in danger of exceeding the authority of Parliament; that these methods could and would be improved and were being improved, and I may say, will be improved.

Sir, a constitution is not born in a day; it is built up gradually.

1 P.M. The three years since the reforms were introduced have been the first three years of the transition period. I do not think that anybody who has read the debates in the House of Commons and the Joint Parliamentary Committee can fail to recognise how strikingly great the advance has been since then. It was quite a new idea during the discussion of the Government of India Act that this House should be responsible for voted expenditure at all. It has been made responsible for voted expenditure and it is taking care to secure that that responsibility is realised by those who are actually spending the money.

Sir, it was suggested, I think, by one speaker to-day that the Government of India could not be expected to be in sympathy with the aspirations of this Assembly. I was very sorry to hear that. The Members of the Executive Council of the Governor General are all Members either of this House or of the Council of State and I am sure that they regard as their most important function to work with this Assembly, to help this Assembly.....

Mr. Harchandrai Vishindas : Might I rise to an explanation, Sir. If the Honourable the Finance Member is referring to me, I might tell him that I did not say that about the Government of India but I said it about the Government now in England.

The Honourable Sir Basil Blackett : I apologise to the Honourable Member if I misrepresented him. I will continue without referring to any suggestions that the Government of India is not here to work with the

Assembly. I will say that I think that the Government of India is here to work with this Assembly, as part of the Assembly, as Members of the Assembly to secure that the work of this Assembly within the existing constitution shall be well and effectively done, so that the results of that work may be to hasten the time when the further step may be taken. (Hear, hear.)

Captain E. V. Sassoon (Bombay Millowners' Association : Indian Commerce) : Sir, the other day the Honourable the Home Member pointed out that there might be a perfectly justifiable provision of the law which might be misapplied in time, place and manner, but that that did not argue with any certainty that that section of the law should be repealed. He further pointed out that only in 1871 was the Royal Prerogative exercised in a manner that would be unheard of to-day, and that only half a century ago. In my opinion that is a very strong point in favour of restricting the use of exceptional powers by convention instead of by an alteration of the law. We see the working of this method in the democratic development of Great Britain.

And I do not think it will be contended by any fair-minded observer that there is more freedom in other countries whose constitution is plastered with protestations of liberty and equality. So I find myself unable to support the Resolution of Dr. Nand Lal.

Now I have to consider my position as regards the amendment. This amendment attempts to limit the powers of the Viceroy to certain defined boundaries. Here I am inclined to follow Sir Henry Stanyon's lead. We have an admittedly transitional constitution to deal with which will be drastically amended when it comes up for revision; and though I welcome these amendments being brought before the House and fully discussed in the light of the practical difficulties as they come up, I think I must declare against tinkering with the Act at this moment. I think it is objectionable, as Sir Basil Blackett said, to deal with it piecemeal, although I have an entirely open mind as to when the right moment should arise when it should be dealt with as a whole. In any case I would much rather see the restriction of the application of these powers the result of convention and in spite of the brave show that has been made by some Members of the Government I cannot help feeling that the fight that has been put up from the non-official benches has not been without its effect. I think the remarks of Sir Basil Blackett rather bear out that statement. I would remind the Government, however, that though this transitional Act is designed to enable India to get the necessary experience for government by her own representatives, the obvious corollary is also there, and that is, that the bureaucracy should also take advantage of this transitional period to get out of their autocratic ways and to get used to parliamentary control. Here again I am glad to see that Sir Basil Blackett seems to agree with me. Now, Sir, I do not think that anyone will accuse me of being a blind supporter of the Government, taking for my motto the words "My Bureaucracy right or wrong!" Nor do I allow a very definite knowledge of my own shortcomings and inexperience to deter me from voicing in no uncertain terms my disapproval when I think that the Government is in the wrong. But, on the other hand, I do try to

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be fair, and I do realise that theirs is no easy task. Anyway, I for one, were I asked, would hesitate before exchanging my present lot of irresponsible critic for a seat on the Treasury Benches. No, I do not think I should hesitate; I am quite sure I should refuse! And we must remember that the Government has listened to the House on occasion and taken the advice of non-official Members. I think I shall be able to show that that has been to their advantage, although they do not always give the House the full credit that is its due. Let us take the appointment of the Incheape Committee. A Committee of inquiry was asked for by the Non-official Members when the Government had stated its inability to make further savings. It is true that the Government in this case gave way, but would they have but for the insistent demand of the House? And would they have if the House had slavishly agreed to all their proposals? Further I think that the Government—there I disagree with Sir Basil Blackett—would have found it to its advantage to have yielded to the views of the House on the Salt Tax. Well, if I may interpolate a query here, Sir Basil Blackett in his answer to my Honourable friend (Mr. Harchandrai Vishindas), I gathered, associated the great success of the present loan with the doubling of the Salt Tax.

The Honourable Sir Basil Blackett: With the balancing of the Budget.

Captain E. V. Sassoon: I think he said the doubling of the Salt Tax.

Sir Deva Prasad Sarvadhikary: The balancing of the Budget.

Captain E. V. Sassoon: His words were “the doubling of the Salt Tax” if I remember aright.

Mr. Harchandrai Vishindas: Are you referring to me?

Captain E. V. Sassoon: Yes. You referred to the success of the loan and Sir Basil Blackett associated it with the doubling of the Salt Tax.

Mr. President: Order, order. This is quite an irregular conversation.

Captain E. V. Sassoon: I will then reserve my question till I meet Sir Basil Blackett; but I do think, Sir, that the point of this House—the essence of their objection to this increase of Salt Tax was due to the view that this tax is our resort and should only be levied.....

Mr. President: I have pointed out twice before that we are not discussing the merits of the Salt Tax. We are discussing the powers of the Governor General under section 67-B; and I may point out further to the Honourable Member that the words “Governor General in Council” do not occur in that section at all.

Captain E. V. Sassoon: I was, by way of illustration, trying to support the Government in its objection to this amendment by showing that there might have been no amendment before the House if they

had followed the wishes of the House in this particular matter. At any rate, Sir, there have been cases where the Government has followed the wishes of the House, and I think it is a pity that on this last occasion they had, right apart from certification, not followed the wishes of the House. I agree that it is a question of degree; but in this question of degree I agree with Sir Henry Stanyon who says that even if the Government had had some doubts as to the wisdom of the matter they might have given way and seen what the results would have been. I think with due deference that if they had done so the statement of His Excellency the Commander-in-Chief the other day may have shown that the views of this House were not so very foolish as might have appeared at first sight. But perhaps that is verging on a matter that is not strictly relevant. I therefore appeal to this House not to support the amendment, however strongly it may object to an arbitrary use of these powers, because this is not the right time to bring that point forward, and it is better that those who wish these powers not to be used so drastically should wait until the time comes when the whole question of the alteration of the Government of India Act will be before the Assembly.

Mr. K. Muppil Nayar (West Coast and Nilgiris : Non-Muhammadian Rural) : Sir, it strikes me on this Resolution that properly speaking there are more points that we may not touch upon than those that we may. I shall, therefore, confine myself to a few words. No one is more sorry than I am as regards that unhappy chapter in the history of our last Session. I do not even now propose to join in any ecstasy because nothing visibly serious has happened as a consequence. From what I know the measure has irritated the ordinary man in the country as most things will not, and I think that is sufficient to justify my speech against it at the time. But in spite of all this, Sir, the present discussion strikes me as useless. The question now before the House is, to my mind, one largely concerned with a further instalment of reforms, inasmuch as it has been made amply clear by the highest authorities that the certification process is nothing other than more or less a substitute for the official majority that used to exist in the past. It will therefore be best now to get rid of any mistaken notions as to our position or importance here; and if agreed—for I for one am against taking away the power of certification altogether—well, if agreed, urge this matter when that already settled occasion for a reconsideration of the present Act duly comes.

The Assembly then adjourned for Lunch till Twenty Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes Past Two of the Clock, Mr. President in the Chair.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I rise to support the amendment proposed by Mr. Basu, and my reason for doing so is that the emergency powers that have been exercised on the occasion of doubling the Salt Tax have been essentially inconsistent with

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the nature and character of the transitional system of Government that has been given to us. I do not for a moment mistake aspirations for actualities, as it has been said by the Honourable the Home Member that there is a tendency on the part of Indians to do.....

The Honourable Sir Malcolm Hailey : No. Will the Honourable Member quote me correctly ?

Mr. S. C. Shahani : I thought the Honourable the Home Member said that aspirations were being mistaken for actualities in this transitional period.

The Honourable Sir Malcolm Hailey : I would merely remind him that what I said was that those who are concerned with this debate should not mistake aspirations for actualities. I made no suggestion that Indians generally were in the habit of doing so.

Mr. S. C. Shahani : I thought that in the Honourable the Home Member's statement, that was the implication. However, if he must distinguish, let him. I want to make out that it is not mere aspiration but real intellectual judgment that leads Indian representatives in the Assembly to come forward and propose that section 67-B should be amended. There has arisen an occasion on account of which the amendment of this section should be insisted upon by the Members of the Legislative Assembly. I for one must repeat that I do not mistake the nature and character of the Governmental system now established in India. I know that we have not yet got full responsible Government ; and I also know that emergency powers ought in the circumstances to exist. I for one would not be in favour even of the deletion of the words "or interests," and I shall explain why. I feel that at certain times in the present circumstances it might become really necessary for the Governor General to exercise his emergency powers to protect the interests of the people. Even a conflict between the people and the Assembly is imaginable. The Governor General may then certify not only when he realises that the passage of a Bill is essential to the safety of the country, not only when he realises that it is essential to the tranquillity of the country, but also when he realises that it is essential to the interests of the country. My contention is that the exercise of the powers of certification is governed by the word "essential," and that the doubling of the Salt Tax was not a fit occasion for the use of those powers, as the use then was not essential to the interests of the country. But perhaps it is not the Viceroy who has gone in for this certification on his own account. He has obliged the Finance Department that has asked for it. Whenever I hear Sir Basil Blackett, who presides over the Finance Department, I like his speeches. I feel he knows his subject well, and that he has not only knowledge but sympathy. I also feel the same when I hear His Excellency the Commander-in-Chief. The other day I felt inclined to side with him, as in his speech he showed considerable sympathy with our aspirations ; and yet his statements were so inconsistent with the statements that were made by the Army Secretary, that we had necessarily to decide on insistence upon a due representation being made to the Home Government that the Resolutions of Sir Sivaswamy Aiyer relating to the Esher Committee Report

should be given effect to as early as possible. After hearing the Honourable Sir Basil Blackett to-day, I think that his statement of the nature and character of the constitution is perfectly correct ; only that he feels that on the occasion of doubling the Salt Tax emergency powers should have been exercised, while we strongly feel that they should not have been. The Honourable the Home Member has made bold to tell us that we are not representative, that we are merely illustrative and not reflective, that we are here but specimens of Indian gentlemen, very like the specimens of a fauna collected in a Zoological garden. There were occasions when the Honourable Sir William Vincent, and the Honourable Sir Malcolm Hailey, our present Home Member, came forward to speak of us as true exponents of the opinion and interests of the people of this country.

We shall always, I suppose, be so spoken of when we have got to vote crores of rupees of taxation or to assist in the raising of loans worth millions of pounds, but now we are told that we do not reflect the opinion of the country. We are elected, I find, in accordance with the laws that have been made by the Sircar. I find that we are returned under the rules promulgated by it ; and yet we are being represented, as being representative of no one but ourselves. Who are the true exponents of the country ? The Home Member and his colleagues ? I think he will not venture to make a statement such as this. In the language of Shakespeare, if he did make a statement of that kind, I would say, "What ! Canst thou say all this and never blush ?" Are non-co-operators then the true exponents of the opinion and interests of the country ? If the Home Member did imply that, he would find himself, I suppose, in very strange company. We are, we know, lagging behind the extremists in the country, and it is only by reason of that that we are here. We duly and truly reflect, we maintain, the opinion of the country ; and there is no denying the fact that the country has felt very strongly on the certification of the Salt Tax. Anybody who does deny it could only be of the class of the Laputans of Gulliver's Travels. Those who are living in the blissful solitude of the Simla Hills are perhaps an approximation to those philosophic inhabitants, and they may be unmindful of what the opinion of the toiling people in the plains is. I hope the Home Member will soon realise, if he has not, that there is in the country a very strong feeling against the last certification. Moreover, to me it is a great surprise that some of the most intellectual people have interpreted the words "essential to the safety, tranquillity or interests of British India" in the manner in which they have done. The effect of their interpretation is to make the Governor General an autocrat. Autocracy does not now prevail in India. We were told by Queen Victoria of happy memory that contentment was the aim of British rule, and by the Duke of Connaught that the principle of autocracy was inconsistent with the contentment of the people, and incompatible with the legitimate aspirations and demands of the people and the stage of political development which they had attained. In the Government of India Act the principle of autocracy has been abandoned. No Bill can pass without the consent of the Legislature, to which only one exception has been provided, viz., the realisation on the part of the Governor General, who presides over India, that any Bill though objected to by the Legislature is yet *essential* to the safety, tranquillity, or interests of

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the country when he may certify the Bill. I can well imagine a very right use of the power to certify that have been created by the Act. I might now consider the historical comparisons that have been adduced by the Home Member. The Royal Prerogative was used to abolish the purchase of commissions which was being insisted on by the aristocratic representatives of the British people in the House of Commons. We have got to remember here firstly that the Parliament of England was then oligarchic. There was no representation in England prior to the Reform Bill of 1832. The power then lay with the aristocrats and not with the people, and the opinion of the people was not reflected in the House of Commons. Secondly, I would venture to say that the exercise of the veto has always been excused when it has been exercised in consonance with the desires and demands of the people. If the Governor General had exercised his veto for the raising of the income-tax, I can assure you that the people would never have resented it.

However much the Members from Bombay would have become indignant, there would have been no resentment in the country at all; and I am one of those who would have hailed with delight the exercise of emergency powers in a cause such as that. This is, however, my individual opinion. I do not say that here I represent the view of the rest of the non-official Members of the Legislative Assembly.

The second comparison that was made was that of President Cleveland who is said to have exercised his veto no less than three hundred times. But the Honourable the Home Member, if he will allow me to respectfully so state, forgets that Cleveland was responsible to his people, but that the Governor General is not responsible to the people of India, so that the distinction between the exercise of the powers of these two persons ought to be very carefully borne in mind. My point, then, is that we are not anticipating what may be given to us hereafter. We are limiting ourselves carefully to the powers that have been given us. The exercise of the emergency powers on the last occasion was altogether inconsistent with the powers that have been given to the people of India. Possibly Rai Bahadur Judu Nath Majumdar struck a correct note when he said that the people of England have resented what they have deemed an insult offered to the Prince of Wales when he came over here. I should not wonder if that is at the bottom of the explicit change now noticeable; and the motive of the certification was a political rather than an economic one. It is said that the emergency powers that are given to the Viceroy are real and intended for use. If these emergency powers are not used, it cannot be argued that these powers do not exist. One should be indeed very sorry if a collateral circumstance whose import has not been understood were responsible for the change in the attitude that has now been assumed by the Home and Indian Governments. A very adverse attitude has been assumed by the Government in the matter of further reforms, but I am not concerned with the matter of further reforms on this occasion. It has been unblushingly said by some of the Anglo-Indian papers that India has been accustomed to autocracy, long accustomed to autocracy, and it should not be in a hurry to get responsible Government. Such statements would naturally be extremely hateful to the people of India who have known Panchayats or Village Communities from times of yore, and I trust that it will not

be persevered in by those occupying positions of responsibility. It has also been said by the same papers that only 182,000 people came to the poll at the last election—less than one-fifth of the total number that has been given franchise. True, but the rest considered the constitutional reforms a sham. Is it not the case that the moderate opinion in the country is best represented in the Assembly? With these remarks I would like here to suggest one little amendment in the amendment that has been put before the House, namely, that the words "or interests" be either deleted or so altered as to prevent the repetition of unnecessary certifications such as the one we have seen now.

I have now just a word of personal explanation to offer. It has been said that I and the rest of the so-called modern Hampdens have come back with no scars on their foreheads. We went to our friends, and what scars did the Honourable the Home Member expect we should be wearing on our foreheads when we came back to the Legislative Assembly? The people were entirely with us. I have no doubt that it is being attempted here to leave a scar on our foreheads. We have been now designated in raillery "modern Hampdens." For doing what? For doing our duty, for resigning to show our faith in the democratic character of the transitional system of Government that has been given us in the Government of India Act of 1919. The Home Member has further told us that we have come back boasting that we have inflicted a great blow on the autocracy of India. One or two men cannot administer an effective blow at the dragons who keep in their custody the jewel of responsible Government so eagerly coveted by India. I trust that many more will join and that there will be concerted action for delivering the requisite blow; and I trust that the blow will be taken in a sporting spirit. We ourselves have offered our mite, our modest contribution. It may be that we have been pursued with ridicule, jests and jibes, but is it not the fact that the victim of one age often comes to be the beast of the next? We know how Milton in his own day was "the blind adder that spat venom on the person of the King," and we know how later he came to be recognised as an apostle of free speech and writing. In passing I may here state that I was opposed by one gentleman in Sind, but I was very glad to see that the Jagirdars and Zamindars of Sind asked him to withdraw, so that I might be returned unopposed, and the Government might realise that I was not speaking for myself alone but for those whom I represented.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammadian Rural) : Sir, when I read the Resolution that was tabled for discussion I may assure the House that I kept my mind open because I did not know the implications of that move and I thought that I might come here and after hearing the discussion get wiser. I found the amendments tabled, one of them by my very esteemed friend here and I found that when the discussion started a complete go-by had been given to the Resolution as tabled by my very sincere and enthusiastic friend Dr. Nand Lal, and then the amendment that was put forward by my distinguished friend was withdrawn without one word of apology and what remained was the amendment that we are now discussing and as to that wisdom from Bengal came and would not agree to the whole of it. So it had been mutilated and only a small particle is left for discussion and you have ruled, Sir, that the

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discussion shall be confined to that part only. Now assume that we pass this amendment omitting the words 'or interests' and it is carried and the Statute is amended like that. What does that mean? The words 'or interests' go and the words 'safety and tranquillity' remain. Take the other provisions. Under the Act the Governor General in Council has got the power to restore grants which we have refused. The Governor General also has power in emergencies to spend moneys. How can you reconcile these two powers, the power of the Governor General in emergencies deleting "or interests" under this provision, 67-B, with the power of the Governor General in Council. Therefore without elaborating that position which has been touched by the previous speaker, I may say pinching the Statute here and there or as it is called piecemeal legislation is not going to be of any good. The question before the country, the question that has been discussed by men who have given a thought to the Government of India Act is that there are several aspects of the Act which are unsatisfactory. There are many provisions which require modification and the better opinion, if I may say so, the thoughtful opinion and more considered opinion is that the whole Act should be taken up and brought into line with the aspirations of the people of this country.

That was the main question. Well, if we laboured to bring about that result, if we worked to attain that end, that would be one thing. Now, are we agreed? Does not this Resolution and this amendment show that on the non-official side of the House there are varieties of opinion, differences of thought and disagreement on even the minor points of this simple Resolution? Now, that is so, so far as matters have turned out from the debates. My Honourable friend Rai Bahadur Jadu Nath Majumdar spoke and most of the arguments used by him were against this Resolution. He says, this is a pious Resolution. True, it is nothing more than a pious Resolution. Then the question to be seriously asked is are we to pass pious Resolutions here? Does it not stultify our position? Does it not derogate from our dignity and position to pass pious Resolutions, knowing that they cannot in the nature of things be given effect to? Does it not derogate from our position that we, as business men, men who have come here to do some good to the country, should pass Resolutions which we know cannot be carried into effect?

Now, there is the argument that is put before us that it is a protest against the action of the Governor General. Now, I say, if we want to protest, we have other ways of expressing our opinion and showing that we resent the action of the Governor General. Now, to take a test case. Clip away Rs. 5 if you like from each department of Government, so that each member of the Government may know that we do not approve of the action that Government has taken. Well, you might do that; that would be a definite thing, and if we could agree on that, that would be something. I know, as a matter of fact, that this Assembly would not agree; it would be impossible even to get a majority of this House to pass a vote of censure on any member of the Government. It may be that the members of the Government are very good men; or there may be psychological causes amongst us for this. But, whatever the reason may be, when there is a definite issue before the House, it does not agree, but, if it is beating the air, ploughing the sands and putting forward a general Resolution like this that the whole constitution be

altered and the first step towards Swaraj should be taken, a great many agree. I think that is a mentality which militates against the utility of any work which this Assembly can undertake. Now, I know Honourable Members have been criticising the certification by the Governor General of the Salt Tax. What led to that certification? It was the deficit budget. Why did you pass a deficit budget? Why did you not cut down the expenditure, never mind if it was unreasonable, if it was drastic? You could have done that and left the Governor General in Council to restore the grants you reduced. That would have been a definite ground, a ground more relevant, more germane, to our right of passing supplies. Item after item we could have cut down and given a balanced budget, and told the Finance Member "Here is a balanced budget, let there be no more talk of enhanced taxation." We wanted to cut down a substantial amount from one department of Government. We thought it would be possible for the Government to carry on the work of that department with that reduced expenditure, knowing well it could have come up later on in August or September and asked us for a supplementary grant. What happened on that occasion? Honourable Members were glad to rush into the Government lobbies, and we were defeated. Having passed a deficit budget, is it logically open to us now to seek to alter the Act, to complain about the certification by the Governor General? Speaking for myself, I voted at every step against the Salt Tax; and at every possible step I voted against it, and even after it was passed and certified, I took such steps as were constitutionally open to me to protest against it. And I now say, if you make that ground a ground of protest against certification, I say I won't agree, but if you want to seek to do it in an indirect manner by collecting into the mesh all sorts of varying opinions, I simply say that I have got very strange bed-fellows, and I do not want to stay in that company. Now apart from this, what is the practical value of this method? I believe it to be of no use. Does anyone here think that this recommendation will be accepted? What, after all, is a recommendation? A recommendation is much less in value, in political value, than a refusal of an item of a grant. This power does entirely vest in us,—the refusal of a grant. This is only a recommendation asking the Governor General in Council to recommend to the proper authority to amend it. I do not think that as a piece of resentment this method is a right method. If you resent, you must hit back, by all means do it; if you are not prepared to hit back, take it like good men. That is the question. Now, Sir, it is said, we moved this amendment because we were prevented from setting up conventions. What is the meaning of 'prevented from setting up conventions'? Conventions must grow, and they grow naturally. In order that conventions might grow, you ought to have begun much earlier, not when the time of the passing of the Finance Bill came, but before the earlier steps which led to the passing of the enhanced Taxation Bill; that was the way in which you could have allowed the convention to grow. Another argument that was used was that we must bring to the notice of Parliament that we resent this action by high authority. Well, Parliament knows full well what our views are. Parliament knows that individually and collectively we have given intimation to the members of Parliament, to the people at

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Home, of what we feel. Rightly or wrongly, they have not accepted our view, and now is this going to bring home to them or make them more intimate with our feelings,—by this action here? Now one word more; I should like to say, before we blame Government—I think that theme has been unduly developed—before we take that method, why not we re-examine our own position? We are 100 elected Members: how many voted against the salt tax? Only 51. What about the others? Is not this a case in which those who are not with us are against us? I ask in all seriousness, if people abstain from voting with us on an occasion like this, does it not mean that they are against us? (Voices: “No, no.”) Well, you may differ. Those who do not come with us are against us. There are occasions when people who could not join with us may not be against us. As to those who were present at the voting, what was the proportion? There were Members who spoke for the salt tax. Did not some elected Members from the provinces do so? Our case therefore might not appear so strong. A good many men felt that the salt tax was bad. But what is it that they did? They discharged their duty, we are not attacking those men. Could we not bring home to them a better sense of their duty, by telling the country that our cause was lost and the Government certified because it was due to the lack of sufficiently strong opposition to the salt tax. Is not that quite correct? Why should we all say time after time that certification should be withdrawn, that certification is bad. That is not the point. After it has been done, what should be our attitude? I think this whole discussion, argument after argument that has been used, tends only to show that this Resolution and the amendment and this whole move and the debate is wrong. It is not the constitution that we want to change. It is a protest we want to enter. (A Voice: “Question.”) Well, that has been said by no less an authority than the gentleman who sits in front of me. My Honourable friend Dr. Nand Lal who is responsible for the Resolution is in a peculiar position. I simply compare it to the attitude of a man who takes away from a child a stick which it misuses. It is hitting every one. Take away the stick. It is in that spirit that the Resolution has been moved. This power of certification has been used according to us wrongly and therefore we must take away the power, without taking steps to prevent the use, the improper use, of that power. Now, Sir, I had to speak, because if I gave a silent vote either for or against the amendment, I might be misunderstood. I want to tell the House plainly and unmistakably that there is a good deal that we could have done in the way of preventing an exercise of power like the one now under discussion, and not having done that, there is no use complaining against others and saying that the whole constitution is faulty.

Dr. H. S. Gour (Nagpur Division: Non-Muhammadian): Sir, though this Resolution and the amendment have been provoked by a recent occurrence, I do not wish to advert to it except for a moment in consequence of the speech made by the last speaker. He has assumed that we passed the deficit budget and therefore as a matter of logical necessity we were bound to find the money. My Honourable friend could not have forgotten that we had not passed a deficit budget.

The military expenditure which forms a major portion of the budget is a non-votable item and we were not even entitled to discuss the reduction of military expenditure. We protested against it, but our protest went for nothing and we are not responsible for the entire expenditure of the Government of India which we have not voted. That is my answer to the main argument of my friend Mr. Subrahmanayam. He then tells us that if there has been a mistake in the past the constitutional position is that we should avoid making mistakes by establishing conventions. My friend was here last year. He remembers the full discussion on the salt tax. He remembers that we threw out the salt tax and he also remembers that there was no certification. That created a convention. It is the first step that counts. It created a precedent and precedents create conventions. That convention has been broken in upon this year and hence we protest against the convention of last year, which was acceded to by the Government and the Honourable Mr. Innes justified it in his speech this year when he admitted that the Assembly was right in refusing the increase of salt tax. Then my friend Mr. Subrahmanayam said that this Resolution together with its accompanying amendment is a protest against the certification of the salt tax. Well, Sir, if it were merely a protest against the certification of the salt tax, I would have been no party to it. I consider the certification as a settled fact and we are now here to protest not so much against the past as to safeguard the future. We are anxious to see that similar mistakes do not occur in the near or distant future, and Honourable Members have reason to feel alarmed at the language used by the Honourable the Home Member as recently as March last in this connection. Let me read to you his exact words. He said on the 26th March:

“In England or elsewhere we should do so by the assistance of our majority in the Legislature. In India the reservation of the Governor General’s power is meant solely for this, that in the last resort the Executive Government may be placed in the same position as a Government possessing a majority in a representative assembly.”

It is against this aspect of the constitutional issue that we wish to provide. The Honourable the Home Member regards the Government block *cum-veto* as equivalent to a standing majority in the Legislative Assembly; but was that the intention of the Government of India Act? Let me read to you a portion of the speech of the then Secretary of State on the subject. Speaking in the House of Commons, he said:

“It is not any measure which affects the interests; it is a measure which the Viceroy can say is essential. He does not now, as he used to do, pass that legislation by means of what used to be called the official block,” (which has been re-established according to the speech of the Honourable the Home Member which I have just now read to the House). “He passes it frankly as an executive order of his Government. It does not then become law until it has been before this House and the other House, where any Member will have the opportunity of discharging his true functions as a trustee of the Indian electorate.”

The Honourable Sir Malcolm Hailey: Turn a few pages further on and see what Lord Sinha said.

Dr. H. S. Gour: I said, Sir, I was quoting from the speech of the Secretary of State in the House of Commons under whom Lord Sinha acted as an Under Secretary. I did not intend to quote the speech

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of a subordinate officer but of the chief officer. He was the sponsor and spokesman for the Government of India Bill in the representative Chamber, the House of Commons, and I say I take my stand upon what he said there.

Now, Sir, this, I submit, is an extremely alarming situation. If it is a fact that the Government of India are to act in the manner stated to us in March last, we are indeed in a sorry plight and I think this House should make it clear once for all whether the representatives of the people have an established majority in this House, or whether the Government with their minority with the power of certification can say to this House, "We have an official majority as heretofore". Now, Sir, if you turn to the Government of India Act, section 67-B., you will find that it lays down, amongst other things, that a Bill which is essential for the interests of British India, or any part thereof, may be certified by the Governor General. I ask the Honourable Members of this House whether it is not a fact that every Bill that is introduced by the Government is essential for the interests of India. Surely, Sir, they do not waste their time and yours in introducing unnecessary and unessential measures....

The Honourable Sir Malcolm Hailey : Not the Civil Marriage Bill ?

Dr. H. S. Gour : I have still to learn that the Civil Marriage Bill was introduced by the Honourable the Home Member. (*The Honourable Sir Malcolm Hailey :*

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"God forbid.") I was referring to Government measures introduced by the Government and upon which the vote of this Assembly was sought. I submit, the Government, to be consistent, cannot but assert that every measure that they bring forward for the acceptance of this House is a measure essential for the interests of India. If, therefore, you were to read section 67-B. in the manner proposed by the Honourable the Home Member, it follows that every measure which is thrown out by this House may be, and indeed, ought to be certified by the Governor General, and the result would be to reduce this Assembly into a position of abject nonentity. Is this the situation which the Government of India Act contemplates ? (*Cries of "No."*) Is this the situation which Members of this House will tolerate ? (*Cries of "No."*) And I submit it is to safeguard against that position and that assumption that we must take concerted and united action upon this measure.

Now, it has been said that, if this Resolution is passed, it will be inconsistent with the responsibility of the Governor General to the British Parliament. Now, that is a phrase which has been repeated not only twice but three times by three official spokesmen. (*The Honourable Sir Basil Blackett :* "Four times.") Four times, Sir. Now, Sir, if that statement had been made 10 years ago, it would have been intelligible to us. But what is the position now ? If we turn to the Government of India Act, sections 21, 33, and 34, what do we find ? That, that responsibility is subject to the provisions of this Act and the rules made thereunder. The responsibility of the Government of India to Parliament

is no longer unlimited but is made subject to the provisions and limitations of the Government of India Act. Whatever, therefore, are laid down as the limitations under the Act, to that extent the Government of India is not responsible to Parliament but responsible to this House. It is that provision of the Act which we wish to alter. Consequently, the argument that the Government is responsible to Parliament and, therefore, this Act would not be in consonance with the true discharge of their responsibility to Parliament, is, I submit, wide of the mark.

Then, it has been said not only by the official speakers but by my friend Captain Sassoon that we should not tinker with this legislation and that statement has been repeated by other speakers. Now, Sir, I wish to ask if the power of certification does not stand by itself. My friend Mr. Subrahmanyan and Mr. Graham pointed out that the Governor General has a power of certifying certain expenditure under section 67-A. and he castigated both Mr. Basu and Dr. Sarvadhikary for their interpretation of that section. Well, I think, if I may speak with due humility, Mr. Graham was perfectly correct. The power to sanction expenditure is one thing, but the power to raise money by taxation is another, and I do not therefore wish to confuse the issue by referring to section 67-A. of the Government of India Act. Nor do I wish to confuse the issue by referring to section 72-E. of the Government of India Act which deals with the responsibility of the Governors in relation to reserved subjects.

We are here confined to section 67-B. and my submission is that that section was never intended to be used in the manner in which it has been used on the present occasion. Let me remind the Honourable Members of the House that Mr. Montagu, speaking in the House of Commons, assured the House that this section would not be used except with the previous sanction of the House of Commons. I have read to you the passage. The proviso was never understood to give exceptional powers to the Governor General independent of the British Parliament. That was a statement called forth by the opposition from the Labour and Liberal Benches against the plenary provisions of this section. Now the Secretary of State's assurance that this section will be used subject to the sanction of the British Parliament stands good ; and there has been a contravention of that assurance given in the House of Commons at the time of the enactment of the Government of India Act.

Then, Sir, it has been said by the Honourable the Home Member that there are precedents in which the Crown uses its power. In England it has been used and President Cleveland in America used it on no less than 301 occasions. I would ask the Honourable the Home Member to read a little book by Sir William Anson on the Law of Constitution in which he will find it stated that the veto of the British Crown has never been used since the last 200 years. And as regards the veto used by President Cleveland, what does Lord Bryce say ? He says that the veto of the President of the United States of America may be set aside by a vote of the two Houses. Is the veto or is the power of certification of the Governor General subject to the revision of the two Houses of the Indian Legislature ? It is not. It has been rightly pointed out by my friend Mr. Shahani that President Cleveland and all the Presidents of the American Republic are elected by the people and as such are responsible

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to the electorate ; but that is not the situation here. Consequently, I submit the analogy falls to the ground.

Then the Honourable the Home Member said if this veto and power of certification did not exist, imagine to yourselves if a Bill is passed by this House and is rejected by the Council of State, what would be the situation ? I ask the Honourable the Home Member to read the Government of India Act which adumbrates the situation.

The Honourable Sir Malcolm Hailey : No such argument was used at all. I do not wish to interrupt the Honourable gentleman, but I did not use that particular argument. I would remind him that the precise argument I did use in that respect referred not to the present state of things at all but what might happen with a different Assembly differently constituted.

Dr. H. S. Gour : Yes, that is a contingency I also have in view ; and I have refreshed my memory with the Honourable Member's speech from a non-official publication which I hold in my hand. Now I ask if there is any conflict between the two Chambers, the position is simple and clear. There will be a joint session and if the two Houses do not agree the Governor General has the power of dissolution. He can dissolve the House. It might be asked on the other side—supposing the Non-co-operators are in power and the Governor General dissolves the House, and they are returned over and over again, how is the Government of India to be carried on ? My answer is that if the whole country stands by the non-co-operators and there is an impasse between the Government of India and the people of this country, it raises a grave constitutional issue in which the Government of India will be bound to give way. They will then have to submit to the will of the people.

I therefore submit that the contingency contemplated by the official Members need not deter or detain us in lending our support to this amendment. Now, Sir, one word with reference to the Resolution. I am afraid my friend Dr. Nand Lal is asking this House too much if he wishes to make a clean sweep of the powers of the Governor General. In all regularly constituted countries, having a constitution, the ultimate power must rest with the head of the State. The Governor General as such is the head of the State and the ultimate power must rest with him. But that power must be circumscribed and limited to cases of safety and emergency. It cannot be used as a matter of course against the wishes of the representatives in this House ; it should not be used on all occasions as is suggested in the speech from which I have quoted, even when the Government are not in agreement with the Legislative Assembly. On these grounds, Sir, I am unable to accord my support to the Resolution. On the other hand, I think Mr. Basu's amendment which asks this House to delete the words " or interests " and to insert the word " or " between the words " safety " and " tranquillity " ought to receive the support of this House. The word " interest " is too large. It has been read too widely in the past and there is a danger of a repetition of a similar misuse of that term. We must, therefore, correct section 67-B. by deleting the words " or

interests " therefrom. I do not think legislation *ad hoc* would be refused by Parliament, if it is supported by a strong body of public opinion and the representatives in this House. It has been said, amongst others by the last speaker, that we must wait for the complete revision of the Government of India Act. No one would be more happy than myself if there is a complete revision of the Government of India Act. My friend, Mr. Majumdar, has pointed out that the Government of India stand committed to the policy with which this House is in full accord. If they are prepared to move the Secretary of State for a complete revision of the Government of India Act, they will earn the lasting gratitude of the Members of this House ; but if this cannot be achieved, there is no reason why a mistake which has been detected should not be corrected, a mistake which, I submit, might recur from year to year and land the Legislative Assembly in constant conflict with the executive government. On these grounds I support the amendment.

Mr. P. B. Haigh (Bombay : Nominated Official) : Sir, I have followed the speech of the Honourable Member from Nagpur, as I always do follow his speeches, with the utmost attention. And I confess, Sir, that that speech has filled me at once with admiration and dismay. I admire its ingenuity, but I am dismayed at the total lack of logic which it appears to betray in the Honourable Member's mind. The Honourable Member from Nagpur said that if this were merely a protest against the action of the Governor General in certifying the salt tax he would have nothing to do with it, but that he supports the amendment because of the practical implications it carries. Having made this announcement he then proceeded to argue in an ingenious manner that if 67B is allowed to stand, as it is, the Government of India would be able to claim that any measure which it suits their convenience to pass is essential and will thereby make themselves complete masters of the situation and reduce the position of the Assembly to one of ridicule. Having made this statement, he proceeds to deviate entirely from the question before the House and to devote himself to denouncing the occasion on which this power of certification was used. Finally, he says, the Honourable the Home Member has challenged him to say what would be the situation should the amendment now before the House be passed. His reply is that, should it be passed, the position would be this, that Government, except in cases involving grave emergencies, would be compelled to yield to the will of the House and to obey its orders and carry them into effect. Sir, it seems to me that the latter part of the Honourable Member's speech shows that he has entirely misapprehended the whole nature of this section which we are discussing and of the whole nature of the certifying power. We are not concerned in any way with the occasion on which this power was used or the occasions on which it might be used. We have nothing to do with the propriety or otherwise of its exercise. We are simply discussing a constitutional question. The question before the House concerns the Constitution as laid down by the Act. Now, Sir, what is a Constitution ? It is a large word on which much eloquence has at various times been expended. But, after all, a constitution is nothing more than this. It is a device for carrying on the business of the country, for enabling those who are entrusted with the actual management of the country's affairs

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to carry on their work, and unless those persons (whom we call the executive) can carry on their work, the business of the country comes to a standstill. Now when we are dealing with a pure autocracy, the matter is simple. The will of the ruler is literally law, whatever the autocrat does is legal; he cannot act unconstitutionally. But when we are dealing with a more advanced state of things, then the question at once arises, how is the executive to carry on its duties in a legal manner? The answer is this, that it is the admitted theory of the British Constitution that the executive must have power to carry legislation which will enable it to carry on the business of the country and if the executive cannot do this it must disappear. That is the final theory as at present adopted in the British Constitution. (*An Honourable Member*: "Question".) The Honourable Member says "Question". Now let me read to him two lines in Montagu-Chelmsford Report. It shows that they adopted that theory:

"We begin with the fundamental proposition that the capacity of the Government of India to obtain its will in all essential matters must be unimpaired. The institution of an Assembly with a large elected majority confronts us with the problem how to enable the Executive Government to secure its essential legislation and its supply."

Now, Sir, this theory that the Executive Government must be able to enforce its will in the Legislature or else must go and be replaced by another Government—the theory that now prevails in England—has not been hastily evolved. It is not a self-evident proposition, and with the permission of the House, I should like to review very briefly a few incidents in English history which will show by what difficult steps that position was arrived at. As the House is well aware, King Charles I endeavoured to carry certain measures without consulting Parliament at all, and when he found, or his ministers found, that this could not be done, a conflict was the result, and in the absence of any constitutional expedient like resignation, the conflict came to a head. (*An Honourable Member*: "King Charles' head".) The first thing that took place was the execution of one of His Majesty's Ministers, and this was followed a few years later by a still more tragic event that took place at Whitehall. Well, that Government having been disposed of in this way, was succeeded by the Government of the Lord Protector. But before the Lord Protector had been in power very long he found himself confronted with the same difficulty. He soon found that he had not got a majority in the House of Commons. That Government was not prepared to resign and some expedient had to be adopted in order that the business of the country might be carried on; in other words, that the Executive might pass the laws it wanted. The Lord Protector, as the House is aware, adopted another expedient. He marched a troop of Ironsides down to the House and removed from the House those Honourable Members who were not inclined to vote with him. In this way, he secured a majority in the House and was able to carry on. The next stage was the return of the King, and in the circumstances in which he returned, this question of conflict between the Executive and the Legislature did not naturally for some time arise. But later on it did arise, and once more the King of England disappeared from the scene and a fresh King came in his place. Now

follows a new stage. By this time it was apparent that this method of violent removal of opposition was distributing to the country and unsuitable as the normal means of government. The Executive in power were still the King's Ministers. It was not yet the recognised convention that when they found themselves in opposition to the will of the people. They must make way for others. On the other hand, to govern at all, they must manage somehow to secure a majority in Parliament. The House is well aware how that was done. They were able to exercise considerable territorial influence among the constituents who had to return Members to Parliament, and having got their Members of Parliament, they devised ways and means for keeping the majority of those Members loyal to the Executive in power; and by that means,—it is rather a gloomy chapter in English history,—the party continued in power for a very long period. But at last it became apparent that this device could no longer be used. What was the result? The logical result was the theory that now prevails that if the Executive cannot secure a majority in the House, it must resign and go.

Now what is the moral that I draw from this? It is this, that until you reach that state of constitutional development in which an Executive unable to secure a majority resigns its power to the opposite party, until that practice prevails, you must have some constitutional device to provide the executive with power to carry legislation or else you must either have violence or corruption. Now, in the constitution under which we are now sitting we are perfectly well aware that legal provision has been made in the Act to enable the executive in the last resort to have its way in passing legislation. (*Voices*: "In the last resort".) In the last resort. That is so, and who is to be the judge of what is the last resort? The Honourable Member for Nagpur, if I have interpreted him rightly, has actually suggested that an executive deprived of this power would still be expected to carry on the business of the country in constant opposition and in constant friction. The Honourable Member knows that it is really impossible. So long as we are in the present stage of constitutional development the executive must have this power of passing legislation and it must be the judge of what is essential and what is not. I ask Honourable Members to consider whether it is better that this matter should have been properly provided for in the constitution or whether it should have been left so vague that we should be driven to constant disputes or even to violence. I will not suggest to the House the adoption of the other remedies which were adopted in the time of King Charles I. I would not suggest that the Honourable the Home Member should invite His Excellency the Commander-in-Chief to march down troops from Jutogh and clear out the opposition. The fact is that the Honourable Member from Nagpur is pleading frankly for complete Parliamentary Government. Now, let us consider what would have happened if we had advanced to that stage by last March. A certain measure was put before the House with the object of raising money and it was thrown out. I do not believe the Government would have resigned. I think they would have gone to the country. We should have had a general election. The Honourable the Finance Minister—he would have been a Minister—

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would have gone through the country offering in one hand the salt-tax with a balanced budget and on the other hand bankruptcy. (*A voice* : "Income-tax.") We should have had Mr. Darcy Lindsay taking his message of hope to the villages in Bengal or my Honourable friend from Bombay—he is unfortunately not present now—taking his message of revolution to the villages and the cities of Bombay. Well, we will suppose that the independent electors of this country refused to have this obnoxious tax. Government would then have resigned and we should have had in their place a Government drawn from the opposition. Which opposition? I believe I am right in supposing that the Democratic party is numerically the largest; so presumably we should have had my Honourable friend, Mr. Seshagiri Aiyar sitting over there, with my Honourable friend, Sir Montagu Webb (having put Satan behind him) sitting in the place of Sir Basil Blackett. How long would that Government have stayed in power? I ask Honourable Members really to consider. If that state of things took place to-morrow, do they suppose that they could conduct the Government of the country for a whole session, nay, even for a month? (*Cries of "Why not?"*) (*A voice* : "Much better.") Could they rely on a majority in every case? Are they sure that their followers are so closely united? Do they understand their programme so clearly that on every occasion they can be sure of a majority? Have they got that support in the country on which they could constantly rely? Honourable Members know perfectly well that in a very short time some occasion would arise and out would go their government, to be followed by another government equally unstable. I am not accusing Honourable Members of any fault in this respect. The trouble is this, that you have not yet got an electorate educated enough to understand even the beginnings of party government. How can such an electorate keep any party in power? If that is so, why is not the House prepared to accept frankly the position that we are at present in the transitional stage and being in that stage we must have the constitutional devices appropriate to such a stage. If the Honourable the Mover is of opinion that that stage should more speedily come to an end, by all means let him try and amend the constitution but let him not amend it in such a manner as simply to make the present Government impotent. I say, Sir, that the Honourable Member from Nagpur and those who support him are playing the game of no-co-operators. What does the so-called Swaraj party want? They openly avow that they want to come to this House and make the position absolutely unworkable and the Honourable Member is paving the way for them. He is depriving Government of the one device by which they can get out of a deadlock. He is flinging the door wide open to Mr. Das and his party and saying to them 'come in and you shall find the house swept and garnished.' I would ask the House seriously to consider before it passes this Resolution as amended. I do not agree that the House should never pass a Resolution which it knows cannot be carried into effect, but I do ask, the House should not pass a Resolution which, if carried into effect, would result in nothing but disaster and wrecking of the constitution. It would be an act of political sabotage and I would beg the House earnestly to consider what would be the

effect on the minds of the House of Commons of the passing of such a Resolution. We stand here professedly as the party of constitutional development and constitutional progress and yet the Honourable Member is asking us to pass a Resolution which means nothing else than tearing up the constitution we have and throwing open the doors to the wreckers. I trust that the House will throw out this Resolution.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : I feel bound to make my position clear. I feel as if some sort of misunderstanding has crept into the minds of some Honourable Members as to the motive which has prompted this Resolution. I may say, at once, that it is not on account of any idea of resentment or retaliation that I have brought forward this Resolution, but it is simply my duty, towards the Government as well as towards the people, which has actuated me to be the author of this Resolution. My own view is this, that this dangerous weapon, which is concealed in the provisions of section 67-B, is apt to give rise to agitation and propaganda work and, consequently, it is with a view to provide against all these sorts of troubles that I have moved this Resolution. Now, Sir, I may address myself to the very elaborate defence, which has been set up by the Honourable the Home Member. He has endeavoured, no doubt, to make a weak case look like a strong one, but I may say that he has introduced certain matters which had no relevancy. He has not endeavoured to come near those crucial and vital points which are involved in the debate centring round my Resolution. Now, in the first place he argued that he is not sure that there has been any kind of resentment outside the House and that it has not resulted in heart-rending consequences, and that the certification in connection with the Princes Protection Bill has not roused India to her depths. To meet that argument I may say that resentment there has been. I wish he had had a little more time to see the papers, namely, the comments and criticisms of the press, then he would not have given vent to that expression of opinion. There have been meetings and a number of comments have been made in almost all Indian papers, putting forward the very serious resentment and protests of the people, and yet the Honourable the Home Member has the courage to say, on the floor of this House, that there has been no resentment outside this House. I beg to demur to the correctness of that argument. I am very glad that this certification has not brought about heart-rending results, and this is always the wish of this Assembly. This Assembly never desired that there should be any unhappy result and this Assembly deprecates that; what this Assembly has been striving to do and contemplates doing in the future is to put forward preventive suggestions in order to avoid any kind of heart-rending consequences. That is the duty which this Assembly has set out to perform. Therefore, Sir, if there have been no heart-rending results we are very glad. But the Honourable the Home Member must remember and I think that medical experts will tell him that a slow fever is more dangerous than a tempestuous fever. Slow fever takes the shape of tuberculosis and eats up the very vitals of life, which on the surface may seem to be wholesome but in reality is eaten up by the tubercular germs. This Assembly therefore is not in favour of certification which gives rise to this slow cancerous undergrowth. I wish the Honourable the Home Member could have

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condescended to come down from his high pedestal and accompanied us and could have condescended to enter into the feelings of the people of this country; then he would have acceded to our contention that there is discontent, that the people have felt very deeply, and the people protest against this certification. But I am sorry that on account of lack of time he cannot do that, and, therefore, we now convey this message on behalf of the people, that there has been a great deal of discontent and this certification has not brought home to the minds of the people that in reality these reforms are nothing but political jugglery and a sham.

Now, Sir, the second argument which the Honourable the Home Member has advanced is that there was an American President, Mr. Cleveland, who exercised the power of the veto no less than 301 times. My Honourable and learned friend, Dr. Gour, has adverted to it, and I need not repeat it. But I should like to make one or two observations in brief. Firstly, that the rule of law and the constitutional law there differ from those of this country and other countries. It cannot be denied. Every student of constitutional law will agree with me so far as this question goes. Then, Sir, it is not to be forgotten as to who is the President? He is an elected one and is responsible to the electorate. Sir, if I elect the President and he steers himself in a certain way, I shall have to accept it, because he has been elected by me, and therefore this sort of agitation, this sort of discontentment does not arise. Therefore this precedent which has been relied on by the Honourable the Home Member has got no applicability to the present case; and at the same time, I may mention that there is a great difference between the power of vetoing and the power of certifying. One is a negative power; the other is a positive power. One is to refuse what has been decided by the Assembly; the other is to make a law, to legislate, over the head of the Assembly, to overrule the verdict, the decision of the Assembly. Is there not a difference between these two powers? Is there any parallel in the whole world where this uncommon constitutional power of certification has been given? I offered this challenge in my opening speech also, but no response has been given. Therefore I have felt bound to reiterate the same; and I must say that the opposite party must concede that there is no parallel. What answer is there to meet this argument? There is no answer, I very respectfully submit.

The Honourable Sir Malcolm Hailey : None whatever.

Dr. Nand Lal : Then the Honourable the Home Member relies on the Montagu-Chelmsford Report. The argument purports to show that a number of deputations were invited, that evidence was recorded, that expert opinion was also invited, that the gentry of whole India was there, that the whole question was discussed, and it amounts to this that India had accepted this power which is now embodied in section 67-B. That is his argument. My reply to that is this. In the first place, with due deference to the ability of those who composed those deputations, they did not foresee what a terrible and dangerous weapon there was concealed in section 67-B, and they could not then realize for a moment that it would have unprecedented consequences, and it would bring about untold

discontentment; they could not contemplate that. There is evidence in favour of my view, and evidence of the greatest possible weight, evidence which must be respected by every non-official and some official Members of this House also—the evidence, the view, the protest of the Right Honourable Mr. Sastri; I will presently invite your attention to that, Sir, and I read it. (*The Honourable Sir Malcolm Hailey :* “Is it all?”) I may invite the attention of the Honourable Home Member to it, Sir, he knows it, but I am simply reminding him of it. He, namely, Mr. Sastri, says :

“Then there is the emergency provision made in this Bill against which also I wish to raise my voice in protest. The emergency provision in the case of the Governor General seems to me to be unnecessary.”

This is the view of the Honourable Mr. Sastri on whose testimony the Honourable the Home Member relied the other day in his reply. Mr. Sastri further observed as follows :

“He has got power in the shape of his ordinances and he acting with his Council has got the power too in the shape of his own Regulations which may arise. Why is it necessary to duplicate this emergency,”—*very rightly*—“power by further giving him the opportunity to set aside the Legislative Assembly and have things passed through the Council of State.”

Then the same Honourable witness observes :

“I cannot see if there are real emergencies. Let him meet them using ordinances and then come to the Legislative Council for sanction.”

The Honourable Sir Malcolm Hailey : But read his reply to question No. 4026.

Dr. Nand Lal : Am I wrong? Is my authority inaccurate, namely, is this testimony, which was given by our leader who is respected universally by India wrong? Is it the first time that this Resolution has raised the voice carrying the message of the people of this country? This is the view which was propounded many years back. This was the protest which was set forth by our Leader. Why is it then said that it is on account of resentment that this has been put forward? What is the justification for that remark? Now, Sir, further on, the Honourable the Home Member meant to argue that the Montagu-Chelmsford Report was for less political right and this Act is a bit of an improvement. That is not the question before the House. The question before the House is this—and this House ought to decide it—whether the present law as it stands, though we may respect it till it is altered, is suitable to this country or not. Well, the last unhappy event has proved to the hilt that this law is not agreeable to the political aspirations, to the hopes of the people of this country. That is the question. We have nothing to do with what was done two years back or three years back or what was the opinion of the Montagu-Chelmsford Report. We have to see whether the law, as it stands, is agreeable or not. But at the same time I concede that we must respect it till it is altered by constitutional means, the course which we are now legitimately adopting. Therefore, that argument also, I very respectfully submit, has got no evidential value. Then the Honourable the Home Member says “Hullo, I have got greater evidence, that Mr. Patel in the Congress in July 1918 countenanced the existence of this power.” Now, I may remind him of the subsequent deliberations, subsequent Resolutions, subsequent result of Conferences,

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which were held and brought to light. Does the Honourable the Home Member know what was the Resolution passed by the Congress in 1920-1921? He knows, but I shall remind him. The words are very eloquent, Sir.

They support me and support my other learned brethren who have identified their interests with me, though to a very limited extent. The Resolution runs thus :

“ That this Congress adheres to the Resolution passed at the Delhi Congress regarding constitutional reforms, and is of opinion that the Reform Act is inadequate, unsatisfactory and disappointing.”

May I ask the Honourable the Home Member, was it accepted by the great political body of this country? The Honourable the Home Member will refer to an obsolete decision, he will not go to the recent authority. That is the latest decision, and I shall give him another decision. Perhaps he may ask what was done in 1919. I shall venture to submit that the view of the Congress, in brief, then was this : “ It is of opinion that the proposals are disappointing and unsatisfactory.”

Now the Congress of 1919, the Congress of 1920-21 have given this verdict. Are we to bow to this verdict, or to the opinion of Mr. Patel in 1918? I appeal to the House, which is the latest decision, and the latest decision is always in keeping with the present current, which is agreeable to the present circumstances, not one which was agreeable to the old circumstances. That is not the law. That may be the law in the contemplation of the Honourable Sir Henry Stanyon, who said it should be, like the laws of the Persians, unchangeable. I shall refer to that point later on if I were allowed time to do so. Further the Honourable the Home Member argues and he relies on negative evidence. Negative evidence is a kind of silent evidence; it is not of a positive character, as for instance when a witness comes and says : ‘ I have not seen,’ that is called negative evidence. Before lawyers that kind of evidence is of the weakest type. And after all what is that evidence which has been relied on by the Honourable the Home Member? That evidence is this, that Dr. Annie Besant did not oppose it. One argument. And the other argument says there was a Federation in 1922, and he has asked us to advert to the Resolutions and the opinions which were expressed prominently at that time. I shall go to that and I shall show that the Honourable the Home Member's view of the value of those is against him and is in my favour. Now Sir, adverting to the Resolution and to the opinions expressed after full deliberation in the All-India Federation of 1922 they are as follows, and I shall read, Sir, for your information.....

Mr. President : I wish to point out to the Honourable Member that his time is exhausted, so he should be as brief as possible.

Dr. Nand Lal : I thought you would allow me to meet all these arguments, but I shall now curtail my reply. That Resolution was :

“ That full autonomy should be introduced in the Provinces at the end of the first term of the various Legislatures, and as regards the Central Government, all subjects, except defence and foreign affairs with Indian States should be transferred to popular control.”

That is the view which was held by that Federation. Is it not against you, Sir, may I ask the Honourable Home Member? Is it not in my favour? Then the Honourable the Home Member has referred to the proceedings of the House of Commons. The proceedings of the House of Commons, also, to a certain extent are in my favour. Mr. Scott's view on his amendment was read out. I have no time to advert to it again; I shall simply give the gist of it that it is in my favour. My Honourable friend Mr. Samarth had invited the attention of this House to Mr. Scott's expressions of opinion and that of some other gentleman referred to therein, his opinion, if I mistake not, was also in favour of the Resolution which is being moved now. Unfortunately, the amendment of Mr. Scott was a belated one and it had to meet an unhappy fate. It may be considered to have been defeated, but it was not really defeated on its merits but on account of its being belated. Had it been in time, most probably, that amendment would have received the appreciation and the acceptance of the House, namely, the House of Commons. These were the proceedings which went on in the House of Commons. What was after that? Well, the proceedings subsequent to that are also in my favour. The Honourable the Home Member said that Lord Chelmsford made a statement and that statement made it clear that the emergency power was a condition precedent. I beg his pardon. His Lordship's statement cannot be considered part of the Bill; his Lordship's pronouncement cannot have any legislative value at all. Certainly it may be considered an explanatory statement, a statement which may explain or elucidate, but it cannot be considered law. Then, Sir, the Honourable the Home Member has given us, namely, to this Assembly, a certificate. It is “ that this Assembly is illustrative and not reflective of the current of the opinion of the people.” It is a pity. We are in the afternoon of our lives; therefore, the Honourable the Home Member has got the courage of talking like that. Before this, he could not have given expression to that opinion. Well, the argument goes against him. If one of the tax-payers of this country refuses to pay the tax and he is hauled up, he will say “ Here is the pronouncement of the Honourable the Home Member; there is no law against me; the law has not been passed by a body which is reflective of the present current of the opinion of the people; the Assembly was simply an illustrative body.” And are you, Sir, the occupant of that most exalted Chair, pleased to hear that expression of opinion emanating from the Honourable the Home Member. This argument goes against him, I submit, and posterity, which will be against the Government, will thank him for that and say “ this law has not been passed by a proper and constitutionally composed body but by an illustrative body.” That goes against him. Then he has allowed himself to say “ Oh! henceforth there has been an attack and an invasion from outside, but now there is an invasion which may be called an internal invasion.” He observed that Pacific Goths and constitutional Huns are going to sweep away this Assembly. Sir, is this so? Is there any Member here who can be considered one of the Goths or one of the Huns? At least I am not one. Am I a Pacific Goth or a constitutional Hun, because I respected these reforms at their very inception, although holding that they were inadequate, but I must confess that I did not know then that there was a danger lurking in this provision. I came to this Assembly and worked actively. Am I one of the Goths or Huns?

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We, namely, this Assembly stood against the policy of resignation ; therefore we deserved a better certificate. Am I a Pacific Goth or a constitutional Hun, because I, first of all, and rightly, stood against the policy of indiscriminate obstruction ? Am I to be considered a Pacific Goth or a constitutional Hun, because I, first of all, had the moral courage of boldly standing up against the policy of resignation on the question of salt certification ? Is this the certificate which should have been given to this Assembly by the Honourable the Home Member ? It is a pity and simply regrettable. I may remind you, Sir, of the sacred and gracious words embodied in the gracious royal declaration. The sacred and gracious words of His Gracious Majesty are that " my officers will respect the opinions of the representatives of the people." Has that gracious expression been complied with by the Honourable the Home Member ? Is his statement in full accord with that ? He calls us Goths and Huns ; he calls us a body of illustrative persons. Has he paid respect to that gracious and sacred expression ?

The Honourable Sir Malcolm Hailey : I regret that I must interrupt the Honourable Member in his flow of eloquence since he has made a definite statement, which I cannot allow to pass unchallenged, that I had called the Members of this House either Goths or Huns.

I will supply the Honourable Member if he wishes with a copy of the proceedings of the House from which he will
4 P.M. see that though I used that expression I did not in any sense use it in regard to present Members of this House.

Dr. Nand Lal : Sir, here I have got it ; it is reported so in the newspaper which I am holding, in my hand, now and which contains his statement. Now Sir, the Honourable the Home Member says that it is better for the representatives of the people to have a better understanding with the Executive and not to think of law, and he cited an authority. We know that text writers write and will keep on writing. The executive rely on such evidence when it suits their purpose but they never bring it into action. I shall not refer to the old circumstance but merely shall call your attention, in passing, to the event of yesterday. As you remember I had made a request which was rejected. If it was simply and only rejected it does not matter ; but he was prepared to ask the Chair to call me to order. Sir, that is the treatment which we get at the hands of the Executive, because we are now the setting sun, and we are in the afternoon of our lives. A setting sun is never worshipped. When we were the rising sun, in the first session, we were, to some extent, respected ; but now these nicknames are thrown upon us.

The Honourable Sir Malcolm Hailey : What nicknames ?

Dr. Nand Lal : That we are an illustrative body, Sir. It is simply regrettable. Then the Honourable the Home Member means to say there is so much conflict in different classes. I must say that there is the conflict of opinion in existence, at present unfortunately. But the Honourable the Home Member forgets that India is a vast continent.

It is a sacred ideal, and the sacred text is in favour of it, " that brother should not go against brother." But after all the people of India are not angels. They are human beings. If, in certain parts of India there is a certain sort of dispute between two conflicting communities on account of some self-seekers, is that an argument which could be used to defend the Honourable the Home Member's view ' that we are not entitled to ask that this provision be deleted and that we are not fit for Swaraj.' In every home even own brothers sometimes happen to fight. Does that prove they are not fit to live in the same house ? When some sincere, good and real reformer comes, we may repent and those self-seekers, who are the cause of all this present conflict, will be called to the bar of the people and then some of us shall bear testimony against them.

Then the Honourable the Home Member says,—the Executive wants money to run the administration. Well, I might tell him also that we are worthy of trust. Indians have got wonderful adaptability and I do not think it requires very elaborate arguments to support that proposition. Legal luminaries, shining lights in every province, give up their own pursuits to serve, in their official capacity, their country and their Government sincerely and with credit to themselves. When they revert to their professions or their private work or private pursuits, then they take up the brief of their people again ; which shows that Indians possess the most wonderful adaptability. So far as mistrust goes, I am afraid the Honourable the Home Member is not correct in his view. He savours too much of pessimism. These submissions of mine may be considered to be replies to the arguments which emanated from the Honourable the Home Member. I will now advert to some other arguments, advanced, by other speakers, against my Resolution.

Mr. President : I must ask the Honourable Member to bring his remarks to a close.

Dr. Nand Lal : Very good, Sir. Then I will not advert to the remarks made by the other speakers. But I may tell them in a nutshell that this Resolution does not want too much. This Resolution is in full compliance with the needs, requirements and real wishes of the people of this country. This Resolution is fully consonant with my most sincere and most profound respect for the convictions and good and kind intentions of His Excellency the Viceroy and Governor General. This Resolution contemplates doing away with the fear centering round future agitations and propaganda work which may happen to crop up by future certification. This Resolution contemplates the maintenance of peace and order, so that India may become a seat of peace and tranquillity and the Government of India may have no other disturbance in future and the people also may enjoy and try to do what may politically, morally and socially develop them, instead of their being driven into a course like the present agitation. The Honourable the Home Member ought to give me credit for bringing forward this Resolution ; but it is a pity that my Resolution has been misconstrued. I commend my Resolution to this House with the request that it may be passed in its entirety. With these remarks I close my reply.

The Honourable Sir Malcolm Hailey : Sir, there was an old saying of the mediæval scientists—*nil violentum est perpetuum*—a very violent force cannot go on for ever. Dr. Nand Lal has ceased ; and you have called upon me, I gather, with the intention that I should say what still remains to be said on behalf of Government, and that the House may proceed to a final decision on this momentous question. Now, before I proceed to sum up briefly the arguments on my side, there are certain passages in the speeches of some of my honourable friends opposite that I must deal with, though again as briefly as may be. I begin with Mr. Harchandrai's very interesting attack on what I said on the last occasion. I must assure him that I did not say to the House that the certification of the salt-tax had caused no resentment in the country. I purposely forbore to express any opinion on that point, for at the moment I was dealing with the main Resolution and neither with the justification for certification nor with its effects ; but since he has raised the point, let me say my reference was confined to the assertion that the prognostications which had been made in this Assembly in March last had not been fulfilled. It is not for the first time that prognostications of this kind have proved to be misleading. When Mr. Samarth before the Joint Parliamentary Committee said that if responsible Government was not granted within the Central Government there would be an agitation in India which would stagger India, he was guilty of one of these overstatements. When Dr. Gour told us that the half-anna post-card would be a messenger of revolution, and Mr. Jamnadas Dwarkadas repeated the same remarks regarding the certification of the salt-tax, they were both guilty of prophecies so exaggerated as cast some doubt on their political judgment. Again, it was far from my purpose to be thought to be poking scorn at those whose convictions led them to resign as a protest against the salt-tax. That it was in itself a useful political demonstration, however, I cannot believe ; and I would recall to Mr. Harchandrai Vishbindas in particular the dangers that sometimes attend protests of this nature. In what company did Mr. Harchandrai Vishbindas find himself at that famous protest meeting at Karachi ? He himself and his companion, Mr. Shahani, having started the ball rolling, were finally obliged to retire from that meeting on account of the violent and disloyal expressions to which it gave vent. But I am thankful to Mr. Harchandrai for one matter. He made it clear that in his opinion—and he is one of those who felt most strongly and has given proofs of his feelings—the reserved powers must be retained in some form ; certification in itself is not to go. All he claims is that—I use his own words,—“ it should not be used for petty purposes ”. That is a guarantee easily given or indeed unnecessary ; and if he can hold out no greater apprehension than that, then he may very well be content to vote against any amendment of the Act. But he added lastly a certain charge which is directed not so much against us here, as against the Government at Home. He suggested that had a previous Government been in power this certification would not have taken place, for there had been a serious change of vision on matters of this nature in England. No more damaging statement can be made to India than that, because it amounts to something like a charge of breach of faith against the English people. There may be differences of opinion as

between one Government and another ; there may be differences of policy ; but when the British nation has once put its hand to a solemn covenant let no man lightly suggest that it will fail to implement its undertaking. I deny that the incidents connected with certification can be adduced to show that there has been any change. Let me read two extracts to the House. One is from Mr. Montagu's speech on the 14th February 1922. He said :—“ It is well that Indians should realise that based on goodwill and partnership, there are no rights that will be denied here by the British Parliament.” But he went on to say that if the discharge of responsibilities of our Government towards India is prevented, then India would not successfully challenge the most determined people in the world. That is the attitude that Mr. Montagu took then, namely that he was satisfied that the British Government must maintain its responsibilities in regard to India. How does that attitude differ from that expressed by the present Under Secretary of State in his speech on the India Supply Vote. He was dealing with those in England who seemed to be opposed to the Indian Reforms Scheme. “ Again I say expressly that I am referring to no one in this House, but every one is aware that there has been a great deal of criticism outside against the present constitution, both in this country and India. I would like to throw a challenge to those people and to ask them, what is there incompatible with conservative principles in constitutional development ? Rightly understood, the gist of our party principle is the support of the constitution against subversive and revolutionary principles. I have no reason to think that we,” that is the Conservative party, “ did not give our real assent to the solemn pledge given in 1917 and reiterated in 1919.” In truth, the attitude of the British Parliament and the responsible leaders of its parties, is exactly the same to-day as it was in 1919, and is exactly consistent with the declaration made in 1917.

I am unwilling to detain the House and do not propose to deal at length with the criticisms of my friend Mr. Mazumdar. I draw attention only to one interesting fact that he was not greatly interested in the particular amendment we are now discussing. He did not think indeed that it was the best way of obtaining his object. His object was simply this,—to make the Government of India responsible to the Indian Legislature and not to Parliament. I ask Mr. Mazumdar and those who think with him, if they imagine that this is really the best way of securing that object ? But this is a point to which I shall refer later. At present I shall merely note how very lukewarm is he and some of those who have followed him, in defence of this particular amendment.

Dr. Gour found great objection to a statement which I made in last March that the Executive Government having no majority in the House, it was necessary that they should in the last resort have by some arrangement of the law powers equal to those which they would enjoy if they were in possession of such a majority. He criticises my proposition ; that I do not mind ; but his conclusion from it, that on each and every occasion Government will utilise this special power and thereby place itself in the position of possessing a permanent official block—that suggestion is entirely unwarranted. I would not accept it for a second. It does not flow from the constitutional fact which I stated. And it is of course

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a constitutional fact. He quoted Mr. Montagu's speech in the House in an attempt to prove that my assertion of principle was unjustified. But this is what Mr. Montagu also said on the subject: "Under the scheme of the Bill, we make the Government responsible to Parliament still for the whole of the government of India. The whole theory of the Bill is that we do not establish a dyarchy in the Government of India." Then clearly the Government of India was not to be under control of the Indian Legislature; that is, it was not to be in the last resort in the position of having to accept irrevocably the vote of a majority in that Legislature. On the contrary, my reading of the situation is supported by the view of the constitution which was taken by Lord Sinha. I invited Dr. Gour to read Lord Sinha's remarks on this subject, but he discounted the value of Lord Sinha's view as being that of an Under Secretary only. Well, Lord Sinha is Lord Sinha, and possibly as good an interpreter of the constitutional basis of the Act as Dr. Gour himself. Since he would not at my request supply the House with the particular words used by Lord Sinha, I will do so. "Government must be in a position to secure the legislation and supplies it needs for the discharge of its responsibilities. It has not the natural means of an assured majority in the House and it must be therefore given an artificial means." Between these two interpreters of the constitution, the House may make its own choice. Dr. Gour's final contribution to the debate was this. Two years ago, he says, the salt tax was put forward by the Government and rejected by the Assembly, and it was not certified. Thereby, says Dr. Gour, a constitutional lawyer of some eminence, a convention of non-certification was established. The position of a constitutional lawyer obviously does not imply an equal knowledge of constitutional history. A convention is not established by a single omission of this kind; a convention is not indeed established save by tradition or definite acknowledgment. So much for our opponents. I claim that we have demonstrated on the main proposition that the existence of a provision of this nature in the Act was a condition precedent of its passing by Parliament, that its necessity was never questioned when the Act was passed, and that its retention has never seriously been contested since. I shall be content to leave the main question at that. When I ventured the remark on the last occasion that the main Resolution seemed to have no friends, Dr. Nand Lal asked me if I had consulted everybody here. I had not done so, but I am bound to say this, that if I were being tried for my life and were being defended by Dr. Nand Lal, and if my anxious glances at the faces of the jury showed me the kind of look that we saw on the face of this House when Dr. Nand Lal was arguing his case, I should have very grave fears for my safety. It is clear that the Resolution itself has gone and not a word need more be said on the subject.

I come now, passing over Mr. Basu's weird and whimsical redrafting of the Act—I come now to the one amendment in which we are now interested, namely, the omission of the words "or interests". The House has heard from Mr. Graham the true constitutional position with regard to the insertion of those words. Let me say that I hope that

if on any future occasion Mr. Seshagiri Aiyar has need of legal advice whether we have properly put the Act into force or not, he will not think it necessary to go as far as Madras for that advice. He will find within our own ranks constitutional lawyers quite as good as those whose advice he collected at such pains last April. Indeed, it is clear that Government can on occasion produce constitutional lawyers who differ only from the most brilliant leaders of the Bar in India in one respect, the modesty of their remuneration. Mr. Graham dealt with that case so faithfully, that I need say no more on that aspect of it save that I may repeat this only—that it is abundantly clear that the retention of the word 'interests' is fully in line with the powers that we have given to Governors, and is a necessary corollary to the position occupied by the Governor General and the Executive so long as there is no responsible Government introduced in the Central Government itself. That is to say, that so long as the Central Government is responsible to Parliament for the whole range of subjects with which it deals, then it is necessary that the word "interests" should remain in the Act. The mere insertion of the words "safety and tranquillity" will not allow the Governor General to deal with a large class of subjects for which he is responsible to Parliament and to secure proper legislation in regard to which he has no other means. To repeat the argument used by Mr. Graham, when we have transferred to the control of the Indian Legislature any subjects for which the Central Government is now responsible, then Parliament will cease its control in regard to those particular transferred subjects, and there being then in regard to these subjects no responsibility to Parliament, the Governor General need have no exceptional powers. But it is only when we have transferred subjects in the Central Legislature that you can justifiably limit the Governor General's reserve or exceptional powers to such legislation as is required merely for the safety or tranquillity of India. That is the argument. It is true, that there are many in this House who may desire to see responsible Government introduced at once into the Central Government. That may be so, but is this the way to attain that desire? I join with Mr. Subrahmanyam there. Whether your object is only a protest against the salt-tax or whether your object really is to help forward the attainment of responsible Government in India, then equally, the attempt to amend the Act in this particular respect is premature and useless. To put it in the shortest words, if you desire to see an important change in the constitution, you have got to work for that change in the constitution, instead of merely proposing the removal of one particular function which is essential to the existing system. I have been told by Dr. Nand Lal that I do not read the papers sufficiently. I wish he knew, how much my mental health suffers from the perusal of large numbers of the papers to which he is apparently so devoted; but I will give him a proof that I do not entirely neglect them. I will present him with a passage apposite to this connection from an Indian newspaper of Calcutta, whose name would, I know, meet with his approval. It refers to Mr. Seshagiri Aiyar's amendment. "As for Mr. Seshagiri Aiyar's Resolution to define the term 'emergency' in sections 67-A and 67-B of the Government of India Act, 1919, we really do not see how it can be given effect to. No legal definition can cover the ground which

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is hidden under the word 'emergency' and any exhaustive definition of the word is impossible." Now, if an exhaustive definition of this word is impossible, let me equally say that the attempt to gain an important constitutional advance merely by attempting to omit the one word "interests" is itself unworthy of a Legislature which respects its reputation. What are you seeking to do? We have heard other analogies to-day. Let me give you one more. For the moment you have the whole stream of our constitution setting in one main direction; you wish to divert it; are you seeking to open a new channel? Not at all; you are attempting to place a wall about a quarter of the way across the channel; that and nothing more. Or let me take a broader argument, even at the expense of repeating to some extent what I had to say the other evening. Every one here can foresee occasions—Mr. Shahani clearly foresaw one and there are others here whose imagination can run in the same direction—on which it might be necessary for the Governor General to utilize his power in a manner coming within the definition of "the interests of India", in order to maintain the essentials of a stable Government. Dr. Gour, perhaps by my fault, did not correctly understand the nature of the picture which I drew to the Assembly. The picture which I drew referred not to this Assembly at all; I referred to a possible future Assembly when I suggested that those who desire to paralyse the administration of Government might find their way into it, and in order to paralyse Government might refuse to pass any legislation which would enable that Government to carry on its ordinary business. Now the greater part of our financial legislation is annual, and I have as yet found no answer as to what course Government would be able to take to meet such a contingency. But it is not necessary for me to exercise my imagination further in that direction. Let me put one case: not at all an impossible case, and one which will perhaps interest many Members of this Assembly. We will suppose that Government found it necessary to pass legislation to protect the interests of minorities. Now that is done at present mainly by rule or regulation; I may instance the electoral rules. If that legislation were denied by such a House as I have described, then what remedy would be left to us and what would be the position of those minorities? It is indeed possible to forecast a variety of circumstances in which it might be necessary for the Governor General in the last resort to utilize powers extending beyond those connected merely with the maintenance of safety and tranquillity. That to my mind is India's case for retention of the word "interests"; it is entirely the fact that the British Parliament demands that its responsibilities shall be maintained over the whole sphere of activities now in the hands of the Governor General: it is the fact that the interests of many sections in India render this necessary. Finally—let me say this; the difficulty which recently arose was not based on this word "interests" at all. As was clearly foreseen in the House of Commons in 1919, the real difficulty is about the interpretation of the word "essential". If you can find some fitting substitute for the word "essential", thereby magnifying the degree of essentiality or helping to define the nature of what was essential, then you might be on the right line of the amendment

of the Act. But merely to remove the word "interests" when as a matter of fact the whole difficulty arises about the interpretation of the word "essential", that is of very little avail indeed. (Mr. S. C. Shahani: "It is the interpretation, not the word.") That is perfectly true. It is a question of interpretation. It is a question of the test which the Governor General is to apply in his own mind. It is a question of the convention which you are to set up as to the interpretation of that word "essential". That is the real question before the House, and that is the real question now before India. What India has to seek is the establishment of a convention by which an exceptional power, which everyone here admits to be necessary, is to be limited in its use. Limitation by convention is the method on which we have proceeded in England. We have not advanced in our great constitutional developments by attempting definitions or alterations of our Statutes. Thus it is now an accepted convention that a Cabinet should retire when it no longer has a majority; yet that convention is not contained in an Act, and it has not been repeated even in any of the great Colonial Acts like the British North American Act or the Australian Federation Act. The whole motive of political power at present in England is the Cabinet; and yet the word 'Cabinet' does not occur in any law.

— Dr. H. S. Gour: May I point out to the Honourable the Home Member that there is no written constitution in England?

The Honourable Sir Malcolm Hailey: True, if you wish to enter into that point, you will find that my argument is entirely apposite, for the Royal prerogative has in itself been limited by conventions, rather than by actual legislation. Bagehot in a very famous passage refers to the 'illimitable extent of the Royal prerogative'; he says indeed he wishes that somebody would set out to define it, not by way of law but purely for the benefit of mankind. Yet we have been content to proceed in this matter by convention and by mutual understanding, not by legislation. To us, the fact is more important than its legislative expression. We seek to get the reality first, and attend to the form afterwards. Then how can India attain the reality? India will gain it and gain it automatically and gain it at the moment that India has a responsible government. In other words at the moment that India's electorate shows its determination to use the powers which have been given to it,—at the moment that it forms itself into those parties which can both guide the policy of the Legislature and control its vote,—at the moment in short that can prove that it has all the essentials of responsible government; from that moment there will no longer be any need to discuss the question of exceptional or reserve powers. They will cease to exist, together with all the other incidents of a transitional constitution.

And now, Sir, if I may have just one moment more, I wish to put, not a constitutional argument to my friends, but a practical argument drawn from their situation in India to-day. Governments, we were told to-day, have feelings. I do not think that the feelings of our Government on an important question like this could be voiced more sympathetically than has been done by Sir Basil Blackett to-day. But if a Government like ours may have feelings, it nevertheless can take no share in party politics. It is not able to join one party or another, or to canvas or use its influence

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on behalf of one party or another. Yet, you can have no doubt that in the contest now approaching, the sympathies of Government must be with one section, the section (and I give it no name), which comprises all those who have hitherto stood for orderly progress and stability, and for the development of the constitution of India along the lines of the Reforms Scheme. Those who have adopted this policy have made many sacrifices in that cause : they have been consistent in support of it. The sympathies of Government must, I say, be with that party, for both the present and future progress of India lies in its hands. (*A voice* : "Why alienate it?") If that is so, we on this side cannot help being affected when we see those who have identified themselves with that policy engaged in a course of public agitation which must inevitably injure their cause. That party has in the past stood for the Reforms Scheme ; it came into this Legislature bound to that scheme ; it has consistently—I say with all honour to it—it has consistently, in spite of abuse, and in spite of opposition, stood for the scheme. Is it now going to the country with a complaint that the record of its three years' work is blank, that the Reforms Scheme has broken down, that there are no reforms in India, and no constitutional advance, and nothing but autocracy and bureaucracy ? Is that likely to help the cause of constitutional advance in India ? Is that the way (*A voice* : "Who is responsible?")..... Whatever the causes may be, I am looking now only at the results of such a confusion. I am asking whether that party will do itself and do India any good by representing that the Reforms Scheme has been reduced to nullity ? If I may offer a word of advice to those who are interested in the future advance of India on constitutional lines and to those who have already made sacrifices to secure that end, it is that they should not identify themselves with criticisms and with an agitation which plays entirely into the hands of their opponents, the party which would wreck the constitution, which would wreck the Legislature, and to my sincere belief would also, if it could, wreck India.

Mr. President : The original question was :

"This Assembly recommends to the Governor General in Council that he may be pleased to take necessary steps to get section 67-B of the Government of India Act amended so as to provide that the Governor General shall not use his special emergency powers of certification under section 67-B to overrule the decision of the Indian Legislative Assembly."

Since which an amendment has been moved :

"to omit all words after the word 'amended' and insert the following words—
"as follows :

'The words 'or interests' occurring between the word 'tranquillity' and the words 'of British India' be deleted.'

The question is that the words in the last two* lines of Dr. Nand Lal's Resolution be omitted.

The motion was adopted.

* "So as to provide that the Governor General shall not use his special emergency powers of certification under section 67-B to overrule the decision of the Indian Legislative Assembly."

Mr. President : The question is :

"That after the word 'amended' in the original Resolution, the following be inserted :

"as follows :

'The words 'or interests' occurring between the word 'tranquillity' and the words 'of British India' be deleted.'

The Assembly divided :

AYES—38.

Abdul Hamid Khan, Khudadad Khan,
Mr. .
Abdul Majid, Sheikh.
Abdulla, Mr. S. M.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahsan Khan, Mr. M.
Aiyer, Sir P. S. Sivaswamy.
Asad Ali, Mir.
Asjad-ullah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Barua, Mr. D. C.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Das, Babu B. S.
Faiyaz Khan, Mr. M.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.

Ibrahim Ali Khan, Colonel Nawab
Mohd.
Joshi, Mr. N. M.
Mahadeo Prasad, Munshi.
Majumdar, Mr. J. N.
Mukherjee, Mr. J. N.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rajan Baksh Shah, Mukhdum S.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Sinha, Babu Ambica Prasad.
Sinha, Babu L. P.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Ujagar Singh, Baba Bedi.
Venkatapratiraju, Mr. B.
Vishindas, Mr. H.

NOES—36.

Abdul Qadir, Maulvi.
Abdul Rahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Ansorge, Mr. E. C.
Ayyangar, Mr. R. Narasimha.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Barodawalla, Mr. S. K.
Blackett, Sir Basil.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatarji, Mr. R. C.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Dulal, Sardar B. A.

Faridoonji, Mr. R.
Gidney, Lieut.-Colonel H. A. J.
Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Innes, the Honourable Mr. C. A.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Nayar, Mr. K. M.
Percival, Mr. P. E.
Richey, Mr. J. A.
Sassoon, Captain E. V.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanyon, Colonel Sir Henry.
Subrahmanayam, Mr. C. S.

The motion was adopted.

Mr. President : Further amendment moved :

"At the end of the Resolution, as amended, add the following :

(2) The Proviso be amended as follows :

(a) The word 'grave' be inserted before the word 'emergency', and

(b) the following be inserted after the word 'emergency' :

'such as foreign invasion, civil war or widespread internal commotion and in no other circumstances.'

Mr. J. N. Basu (Burma : Non-European) : I may mention that I have withdrawn the amendment. I am advised to do so, and I withdraw the second part of the amendment.

Mr. President : Is it your pleasure that the amendment be withdrawn ?

(Voices of " No " and " Yes ".)

Mr. President : Objection having been taken, the question is that those words be inserted.

(On this question being put it became clear to Mr. President that the Assembly did not appreciate the effect of such objection.)

Mr. President : I am afraid the Assembly has not understood. Objection was taken to the withdrawal of the amendment and, therefore, the Chair forthwith put, not the question of withdrawal but the question of the insertion of the amendment in the Resolution. The question I have to put is that those words be there added.

The motion was negatived.

Mr. President : The question is that the amended Resolution which runs as follows be adopted :

" This Assembly recommends to the Governor General in Council that he may be pleased to take necessary steps to get section 67-B of the Government of India Act amended as follows :

The words ' or interests ' occurring between the word ' tranquillity ' and the words ' of British India ' be deleted."

The motion was adopted.

RESOLUTION RE CONTINUANCE OF SUPPORT TO LEAGUE OF NATIONS.

GRIEVANCES OF INDIANS IN TANGANYIKA AND PACIFIC ISLANDS.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, I beg to move the Resolution* that stands in my name on the paper. Having regard to the late hour, I do not know whether it would be convenient to start a debate on this important question to-day. In accordance with precedent in the matter, I ask whether you would not allow me to make my speech on a later day, to which the debate may be adjourned. If this is allowed, I would formally move the Resolution to-day without a speech.

I will take your ruling with regard to that and will not speak if that course is adopted.

Mr. President : The Honourable Member is quite right. There is a precedent to that effect, and I am prepared to accept the moving of the Resolution. Resolution moved :

" This Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee with a non-official majority to consider the question of continuing the existing financial and other support by the Government of India to the League of Nations specially in the light of grievances of Indians in the Mandated Territories of Tanganyika and the ex-German Islands on the Pacific Ocean."

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 11th July, 1923.

* " This Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee with a non-official majority to consider the question of continuing the existing financial and other support by the Government of India to the League of Nations specially in the light of grievances of Indians in the Mandated Territories of Tanganyika and the ex-German Islands on the Pacific Ocean."

(CORRIGENDA)

Legislative Assembly Debates, Vol. III, page 2159 :

In lines 23-24, for " Bengal Regulation of 1810 " read " Bengal Regulation 10 of 1804 ".

In line 26, for " Regulation of 1810 " read " Regulation of 1804 ".

Legislative Assembly Debates, Vol. III, page 4196 :

In the first line, after the words " should be " insert the words " in a position to exercise command over personnel ".

LEGISLATIVE ASSEMBLY.

Wednesday, 11th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

ELECTION TO THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

"That the Assembly do proceed to elect a member to the Committee on Public Accounts to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy."

Sir, there is a vacancy on the Public Accounts Committee owing to the fact that one of the Members elected last March ceased to be a Member of the Assembly in the interval between March and July. That vacancy has to be filled in accordance with the Standing Orders by election by this House. If I may venture to suggest, Sir, in the special circumstances,—it is of course entirely for the House to decide— but if I may venture to suggest, a simple way to meet the difficulty would be for only one Member to be nominated for ballot and that that should be Mr. Neogy.

Mr. President : The question is :

"That the Assembly do proceed to elect a member to the Committee on Public Accounts to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy."

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, may I rise to a point of order ? The Honourable the Finance Member moves that this Assembly is to proceed to elect a Member to fill the vacancy caused by my resignation. I draw attention to rule 51 under which it is not the Assembly that has to elect Members of the Public Accounts Committee, but the non-official Members of the Assembly only :

"The Committee on Public Accounts shall consist of not more than twelve Members including the Chairman, of whom not less than two-thirds shall be elected by the non-official Members of the Assembly according to the principle of proportionate representation by means of the single transferable vote."

The Honourable Sir Basil Blackett : Sir, I think this is the usual form in which the motion is made. When the motion has been agreed to I assume that the election takes place in accordance with the Standing Orders, by the non-official Members of the House.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I suggest, Sir, a simpler course than that suggested by the Honourable Finance Member that this House probably would be unanimously in

[Dr. H. S. Gour.]

favour of re-electing Mr. K. C. Neogy, and unless another candidate comes forward I propose that he should be re-elected.

Mr. President : The question in the form in which it has been proposed by the Honourable Finance Member is in order. When we come to the election, we shall naturally have to elect according to the procedure laid down in the rules. It is a little pedantic on the part of the Honourable Member to raise a point of order on a motion which is in his own interest.

The motion was adopted.

ELECTION TO THE STANDING FINANCE COMMITTEE.

The Honourable Sir Basil Blackett (Finance Member) : Sir, although it is not down in the list, I think it will be for the convenience of the House that I should at the same moment make a similar motion in regard to the Standing Finance Committee—that the Assembly do proceed to elect a Member to the Standing Finance Committee to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.

Mr. President : I understood the Honourable Finance Member was going to move the motion which follows the first motion on the paper, namely, that we should proceed at once to elect Mr. Neogy. The motion is not on the paper, but I am prepared to take it now.

The Honourable Sir Basil Blackett : I am prepared to move that now.

Mr. President : The question is :

“ That Mr. K. C. Neogy be elected to serve on the Committee on Public Accounts to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

The motion was adopted.

The Honourable Sir Basil Blackett : I beg to move :

“ That the Assembly do proceed to elect a Member to the Standing Finance Committee to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

If this motion is passed, Sir, I should like to follow it up with a similar motion to that which has just been agreed to, with the leave of the House.

Mr. President : The question is :

“ That the Assembly do proceed to elect a Member to the Standing Finance Committee to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

The motion was adopted.

The Honourable Sir Basil Blackett : Sir, I beg to move :

“ That Mr. K. C. Neogy be elected a Member of the Standing Finance Committee.”

The motion was adopted.

THE INDIAN LUNACY (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I move for leave to introduce a Bill further to amend the Indian Lunacy Act, 1912. The matter is so simple that I need not add to the statement contained in the Statement of Objects and Reasons.

The motion was adopted.

The Honourable Sir Malcolm Hailey : I introduce the Bill.

THE CUTCHI MEMONS (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I move for leave to introduce a Bill to amend the Cutchi Memons Act, 1920. This also is a very simple matter and again I do not intend to delay the House by explaining further than we have already done in our published statement.

The motion was adopted.

The Honourable Sir Malcolm Hailey : I introduce the Bill.

THE LAND ACQUISITION (AMENDMENT) BILL.

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : Sir, I move for leave :

“ To introduce a Bill further to amend the Land Acquisition Act, 1894, for certain purposes.”

The Bill which I now seek to introduce is a small but eminently respectable one. Hitherto the persons whose land has been marked down for acquisition for a public purpose have had little or no chance to put forward their objections to the acquisition itself. It has been urged that cases of hardship have occurred owing to the summary nature of the proceedings, and that it should be open to persons whose land is being taken from them to have an opportunity of urging, for example, that the purpose for which the acquisition is being made is not a *bona fide* public purpose, or that the particular land notified is not the best adapted for the purpose, or that its area is greater than is necessary. The Bill which I seek leave to introduce has been framed to meet this position. It provides that the preliminary notice under section 4 of the Act shall be compulsory and that thereafter a period of thirty days shall elapse within which period objections may be lodged to the acquisition itself, and that these objections shall be disposed of before action is taken under section 6. The Bill provides for other changes consequential on the delay which the new procedure will necessitate. The Bill seeks to limit and not to extend the power of the Government, and will, I am sure, be popular with this House. I ask leave for its introduction.

The motion was adopted.

Mr. M. S. D. Butler : Sir, I move :

"That the Bill be referred to a Select Committee consisting of the Honourable Mr. Chatterjee, Mr. T. V. Seshagiri Ayyar, Mr. J. N. Mukherjee, Sir P. S. Sivaswami Aiyer, Mr. K. C. Neogy, Dr. H. S. Gour, Mr. W. M. Hussanally, Sardar Gulab Singh, Mr. P. B. Haigh, Colonel Sir Henry Stanyon and myself, with instructions to report on or before the 19th July 1923."

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, has Mr. Butler introduced the Bill ?

Mr. M. S. D. Butler : Sir, I introduce the Bill. I now move, Sir, that the Bill be referred to the Select Committee which I have just designated.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : In the Agenda the name of Sardar Bahadur Gajjan Singh appears, whereas the Honourable Member read Sardar Gulab Singh.

Mr. M. S. D. Butler : That is the intention. Sardar Bahadur Gajjan Singh is, I am afraid, ill, and will not be able to attend the meetings of the Select Committee.

Normally, Sir, I should have moved that a Bill of this nature be taken into consideration at once. But it is recognised that it has been sprung on the House at rather short notice, and the more elaborate procedure of reference to a Select Committee seems suitable. The fact is that it had been hoped to lay on the legislative anvil other sections of the Act as well as those which find a place in the Bill. But delay occurred, time passed and we realised that, if we did not make a motion to-day for amending the Act, we should not be able to do so in this session at all. There is a homely proverb that "half a loaf is better than no bread." We have therefore decided to separate off the matter which is contained in this Bill and present it for the sustenance of the Members of this House. I have learnt, Sir, from the Health side of the new and somewhat varied department to which I now belong that a light meal is often more digestible than a heavy one, especially if it is well cooked and served. The House has heard the names of the Members of the Select Committee to whom I propose to refer this Bill, and I am sure it will have confidence in their culinary skill.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I beg to offer a few suggestions to the Select Committee. Land Acquisition Act is, to my belief, in some cases, abused, and its provisions are sometimes applied to cases to which they should not be applied. Sometimes the land is acquired by the Government expressing in the notification that it is necessary for a certain purpose, but that purpose does not eventually appear, namely, it does not take its contemplated shape, and subsequently the same land is sold to private persons at a profit, with the result that the real owner whose land was acquired was paid a very small price for it. In this manner the owners of land are sometimes very much prejudiced. I offer this suggestion to the Select Committee for their consideration.

The second point which I beg to urge for the consideration of the Select Committee is this, that I take exception to the word "company" which occurs in the Bill. You will be pleased to see, Sir, in section 5-A, the following words occur : "Any person interested in any land which

has been notified under section 4, sub-section (1) as being needed or likely to be needed for a public purpose or for a Company." This expression "for a Company" may cover any bogus company, or any ordinary company, which may last for two or three months, it may be a company which is floated to deceive the public, because sometimes the names of respectable men.....

Mr. President : The Honourable Member's speech would no doubt be in order when and if we come to section 3. The Honourable Member may discuss the principle of the Bill, which is to provide persons having an interest in the land with the right to object to its acquisition for certain purposes.

Dr. Nand Lal : I bow to your ruling, Sir. I shall not go into the details of the Bill, but whatever has fallen from my lips has, I believe, received appreciation from Members of this House.

Then the third point is,—I should not say the third point because No. 2 has been overruled and therefore I should say the second suggestion which I am entitled to offer is this, that a good many irregularities are made in the procedure. The objection is made, before whom ? Before the Collector. And who is the acquirer to all intents and purposes ? It is the same Collector. Then in some cases there has been very serious complaint that the Collectors will not apply their minds to the real grievances of the owners of the land acquired. I, therefore, would urge upon the Select Committee to kindly give their best consideration to this point also.

A third suggestion which I wish to offer is this, that while trying to find out the market value of the land, which is going to be acquired, a very perfunctory procedure is adopted, and the real market value, which could be established by making a reference to documents and other evidence, is not really paid, and if it is

Mr. President : Will the Honourable Member kindly read the Statement of Objects and Reasons. The Statement of Objects and Reasons declares that the object of this Bill is to provide that a Local Government shall not declare under section 6 of the Act that any land is needed for a public purpose, unless time is allowed for persons interested in the land to put in objections. The scope of the Bill is extremely narrow and the Honourable Member is going beyond it.

Dr. Nand Lal : Sir, I admit it is narrow, and, therefore, I shall finish my remarks.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, I wish to make a few observations with regard to the attack made by my Honourable friend, Dr. Nand Lal, as I feel that it is entirely unjustified. I have never heard throughout the length and breadth of the country where I had the honour of going, that the Government, in order to make a large income, defraud private parties by acquiring their land at a smaller price than the prevailing market value.....

Dr. Nand Lal : I rise to make a personal explanation, Sir. I never said so. My learned friend did not follow me. Perhaps he was sleeping or reading, or was not sufficiently attentive to what I said.

Mr. K. Ahmed : I am surprised that my learned friend will not admit and withdraw the remarks that he made only a few minutes ago. The Honourable Members of this House are watchful. He said this that the real price of the land is not paid to the owner, and a smaller value than the market value is paid to him.

Mr. President : I am afraid it is very difficult for the Honourable Member to refer to the speech made by the Honourable Member from the Punjab and yet keep in order.

Mr. K. Ahmed : I suppose, Sir, if that is the construction that arises from the speech of my Honourable friend from the Punjab, my position is quite safe since I have expressed it, and in future it will be an object lesson to my Honourable friend from the Punjab not to take indiscreet objections to any Bill.

Baba Ujagar Singh Bedi (Punjab : Landholders) : Sir, with your permission, may I take the liberty to propose that the name of the Honourable Dr. Nand Lal be added to the Select Committee to serve on this Bill? He seems to be well conversant with some of the difficulties that he has explained, therefore I presume that it would be useful to add his name also to the committee.

Rai Bahadur D. C. Barua (Assam Valley : Non-Muhammadan) : I beg to support this proposition.

Mr. M. S. D. Butler : We have no objection, Sir.

Mr. President : Amendment moved :

“ That the name of Dr. Nand Lal be added to the said Committee.”

The motion was adopted.

Mr. President : The question is :

“ That the Bill be referred to that Select Committee with the addition of Dr. Nand Lal.”

the motion was adopted.

RESOLUTION *RE* RELEASE OF MAHATMA GANDHI AND OTHER POLITICAL PRISONERS.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, as the Honourable Member (Munshi Abdur Rahman) who gave notice of this motion is unable to be present this morning, he has authorised me to move the Resolution standing in his name. The Resolution is in these terms :

“ This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani and Maulana Mohammed Ali and others, who were convicted at the Karachi trial.”

Sir, I may say at the outset that I do not intend to canvass the merits of the conviction. That is far from my object this morning. I shall not deal with any technical point. I shall deal solely with the question whether it is in the interests of the Government and of the people that

these men should be detained in jail. Before proceeding further, I should like to say a few words—I shall not take more than a minute—upon the history of political movements in this country, because that is germane to the consideration of the question of which notice has been given. Not only in this country but almost in every age and in every country there have been political movements which were intended to better the condition of the people and to make the Government yield some of their powers. There is nothing new in the movement which was started in India in this behalf. In other countries, no doubt, the conflict would be between one class and another. In a country like India where there is foreign rule, the conflict not unnaturally is between one race and another. That being the position, the question is whether there is anything wrong in the people of this country expressing a desire that there should be a change in the machinery of the Government. About 50 years ago this feeling manifested itself strongly that the Government of the day should be asked to give up some of their powers and to take the people more into their confidence. At that time, fortunately, the country possessed a few men who were the predecessors of those who now adorn the Treasury Benches, and who thought that agitation with regard to political movements should be conducted in a constitutional manner. The names of those gentlemen will be always cherished with gratitude and veneration by the people of this country. It is largely due to their endeavours that the National Congress was started in the year 1885. From the year 1885 onwards the Congress with varying success met at various centres of the country and passed a large number of Resolutions. They were sent up to the Government but were rejected and ridiculed. We were told that we were up in the air, that we were not walking on the ground and that we did not understand what was good for this country. This kind of ridicule and scoffing went on for a long time, but we persisted. Just as this Assembly is trying to convert the Government to its views, we persisted in passing Resolutions in the Congress and we tried to convert the Government of the day. We did not succeed. Sometime after came the enlargement of the Councils in a very half-hearted manner. That was considered to be inadequate to meet the demands of the people. Then came the Minto-Morley scheme which to some extent gave scope for the aspirations of the people and gave an opportunity to the people to elect their own representatives. The authors of that scheme soon found that it was not suited to the conditions obtaining in India and it was considered desirable that there should be more changes. Then came the Great War. That War gave an impetus to democratic ideals and the result was an upheaval in regard to democratic institutions all over the world. It was at this juncture that Mr. Montagu made that memorable announcement in the House of Commons. As indicating the goal which the people of this country should have before them, there could be no objection to that pronouncement. But, Sir, it was in the machinery that was set up to carry out the programme then indicated that differences of opinion arose. I believe I am right in saying that almost every intelligent man in this country, every one who took an interest in political affairs, regarded the machinery which the Montford scheme introduced as inadequate. That was, I believe, the general feeling in the country. One section thought that some attempt should be made to

[Mr. T. V. Seshagiri Ayyar.]

work the reforms and that it should be regarded as the beginning of larger things yet to come. The larger section of the people regarded it as too inadequate and considered that if we accepted it, we might impair the progress of self-government and not advance it. That, Sir, is in brief the genesis of the non-co-operation movement. I am not here to argue whether the non-co-operation movement was right or wrong. If I may say so, I always regarded that as a wrong movement. Non-co-operation as a political weapon can never be a success. You cannot enable a people to understand the machinery, the working, of a Government by non-co-operating with those that are really working the administration. It is absolutely necessary that we should co-operate with them, learn from them some of the work which they are doing, unlearn a great deal, teach something to them and make them unlearn a great deal. Unless we are able to do that, we will never be able to govern the country. Therefore, Sir, my opinion has always been that this non-co-operation was a mistake. But that is not the matter upon which this House is now asked to express its views. The question is whether these men—taking for granted that they are actuated by wrong ideas—are honest and sincere patriots. Upon this matter I say without hesitation, that no one who sits in this Council can claim to be more patriotic and more single-minded in his devotion to the country than these men who have chosen the role of non-co-operation. They have been as good patriots as any that ever worked in the cause of this country. I would restrict myself to this problem, namely, whether it is good, whether it is right, that these men who are single-mindedly devoted to the cause of the country should be allowed to rot in jail although.....

The Honourable Sir Malcolm Hailey (Home Member) : Rotting?

Mr. T. V. Seshagiri Ayyar : The Honourable the Home Member says that they are not rotting in jail, but some of them are.

The Honourable Sir Malcolm Hailey : I only questioned the word "rotting."

Mr. T. V. Seshagiri Ayyar : The question I ask the House is whether it is desirable that these men should be allowed to continue in jail any longer. Sir, I said that the non-co-operation movement was not good for the country. I am prepared to go a little further and admit that some very serious mistakes have been committed in the name of non-co-operation. I cannot help saying that one of their greatest mistakes was the *hartal* when the Prince of Wales came to this country. It is that, I think, that has changed the history of this country considerably. I wonder if *hartal* had not been resolved upon and if non-co-operation in other respects had been insisted upon, whether we would not to-day be in an altogether different position from what we are. It has been the will of Providence that this great mistake should be committed. After all, every country has to go through fire in order that it may achieve self-government and I believe it has been the will of God that this mistake should be committed so that we may, in course of time, learn to avoid such mistakes and to conduct ourselves more correctly towards our Sovereign and his descendants when

they come to this country. Sir, I said, and I repeat it again that many mistakes were committed for which non-co-operation has to bear the blame ; I do not want to hide anything from this House. There has been bloodshed in consequence of non-co-operation—I am not concealing it from Government. There can be no doubt that in consequence of non-co-operation, in consequence of the *hartal* which was declared at the time of His Royal Highness the Prince of Wales' visit, there was a riot in Bombay which resulted in the loss of many valuable lives. It was no doubt true that the great leader of the movement was pained more than anybody else at this sad incident,—there can be no doubt about that. Sir, if you take into account the large number of communities inhabiting India, its vast population, the wonder is not that there have been so many such incidents. The wonder is really that there have been so few, and I say that it is due to the saintly life and character of the leader of the non-co-operation movement that there has been so little bloodshed and so little violence in this country. There can be no doubt that if anybody else had had the handling of this great movement the country would have witnessed a larger number of riots, a great deal of sacrifice of valuable lives and a great deal of bloodshed, but it is because this great saint has been at the head of the movement, notwithstanding the vastness of the country, notwithstanding the various conflicting interests, there has been so little bloodshed and so little of rioting in India.

Sir, I began by saying that it is a natural ambition of the people of this country that they should desire that the machinery of Government should be changed and that they should have a voice in the administration of the affairs of the country. I also pointed out that the Government had been moving very slowly and very unwillingly in granting us rights. Sir, if you look at the political movements in other countries you will find that in recent years at least there has been an evident desire to take the people into the confidence of the Government, to release political prisoners and to grant Parliamentary institutions. Take for example Ireland. In Ireland coercion has been tried in every form and it has failed miserably, and I remember two years ago the Prime Minister of England stated that he was that day shaking hands with men who had waded through blood. Can that be said of India ? If you are going to release these political prisoners to-day, can the Honourable the Home Member say that he will have to shake hands with men who have waded through blood ? Take, again, the case of Egypt. What happened in Egypt recently ? I saw a telegram two days ago that martial law was abrogated, that parliamentary institutions were to be granted and that political prisoners were to be released. (Mr. K. Ahmed : "Zaghlul Pasha and others.") Sir, I ask that the same thing be done in India. I say what has been found to be good in Ireland, what has been found to be good in Egypt, should be adopted in this country. Of course, it is easy to say that we are not Egyptians, that we are not Irishmen, and therefore what is good for Irishmen, and what is good to the Egyptians is not good for Indians. Sir, the teachings of history are the same whether it be in the case of Ireland, or whether it be in the case of India, and I ask the Government Benches to bear in mind the teachings of history and to act in accordance with its dictates and not simply put us off by saying that "you are not the same people as the Irish or the Egyptians."

[Mr. T. V. Seshagiri Ayyar.]

Sir, a new era is beginning in this country. We are going to have a new election and we are going to have new men to handle the machinery of Government. The question is whether at this juncture it would not conduce to the happiness of the people, whether it would not conduce to the better administration of the country that these men who have been in jail should be released. I say that the continuance of Mahatma Gandhi in jail is a serious mistake. If I may say so, he is the greatest asset in favour of peace and tranquillity. I remember I was with him the day after the Bombay riot took place—I happened to be in Bombay then. The next morning I went to see him. He had spent a sleepless night and was almost tearful and weeping. Then he told me and a few other friends that had gathered that morning that an inspiration had come to him in the night and that he was sure that by the appeal which he was going to make he could check the spread of riot and that he could make the people more friendly; and he issued his manifesto. And I venture to say that notwithstanding the fact that there were soldiers, notwithstanding the fact that the Government had taken all precautions, had it not been for the manifesto of Mahatma Gandhi, the riot would have spread and there would have been more bloodshed. Therefore, I say without hesitation that Mahatma Gandhi out of jail would be one of the greatest assets in favour of law and order, in favour of peace and tranquillity in this country, and I think it is desirable in the interests of Government itself that this great saint should be set at liberty. I do not know much about the two Moulanas whose names have been included in the Resolution. (Laughter). When I say I do not know them much, what I mean is I had no personal friendship with them. There is no doubt that they are venerated not only by the Muhammadans but also by the Hindus. They are regarded as great patriots and they have done a great deal of good to the country. The time of their release is near. You have made peace with Afghanistan. You have made peace with Angora. And I ask whether it will not do credit to you that you should set these two men at liberty a month or two before they are entitled to be released, and I think it will show great magnanimity on your part and generosity if you release these gentlemen. Sir, I shall not speak of the others. These three leaders have been followed to jail by a large number of people who regarded them as almost *avatars*, as incarnations, and there is no doubt that these men do represent all that is best in this country. Whether they were mistaken or not is not the question before the House. The question is whether these men were true sons of India and whether it is desirable that these true sons of India should be allowed to remain in jail any further. Sir, if you continue these people in jail, what would be the position? You will embitter their feelings the more, their temper will become sour and when they come out of jail there will be bitter feelings and distrust in the country and this will spread throughout the land. (Mr. K. Muppil Nayar made a remark which was inaudible.) My friend on the right asked me a question whether they could do anything worse than what they have done. I do not object to these interruptions. I think my answer to him is that they have not done anything worse than what my friend is doing to-day. I certainly say that by the interjection of this remark my Honourable friend is doing more harm to himself and to the country than these

people ever did. As I said, a new era is opening up. The Government have shown that they can cope with all difficulties, that they can establish law and order notwithstanding preachings of this kind.

I ask the question seriously whether the end and aim of Government is simply to establish law and order. (At this stage the Honourable Sir Malcolm Hailey made a remark which was inaudible). I do not hear you. I am not objecting to any interruption. (*The Honourable Sir Malcolm Hailey*: "No, no, I was saying to myself.") But I only want to know what is being said. I ask the question whether the aim of Government is simply to establish law and order. There is no doubt that they can establish law and order. What is more important is to take the people with them, to give them the idea that the Government are doing the best in their interests and that their object is to make them tranquil, peaceful and happy. And I ask the question whether the continuance of these men in jail will conduce to bring about the result which I have just mentioned. Will the detention of Mahatma Gandhi in jail conduce to the interests of good government? On the other hand his release would redound to the credit of the Government. Will it not show that the people's wishes have been heeded, if these people are allowed to come out of jail. If these people are allowed to come out of jail there will be more contentment in the country and I think the Government machinery will be worked with less friction than it has been possible hitherto. Sir, I have almost come to a close. I only wish to make two appeals, one to my Indian friends in this Assembly and the other to Government. There may be personal differences between us and these non-co-operators and I ask my non-official friends to sink these differences, to rise equal to the occasion and to press on the Government the desirability of liberating these people, so that there may be permanent peace in the country. I had taken part, a very small part, in two of the conferences at which the foremost leaders of India were present, persons who had given their lives for the cause of the country. I am referring to the conferences in Calcutta and in Bombay. In both these conferences what was put in the forefront was the release of these prisoners. It was said and rightly said that in every country where an attempt is made to establish peaceful relations between the Government and the people, the first condition insisted on is the release of political prisoners; and this was pressed in the conferences which were held in Calcutta and Bombay; and I would ask my Indian friends whether they would follow the lead of these great men, men who have given their lives to the country, and ask the Government to let these people out. That is my appeal to my countrymen. You may have your own differences with them but this is not the occasion for harping on them. This is an occasion for fighting to get these people released, so that there may be lasting peace. Sir, I now appeal to the Government. I appeal to the Government in the name of humanity and statesmanship to release these prisoners. In the interests of securing lasting peace and good will, I ask them to release these people from jail. I ask them to follow the example which was set up by their predecessors 50 years ago when they guided us in our national movement, when they stood by us and trained us in the political work which we have since been carrying on; I ask them in memory of those great men and true men to release our compatriots from jail.

Mr. President : Resolution moved :

"This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani, and Maulana Mohammed Ali and others, who were convicted at the Karachi trial."

The Honourable Sir Malcolm Hailey : It is sometimes customary with us to wait and hear what the supporters of a motion have to say for it—a cautious proceeding which often suggests a very useful line of reply ; but here I shall answer at once, for in a case of this kind I have no need to wait for my adversaries to expose their front. I am not sorry that enance has given us Mr. Seshagiri Ayyar as the proposer of this Resolution, for he has stated his case, if I may say so, with singular fairness, with a full recognition of our own position, but with a strong appeal to our better nature and to the better feelings of the Assembly. Yet with all that, what is his case ? I am reminded of a debate which took place here in the early spring of 1922, and which showed how little Mr. Seshagiri Ayyar realizes the real tenor of the non-co-operation movement and its effect on the country. He then ventured on a proposition to the House which I will read to you :

"Speaking on the volunteer movement I make bold to say this, that the volunteer movement is not intended for purposes of intimidation and of preventing people from pursuing their peaceful occupations"

and then I look at our proceedings, which are not often punctuated by marks indicating the manner in which speeches are received, and I see following that in brackets the words ' Loud laughter.' That is what the Assembly thought at the time of Mr. Seshagiri Ayyar's judgment of events which were then passing before their eyes. He had his answer, not from us, but from Mr. Jannadas Dwarkadas who had recently seen the effect of the civil disobedience movement in Bombay. I read it because it is entirely apposite to the question we are discussing this morning:

"I do not exaggerate that there is hardly any one in the country to-day who feels more than myself that these respected leaders who, if they had only followed the right lines, would have deserved their places on the Treasury Bench, are in jail to-day. The suffering of these people is a matter of grave concern, but if it is necessary for us in co-operating with Government to invite a little suffering on a few of the population in order to avoid the large suffering which will engulf the whole population in this country and which will ruin the prospects of this country, I say unhesitatingly let us come out and invite a little suffering on a small band of people, however painful it may be for us to bear that suffering, but let us under any circumstances and at any cost save the country from going into the clutches of a future which is very uncertain and which is bound to bring about great disaster to our country."

"You have to choose"

he said again,

"between government of any kind on the one hand and on the other hand anarchy, chaos and disaster which will for centuries give a set back to the progress of this country."

And that also was the verdict of the House by a substantial majority. Mr. Seshagiri Ayyar failed in his case then. I shall see to it, if I can, that he fails equally in his case to-day.

I shall deal myself with the case of three of the persons mentioned in the Resolution, namely, Mr. Gandhi, Mr. Muhammad Ali and Mr. Shaikat Ali. I shall ask my friend Mr. Gwynne to deal with the case of

Mr. Hasrat Mohani. I use these titles instead of those which are bestowed on them in the Resolution, for there is some difficulty in ascertaining the exact titles which their followers bestow on the leaders of movements in this country. If I am right, Mr. Das at one time rose to the rank of Mahatma. At some dissatisfaction with his policy expressed by a section of his own following, he sank to the title of Sriji. He has now offended a further section of that once devoted band, and has descended to the title and status of Mister. Indeed, I fancy that there are some who in their wrath call him simply C. R. Das. I wish to avoid any offence to the non-co-operation warrant of precedence, and I prefer to use throughout the sufficiently comprehensive title I have adopted.

Now we have to ask ourselves in cases like this, in whose interests an application for release is made. The first possibility is one which I state only to dismiss as soon as made, I mean that it is made in the interests of those who put the motion forward. We can as I say dismiss this suggestion at once, for none of the followers of Mr. Gandhi would vote at the polls for any member of this Assembly or indeed take anything but hostile interest in his proceedings. The suggestion would indeed in any case be an unworthy one, and I should have in any case hesitated to give it any support. But there is a second alternative. Application to Government may be made in the interests of the prisoners themselves. I shall take first the case of Mr. Gandhi, and I shall, I hope, satisfy the House that in his case at all events this supposition is untenable. I need not say that neither the Government of India nor the Bombay Government has received any application or memorial from Mr. Gandhi asking for his release : if I have to criticize him elsewhere, I can at least pay this testimony to his sense of dignity and consistency. On the contrary such declarations as we have from Mr. Gandhi seem to show that he desires to remain in jail rather than be released ; certainly I fancy he would prefer to remain there to receiving release as the result of a vote of an Assembly which he despises. Thus, before Mr. Gandhi was actually sentenced a letter was published from him in "*Young India*" of March the 16th, 1922, addressed to Hakim Ajmal Khan, which runs as follows:

"Nor, I hope, will the country fret over those who are in jail. It will do them and the country good to serve the full term of their imprisonment. They can be fitly discharged"

--notice now the method which Mr. Gandhi would suggest and how different it is from the method suggested by Mr. Seshagiri Ayyar—

"before their time only by an Act of the Swaraj Parliament."

Then again "*Young India*" of April 13, 1922, published another letter from him to Mr. C. F. Andrews dated the 17th March. He says :

"But I would not expect you to see me in jail. I am as happy as a bird. My ideal of jail life, especially that of a civil resister, is to be cut off entirely from the outside world."

—including apparently Mr. Seshagiri Ayyar—

"To be allowed a visitor is a privilege a civil resister may neither seek nor receive. The religious value of jail discipline is enhanced by renouncing privileges. The forthcoming imprisonment will be to me more a religious than a political advantage. If it is a sacrifice, I want it to be the purest."

[Sir Malcolm Hailey.]

I now come to the period following his incarceration, and his attitude had not changed. In an interview he had with certain Ahmedabad mill-owners on the 14th March 1922, he said as follows :

"No sooner should we effect a complete boycott of foreign cloth and the use of handspun and hand-woven khaddar"

—it seems a curious remark to address to mill-owners, but there it is—

"swaraj is immediately enhanced and in consequence whereof the doors of the jails would be automatically laid open and my companions and myself would be able to come out ; I anxiously await such an auspicious occasion"

—an aspiration in which the mill-owners probably did not join. Finally, the following is a further statement made by Mr. Banker who was, if I remember rightly, his companion in jail ; you will find his statement in the Bombay newspapers. Mr. Gandhi, he said, did not want an agitation for any special concession :

"He is fighting out for what he considers to be rights of prisoners. He holds that civil resisters when they go to prison are like prisoners of war and they may and should fight for their rights in a becoming manner..... It is easy to realize that the greater the agony, provided it is unprovoked on the part of the sufferers, the greater will be the relief. Thus whilst the political prisoners must fight out for their rights in the prisons and face the worse the public may know their hardships to stimulate them to greater effort to win swaraj so that they may become altogether impossible."

That then is the attitude throughout of Mr. Gandhi. Obviously the application which has been made to Government on his behalf would receive no approbation from him himself. I have referred only to his attitude ; we have nothing to show that the views of the other prisoners mentioned in the Resolution differs from his. Then, since those two alternatives are ruled out, I come to a third, one which really formed the chief basis of Mr. Seshagiri Ayyar's claim. Is it or is it not to the interests of India that an application of this nature should be granted ? I will join issue at once with Mr. Seshagiri Ayyar in suggesting that Mr. Gandhi is our greatest asset in the cause of the peace, quiet and the contentment of this country. I join issue with him in saying that it is in the interests of the permanent peace of this country that he should be released. What has been Mr. Gandhi's mentality in the past, what has been his political career and with what results has that career been attended ? In the interests of what class is it that he should be released ? Take any class of the Indian community that you care to mention and I ask you to realize the effect on it of the success of his very peculiar tenets. Take the industrial class. What was it he said in 1908 regarding the advancement of Indian industries ?

"I cannot recall a single good point in connection with machinery."

He would allow no industrial progress at all ; he would stop every loom in our mills ; as he has openly declared, he would prefer to see the whole of our railways out of action.

"it must be apparent to you,"

he says,

"that railways are a most dangerous institution. Man has gone further away from his Maker."

I do not know for myself whether I should feel closer to my Maker in a bullock cart than on a railway ; but I do know that the closure of the

railways in India would bring ruin not only to industrialists but agriculturists. Again, is it in the interests of the legal profession that his release is asked ? We were wont to congratulate ourselves once that the impartiality of the courts, and the ready means of justice provided for the population of India was one of the chief advantages secured to this country by our administration. But, says Mr. Gandhi :

"Hindu and Muhammadan quarrels are due to the intervention of lawyers. Men were less unmanly if they settled their disputes either by fighting or by asking their relations to decide them. They become more unmanly and cowardly when they resort to courts of law."

These remarks, I think, will appeal forcibly here. But I take again another profession which has representatives here, though not so numerous ; I mean the medical profession.

"Hospitals,"

he says,

"are an instrument which the devil has been using for his own purposes in order to keep his hold on his kingdom. Medical science is the concentrated essence of black magic. Quackery is infinitely preferable to what passes for high medical skill."

But the doctors need not be depressed ; they are in good company ; and I will take at random another class, those interested in the progress of education, either higher or primary. I will read to the Assembly the doctrines of this astonishing thinker on that subject :

"What do you propose to do by giving your boy a knowledge of letters ? Will you add to his happiness ? Do you wish to make him discontented with his cottage or his lot ?"

Then, as regards the teaching of the English language. We ourselves are wont to boast that, wherever the language of Shakespeare and Milton is spoken, men's ideas insensibly turn to thoughts of liberty. Mr. Gandhi does not join in that view. He says :

"By receiving English education we have been enslaving the nation, and hypocrisy and tyranny have increased. English-speaking Indians."

—I refrain from commenting on the awkward fact that by our rules English is the language in which our debates are conducted—

"English-speaking Indians have not hesitated to cheat and strike terror into the people."

Then, finally, I come to a class to which we on this side of the House belong quite as much as our friends opposite, the class interested in the constitutional development of India. What would Mr. Gandhi have said of yesterday's debate, for what, according to Mr. Gandhi, is the use of responsible or representative government ? Listen to what he says on parliaments in general—and I am inclined, when I read this extract, to ask that your official reporter should hold his hand :

"That which you consider to be the mother of Parliaments is like a sterile woman and a prostitute. Both these are harsh terms, but exactly fit the case."

I have purposely given these illustrations of the type of doctrine which Mr. Gandhi set out to preach, not of course because he has been convicted on any charge relating to these doctrines, but because they suggest the question whether such a man can ever really be a safe political guide or competent to control or restrain the great popular feeling he is undoubtedly capable of arousing and might arouse again if set at liberty.

[Sir Malcolm Hailey.]

Let me be clear ; I am not attacking Mr. Gandhi's private character. I will, if you wish, admit the sanctity his friends claim for him ; but this is not the only case in which there is a gulf fixed between sanctity and sanity. I should find it hard to believe that it is in the interests of India that a man be given licence to promulgate doctrines of such a nature ; but that is neither my present point nor my argument. If we only had to deal with the propagation of doctrines of this class, or the teaching of peculiar notions regarding social advancement, or the advisability of social reaction, it would be sufficient to ask that the friends of the preacher should place him in some kind of decent seclusion. It would be unnecessary for the State itself to interfere. But the case goes much further than this. We have to deal with Mr. Gandhi as a political force, and with the results of Mr. Gandhi's political propaganda. Like many other impatient reformers, he found the path of social reform too slow, and he had to seek, by means of political pressure, the satisfaction of ideals which he could do but little to forward by advancing them in the ordinary manner. I cannot go into the full history of the last three years ; time would not permit me and the occasion does not deserve. The full history of the movement which he initiated and of which he was the chief supporter is too long a tale for me to tell to-day. Briefly, it culminated in the doctrine and in an attempt to initiate the practice of "civil disobedience." As I said recently, civil disobedience is not that mild and Platonic programme which it is sometimes represented to be. I will read again the definition, for it is important in this connection :

"Civil disobedience means the deliberate and wilful breach of non-moral laws, that is, laws the breach of which does not involve moral turpitude, not for the purpose of securing repeal of or relief from hardships arising from disobedience of such laws, but for the purpose of diminishing the authority of or overthrowing the State."

If that was the object of civil disobedience, it would be idle for its author to pretend that he could be ignorant that its promulgation would inevitably be followed by disorder, and by a tendency to defy authority of every kind, either domestic, social or that represented by the State. As a speaker once said—I quote the words because they are the best statement I know of the inevitable results of this movement :

"The object of the movement being what it is, the overthrow of the existing system of government, what is the use of telling us that either its leaders or its followers have signed the pledge of non-violence ? The pledge is a farce, it has already been broken a hundred times over, and the longer the movement continues, and the farther it advances the more it will be broken."

That of course is exactly what has happened. I am not going to charge Mr. Gandhi with the direct authorship of the many outrages, the lamentable breaches of the common peace which have occurred under the influence of this movement. But since it is suggested that it would be well to release Mr. Gandhi, with the full knowledge that he might once again lead such a movement, I must give the Assembly the very broadest outline of what happened when the agitation of Civil Disobedience was under his control. In 1920 there were constant fracas of minor description and recurring disorders, many of which were directly connected with the activities of the non-co-operating party. Early in 1921

there occurred the widespread agrarian riots in Rae Bareilly and Fyzabad which were due in great part at all events to the incitement of volunteers organized by that party. That was followed in March by sporadic trouble throughout the country, of which I quote one instance as typical. During the trial of a non-co-operating volunteer at Giridih in Hazaribagh 10,000 people endeavoured to storm the jail and looted the police station ; then in the following month, April, there occurred the serious outbreak at Malegaon. I have here with me the High Court judgment ; it traces this outrage, which ended in arson and brutal murder, to the resentment of non-co-operating volunteers against a sentence of fine for disobeying a perfectly legal order passed by the Magistrate ; the order merely forbade them to carry cudgels. In the following months there were constant disturbances due to picketing, and I have described on another occasion exactly what picketing meant. I should hesitate to tire the House by reading to it the series of judgments which I have here regarding the nature of the operations undertaken by volunteers under the guise of picketing, but it is abundantly proved that these operations involved direct intimidation, terrorism, sometimes arson, and even a suspicion of murder. I need not, however, dilate on this for there is probably no one here who has not had direct and even ocular demonstration of what the volunteer movement really meant, and the reign of terrorism it created. But I must hurry on. I have carried you down to Malegaon. In the months following that tragedy there were again constant disturbances ; from April to November I have counted some 40 incidents, all showing the growing demoralisation of the country. I count among these the lamentable series of affairs at Chandpur which caused such widespread and useless suffering among the garden coolies. Then in August there broke out the rebellion in Malabar. I need not dilate to a House, which is fully aware of the circumstances of the Malabar rebellion, on the appalling nature of the occurrences in that distressed area and the unparalleled suffering which they caused. I will only read Mrs. Besant's description of it, for that is also apposite to our discussion to-day :

"It broke out,"

says Mrs. Besant,

"sharn on the date first announced by Mr. Gandhi for bringing Swaraj and the vanishing of British Rule. The slaughter in Malabar cries out his responsibility. Non-co-operation is dead in Malabar."

And again.

"That is the ghastly result of preaching Gandhism, non-co-operation, and Khilafatism."

Then, in November occurred the riots in Bombay on the occasion of the visit of the Prince of Wales : I must remind the House that in those riots some 58 persons were killed and 298 injured. Now hitherto I have purposely refrained from assuming any direct responsibility on the part of Mr. Gandhi in connection with these occurrences ; as I said before, I do not pretend that he was consciously or directly their author, however much he may have been morally responsible for them. But when I come to the riots which occurred in Bombay, then I cannot refrain from mentioning his share of responsibility, for he has admitted it himself.

[Sir Malcolm Hailey.]

"It is impossible for me,"

he said,

"to dissociate myself from the mad outrages of Bombay. As a man of education having a fair share of experience of the world, I should know the consequences of every one of my acts. I knew them. I knew that I was playing with fire. I ran the risk and "

—I ask you to note this—

"if I were set free, I would still do the same."

Then, again,

"Non-violence is the first article of my faith. It is the last article of my faith. But I had to make my choice. I had either to submit to a system which I considered had done an irreparable harm to my country or incur the risk of the mad fury of my people bursting forth when they understood the truth from my lips."

The mad fury came; but whether he or we were responsible the House can decide for itself. But events were now drawing to a head; the Civil Disobedience party were preparing for the final struggle. At Ahmedabad on the 28th of December they appointed Mr. Gandhi their dictator with full powers save in one respect—an interesting stipulation—that he had no power to conclude peace with the British Government. But they had to reckon with a more ruthless force than the British Government; they had to reckon with the inevitable consequences of arousing the passions of an inflammable and ignorant population. It is enough that I merely should give the Assembly the names of places at which disturbances occurred during the next two months. If I mention Ferozepur, Jirka, Rangpur, Bareilly, Madras, Sirajganj, these names will probably recall to those who remember the history of that period the disorderly occurrences with which they are connected. But I come to what is almost the final scene, I mean the outbreak at Chauri Chaura towards the end of February 1922; and on that, again, I must dwell for two reasons. In the first place, the High Court traced that tragedy to the direct activity of Congress and Khilafat volunteers bound under vow to the policy of Civil Disobedience, and in the next place, Chauri Chaura affords a second instance in which Mr. Gandhi had to admit his moral responsibility for what occurred:

"It is impossible"

he said,

"to dissociate myself from the diabolical outrages of Chauri Chaura."

Shortly afterwards he was arraigned on a charge of sedition and he did not deny the charge; he could not deny the charge. His organisation in its Resolution of December 1921 had already announced that it was at war with the British Government, and his own statement before the Sessions Court was fully in consonance with that announcement:

"I am here,"

he said,

"to invite and submit to the highest penalty that can be inflicted on me for what in law is a deliberate crime."

I may remark that at an earlier stage, as he himself admits, he was guilty of even a graver crime than sedition:

"The National Congress began to tamper with the loyalty of the sepoys in September last year (1920), the Khilafat Committee began it earlier, and I began it earlier still, for I must be permitted to take the credit or the odium of suggesting

that India had a right openly to tell the sepoy and every one who served Government in any capacity whatsoever that he participated in the wrongs of Government."

He could not, I say, deny the charges on which he was arraigned. Yet I feel that before the bar of history he will have to meet even graver charges than those for which he was indicted. I have said before that I do not attack his character; he may be a saint or a visionary as you will; it may be that he was seeking no personal gain or material advantage from the agitation which he has organised. If you will, he was fanatical and misguided rather than a criminal in the ordinary sense. Nevertheless, history will undoubtedly hold him morally responsible for the results of his teaching, and deem him culpable for his share in leading an undisciplined and an inflammable population into disorder. For myself, I wish to use no harsh words regarding his recent career; but with all the virtues he may possess, he appears to me to be a man avaricious of power and unconscionable in the means he adopts to attain his ends. He has done more than any man in his generation to disturb the peace of India; he has done more to hamper its constitutional and political advance. Yet Mr. Seshagiri Ayyar invites us to believe that if Mr. Gandhi were again at liberty, he would be an asset on our side in the maintenance of peace and the preservation of order. If there is a word of truth in the history which I have given to the Assembly, I say that his liberty to resume the campaign which did so much harm to this country for two years, so far from being an asset in the preservation of peace and contentment, would be likely once more seriously to imperil the tranquillity of India. For it would have to be a release without a guarantee and without promise on his part that he would abstain from resuming his activities. With the best will in the world Mr. Seshagiri Ayyar could not venture to suggest that Mr. Gandhi should be released on conditions.

I turn to two others of those whose names are in the Resolution, Messrs. Mohammed and Shaukat Ali. I feel here that my task is infinitely easier, for their case has already been debated at length by this Assembly. It will be remembered that they were sentenced to two years' imprisonment in November 1921, mainly as the result of the famous Karachi Resolution, which stated that:

"It is in every way religiously unlawful for a Muhammadan at the present moment to continue in the British Army, or to induce others to join the Army."

The charge against them therefore was one under section 505 of the Indian Penal Code. As I say, we debated the question of their release in the Assembly, and the case for Government was stated very fully by Sir William Vincent. As a result there was not a single vote recorded in favour of the Resolution. Now what has happened since then to make the Assembly change its mind? They have served the greater part of their sentence. They have not, as far as I am aware, made any application for premature release. Mr. Seshagiri Ayyar suggests that the release of these men a month or two before their sentence expires would bring peace and contentment, or at all events some happiness, to India. I am again diametrically opposed to the point of view taken up by Mr. Seshagiri Ayyar. I say that these two men have been stormy petrels wherever they have appeared. I can take you back to 1911 but I have no desire to go back as

[Sir Malcolm Hailey.]

far as that. Take only the period of the war. I admit that at the beginning of the war they took a correct attitude :

“ Disobedience ”

they said,

“ to the orders of the Government which gave us full religious liberty is a sin of ungratefulness which Islam can never tolerate.”

But their subsequent conduct was entirely inconsistent with that very proper statement. Early in the war they were in communication with the men who went to the Black Mountain and set up the “ Provisional Government of India ”. In 1919 they announced that the only course left for a Muhammadan was to join a *jehad* or to migrate to a freer land. I presume that the agitation that they subsequently conducted was considered by them as the equivalent of *jehad* for, as we know, migration to Afghanistan involved hardship of a nature which these two gentlemen would be the last to face. The only migration that we know of either of them undertaking was in the form of a deputation to Europe, and the public press has already made us acquainted with the degree of luxury and presumption which Mahomed Ali practised on such occasions. Then the Afghan War broke out. They announced to their friends the astonishing proposition that it was unlawful to fight against the Amir, and that it was their duty to join in a *jehad*. But, says Mr. Seshagiri Ayyar, we have now concluded peace with the Amir of Afghanistan. If so, it is not by their assistance, or even apparently with their good will ; they would have preferred to have him an enemy and a menace to India, instead of our good friend and neighbour. When we were negotiating with him in 1920, a conference, at which Shaukat Ali was present, decided solemnly to advise the Amir not to make peace with Great Britain. Let me repeat again two or three salient passages—and they will be short ones—from the indictment which we presented to the Assembly in March 1922. In 1920, in October, Mohamed Ali said at Shajehampur :

“ There is one course more for Muhammadans and it is this, that you should use the same force against your opponent which he used against you. It is called *jehad*, that is the *jehad* which Mahatma Gandhi has preached to you.”

With all my feeling against the results which Mr. Gandhi's programme produced, I am not going to accuse him of preaching a *jehad*. In the same month at Bareilly, Mahomed Ali said as follows :

“ When we have to kill all Englishmen we will not come stealthily ; we will that very day declare openly that there is war with the sword between you and us and it will be sheathed only when your neck disappears or ours.”

And finally I take Shaukat Ali at Jhansi in the following month, namely, November. He said :

“ If, God forbid, owing to our weakness, or any other cause, we do not succeed in non-co-operation, then we must either leave the country and go somewhere else, or will cause bloodshed in the country and ruin it. If unfortunately this non-co-operation programme fails, then I say to the Mussalmans of India, then your last resort will be to draw your swords.”

That is the kind of soul force that is preached by Mr. Mahomed Ali and Mr. Shaukat Ali ; you, as much as we, are interested in the failure of non-co-operation ; I have even heard to-day that it has failed ; if so, these men have warned you what to expect. You will remember that shortly

after that, as the result of an interview between Mr. Gandhi and His Excellency the Viceroy, these two men made what was considered at the time a recantation or an apology. I fancy that their word would be an assurance. Never mind what it was called ; the point is that they stated that it was not their object or intention to provoke violence and bloodshed. I quote that fact because it affords valuable proof of what is likely to happen if they now gave us any guarantee of good behaviour ; for it was not long after giving that assurance that we find them again on the war path, though their statements were a little more carefully calculated. They stated that it was not yet time to raise the *jehad*. When the time came, however, it would be necessary to do so .

“ When there is a *jehad*,”

one of them said,

“ I will not support then the non-co-operation oath. In the case of *jehad* I do not consider it wrong to use the sword.”

Again

“ Bloodshed is never an evil at all times. Sometimes it becomes a religious duty, but it is not so now.”

But I must come, without further delay, to the final scene, the trial at Karachi. I have described to the Assembly what was the nature of their offence. I can conceive no graver offence committed by any subject of any country than an attempt to subvert the loyalty of the Army. I have suggested that it would be no use for us to ask that these two men should give a guarantee of good behaviour if we released them before the date at which their sentence expires. And indeed why should they give such a guarantee ? There is now but a short time before they must be released in the ordinary course of affairs. Why should they do anything to spoil the market which they will exploit when they are again at liberty ? If I speak strongly on this subject, it is because I feel strongly ; you have here no case of unworldly and self-denying ascetics ; you have not here a case of misguided men who are above all material or personal advantages. I ask you to consider their career ; I ask you to realize the real meaning of their agitation ; I ask you to realize the real meaning of the tours which they conducted throughout India when they were at liberty and which were continued during their incarceration by the ladies of their families. What was the object of those tours ? Largely to collect subscriptions. That is my charge against them. (Mr. K. Ahmed : “ They are not so poor, Sir.”) The Honourable Member may disprove that charge if he will ; he will have ample opportunities to convince the House to the contrary.

As I have said, I must leave Mr. Hasrat Mohani to the care of my friend, Mr. Gwynne, but I must go back to the general principles which must guide us in such cases. Mr. Seshagiri Ayyar has asked us, why the Government of India does not make a bold and friendly gesture, and seek the goodwill and sympathy of the great mass of the people of India by releasing its political prisoners ? Why, when this has been done in Ireland and in Egypt, should it not also be done in India ? I conceive that the principles which should guide us in this respect should be these : we desire that every man shall have a fair trial and avail himself to the full of every means of defence offered by the law. As regards the severity of his sentence, if convicted, we hold that the best judge is the court ; if an offender is

[Sir Malcolm Hailey.]

aggrieved with the judgment of the lower court in regard to the length of his sentence, he can appeal to a higher court ; we should for our own satisfaction actually prefer him to do so. But when once the judgment of the higher court has been obtained, we are naturally unwilling to interfere. The executive is not the best judge, it will be admitted, whether a man's sentence should be enhanced ; in justice to the judiciary, the executive should be chary of intervening to cause that sentence to be reduced. What I say of the executive applies equally to the Legislature. Given the sentence then, what decides us on occasion to commute sentences or to release prisoners ? I shall not travel here over ground to which we shall come on a Resolution to be moved later in the day, namely, the rules which decide the circumstances in which a prisoner shall be released on account of ill-health, for that matter is not at present in issue. But in regard to a general amnesty such as Mr. Seshagiri Ayyar suggests, obviously Governments do not ordinarily proceed to this measure until they are convinced of two things, firstly, that the goodwill of the population will be gained for some important constitutional change which has long been in agitation, or secondly, that an agitation having died down it is then no longer necessary to retain in prison large numbers of people who have been found guilty of purely political offences and that they can safely be released without the recurrence of disorder. Now on this occasion we contend that there would be nothing to be gained by attempting to secure goodwill by releasing these men ; on the contrary, we believe that their release would be likely to be followed by farther disorder and further breaches of the peace. For that reason it is impossible to hold that there is any good occasion for general amnesty. We must, therefore, take each case on its merits. In doing so, we must consider in each case the advantage and the disadvantage of releasing a prisoner, for no question of right arises. The courts have decided on the length of the sentences ; it is not for us to attempt to correct the judgment of the courts in such a matter ; commutation would only be justified if we were convinced that there would be a substantial gain to the interests of India by the release of any one prisoner. If there is anything in the view I have expressed to the House, then the balance of advantage lies entirely in the other direction. The one present need of India is to secure some period of peace, some breathing space, for its orderly development, materially, socially and morally. If that is truly the need of India, then the common interest demands that instead of joining with Mr. Seshagiri Ayyar, you should insist on deprecating any measure which would result in leaving such men free once again to roam the country and to recreate the disturbances which have done so much harm to India.

Mr. C. W. Gwynne (Home Department : Nominated Official) : Sir, may I be permitted to make a few observations in regard to one of the prisoners whom the Honourable Mover suggests that Government should set at liberty, namely, Maulana Hasrat Mohani. I should like to put the House in possession of the facts in regard to this man, to show what manner of man he is, whom the Honourable Mover describes as the great Maulana, a great man, who will bring permanent peace to the country. I hope to be able to establish four propositions. Firstly, that he committed a very grave offence for which in sterner times he would have

been made to drink hemlock or would have ended his career on Tower Hill. Secondly, that he received a full and careful and scrupulously fair trial before the Sessions Judge, Ahmedabad, and in the Bombay High Court, that he himself preferred no appeal against his conviction under section 124-A of the Indian Penal Code, and submitted no petition under section 401 of the Code of Criminal Procedure for mercy. Thirdly, that the evil results of speeches such as his which were calculated to encourage, even if they did not directly advocate, violence and bloodshed, which fanned the flame of sedition, and in which the establishment of an independent Indian Republic was brazenly preached—the evil results of such speeches, I submit, extend far beyond the feelings of enmity, hatred and disaffection created in the minds of his immediate audience : his words were such as to play upon and exacerbate the racial passions and prejudices of the youth of India throughout the length and breadth of the country. Fourthly, that, for these reasons, there is no case for extending clemency to Maulana Hasrat Mohani and that it is not in the public interests to do so, for he is not the apostle of peace my Honourable friend Mr. Seshagiri Ayyar seems to imagine.

Mr. T. V. Seshagiri Ayyar : I did not say that he was an apostle of peace.

Mr. C. W. Gwynne : I heard the words “ apostle of peace ”, but if they did not refer to this prisoner I withdraw them. Anyhow, it does not affect my argument.

As to the manner of man Mr. Hasrat Mohani was and as to his offences I will rely solely on his own words and on the judgments of the Courts. The House may remember that he was convicted in respect of three speeches, two at the Indian National Congress and one at the All-India Moslem League, in December 1921 at Ahmedabad. He was charged with regard to the first two speeches under section 124-A of the Indian Penal Code and in regard to the third under section 121. The result of the trial is well known. He was sentenced to two years' rigorous imprisonment in three counts under section 124-A, the sentences to run concurrently, and the case under section 121 was referred to the High Court. Now what were the words that Mr. Hasrat Mohani used ? I do not wish to pick out a few isolated passages in his speeches but rather to judge of his intentions from their general tenour. Step by step he maps out the stages which are to culminate in forcible resistance to the Government established by law. He defines the goal to be adopted by Indian Moslems, the goal to be adopted here and now, namely, the attainment by any possible means of complete independence from British control. Next he proposes the declaration of an Indian Republic on the lines of a United States of India on the 1st January 1922. He regards as the main advantage of an Indian Republic the removal of the British power and he has the hardihood, the effrontery, to say that had an independent Indian Republic existed the Moplah Rebellion would not have taken place. Well, every one knows that one of the main causes of that Rebellion was the inflammatory oratory indulged in by persons of his way of thinking during June, July and the early part of August of 1921. He advocates the establishment of parallel institutions side by side with the Departments of Government by law established. Let me quote his words :

[Mr. C. W. Gwynne.]

"Let us define our goal as complete independence and widen our definition of our means so as to admit all shades of opinion, violent or non-violent. There are only two possible means of replacing one Government by another. One is destruction by the sword; the other by setting up a parallel Government."

He then goes on to admit that a collision between the two sets of institutions is inevitable, and when this collision takes place and the constitutional Government adopts a policy of repression, as it must necessarily do, then—and these are his words:

"The Muhammadan at least will give up his attitude of non-violence and will when faced with the barrel of a gun despatch his enemy to hell and will reply to martial law by resorting to guerilla war: that is, in the words of the Koran, 'Kill them wherever you see them'."

The dominant note of these speeches is an exhortation to his hearers to make themselves free from all control of the British Government and to adopt immediately complete independence. Now what conclusion would any sane man draw from those words? Let me quote from the judgment of the Judge at Ahmedabad:

"It is idle to say there is no intention to create feelings of disloyalty and enmity to the existing Government. The disloyalty and enmity sought to be evoked are of an extreme type. They can only be satisfied with the destruction of the existing Government. When in addition to this the alleged misdeeds of the existing Government are emphasised and improper motives and callousness to the interests of its subjects imputed to it, there is no doubt passions will be inflamed and feelings of disloyalty intensified. This result is all the more likely to ensue at the present time and in the places where the speeches were delivered. Considering that political feeling ran high in the country as well as among the audiences to whom the speeches were addressed, it is not necessary to elaborate the point further. The only reasonable conclusion which follows from a perusal of these speeches is that the accused intended to excite feelings of disaffection against the Government established by law."

His friends may say "This is all very well; but the acting Chief Justice found Hasrat Mohani not guilty of the charge of instigating the waging of war and Mr. Justice Crump agreed with him." That is true, but what did they say in their judgments? They both found that though the offence of waging war was not proved yet the speeches did prove him guilty of the offence of sedition, and Mr. Justice Crump in describing the language of these speeches used these words—"Such language is of course gross sedition."

These citations I maintain are ample proof that Hasrat Mohani deserved the sentence passed upon him. Why should that sentence be remitted? He had a scrupulously fair trial. Unlike many a professed non-co-operator, he made a statement at the trial. He maintained that all he intended to do was to give a friendly warning to Government—a curious warning forsooth from a man who advocated the subversion of the British power and the establishment of an independent Republic! He made no appeal against his conviction under section 124-A. He made no appeal to the Government of India under section 401 of the Criminal Procedure Code. Whatever may be the reason that he did not do so, the judgments of the Courts show that on the merits he had no case. I will not weary the House by giving any more citations from these speeches. I will merely refer to one or two other incidents in the career of this man. In 1916 he had to be interned because it was not considered safe that one so dangerous should be left at large during

the War. As soon as he was released from internment, in a speech at Cawnpore he declared that it was sinful to help the English "rather it is like booking a passage for Hell." In 1921 at the Unao District Conference he advocated the concentration of effort on seducing men from the Army and the Police. I ask the House in all seriousness, does such an enemy of the established Government, such a traitor and almost a rebel deserve clemency at the hands of Government?

My third proposition is self-evident. One has only to glance at the history of 1920, 1921, 1922 to see that from one point of view it is the story of misguided youth: The Mahajarin exodus of 1920, the Educational Boycott of 1921 in Bengal and the Central Provinces, the Volunteer activities in Nagpur and Delhi and Gorakhpur with its pitiful exhibitions of premeditated waywardness; the vast number of disturbances with loss of life in 1921 and up to the spring of 1922; the fact that as a result of a so-called peaceful movement, many hundreds of innocent persons were done to death. Why multiply evidence? The melancholy truth remains. I do not say that Hasrat Mohani alone was responsible for all these results; but that he is one of those responsible and that he did play a prominent and important part in a movement as dangerous and as fraught with potentialities of mischief as any movement in the history of the world. And what has Hasrat Mohani got? Two years' imprisonment, and the sentence will expire in a few months time. Do Honourable Members seriously think after hearing the words he has used that there is any case for leniency or clemency? There is certainly none on the merits. Does expediency or magnanimity suggest that it should be exercised in this case? I think not. Magnanimity with such a man would be misplaced; and in his case expediency must yield to justice. Sir, the subject lends itself to peroration; but I prefer to rely on the facts and the words, the very words used by Mr. Hasrat Mohani. Let them speak for themselves; and I feel convinced that they will not speak in vain to this House.

Mr. President: The question is:

"That this Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani, and Maulana Mohammed Ali and others, who were convicted at the Karachi trial."

Rai Bahadur Pundit J. L. Bhargava (Ambala Division: Non-Muhammadan): There is an amendment in my name, Sir.

Maulvi Miyan Asjad-ul-lah (Bhagalpur Division: Muhammadan): Sir, I move that the name of Ali Brothers be omitted from the Resolution

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): I rise on a point of order, Sir. Can the Honourable Member at this juncture move by word of mouth, by giving short notice, that he wants to withdraw the name of Ali Brothers?

Mr. President: The Honourable Member is perfectly in order. In view of the amendment which the Honourable Member from Bengal has seen fit to put on the paper he himself is on very thin ice indeed.

Maulvi Miyan Asjad-ul-lah : (The Honourable Member spoke in the Vernacular*).

Mr. President : The original question was that :

“ This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani and Maulana Mohammed Ali and others, who were convicted at the Karachi trial.”

Since which an amendment has been moved :

“ To omit the words ‘ and Maulana Mohammed Ali and others ’.”

The question I have to put is that that amendment be made.

The motion was adopted.

Rai Bahadur Pandit J. L. Bhargava : Sir, I move the amendment standing in my name which is to the effect :

“ That between the words ‘ Mahatma Gandhi ’ and ‘ Maulana Hasrat Mohani ’ the words ‘ Lala Lajpat Rai ’ be inserted.”

Sir, I may submit at the very outset that the case of Lala Lajpat Rai stands on quite a different footing to that of the other gentlemen mentioned in the Resolution, and I am quite at one with the Honourable the Home Member that the case of each individual should be considered on its own merits. It is hardly necessary for me to tell this House who Lala Lajpat Rai is, for, I presume that he is well known to every Member of this Honourable Assembly. I may briefly say that he is not only the recognised political leader of the province of the Punjab, but he is one of the few foremost All-India Leaders whose name will be remembered by posterity with gratitude and veneration. He has all along devoted his life to religious, educational, social and political activities. His person, his purse, his time and energy have always been at the disposal of the country. He is loved and revered not only by men of his own religious persuasion in the province of the Punjab to which he belongs but by every community of the whole of India. He has been to England twice and once to America and has made many personal friends there. One of them I may mention. He is Colonel Wedgwood who is as much interested in his welfare and has as much feeling for him as any Indian. After his return from America he presided over the memorable special session of the Indian National Congress held at Calcutta in 1920, and he was the President of the Punjab Provincial Congress Committee at the time he was first arrested. He was first arrested on the 3rd December 1921 and also convicted, but his arrest and conviction were declared illegal by Government and he was set free in the month of February 1922. But no sooner was he set free than he was re-arrested outside the jail gates and hauled up. There were two charges against him, one under the Prevention of Seditious Meetings Act and the other under the Criminal Law Amendment Act and he was convicted and sentenced to a term of imprisonment aggregating two years. As regards one of the charges, even the learned Government Advocate who represented the Crown was of opinion, which he expressed in the course of his arguments, that the prosecution had failed to prove the elements necessary to constitute an offence under the

* The original speech together with an English translation will be printed in a later edition of the Debates.

Criminal Law Amendment Act and he did not press that charge. Still this House will be astonished to hear that Lala Lajpat Rai was convicted on that charge also. Lest there might be any doubt in the mind of any one here I may read from a paper in which the arguments which were advanced by the learned Government Advocate were reported.

The Honourable Sir Malcolm Hailey : I am very loath to interrupt my Honourable friend, but I put it to him that he is on delicate ground, for he is entering upon a discussion of the justice of the conviction and thereby calling the action of the Judge into question.

Rai Bahadur Pandit J. L. Bhargava : I am simply pointing out one of the strongest reasons that will lead the House to come to a conclusion on the question whether Lala Lajpat Rai should be set at liberty or not. When the learned Government Advocate himself admitted that there was no case against him he should not have been convicted at all and if he has been convicted, the fact above-mentioned is by itself a strong ground for releasing him forthwith.

Mr. President : Order, order. I must warn the Honourable Member to be careful how he comments on those proceedings. It is an improper thing to use the right of speech in this House to reflect upon the conduct of the Judge and I think the Honourable the Home Member was right in intervening to give the Honourable Member that warning.

Rai Bahadur Pandit J. L. Bhargava : I am not criticising the conduct of the Judge. I am relying on the opinion which was expressed by the learned Government Advocate and I adopt that as an argument in favour of the contention that Lala Lajpat Rai should be released. The Government Advocate said that his personal opinion was that no case had been made out against Lala Lajpat Rai under the Criminal Law Amendment Act because it had not been established by prosecution evidence that the association contemplated by Lala Lajpat Rai on the 3rd December was a continuation of the Khilafat and Congress volunteer organisation and that in any case it could not be presumed that Lala Lajpat Rai knew that the members of the new association would be identical with the Khilafat and Congress volunteers and therefore in any case the benefit of doubt must be given to him. The trying magistrate in his order said that the sentence in the two cases will run consecutively and that the one under the Prevention of Seditious Meetings Act will commence first. Now, Sir, Lala Lajpat Rai was sentenced to two years' imprisonment. The sentence for the offence under the Seditious Meetings Act commenced first. Order was pronounced on the 9th March 1922 and the term of imprisonment for that offence expired on the 9th March 1923 ; now it is under the sentence for an offence under the Criminal Law Amendment Act that Lala Lajpat Rai is being detained in prison. I would appeal to the Members of the legal profession and the judiciary to pause for a moment and think whether, if the Government Advocate himself was of opinion that the benefit of the doubt should be given to Lala Lajpat Rai, there is any justification for keeping him in prison any longer. This, in itself, is a very strong ground for setting Lala Lajpat Rai at liberty. Besides there is another reason why Lala Lajpat Rai should be released. For more than a month now, the condition of his health is very precarious. Prison life has told very seriously on his health and his health.....

Mr. President : That is a ground which comes up for discussion in the next Resolution.

Rai Bahadur Pandit J. L. Bhargava : It may be left to be discussed in detail in connection with the next Resolution but this is also one of the grounds on which, I submit, he should be released. I can raise that point again when Dr. Nand Lal moves his Resolution but as the question of releasing Lala Lajpat Rai is before the House I think I am entitled to give all the reasons which are in favour of that recommendation. So I need not refer to it in detail. I may simply say that he is entitled to release on the ground of his ill-health also.

Sir, there are two points of importance that arose in this matter, as was remarked by the Honourable the Home Member while replying to the questions that were put to him about a week ago. One was whether if action is to be taken under section 401 of the Criminal Procedure Code there should be an application by the prisoner himself. The Honourable the Home Member's reply to a question was that he had not received any memorial from Lala Lajpat Rai. The second point was that the matter of release was a proper question to be put in the Local Council. As regards the Local Council I may submit at once that the Punjab Council is not sitting now-a-days and it is not going to sit for some months. It is therefore this House only which is left to us in which to bring forward a motion for the release of Lala Lajpat Rai. As regards the memorial, of course there is no application from him, but as was admitted by the Honourable the Home Member himself, legally it is not necessary that there should be any such application. He remarked the other day that the practice was that there should be an application. That of course may be the practice in ordinary cases, but this is an extraordinary case. If there is no application direct from Lala Lajpat Rai himself, there is the insistent demand of the people expressed in the Resolutions of meetings held in many places that Lala Lajpat Rai should be released at once. Resolutions have been passed in Multan, Lahore, Ambala, Fazilka and many other places in which it has been prayed that Lala Lajpat Rai may be released, and copies of those Resolutions have reached the Punjab Government. So, on account of the insistent demand of the public and on account of the special circumstances under which Lala Lajpat Rai was sentenced, and on account of the serious condition of his health, it is not only just but most proper, that he should be set at liberty and not only justice but policy and expediency require that he should be no longer kept in prison. I hope that the Government will take action under section 401 of the Criminal Procedure Code, and either itself set him at liberty at once or take other suitable steps in that direction, for instance, make a suggestion to the Local Government that he should be released. With these words, Sir, I commend my amendment for the acceptance of the House.

Mr. President : Amendment moved :

"That between the words 'Mahatma Gandhi' and 'Maulana Hasrat Mohani' the words 'Lala Lajpat Rai' be inserted; and the words 'who were convicted at the Karachi trial' be omitted."

The Honourable Sir Malcolm Hailey : I intend to oppose this amendment : but I ask your direction,—whether I should address the House now or after the adjournment.

Mr. President : I think I had better adjourn the House now ; we will continue the discussion in the afternoon. This House stands adjourned till Half Past Two.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Chairman (Mr. N. M. Samarth) in the Chair.

The Honourable Sir Malcolm Hailey : The amendment is to insert in the main Resolution a reference to Lala Lajpat Rai. In opposing this amendment, I shall not do so at great length, not at all events at the same length as I found necessary to employ this morning, because the case of Lala Lajpat Rai differs materially from those of Mr. Gandhi and Messrs. Shaikat Ali and Mohammed Ali. In those three cases the matter was, from our point of view and as affecting the public tranquillity, of all-India importance. Their activities ranged over the whole of India. Their influence was felt throughout the whole country, and from our point of view that influence was all to the bad. But the case of Lala Lajpat Rai is from this point of view mainly a provincial problem. If therefore I do not find it necessary to deal with the nature of the charge against him or with what is likely to be the consequence to India at large of his release, it is because he stands, as I have said, on somewhat different grounds to the cases which were argued this morning. For myself, I regret that his name should have been brought before the Assembly, for the question of his release or his retention in prison is peculiarly a local problem. It is the Local Government who know, and know best, the reasons why he was incarcerated ; it is they who can weigh best any reasons there may be for his release, and it is they, above all, who will know what is likely to be the effect of that release at this moment on the very troubled politics of their own province. References have been made to the justice of his conviction and the length of his sentence ; as I said this morning, I think that the right tribunal to decide such question is the appellate Court. Even if it were in order, therefore, I should not propose to discuss the question whether his second sentence was strictly justified under the law or not. Lala Lajpat Rai, like everyone else, has had the appellate court open to him ; and there is little reason to suppose that if there were anything in any way open to criticism in the sentence he received, he would fail to obtain ample justice from a High Court, and in this case I may add a High Court presided over by an Indian Chief Justice. There is one matter in which his case resembles some of those which we discussed this morning ; and it is a feature to which I must refer for it is of importance to the discussion. In whosever interests this motion has been put forward, they are not apparently those of Lala Lajpat Rai himself. We have had from him no memorial or application. On the contrary, he has himself made it clear that he would not welcome any such memorial. I will read to the Assembly what he said himself before the court which tried him. He justified his action by the following sentence :

"No laws are binding upon any people which are not passed either by themselves or by their representatives in a body properly constituted by their will."

[Sir Malcolm Hailey.]

On those grounds he refused to acknowledge the justice of the law under which he was charged. He refused to acknowledge the jurisdiction of the court which tried him. He went on to say this :

"I am not sorry for what I did. I crave no indulgence either from the Government or the court, and"—*I hope the mover will note this*—"I do not want to be let out of jail so long as the present policy of Government continues. For truly patriotic Indians India has already become a vast prison. I feel I can serve my country better inside the jail than outside it."

He apparently prefers then that his friends should not raise this question, and I am at a loss to understand therefore why it has been sought to include his name in the Resolution. (*Mr. K. Ahmed* : "All the more reason to bring it forward.") Is that so? Is not the result, to destroy his own sense of sacrifice, to destroy the whole value of what he feels he is doing for the country? He may well hope to be saved from his friends. But, finally, I feel that the real reason why this matter has been brought forward is not so much any sense of injustice of his conviction or any real belief that, if released, he would not renew his activities—activities which are likely to be especially disturbing in a Province with such troubled politics as is the Punjab at present—I feel that is not the real reason; the real reason lies in the sympathy that has been evoked on account of his illness. I answered some questions on that point a few days ago, and I may have to deal with it again in the course of a subsequent Resolution. But if he is to be released for reasons of illness or weak health, those reasons stand by themselves, and his case rests on very different grounds from those which were put forward to us by Mr. Seshagiri Ayyar this morning. It would be far better, believe me, if the case of Lala Lajpat Rai were left on these grounds to the Local Government which knows the case. I have shown before that the Local Government has made the most careful and painstaking inquiry not only through their own medical officers, but through his medical practitioner, into the state of his health. Those who are interested in him need therefore have no fear that his case will not be fully and sympathetically considered. And I will add, with a knowledge that what I say will receive full assent here, that no prisoner, whether a political prisoner or otherwise, need have any fear that his case will suffer from the want of humane consideration in a Government which is presided over by Sir Edward Maclagan.

Mr. B. Venkatapatiraju (*Ganjam cum Vizagapatam* : Non-Muhammadan Rural) : Sir, I feel it my duty to say that it is most unfortunate that a Resolution should have been moved in this House appealing for mercy of those who do not understand the spirit of the persons who went to jail, or the interests of the country for whose good they are working. I am equally sorry that our leader did not appreciate the full significance of non-co-operation, non-concern with evil and causing hurt to none. We should not attach the blame of his professed followers to Mahatma Gandhi. What he wanted was that we should give up this luxury and comfort when millions of people are suffering under misrule according to him, and he wanted us to elevate them. His creed was sacrifice and service and that all his followers did not understand. The Sikh Guru nation-builder Guru Govind preached the same sacrifice and service. That was

exactly what Gandhi was preaching. If his followers did not come up to that level it was not his fault. Even the Honourable Sir Malcolm Hailey has to admit that he cannot say anything against him, but that he has his doubts as to his sanity. Of course not only now but in former times, all those who wanted the amelioration of their countrymen or the progress of their country were treated as mere idealists and some even went to the length of saying that they were insane. Without any disparagement I would ask the Honourable Sir Malcolm Hailey to say whether or not he would equally have defended Pontius Pilate for crucifying Jesus Christ. Is this the way we have to judge? How many people, both Englishmen and Frenchmen, are now repenting for their ancestors having taken part in the burning of Joan of Arc. According to the Honourable Sir Malcolm Hailey it is no crime to have sent such a saintly man as Mahatma Gandhi to jail. Sir Malcolm Hailey asked on whose behalf we are making this appeal for their release. Certainly not on behalf of those people who have sacrificed and are prepared to sacrifice everything for the cause of the country. They never wanted us to ask for mercy at the hands of the Treasury Bench. They do not plead even for a single moment to be shown any concession. Nor do we, except that we have come here to help the Government for better administration, for the cause of good Government and for the sake of the Government itself we are supporting this motion. It is only for this reason that we are suggesting that such good men, such philosophers and such patriots ought to be released, not at all for the sake of the few individuals who are sitting here, not for the masses, not for those patriots who are in jail.

Mr. Chairman : Order, order. The amendment before the House is to insert the words "Lala Lajpat Rai" between the words "Mahatma Gandhi" and "Maulana Hasrat Mohani." I should like to confine the debate to that amendment in order that it may be disposed of.

Mr. B. Venkatapatiraju : In order to avoid taking up time, I hope I may be permitted to speak on the Resolution as well as on the amendment. Otherwise, we will have to speak twice over.

Dr. H. S. Gour (*Nagpur Division* : Non-Muhammadan) : I think, Sir, it would certainly facilitate the discussion.

Mr. B. Venkatapatiraju : Sir, the first thing that we should ask Sir Malcolm Hailey is whether when Mahatma Gandhi talked in the year 1908 about industries, about railways, was he declared to be insane. Or was he declared to be insane when the Kaiser-i-Hind Medal was conferred on him subsequently or when he was given an interview by His Majesty the King Emperor after that. Perhaps his insanity was cured by Dr. Gidney or some other doctor. I can very well understand people, who do not rise to that level for want of understanding high philosophy saying that they are not quite sane, but my submission is that they are quite sane, far better and much more farsighted than any of us here. You must understand that the names of many notables will be left in oblivion, while the names of these persons will shine for a longer time, than those of their critics who have sent them to jail. They have done immense service to the cause of the country. It is said that these persons, if they are released would not undertake that they would not create agitation. I think there is not a single man here who would give that undertaking.

[Mr. B. Venkatapatiraju.]

Agitation is the life blood of progress and without agitation there is no freedom but only death. They must agitate till they secure what they want, the emancipation of the country.

For freedom they would fight till the end. Nobody here is prepared to guarantee that they will accept the situation as it is. They will certainly agitate. Of course there are many authorities, many lawyers, many Judges who will be ready to send them to jail once more if they commit an offence. But what we say is "For your good name release them, and not at all for the sake of those people." Gentlemen, I appeal to you to support this Resolution to help the Government against themselves.

Mr. H. E. Holme (United Provinces : Nominated Official) : Sir, the spirit of make-believe appears to possess greater power in India at the present day than in any other country of the civilised world. We have been so accustomed to hear the gentlemen referred to in this Resolution and others of their kind spoken of as high-souled, patriotic and unselfish heroes that one begins to believe it oneself in spite of the irresistible evidence of facts. What are the facts? That murder, robbery, mob violence and race hatred have at every time and in every place tended eventually to be the result of their agitations. It cannot be that this is a mere accident or coincidence. It must be in some way the result and often the intentional result of their teaching. As for their alleged unselfishness, many of these agitators have made a very good thing out of their agitation. They have never been in want of money and the way in which they have obtained their funds—as to this, we have had some illuminating disclosures lately. They travel over the length and breadth of India in spite of the high railway fares. They have made themselves far more famous and celebrated than they would have been able to if they had remained ordinary law-abiding citizens. They are met everywhere with triumphal processions and festivities organised by their adherents; and when they go so far that the Government in self-defence and in the interests of law-abiding citizens have to take steps to get them sent to jail, they have the satisfaction of posing as martyrs while their friends outside take care that they are supplied with every comfort and treated with every consideration. What can possibly be the point, on the one hand, of assisting in a Reform scheme which is designed to lead India, at the earliest possible date consistent with her safety, to the attainment of self-government and on the other hand encouraging, protecting and assisting the activities of persons whose energies if left unchecked must inevitably in time lead India either to chaos and anarchy or, by reaction, to the installation of a more despotic and less liberal administration.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I rise to support the Resolution that has been put forward for the release of political prisoners. I also support the amendment that has been moved, to the effect that Lala Lajpat Rai's name be included in the list of those political prisoners who it is proposed should be released. I think that on this occasion there will be very few to offer frankly their expressions of opinion. I admit that this Resolution has been moved at a wrong time. Our quarrel with Government with regard to the certifica-

tion of the salt tax is not yet settled, and I do not know that Government would be in a mood to go in for compromises such as might find favour with us. But it has all the same been moved, and if it has been moved I think it will be a pity if the Members of the Assembly do not come forward to vigorously support it. It is said that Mahatma Gandhi has been responsible for riots and rebellions, not directly, of course, but indirectly; and in a way it is true. He stands on a very high pedestal; his principles are high and cannot be easily enforced by those that follow him. The enforcement of his principles of non-violence requires a high soul-force which would naturally be missing in the ordinary run of men. But it would only be in the fitness of things to carefully consider what that indirect responsibility really means. I listened very carefully to what the Home Member had to say on the point. Seemingly he made out a very strong case, as he usually does, for the release of these political prisoners not being seriously considered in this House. He sought to make out a case for a summary dismissal of the Resolution which is before us for consideration. Although the speech was able, to my mind, it was by no means equally convincing. He should have admitted that there was much to be said on the other side. The people of India have been suffering great wrongs, which must be redressed. Does the Home Member seriously propose to make out that Government have been faultless? No. I think a compromising attitude ought to be assumed by Government, and those wrongs that have impelled persons like Mahatma Gandhi to assume the attitude that they have assumed ought to be seriously considered by Government, if any permanent settlement that is to be desired is to be effected between the people on the one hand and Government on the other. Mahatma Gandhi, so far as practical politics go, is wrong. Those who come forward and say that his programme, even if Government continue unbending, would not lead to violence and revolution in the long run, I think, assume a position which is not tenable. If Government does not compromise and if the programme of 'peaceful persuasion' does come to be generally enforced, I have no doubt that in the long run revolution will result. On that account I myself do not wish that he should be released if Government would not correct their attitude towards the people of India, if Government continue to assume the attitude which they have assumed towards the rights of the people at the present day, an attitude which is amply reflected in the speech of the Honourable the Home Member. I would respectfully request the Home Member to bethink a little, and to desist from assuming such an uncompromising attitude in every matter that comes up for consideration in the Assembly. In every matter that comes to be considered in the Assembly he will lead those Members who feel disposed to follow him. I feel disposed on this occasion to repeat the lines that have been written by the poet Moore on Robert Emmett, a well-known Irish rebel :

"When he who adores thee has left but the name
Of his fault and his sorrows behind,
O! say, wilt thou weep, when they darken the fame
Of a life that for thee was resign'd!
Yes, weep, and however my foes may condemn,
Thy tears shall efface their decree;
For, Heaven can witness, though guilty to them,
I have been but too faithful to thee."

[Mr. S. C. Shahani.]

Mahatma Gandhi has been too faithful to India, and it will be dereliction of duty on the part of any Member of the House to vote against his release. He is not an insane person as he is represented to be. He has been consistently characterised in his life by utmost sanctity and prescience. He has succeeded in formulating a doctrine of non-violent resistance which has come to be respected the world over, not only in India, not only in Europe, but in America and elsewhere—(Hear, hear.) Only those who cannot appreciate the very greatest qualities of head and heart may laugh. There can be no doubt about it, the truth of my statement. Compromise at this stage is essential. It would not do to move like an African bull which charges straight ahead. It will not see on the right or on the left. We have got to look on the right, and on the left; and we have to take care of the two sides when we go in for a compromise.

The Honourable Sir Malcolm Hailey : Go south to Malabar.

Mr. S. C. Shahani : Yes, to restore tranquillity. The British and the Indians ought to seek to bring about a permanent settlement; and a permanent settlement between the people and the Government will become possible only when we truly go in for compromise. With these remarks I commend this Resolution to all the Members of the House, and I trust that they will support it.

Lieutenant-Colonel H. A. J. Gidney (Nominated : Anglo-Indians) : Sir, if I rise at this late hour to take part in this discussion, it is with no desire to defend the medical profession against its calumniator, Dr. Gandhi, I beg his pardon, I mean Mahatma Gandhi, but to oppose and strongly protest against the Resolution and the amendments. I protest against the foisting upon this House as also upon India, at the present juncture, of such a Resolution which, if passed and accepted by Government, would throw India back to the unsettled period of a few years ago. Sir, I have no desire to recount the career of Mahatma Gandhi, for that has been very ably catalogued by the Honourable the Home Member. But he seems to me to be a man who has no political destiny to unfold but a buried religious system to resurrect. He has been called a dreamer, but that is a misnomer. I would say, Sir, that if he were placed before a body of nerve specialists, they would in all probability diagnose his case as one closely simulating the preliminary symptoms of G. P. I. (A Voice : "What is that?") That term when translated means "general paralysis of the insane," for he exhibits, Sir, to a marked degree all the symptoms that such a patient would. However saintly he may be held by many, and of this I have no doubt whatever, and however much he may be held in respect, and of which I am sure, yet, I submit, Sir, that to release such a man from gaol where he is no doubt receiving all the care and skill of those doctors whose profession he has decried as quacks. I repeat, Sir, to release him from gaol to-day would, I submit, be a political blunder of the first magnitude. And I was much surprised to see my friend, Mr. Seshagiri Ayyar, a former Judge of the Madras High Court, stand up and advocate such a dangerous cause. When I first heard him it seemed doubtful to me as to whether he came here to co-operate or to non-co-operate, and

when I heard my friend, Mr. Venkatapatiraju, I thought he was a Moderate covered over with a veneer of extremism and non-co-operation. It seems to me that there is something more behind this Resolution; because it has been moved not at the request of those prisoners who are sitting in gaol, and who are certainly not undergoing any of those hardships of which pathetic scenes and pictures were drawn yesterday by my friend, Dr. Gour. These prisoners, Sir, are being treated most kindly and considerately.

Dr. H. S. Gour : Sir, I rise to a point of order. My friend is suffering from lapse of memory. I said nothing at all about prisoners suffering.

Lieutenant-Colonel H. A. J. Gidney : I am thankful to my friend for correcting me. Well, Sir, as I was remarking about these prisoners, they certainly have not asked for their release nor would they accept it, and if, for instance, Government did accept this Resolution and order their release from jail, we have it in black and white from these prisoners in particular that they would refuse to accept their release. Then who would look small—the Mover of this Resolution and its supporters or the Government who sanctioned it? I myself consider that this Resolution has nothing to commend itself and everything to condemn it. I believe if the House accepts the Resolution they would be taking India back from its present peaceful condition, or apparently peaceful condition, to that time of just a few years ago when the country was seething with sedition and unrest. I therefore vehemently oppose this Resolution and the amendments.

Mr. H. Calvert (Punjab : Nominated Official) : Sir, I would not have

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attempted to interrupt the proceedings by my own small voice were it not for the fact that I think some slight comment upon the present rather serious position in the Punjab should be brought to the notice of Members. I feel rather shy in addressing this House for the first time because, when I was listening to the caricature of history recited by Mr. Seshagiri Ayyar, I felt it would be rather difficult for me to dispose of the many instances of his imagination without incurring either a charge of racial feeling or one of religious bias. He specially made a great point that where the non-co-operators remained non-violent, then the whole credit belonged to them, and where they became violent, the blame belonged to Providence. If Government made a mistake, that mistake was entirely Government's and not Providence's. Sir, in the Punjab we are at present in an extremely difficult position and our difficulty arises to a large extent from the fact that we have three important religious communities in the province. For the benefit of Members who are not well acquainted with conditions there, I may say that you may roughly divide the province into three tracts. On the West, about 98 per cent. of the cultivators are all Muhammadans, and in the towns perhaps some 10 per cent. may be Hindus. So, any disturbance that may arise there due to religious feeling will cause intense suffering to Hindus, such as the disturbance that took place in the rising of South-West Punjab during the war and such as recently took place in Multan. In the centre of

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the Punjab we have a number of districts in which about half the cultivators are Sikhs and about half are Mussalmans. In the east of the province about 80 per cent. of the cultivators are Hindus and about 20 per cent. are Mussalmans. So, Sir, the question takes different aspects according to the particular portion of the province where the disturbance may occur. Up to the present these three communities have arrived at what you may call a working compromise. In certain villages where the Muhammadans are in a minority, the Muhammadan call to prayer is not allowed. In certain villages where the Sikhs are in a minority, the Sikh custom of securing their meat is, by tacit agreement, not allowed. These agreements have continued for many years, and as long as they are not disturbed, the peace of the country side can be preserved. Now, Sir, for some years, there has been going on in that province a persistent and steady agitation against the forces of law and order. I was myself a District Officer in 1907 when Lala Lajpat Rai raised the cry in the province that the 50th anniversary of the mutiny should be suitably celebrated, and events took place then which led to his being interned. At the present moment the Punjab is suffering from a very bitter movement headed by the Babbar Akali Jatha, which has its origin directly in the persistent, unending, agitation that has been going on almost unchecked for so many years. This Babbar Akali Jatha has necessitated the employment of the armed forces of the Crown, infantry, cavalry and aeroplanes. It has now led the Punjab Government to raise a special force of police, a step, Sir, which that Government itself was in no wise willing to take, it having decided, in deference to the views of its own councillors, to reduce the force of the police. Now, Sir, the point I wish to urge is this. The Babbar Akali movement is now being slowly and steadily brought under control, thanks to the steady and persistent efforts of the district officials aided by the military forces, and just as this movement is gradually being suppressed, I think, Sir, it would be the greatest possible mistake to do anything that would add recruits to that movement—recruits to the Babbar Akali movement or any other of those forces of disorder which unfortunately are far too many in the Punjab. More serious still is the dread possibility which is hanging over us in these days, because the next fourteen days in the Punjab will be very critical days indeed. One of our great communities has a perfectly legal right to perform a ceremony of a religious nature which would inevitably cause great pain to another large community. At this moment, officials, British and Indian, are striving with all the resources in their power to secure a peaceful celebration, and to maintain law and order. In this important task we are having active, devoted and most valuable assistance from non-official gentlemen of position and influence,—gentlemen Hindu, Muhammadan and Sikh. The work of these men, officials and non-officials—men of all the communities—the work of these men is directed to securing real unity between the three communities of this rather distracted province, and that work will suffer very seriously if this Resolution is carried. Now, Sir, in all these communities there are to be found men with a real sense of responsibility, men who desire to see this great country advance towards increasing prosperity along the road

of peace and law and order. Such men may not be known to our critical friends here. They may not even be eminent lawyers. Some of them may not include in their ambitions a membership of this Assembly, but, Sir, they are, nevertheless, true patriotic Punjabees, actuated by the highest of motives and working for the lasting good of their country. Such men are now enlisted in the service of securing toleration, of securing restraint and securing mutual good will among our three big communities. I think, Sir, that they deserve the sympathy and the active support of this Assembly. Arrayed against them in every town are a number of hooligans, and criminals such as may be found in any town and in any country of the world. These people see in riot and disorder nothing but opportunities for loot and revenge. The question before the Assembly is very simple. Which party is it going to support to-day? The devoted band of men who wish this country to advance along the path of peaceful development, men who are striving to preserve peace and toleration between the great communities, or the men who desire nothing but anarchy, riot and hatred? The next fourteen days, as I say, will be critical days indeed for the province. It is almost inconceivable that they will pass without disturbance, violence and even perhaps murders.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : May I ask what is that function?

(At this stage Mr. President took the Chair.)

Mr. H. Calvert : Experience shows that it is quite possible for these great communities to work together in complete harmony. The vast majority of these people desire to live in peace with their neighbours and to carry on their lawful avocations undisturbed by communal animosity or religious hatred or unrestrained fanaticism. The vast majority desire only peace. Now, Sir, when feelings are running high, it is not necessary that anything should be actually done to turn combustible material into fire. A mere rumour is quite sufficient. In my experience of the troubles in the Punjab, I have found it alleged that the actual cause of the trouble or riot was something done by a member of the community itself, which complains of a wrong done by another community. For instance some Hindu is accused of throwing some undesirable substance into a Hindu temple in order to bring the charge against a Muhammadan. It is always very difficult to say what happens. Very often some one spreads a rumour. This rumour inflames men's minds, passions are aroused and riots and bloodshed follow. Now, Sir, it is within the power of this Assembly to add to this volume of communal ill-feeling which is a lamentable feature of our province to-day. It can add to that feeling by throwing into it these persons named in this Resolution. It is also within the power of this Assembly to come to the aid of those loyal men who are striving their utmost to mitigate the high feeling that prevails, who are putting every ounce of their strength into the effort to prevent the outbreak which we foresee. It is also within the power of this Assembly to fan the flame of hatred and distrust by letting loose upon the country misguided men. If this Assembly by its vote to-day weakens the forces of order, if it does anything to discourage those real patriots who are striving so hard to preserve order and to promote toleration and good will, if the idea

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gets abroad that the popular vote has been cast in favour of anarchy, riot and bloodshed, then, Sir, this Assembly will not be able to escape its share of responsibility for whatever the immediate future may bring forward. If murders or sudden and violent deaths once more smear the history of this country, then, Sir, the fault will not be on Providence but on Mr. Seshagiri Ayyar and those who vote with him to-day.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I understand that the discussion is not now confined to the last amendment relating to Lala Lajpat Rai but it is open to Members to discuss the whole proposal to release the several persons whose names have been mentioned, excepting only those who have now been eliminated by a Resolution of this House. I am very glad indeed that I have the opportunity to address the House on this question on impersonal lines. It seems to me that it is not perhaps altogether proper that we should here, behind the backs of these persons, discuss whether they are good or whether they are bad. They are not on trial before us. The simple question before the House is whether it will recommend that certain judicial sentences should be set aside and the prisoners released.

Mr. T. V. Seshagiri Ayyar : Not set aside but remitted.

Colonel Sir Henry Stanyon : If my friend prefers the word 'remitted' I have no objection to it. Remission extinguishes whatever is left of the sentence to be served. I would submit that Members in this House, with a very natural and commendable softness of temperament, have allowed their hearts to run away with their heads. This, I would remind the House, though it is a mere platitude, is a Central Legislature. It is the parent, either by adoption or by its own natural conception, of the laws of the land. Working under it there are courts of justice appointed to give effect to these laws. As to the prisoners with whom we are concerned to-day I offer no opinion on the merits of the personal character of any one of them. To me, in this address, they are A, B and C. They are persons who after fair trial have been convicted by the courts for acts which the Legislature has enacted to be crime, whether political or any other kind of crime, but crime. Now, in regard to these political offences it is my humble opinion, though possibly a wrong one, that the power of the Crown to interfere with judicial sentences has already been carried to an extreme limit in practically every province in India. A judge, after careful deliberation and thought and a fair study of everything concerned, holds a man guilty ; and with the same deliberation orders punishment ; and the next day he sees in the papers that the prisoner, convicted by him of what he considered to be a serious offence has apologised and promised not to do it again, and has been released. I say that the repeated remissions of that kind which have been made would have undermined the courage of any judiciary less loyal, less patient and less determined to do its duty than the Indian judiciary. We have recently had a good deal of argument as to the unwisdom of Government's use of special and exceptional powers. Sections 401 and 402 of the Criminal Procedure Code embody special powers ; and yet we have Member after Member in the Legislative Assembly and in the Legislative Councils getting up

and asking the Government to make a wholesale use of these special powers to undo the solemn acts of the courts of justice, which, after all, have only given effect to the enactments of the Legislature to which those Members belong. Upon this principle I submit to the House, for its careful consideration as a Legislature, that these proposals to interfere with judicial sentences by remission, or whatever else Members may like to call it, ought not to be supported. There is no precedent that I am aware of for motions of this kind—continuous motions of this kind,—in any legislative body outside India.

Dr. Nand Lal : I may refer to the year 1920 ; there was a Resolution adopted then.

Colonel Sir Henry Stanyon : These requests—I am not speaking now of an occasional proposal or an occasional motion, I am speaking of what might almost be called a series of habitual proposals—these requests are made without any authority from the prisoners concerned, and in some cases against their wishes and in defiance of their hopes and ambitions. Upon this absolutely impersonal ground, without throwing one single pebble at any one of these unfortunate men who have been incarcerated, I ask this House, as a matter of consistency, to recognize its position as a Legislature and refuse to undo in any way the solemn pronouncements of its courts of justice.

Mr. President : Unless Honourable Members are ready to address themselves to the particular issue presented by the amendment, I think we had better dispose of it. If Honourable Members wish to discuss that particular amendment, we might go on.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : The question was raised during your absence, Sir, and it was decided that Members should be allowed to speak to both the Resolution and the amendment. I asked if I might be permitted to say a few words on the amendment, or on both.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : I may point out that it was not decided.

Dr. H. S. Gour : I rise to a point of order. It is I who raised that question, and unless I seriously mistook, the nod of the Honourable Chairman was in approval of my proposal.

Mr. Harchandrai Vishindas : Sir, what astonished me was Mr. Shahani's speech, some portions of which stultified the rest of it. One particular notable passage of his speech was that he would not vote for the release of Mahatma Gandhi unless the Government altered its attitude. Now does Mr. Shahani expect that the Government will say that 'our attitude is wrong, and therefore we are going to alter it'. Of course Government will say "We shall adhere to our attitude" in which case, Mr. Shahani says that Mahatma Gandhi should not be released.

Mr. President : Order, order. I may point out to Honourable Members that the debate may continue on the basis of both, and then the two questions are put one after another without any further debate, or else the Honourable Members must restrict themselves to the point of the amendment.

Dr. H. S. Gour : I proposed that there should be a general debate on both the points, and I understood that that was the general sense of the House. If you have any doubt....

Mr. President : It is not a question of the sense of the House, it is a question of the judgment of the Chair ; and there can be no appeal from the decision given by Mr. Chairman Samarth to the President. Decisions given from the Chair by the occupant then in the Chair hold good for the debate ; therefore, there should be no discussion as to the ruling given by Mr. Chairman.

Dr. H. S. Gour : There was no articulate pronouncement from the Chair.

Mr. President : If there was no articulate pronouncement, he could have asked for it.

Mr. Harchandrai Vishindas : The debate has been allowed to go on without any explicit pronouncement from the Chair on both these propositions,—the original Resolution and the amendment, and now, continuing my remarks with regard to Mr. Shahani's speech, I was astonished that Mr. Shahani in one part of his speech stultified the other part. He said that he advocated the release both of Mahatma Gandhi and Lala Lajpat Rai, but he said Mahatma Gandhi's release he would not advocate because it is perfectly true that he is responsible for anarchy and disorder and all that, unless Government changed its attitude. Now, as I said, Government cannot be expected to say that their attitude is wrong, and therefore that portion of Mr. Shahani's address was quite inconsistent with the first portion in which he said that he wanted the release of both of these gentlemen. Now, Sir, I will not take up much time, but there have been certain points raised in the debate which should not be allowed to go unchallenged. I quite agree with Mr. Shahani that the speech delivered by Sir Malcolm Hailey was a very able one, as usual, but some of the points that he referred to, I think, are hardly relevant to the question at issue now. For instance, he said that Mahatma Gandhi was against Railways. I do not think he is incarcerated for having expressed that opinion. A great philosopher like Ruskin was also against Railways. We had a Persian professor who also said that Railways prevented us from travelling and seeing things all through. Another aspect of the question is that Mahatma Gandhi used to travel by railways in spite of that opinion. Then another point was that he discouraged English education and all that. Of course the result has shown that all this propaganda of his turned out unsuccessful. So we need not quarrel with those of his pronouncements. Then Mr. Holme in his speech referred to some persons who peregrinated throughout the country with this propaganda and advertised themselves and were responsible for so much disorder. But, I think, that question has nothing to do with the present case of the release of these two gentlemen. My own opinion is that whereas it is perfectly true, as was admitted by Mahatma Gandhi himself, that he was morally responsible for all the blood-shed and disorders, things have now materially changed, because as far as I could observe, just a little while before Mahatma Gandhi was prosecuted and convicted, the feeling in the country was that they were entirely wrong

in resorting to violence and that they would be most successful in their propaganda if they confined themselves to non-violence as was preached by Mahatma Gandhi ; and I think non-violence has greatly prevailed up to now. I am speaking subject to correction with regard to any facts which may be up the sleeves of the Honourable the Home Member. Therefore, I think that so far from that deplorable state of things that existed in former times reverting, I am of opinion that Mahatma Gandhi's release will rather turn the other way, that more peaceful atmosphere will be brought into existence than was the case before, because it cannot be denied that Mahatma Gandhi was perfectly sincere in his advocacy of non-violence. Of course he could not control his followers. That is perfectly true. But he himself was perfectly sincere in his advocacy of non-violence and if he is released, I think things will improve much better and there will be greater possibility of peace than would otherwise be the case. Mr. Calvert has given us a very lurid picture of the position that to-day exists in the Punjab between the Hindus and the Muhammadans. I am very confident that the release of Mahatma Gandhi will heal these breaches, because he exercises great moral influence over both Hindus and Muhammadans. So instead of evil consequences resulting from Mahatma Gandhi's release, very good consequences will ensue. As regards Mahatma Gandhi, I may also further say that it would be a great piece of magnanimity on the part of Government to release him without his having put in a memorial at all. It will be a most graceful act and the country will be very much grateful to the Government.

Then, as regards Lala Lajpat Rai, Mr. Calvert has given us a long dissertation as to the state of things that exists in the Punjab now, but with due submission, I do not think that Lala Lajpat Rai is responsible for that state of things. That state of things continues, and does he suggest that the release of Lala Lajpat Rai will intensify those things ? On the contrary I think that the release of Lala Lajpat Rai will have the effect of causing a union between the two communities and a dissolution of the disunion that is now existing. I think Lala Lajpat Rai also commands a great deal of influence over both Hindus and Muhammadans in the Punjab. Therefore by releasing him, the Government will be doing a service to the country and will be earning the gratitude of the whole country.

Mr. President : When I made a statement a few moments ago from the Chair, I omitted to note that an amendment has been handed in, which I consider to be in order, though it was not given with due notice, and in order to preserve the rights of the mover of the amendment, I must now restrict the debate to the release of Lala Lajpat Rai and to nothing else.

Dr. H. S. Gour : Sir, the debate so far has centred round the personalities of Mahatma Gandhi and Lala Lajpat Rai. But there has been an undercurrent of thought not only in the minds of proposers and opposers of this Resolution but of all Members of this House, and those who support this Resolution and those who oppose it are, I have no doubt, moved by more general considerations than the release of either Mahatma Gandhi or Lala Lajpat Rai. Sir, there are two opposing views reflected in the speeches of this House. The first is that, by incarcerating the

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political leaders of this country, you are thwarting the legitimate political aspirations for the emancipation of the people, and the action is in the nature of political terrorism. The other view is, these people having transgressed the law were justly convicted and their incarceration would be in the interests of law and order. The Honourable the Home Member, in his opening remarks, mentioned that he would confine his remarks to the two personal cases of Mahatma Gandhi and Lala Lajpat Rai. He went on to point out that so far as Mahatma Gandhi is concerned, he himself may be a peace-loving person, but the result of his teaching has led to lawlessness in various parts of the country. He also pointed out that he was against all modern methods of civilization and industry. Well, Sir, so far as that part of the argument is concerned, I belong to the school which opposes Mahatma Gandhi.....

Mr. President : Order, order. I rule that the debate must now be confined to Lala Lajpat Rai, and I ask the Honourable Member to address his remarks accordingly.

Dr. H. S. Gour : I was illustrating the point which will immediately show why I am supporting the Resolution for the release of Lala Lajpat Rai. So far as Mahatma Gandhi is concerned, I have pointed out that I do not see eye to eye with him, and therefore when I find that he is a reactionary in all modern methods of civilization, when I find that he teaches the people the way to live the simple life according to the methods of Leo Tolstoi, I cannot agree with him ; but when I consider the question whether he or Lala Lajpat Rai should be released, I do not look at his doctrines ; I do not address myself the question whether I belong to the same political school as himself, but confine myself to the larger question whether the release of Lala Lajpat Rai and Mahatma Gandhi would be in the interests of the country at large. Now so far as Lala Lajpat Rai is concerned, it has been pointed out by the mover of this Resolution that he was convicted under the Criminal Law Amendment Act. Honourable Members will recall that Part I of the Criminal Law Amendment Act has been repealed in accordance with the unanimous recommendation of the Repressive Laws Committee ; and Honourable Members will further find in the recommendations of that Committee, that Part II of the Criminal Law Amendment Act was also to be repealed in the near future, and the Committee hoped that a repealing Bill would be introduced in the ensuing Delhi Session.

The Honourable Sir Malcolm Hailey : Will the Honourable Member kindly quote the exact words of the Committee ?

Dr. H. S. Gour : Have you got a copy of the Report of the Committee ?

The Honourable Sir Malcolm Hailey : No, Sir, but I think I have a better recollection of their words than the Honourable Member. There are other Members of the Committee here, and they will bear me out.

Dr. H. S. Gour : Well, Sir, I speak from recollection, (*The Honourable Sir Malcolm Hailey :* " But not an accurate one ") and, if the Honourable the Home Member will lend me a copy of the Report, I shall show him the passage to which I refer. Being a Member of that Committee, I have some recollection of it, though I do not say that I am reproducing the exact words of the Report of the Committee. Now, Sir, in any case I

submit it was the intention of the Repressive Laws Committee that the Criminal Law Amendment Act must follow other repressive laws which it had recommended for repeal. But whatever action the Repressive Laws Committee may have taken or may not have taken, the fact remains that Part I of the Criminal Law Amendment Act has been wiped out of the Statute Book and the policy of the Government of India has been that no exceptional piece of criminal legislation should be on the Statute Book and that those who offend against the majesty of the law should be dealt with under the ordinary penal laws of the country. I, therefore, submit that, when Lala Lajpat Rai was convicted under this exceptional law, he has a very good case for his release, if the law itself has been altered.

That is my first argument.

My second point is that it has never been suggested by any speaker up to this moment that Lala Lajpat Rai, either directly or indirectly, fomented anarchy, riot or bloodshed. The Honourable Mr. Holmes and the Honourable Mr. Calvert both indulged in language of unwarranted generality. They said that the Punjab was at present divided into three sections and a riot is imminent. The Honourable Mr. Holmes—I have taken down his words—said that the result of the teachings of these men has been murder, robbery, mob violence and race hatred. I would challenge the Honourable speaker to point to a single passage to substantiate his observation that, so far as Lala Lajpat Rai is concerned, he ever taught the doctrines of murder, lawlessness and race hatred. And, even if he had done so, has he been convicted for abetment of murder ? Has he been convicted for abetment of robbery ? Has he been convicted for abetment of mob violence ? He has been convicted for an offence which is wholly unconnected with the offences to which my friend the Honourable Mr. Holmes referred. Well, my friend Mr. Holmes hails from a somewhat distant province and he might be excused for using this unpardonable language, but I cannot excuse my Honourable friend Mr. Calvert for suggesting to this House that voting for the release of Lala Lajpat Rai would be a vote cast in favour of anarchy, riot and bloodshed.

Mr. H. Calvert : Sir, I rise to point out that when my speech was made the discussion was general and I purposely avoided anything that could lead to the belief that Lala Lajpat Rai was responsible for the Babbar Akali Jatha or the disturbances in the Punjab.

Dr. H. S. Gour : At any rate—and I hope my friend will contradict me further—there was a suggestion underlying his statement that anarchy, lawlessness and riot would result from the release of Lala Lajpat Rai, though he may not be responsible for it. If that is his statement, it was a wholly unnecessary statement which was calculated to make a suggestion to the House to associate the release of Lala Lajpat Rai with riot, murder and anarchy ; and I submit that my learned friend was not justified in doing so. The whole question before the House therefore is whether any sufficient political grounds for the release of Lala Lajpat Rai exist. A more subtle argument was used by my friends, Mr. Holmes and Mr. Calvert as well as by such an old experienced judicial officer as the Honourable Sir Henry Stanyon. With that adroitness which is characteristic of him when he has a weak case to defend, he said he was not

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going to pronounce upon the merits of this case, but would state his conclusion on the general question, that there must be a finality in judicial trials. But my friend could not have been aware of the fact that there is such a section as 401 or 402 of the Criminal Procedure Code and that corresponding provisions for the release of criminals exist on the Statute-books of all civilised countries. To condemn therefore the action of this House and to condemn the action of the Executive Government as in the nature of usurpation of powers,—unwarranted usurpation of powers over the heads of the Judiciary—is, I venture to submit, unjustifiable. If therefore the Crown has an undoubted prerogative of releasing any person and every person without assigning any reason therefor—and that is an established part of the Constitution, we have equally the right of advising the Crown as to what we consider to be just and proper. I therefore submit there is nothing whatever in the argument of my Honourable friend Sir Henry Stanyon. (*A Voice* : “What about Colonel Gidney?”) My friends over there ask me to say something about Colonel Gidney, of whom all that I can say is neither age can wither nor custom stale his infinite variety. There may be a variety of subjects, but he has only one word to say. He opposes all Resolutions that are moved and supported from this side of the House. I have never been able to understand the mentality of my learned friend, and I am not in a position to either attack or defend his singular attitude.

I think, Sir, I have now dealt with all the opponents of the amendment for the release of Lala Lajpat Rai, and I hope I have shown to the House that the opposition is either misconceived, misapprehended or assumes facts for which there is no justification; at any rate, no justification has been forthcoming up to the present moment. If there are any undisclosed facts which the Honourable the Home Member or any exponent of the Government position is able to state against Lala Lajpat Rai's release, I am quite prepared to reconsider my verdict. I do not know him and when I sat here I kept a strictly impartial and neutral attitude; I wanted to know what could be said for and against him. When I found one Honourable Member after another taking his stand on the general proposition that peace and order must be maintained, as if peace and order would be imperilled by the release of Lala Lajpat Rai, I exclaimed to myself “Have they nothing better to say than indulge in these generalities? Have they nothing better to say in defence of the case, and if they have not, their case must be hopeless and indefensible.” I submit, Sir, as at present advised, that the House should support the amendment.

Dr. Nand Lal : Sir, I shall try to meet the defence which has been set up by the Honourable the Home Member. He allowed himself to say that Lala Lajpat Rai is not a man of all-India reputation; therefore this question should not be debated upon on the floor of this House. In reply to that I may very respectfully point out to him that if he would care to see the comments and the remarks, made in the papers, and the Resolutions, which have been passed, then he will be compelled to change his view. In the first place, I may tell him that he presided over the deliberations of the greatest political body of India—I mean the Congress held at Calcutta. Sir, is he not an all-India man? Is an ordinary man supposed or expected to be the president of the greatest Indian political body?

This fact, which cannot be challenged, establishes to the hilt that he is an all-India man and he has got an all-India reputation. Therefore we are competent to go into the question, which has been raised by the amendment, which is before the House now.

The second argument, which has been advanced by the Honourable the Home Member, is this : that it is a provincial subject. May I invite his attention to the provisions of section 401, sub-section (1), Criminal Procedure Code? There the words “Governor General in Council” occur first, and the words ‘Local Government’ occur subsequently. The Governor General is, therefore, primarily concerned, and this question can be gone into on the floor of this House, and if I mistake not, this point was conceded by the Honourable the Home Member, some time back. But I speak subject to correction.

The other point, which has been argued by the Honourable the Home Member, was this, that Lala Lajpat Rai was tried in a judicial court and that he had the right of appeal, and that he did not avail himself of it and therefore he does not deserve any clemency. That is the drift of his argument if I rightly followed the Honourable the Home Member. In reply to that I may submit, is there any law, is there any rule that if a convict does not file an appeal against his conviction or sentence, then he is debarred from availing himself of the prerogative which is clearly provided in the Statute? The Honourable the Home Member will accede to this reply of mine that there is no legal bar. So, this argument also, I may very respectfully submit, has got no value. Again the Honourable the Home Member argued that here is Lala Lajpat Rai who himself does not desire to come out. He himself says he had better remain in jail, as his existence in the jail will serve the cause of the country better, and therefore clemency should not be extended to him. That is the drift of the argument, if I rightly followed the Honourable the Home Member. In reply to that I may submit that it is not Lala Lajpat Rai, but it is the very country that is making this request on the floor of this House. This debate has been raised, not on the request of Lala Lajpat Rai, not on the request of the relations of Lala Lajpat Rai, but on the voice of the people of the Punjab. May I invite the attention of the Honourable the Home Member to the Resolutions passed, that the 9th of July 1923 was to be declared “the Lala Lajpat Rai day”?

Resolutions were passed, speeches were made and prayers were offered to Almighty God for his recovery, and there is no doubt that the universal opinion is that he should be released. (*A Voice* : “Recovery?”) I find my friend Mr. K. Ahmed is interrupting me. I seek the protection of the Chair, because, I see that he is not only interrupting me but he also frequently interrupts some other speakers.

Sir, this is the voice of the people. We do not represent Lala Lajpat Rai alone. Since we represent the people and it is the peoples' request that he should be released, therefore we are raising our voice before this Honourable Assembly. There is another point, Sir, as to why Lala Lajpat Rai's case should be specially considered, that he has not violated the laws, to the same extent to which they were violated by some of the other political prisoners in India. I think, that is also a good point in his favour. Not a word has been said on behalf

[Dr. Nand Lal.]

of the Government Benches that Lala Lajpat Rai is a dangerous man. I know him personally and the Honourable the Home Member may take it from me that he is harmless.

The Honourable Sir Malcolm Hailey : No, no.

Dr. Nand Lal : Certainly, you will not take it from me because I am opposing your view ; that is natural ; but I must say that he deserves clemency. Sir, I know him personally. To my mind, if he is released, it will remove the bitterness which is now found in the Punjab. And, Sir, there is a precedent for it. When the Royal clemency was shown by His Gracious Majesty, Sir, do you know what its result was ? How did the people, who were released, steer themselves ? I may very respectfully point out to this House that the result was very favourable. Those, who were released and whose sentences were remitted, did not return to their previous actions, and there was a great amount of satisfaction in the country, and His Majesty may be congratulated on that declaration. The result was, that there was a considerable decline in discontent, dissatisfaction was very much minimised, and most of the people were really thanking His Majesty, His Excellency the Viceroy, the Government of India and the Government of the Punjab in particular. The result thereof was so wholesome that the bitterness, then prevailing, was obliterated to a great extent, in those days, to my mind. Therefore, if this clemency, this prerogative, is extended to Lala Lajpat Rai, on the grounds, which have already been urged,—I would not repeat them,—my own impression is that it will result in good and not in bad. Since I have to make a speech on my own Resolution, in connection with the release of Lala Lajpat Rai and other political prisoners, on the ground of his and their sickness, I should not like to disclose what I am going to say there. Therefore, I shall confine my remarks only to the points to which I have referred to above. With these observations, I wholeheartedly support this amendment which deserves the support of the whole House.

The Honourable Sir Malcolm Hailey : I was asked some information by Dr. Gour and I am now prepared to give it to him. It will be remembered that he based his argument in favour of the inclusion of Lala Lajpat Rai's name in the Resolution on the ground, that he had been convicted under the Criminal Law Amendment Act and it was suggested by the Repressive Laws Committee that that Act should be repealed at an early date, if possible within the next session. The fact is that Lala Lajpat Rai was convicted under two laws, the Seditious Meetings Act and the Criminal Law Amendment Act. The Seditious Meetings Act has not been repealed nor did the Repressive Laws Committee suggest that it should be repealed. Part I of the Criminal Law Amendment Act, which has nothing to do with Lala Lajpat Rai's case, has of course been repealed. He was convicted under Part II, and this is what the Committee says on the question of repeal :

"We regret that we cannot recommend the immediate repeal of Part II of this Act."

Dr. Gour was obviously depending on an imperfect recollection of the circumstances. Might I remind the House that it is hardly a week ago

that a motion came before it for the repeal of that very Act to which he referred, and the House by a handsome majority refused to consider even the introduction of the motion. We have been charged with having made no case out against this amendment ; in other words, that we have not set ourselves to prove that Lala Lajpat Rai is a dangerous man and that this release would be a danger. Purposely we have not done so, because we consider that the matter is mainly one for the Local Government. Will you let me pursue the argument for one minute ? Is the Legislature to come to the Executive and say with regard to any criminal or any number of criminals, political or otherwise, " You must release this man unless you can prove that it will be a danger not to keep him in jail." That is the argument on which I understand several of our friends are basing their claim to-day. Such a procedure would not only render our judiciary ridiculous, it would be to render the whole course of our justice ridiculous.

Dr. H. S. Gour : Sir, as the Honourable the Home Member has risen to correct me, may I venture to correct him ? If he refers to page 11, paragraph 2, of our report, he will find the following words :

"In view of the grave situation which exists and which may become more serious, we also think that it would be prudent to defer the actual repeal of these Acts until such time as the situation improves."

Now mark the words :

"Many of us hope that it may be possible for the Government to undertake the necessary legislation during the Delhi Session."

Now, Sir, I am not free to disclose upon what materials that hope was based, but I assert that that was what the majority of the Members hoped and expected, and it is to that I adverted in my speech.

The Honourable Sir Malcolm Hailey : That reference did not refer to the two Acts which Dr. Gour has in mind.

Dr. H. S. Gour : It does.

The Honourable Sir Malcolm Hailey : No. (Mr. N. M. Samarth : "No.")

Mr. President : The original question was :

"This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani, who were convicted at the Karachi trial."

Since which an amendment has been moved :

"To insert the words 'Lala Lajpat Rai' after the word 'Gandhi'."

The question that I have to put is that that amendment be made.

The Assembly divided :

AYES—24.

Abdul Majid, Sheikh.
Abdulla, Mr. S. M.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahsan Khan, Mr. M.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Faiyaz Khan, Mr. M.
Ghulam Sarwar Khan, Chaudhuri.
Gour, Dr. H. S.

Gulab Singh, Sardar.
Joshi, Mr. N. M.
Mahadeo Prasad, Munshi.
Nand Lal, Dr.
Neogy, Mr. K. C.
Reddi, Mr. M. K.
Shabani, Mr. S. C.
Sinha, Babu Ambica Prasad.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.

NOES—42.

Abdul Rahim Khan, Mr.
 Aiyer, Sir P. S. Sivaswamy.
 Akram Hussain, Prince A. M. M.
 Ansonge, Mr. E. C.
 Asad Ali, Mr.
 Ayyangar, Mr. R. Narasimha.
 Bardswell, Mr. H. R.
 Barnes, Mr. H. C.
 Barodawalla, Mr. S. K.
 Barua, Mr. D. C.
 Blackett, Sir Basil.
 Bray, Mr. Denys.
 Bridge, Mr. G.
 Burdon, Mr. E.
 Butler, Mr. M. S. D.
 Calvert, Mr. H.
 Chatarji, Mr. P. C.
 Chatterjee, Mr. A. C.
 Clarke, Mr. G. R.
 Dalal, Sardar B. A.
 Faridoonji, Mr. R.

Gidney, Lieut.-Colonel H. A. J.
 Graham, Mr. L.
 Gwynne, Mr. C. W.
 Haigh, Mr. P. B.
 Hailey, the Honourable Sir Malcolm.
 Holme, Mr. H. E.
 Innes, the Honourable Mr. C. A.
 Mitter, Mr. K. N.
 Muhammad Hussain, Mr. T.
 Mukherjee, Mr. J. N.
 Mukherjee, Mr. T. P.
 Nayar, Mr. K. M.
 Percival, Mr. P. E.
 Rajan Baksh Shah, Mukhdum S.
 Richey, Mr. J. A.
 Samarth, Mr. N. M.
 Sassoon, Captain E. V.
 Sim, Mr. G. G.
 Singh, Mr. S. N.
 Stanyon, Colonel Sir Henry.
 Ujagar Singh, Baba Bedi.

The motion was negatived.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Sir, I propose to move an amendment which runs as follows :

“ That the following be added at the end of the Resolution as it now stands after the omission of the names of Mr. Muhammad Ali and others : ‘ On receipt and after due and merciful consideration of such representations as may be received from the said persons ’.”

The object of this amendment is to shape the Resolution in a manner which would be reasonable looking at it from the point of view of a lawyer or from one who thinks that the law has something to do with the business that is done here. Now, Sir, the Resolution as it stands is what I may call a large order. It simply asks the Government to release a number of men. They may be great men. They may be eminent men. They may be men of high character. That much we may admit. We need not question that. But the discussion that was raised on their behalf put those points in issue and a great disservice has been done to men who are not here to speak for themselves, men who would not feel thankful for their advocates here who brought every item of their life into discussion. Now, that is one aspect of it which those who interest themselves in this motion should have thought of, for once we say that a particular individual is a good man and that therefore a certain thing should be done, it is very reasonable and it is very proper for those who oppose such a demand to give out what information they have and to support that information with documents, with statements and with all the evidence that they have in their possession. Now, therefore, what has been done to-day has been a great disservice to certain persons for whom their advocates have expressed their unbounded admiration. Now, in this matter I would respectfully associate myself with what my Honourable friend Sir Henry Stanyon said. We are discussing certain persons behind their backs. That is a very improper thing to do in any place, but much more so in this Assembly where every word that we utter is telegraphed all over the country. Incidentally, it was so last year in the case of Mr. Muhammad Ali.

A Resolution which was very faintly moved elicited from Sir William Vincent a host of facts which simply staggered the Assembly, with the result that not one man stood up to vote in support of that Resolution. Now, that is the result which these well-meaning friends of those who are absent from this Assembly..... (Dr. Nand Lal : “ I got up ten times, but I did not get the opportunity.”) Well, I am very sorry ; it might have been negligence on the part of the Chair that my Honourable friend did not get a chance to speak. (Dr. Nand Lal : “ Not at all. I am not blaming the Chair.”) Now, the facts are that there has been a trial a conviction and a sentence, and those who underwent the trial and were convicted and sentenced have not up to now said a word against the injustice of the conviction or the excessiveness of the sentence. Now, in the arguments in this Assembly, the first ground advanced was that of higher spiritual politics, and that ground was taken up very properly by my Honourable friend Mr. Seshagiri Ayyar and my friend Mr. Venkatapattiraju. But taking up that ground they practically eschewed the particular details on which there might be discussion. For once a matter is placed before this Assembly it does not remain on that high plane. In the first place that higher plane cannot be of much use in this Assembly. We are a set of business men accustomed to do things in a business-like way, in a way in conformity with law and in conformity with the constitution. Therefore, that plane of argument, whatever its value may be in other places, cannot be introduced here as a means of enforcing personal or other opinions in regard to questions which agitate the minds of Indians. That was one plane of argument. The other was the personal aspect of these individuals. Now, naturally, when you talk of the personal character of these individuals the Government which has been from the beginning styled bad and cruel and so on cannot be expected to be silent, it cannot be expected to allow these remarks to go uncontradicted. Any Government, whether it is a foreign, an indigenous or a republican Government, the Government of the day will always maintain its position and will naturally fight to crush and drive away those who oppose it. That should not be forgotten ; that is the characteristic of any Government which may be in power, and there is no use complaining that they do not allow people who are aiming at their very existence, people who want to undermine their position in this country, all the liberty and freedom that is possible. Now that is an argument which should not be used in any business place. Now that argument has been used frequently, and appeals have been made on that ground. I do not think an appeal like that can have any effect. If you really want to have those persons released, you have to persuade the Government to take you into their confidence. You have to persuade them, in the first place, that they are good individuals. But if the persons, on whose behalf you speak are not willing, are practically defying the authority of the Government, how can you expect the Government to release them or do as you like ? Now that is the weakness of the whole case ; it has been put forth to the Assembly, and we have discussed it, and we have said so many things to-day about it. Now I ask my Honourable friend, Mr. Seshagiri Ayyar, who has moved this Resolution, who has had considerable legal experience, who has held one of the highest judicial offices in the country, would he allow a judgment of his convicting certain persons to be discussed in a popular Assembly ? (An Honourable

[Rao Bahadur C. S. Subrahmanayam.]

Member : "Why not?" If he says that when he sat in the Bench, he would have allowed his judgments, convictions and sentences to be canvassed in a popular Assembly, well, whether that will carry weight with the Assembly is another matter, but it is a question whether that would be consistent with the respective, the relative duties of the Legislature and the judicial authorities of the country. Now take one other point of view in this matter. To-day you ask for release of Mahatma Gandhi; to-morrow you may ask, by moving a certain Resolution ballotted for by 30 of us, for a certain man sentenced to a long term of imprisonment in the southern-most corner of India, Cape Comorin, and convicted of a serious offence, and you come and discuss the whole thing, without knowing the full facts of the case, and ask the Governor General to exercise his power and to do certain things. That would be a precedent which would be a dangerous thing in a popular Assembly. I might have a prisoner for whom I have the tenderest feelings, whom I wanted released, and so on; and from each province the names of men may be put forward who have been the victims, we will assume, of some judicial error—are we to go on discussing those cases here in this Assembly, without having the full facts, the papers, and would we give all those Judges and others who have dealt with the case the go-bye? I think that would be setting a very bad precedent,—to discuss the decisions of judges and courts and to ask the Executive Government to give the go-bye to them. The only thing we can do as individual Members of the Assembly is to appeal for that mercy which is the prerogative of the representative of the Crown. That we might do. That is what is done oftentimes in other countries. If you feel that a certain conviction, a certain sentence, is improper, your duty as men who have got responsibility on your shoulders is to join in a memorial, to appeal to the authority in whom this power of mercy is vested to exercise that power. Therefore, my position is that so far as this Resolution goes, it is constitutionally setting a very bad precedent; it is legally wrong, men trained in law cannot tolerate a discussion like this; and as practical business men we should not rip open and expose to public view judicial decisions, without having the facts which the public also do not know and about which we have necessarily to rely on Government, in defence of a motion of that kind. If we really want as a matter of practical politics the release of these men, the proper course would be to secure the right frame of mind in those on whose behalf we are asking for the release. I therefore move for the addition of the words :

"on receipt and after due and merciful consideration of such representations as may be received from the said persons."

Are we not interested in the prestige, in the self-respect or in the dignity of the Government itself? Supposing the Government accepts our Resolution and releases these persons and to-morrow these persons say, 'We did not want to be released' and they come out and tell you openly 'we never wanted to be released, some busybodies have been doing it, and you in a fit did it,' what is to be the position then? Is that the right course to adopt? So far as I can see in this Resolution and in the whole discussion, I cannot find one single ground on which as a Member of this Assembly I could support the motion as it stands on the paper. I therefore

propose this amendment for the acceptance of the Government. These men and the Government are at extreme ends. It is possible to build a bridge between them. If they choose, they may walk over it. If Government choose, they may also walk over it. It is in that humble endeavour to build a bridge between the Government and these persons that I have suggested this amendment, because I should not like this Assembly to be considered a heartless Assembly in the case of men who are suffering, nor is it a fair thing for the Government itself to appear to the world as if it was heartless. Therefore the right course, the legal and the constitutional course, for every man who wants a favour from Government is to seek it, and if he seeks it, I have no doubt Government in all probability will comply. Judging from the past, many a man who has been convicted has been released on an application made by him in the right and proper frame of mind. Therefore, it is not asking too much of Government to consider such a representation with leniency and in a favourable manner.

Mr. President : Amendment moved :

"At the end of the Resolution to add :

'on receipt and after due and merciful consideration of such representations as may be received from the said persons.'"

The Honourable Sir Malcolm Hailey : I confess that I was at first rather attracted by Mr. Subrahmanayam's amendment just as I am frequently attracted by Mr. Subrahmanayam's arguments. It is a great thing—if I may be allowed to say so—to have among us a Member of the Assembly, whether he is on our side or on the other side, who advances his views with such independence and sincerity as does Mr. Subrahmanayam. When he attacks us, we value his criticisms highly because of their independence and sincerity, and I believe that my Honourable friends opposite, whom he also sometimes attacks, have an equal admiration for his strength of mind. But to return; I was at first attracted to this amendment, but when I fitted it on to the original Resolution, I found that it would read as follows :

"This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi and Maulana Hasrat Mohani on receipt and after due and merciful consideration of such representations as may be received from the said persons."

As I understand, that would commit us after receiving representations—(that stipulation is a valuable addition from our point of view to the original Resolution)—after receiving representations that would commit us to release these gentlemen at an early date. I should be unwilling, however, to bind myself to say at this stage and at this moment that we would release these gentlemen, even if we did receive representations. If the Honourable Member only had in mind to ask us to give due and merciful consideration to any representations that might be received from them for their release, that would be a different matter; but as he will see, his amendment really commits us to the release of these prisoners. Now I have endeavoured to show that from our point of view at the present moment at all events, and without binding ourselves necessarily for the whole future, it would be dangerous to release them. And let me say at once, Sir, with a view to some criticisms which have been levelled at us in the course of this

[Sir Malcolm Hailey.]

debate, that we on our side have, I hope, endeavoured to refrain from personal attacks on these men. We have not, as far as possible, made animadversions on their character. We have not attempted to enforce the grounds on which they were convicted. All we have done, the House will admit, is to attempt to estimate the danger or the advantage to India of effecting their release.

Rao Bahadur C. S. Subrahmanayam : One word. I hope I have not been understood as saying the Government had without cause made remarks against these people. They were forced to make these remarks against them by the action taken by their friends. That I suppose is clear.

The Honourable Sir Malcolm Hailey : I fully accept that. My remarks did not refer to anything that Mr. Subrahmanayam himself said. Indeed he made it clear that if the Government's action in this matter was attacked, Government would have to defend the grounds on which it holds to its position ; and I have merely tried to put before the Assembly that we have followed the principle that when our action in this matter is attacked, we should not attempt to discuss further than is necessary the character or the past conduct of these prisoners. We have accordingly merely attempted to lay before the Assembly our view as to the alleged possibility of releasing them without danger to India, and have at the same time sought to combat the view that has been put forward by other Members of the Assembly, that their release would be a positive advantage to India. I regret that I should have to oppose Mr. Subrahmanayam's amendment, but I do so because I fear that if I did not do so, our action would be liable to misunderstanding.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Mr. T. V. Seshagiri Ayyar : I shall reply very briefly to the observation which fell from the Honourable the Home Member. Sir, the speech reminded me of what I have often read of, namely, of what takes place on the occasion of the beatification of a Cardinal in Rome. Somebody is put up to draw attention to all the bad points in the life of the person to be beatified, and he is known by a particular name. If I used that expression here, probably the Honourable the Home Member might take offence. Therefore I will not use the name by which he is designated. Sir, if the Honourable the Home Member can say only all that he has said against the life, against the teachings, against the career of the greatest man at present living in India, I think we are justified in saying that he is entitled to be called a saint, a Mahatma and something more.

Sir, what have been the points made by the Honourable the Home Member ? He said that Mahatma Gandhi has spoken against railways. As has been pointed out, Ruskin was against railways. It is said that Mahatma Gandhi has spoken against the medical profession. A large number of people always speak against the medical profession, and there are some who think that vaccination is a great error. I know one Governor of a province who has been propagating the theory that vaccination is one of the greatest evils that mankind can suffer from. Still we do not clap him into jail, nor do we clap into jail persons who

speak against railways, the medical profession ; on the contrary, some of them are set to rule over a vast population. Sir, at this moment there are in England persons who advocate the confiscation of property ; there are Communists in Parliament. If the theory of the Honourable the Home Member is to be carried into effect, all these men must be put into jail. Sir, I think the Honourable the Home Member has not said anything which would show that this great man by being out of jail would be a menace to the peace of India. The Honourable the Home Member and the House should not forget that it is to Mahatma Gandhi that we owe the great *re-approachment* between Hindus and Muhammadans, and it is because of his intervention in many matters that there has been a closer union between the two communities ; and that has been a great asset for law and order so far as the Government is concerned. If Government is anxious that Hindus and Muhammadans should come together (*A Voice* : "They are not.") so that there may be peace in the country, the best thing they can do is to release Mahatma Gandhi. If Mahatma Gandhi had been released, the riots in Amritsar would not have taken place. Possibly, if he had been out at the time that these riots took place, he would have pacified the parties. And I say with confidence that, if this man had not been in jail, a great deal of bloodshed would have been avoided. Sir, all these considerations ought not to be lost sight of in estimating the character, the work and the life of this great soul, and, if they had been taken into account, I think the Government should be the first to insist on his coming out of jail.

Sir, a great deal has been said upon another point, and I am sorry that the Honourable the Home Member gave countenance to it ; and that is, because there has been no petition from Mahatma Gandhi and others, therefore they ought not to be released from jail. May I ask the Honourable the Home Member who petitioned for the release of the large number of prisoners in Agra, who petitioned for the release of the prisoners in the Punjab and who petitioned for the release of the Moplah prisoners ? Is it not public opinion that forced the Government to take up the attitude which was adopted ? Is it right to say that, unless these people move, we should not release them ? I am sorry that such an argument should have been used at all.

Sir, I have a high regard for one of the Members of this Assembly ; and he belongs to the profession to which I myself had the honour to belong. I am referring to Sir Henry Stanyon. He said that by discussing this matter we are infringing on the powers of the judiciary. I think he is confusing the province of the judiciary with that of the executive. I would consider a Judge to be unworthy of his office if he did not shut his eyes and ears to anything that concerns politics. He has to deal solely with the papers which are laid before him ; he has nothing whatsoever to do with political considerations. They are for the Government, and these considerations the Government could take into account in saying whether a man rightly convicted should be let out or not. What the Judge has to do is simply to weigh the materials placed before him and come to a decision. Sir, in this connection I may say that at the very outset, almost in the second sentence of my speech, I said that I would not canvas the merits of

[Mr. T. V. Seshagiri Ayyar.]

the case. I said it, and still my friend on the left asks whether I would sit quiet if my judgment were subjected to the scrutiny and the criticism which has been passed upon others in this House. I would never be a party to any Judge being criticised in that way. What I wanted was that the Government should, in the interests of justice, and in the interests of peace take up the question of the release of Mahatma Gandhi. That is what I wanted the Government to do. It had nothing to do with the merits of the conviction. I expressly saved myself from that imputation by saying I would not go into the merits. If others that followed me—so far as I can see they have said nothing which goes against the principle which I just now enunciated—if others have said anything with regard to the merits of the case, I am not responsible for it. I who have occupied the responsible position of a Judge made it clear to the Government that I would be no party to discussing the merits of the case. That ought surely to have saved me from the imputation which has been made by my Honourable friend, Mr. Subrahmanayam and others.

Sir, I am sorry to say that the Honourable the Home Member let fall a remark, which if it is to be taken literally would evoke considerable criticism; for if I remember aright he said "Can this Assembly ask the Government to disclose the grounds on which a criminal is continued in jail, and if it is not done, can the Assembly take it for granted that the man has been improperly detained?" If I remember rightly, those were the words used by him. I am sorry that in speaking of these men to whom my proposition refers he should have used the expression "criminal". They are criminals, no doubt, in the sense that judgment has been passed upon them. They are criminals in the sense that they are in jail. But surely in the opinion of a very large number of people in this country they are no more criminals than anybody who sits in this Chamber. If a plebiscite were taken in this country, I feel sure that more than 90 per cent. of the population would say that these are good and true men and that the Government is doing an injustice to itself by allowing them to remain in jail.

Sir, if I understood the Government Member from the Punjab correctly, he drew a picture, a very lurid picture, of what would happen if some of these prisoners were let out of jail, and I believe he invited me to go to the Punjab and see what would happen if these people are released. His imagination has apparently carried him too far. As I said before, if my friend the District Magistrate had only Gandhi out of jail, he would have had less difficulty in tranquillising the people than he had. It is because Gandhi was in jail that these regrettable disturbances took place in the Punjab. I say with confidence if Gandhi were not in jail these disturbances would not have occurred.

Sir, in the speeches that have been made one name has not been given the prominence it deserves. By the amendment of Mr. Asjad Ullah the names of Mohamed Ali and Shaukat Ali were omitted. There are still a number of other Muhammadans whose release would follow if my Resolution is accepted. For instance I refer to Hasrat Mohani—a good scholar, a man who has done public service. He is a learned

man whose sincerity and patriotism cannot be doubted; and I ask my Moslem friends to say whether they are inclined to allow this good man, this learned man, to remain in jail, although in one or two months the other two persons whose names have been omitted might be let out. I ask them to consider their position in regard to this matter.

Sir, I am coming to a close. The Honourable the Home Member at the conclusion of his speech said that two considerations should weigh with Government in regard to the release of political prisoners. One of them, he said, was whether the good will of the people was necessary for the constitutional change—I think those were the very words he used—and from his point of view, from the information which he had at his disposal he was apparently of opinion that the people did not want, in order that the reforms may prove a success, that these men should be let out. I respectfully beg to join issue with him on that point. The country as a whole is of opinion that the reform proposals would have a better chance of success, a greater chance of impressing the people with the sincerity of the ruling nation, if these men are out of jail. That, I think, is the position which the people as a whole have taken up, and I am unable to agree with the Honourable the Home Member that their release is not necessitated by the first condition which he mentioned.

The second condition which he mentioned was this, that the agitation should have spent itself out. He said that if the agitation had spent itself out, then the authors of the agitation might be released from jail. Sir, I think the Honourable the Home Member has very often said in this House that the agitations started by Mahatma Gandhi and others has spent itself out, that it is no longer the force that it was, and that the country is now really tranquil and quiescent and that therefore there is no fear of the repetition of the disturbances which took place sometime ago. That, Sir, was I suppose in reference to other matters; but I ask him seriously to consider whether the agitation is as forceful to-day as it was a year ago; you have got divisions in the camp and there is considerable difference of opinion among them, and in these circumstances I think the Government would be justified in saying that the agitation has spent itself out and it is desirable that these men should be let out.

There is one other consideration to which the Honourable the Home Member has not adverted, and I may put it as the third consideration, and it is this. Where the people ask for a particular report, where the people think that if certain persons who are in jail are let out, the Government would become more popular and the interests of the people more stable, if that is the view of the population, then there is no doubt that the Government should release these people from jail, and that is what has been done in Egypt and that is what has been done in Ireland; and that is the lesson which the Indian Government is not prepared to accept. It is not because these men wanted to be released, that this step was taken in Ireland; it is not because in Egypt these people petitioned for mercy that they were let out; it was because in the highest interests of Government and of contentment and tranquillity, the authorities thought that if these people were let out, there was a better chance of the Government and the people working together. And it is that attitude which I want the Government to take up; it is that attitude which my friend, Mr. Venkatapatiraju also

[Mr. T. V. Seshagiri Ayyar.]

insisted upon. I ask Government seriously to consider again whether by letting out these men from jail they would not be enhancing their own prestige, would not be placing the country in a more tranquil position and thereby bring happiness and contentment to the people.

One word more and I have done. I appeal once again to my friends on the non-official side. I have pointed out to them the importance of passing this Resolution. Some of them have kept strangely silent; and I do not know what their attitude would be. I point out to them once again that the country for two years has been agitating in this matter, that the best minds in the country have been saying that as a condition precedent to peaceful progress of the reforms it is necessary that these men should be out of jail, and I ask them to say whether they consider that these men were misguided, that these men had no political sagacity and that they themselves are cleverer and abler and greater statesmen than these men who have been agitating for the release. If that is their attitude, I have nothing to say. On the other hand I ask them seriously to consider the position taken up by the leaders of Indian society, by leaders of Indian thought in politics, and in exercising their vote on this occasion not to be led away by personal considerations, but to take serious account of what would be in the best interests of the country.

5 P.M.

The Honourable Sir Malcolm Hailey: I should have had no objection if Mr. Seshagiri Ayyar had called me an *advocatus diaboli*. The name I don't mind; the question is whether I have been successful in that office or not. And, I claim that I have been successful. I think I have been successful in convincing the House, that there would be no advantage, but some danger to India in the release of these prisoners. I am not going again over the ground which we have already covered in regard to the character of their teachings; my case does not rest, as the House well knows, on matters of that nature. It rests on a substantive claim that in the past, whether they have been responsible personally for disorder or not, yet disorder has consistently followed their operations, and that if they were now released disorder would follow them again. That is my case and nothing else. It matters little what Mr. Gandhi thinks of the accepted principles of modern progress. What does matter is, that India at the very moment when she is looking to make a substantial advance, material and political, should not again suffer a set back by the orgy of disorder into which she was cast in the last two years.

I turn to the substantive argument which Mr. Seshagiri Ayyar himself advances for the release of these men. For he does not of course follow Dr. Gour; he does not believe that it is sufficient to put to us the proof whether we can demonstrate that there will be definite harm from their release. He is more logical, and sets himself the task of proving that there would be a positive advantage to India in setting them free. Now his first argument. He referred to the speech of my friend Mr. Calvert. May I by the way say here, how glad this Assembly always is to receive from an officer at first hand the results of his own personal experience in the province in which he is serving? That experience, whether the Assembly will accept its conclusions or not, is always bound

to be of the very greatest value to our deliberations. Now Mr. Seshagiri Ayyar referred Mr. Calvert's picture of the difficulty of tranquilising the Punjab. The present difficulties in the Punjab arise from the conflicting claims of three communities; and Mr. Seshagiri Ayyar tells us that if we were to release Mr. Gandhi, the difficulty of the Punjab Government, that day to day difficulty of preventing these three communities from getting at each other's throats, would at once be minimised. I am not going to give any views of my own on that subject; Mr. Seshagiri Ayyar has drawn his own conclusion; the House will draw theirs. I will merely provide them with material for doing so. I will read first of all what certain Hindu gentlemen said of Mr. Gandhi as a promoter of Hindu-Muhammadan entente:

"Truth is infinitely of more paramount importance than Hindu-Muslim unity or Swaraj, and therefore, we tell the Maulana Sahib and his co-religionists and India's revered leader Mahatma Gandhi—if he too is unaware of the events here—that atrocities committed by the Moplahs on the Hindus are unfortunately too true and that there is nothing in the deeds of Moplah rebels which a true non-violent non-co-operator can congratulate them for."

They do not seem to have found the doctrine of non-co-operation as directed by Mr. Gandhi to have been a very potent factor in Hindu-Muhammadan reconciliation in Malabar. I will read a comment on this aspect of his activities by another gentleman, also a Hindu.

Dr. H. S. Gour: May I inquire, Sir, from what book the Honourable Member is quoting?

The Honourable Sir Malcolm Hailey: A book by Sir Sankaran Nair, which contains some very interesting information about Mr. Gandhi; I commend it to any of those Members who may desire to supplement their knowledge on the subject. But I warn them that after reading it they would not support this Resolution:

"When therefore Gandhi and his followers fraternised with the Khilafatists, the latter had no doubt of their support if eventually it came to rebellion. They were confirmed in this by Gandhi's attitude on the questions in issue between them and the Hindus. He advises the Hindus to submit themselves to Muhammadan dictation"—(that seems a very simple basis of compromise)—"He begs them not to insist on the prohibition of cow slaughter by Muhammadans and to rely upon Muhammadan forbearance to afford them relief in that direction. On the other hand he advises the Hindus to refrain from irritating the Muhammadans by insisting on carrying their processions past the mosques on their religious occasions. He advises them to study Hindustani as against Hindi; in fact complete submission to the Muslim feelings in all matters in controversy between them."

I hope that this method of compromise is satisfactory to my Honourable friend:

"His attitude towards the Moplah outrages shows the extent of his surrender. His alliance with the Khilafat movement has led to frightful results in Malabar. Relying on the assurance of Gandhi and his followers, of Hindu support for the Khilafat movement, and supported by the teaching that the Hindus may be treated as foes on failure to support them in a holy war, the Moplahs when they rose against the British Government were furious at the Hindu attitude of loyalty to England. The result was, themselves armed and organised, they took the Hindus unawares and committed atrocities too well known to need recapitulation here—butchered them and inflicted injuries on them far worse than death."

I assume, Sir, that Sir Sankaran Nair knows a great deal more than I do about Mr. Gandhi and about the possibility of Mr. Gandhi's effecting

[Sir Malcolm Hailey.]

a reconciliation between the Hindus and the Muhammadans. I therefore make no comment of my own and merely leave the House to decide how far he would be effectual in the present emergency in bringing about a reconciliation between those two communities.

Then I come to the second argument, and of a truth, the second argument is worse than the first. We are to release Mr. Gandhi in order that we may promote the chance of securing constitutional reforms. Is it necessary that I should argue that? Is it necessary that I should remind the House how again and again he has decried this Legislature, the creation of the Reform Scheme, how he has definitely and finally refused to admit the slightest value in it? Need I point out that his own followers, or at all events that extreme section which still clings to him, have definitely refused to countenance in any way even the most elementary concession to the present scheme of constitutional advance? Need I point out, that lieutenant of the band which still follows him has suggested that we should repudiate the whole of our debts? It is a strange method of attaining constitutional advance. Shall I point out, again, that certain others of that section are at present engaged in an endeavour to raise the whole of the agrarian and peasant population to a no-rent campaign? Again, a strange method of constitutional advance. Finally, Sir, this Assembly, I take it, is bound to constitutional advance within the Empire. This is what Mr. Gandhi says on that point:

“No Indian can remain loyal in the accepted sense to the Empire as it is at present represented and be loyal to God at the same time.”

He would therefore secure his own constitution—and Heaven alone knows what that constitution would be—by his own methods, outside the Empire, without the assistance of Parliament, and I need not say, without the assistance of Great Britain. And Mr. Seshagiri Ayyar pretends that by releasing him we should further the cause of constitutional reforms!

I have no more to say. Heaven knows that I wish to keep no man in prison a day longer than is required to satisfy the claims of justice or is sufficient to secure the peace and contentment of India. I have no animus against any of these unhappy and misguided men. I merely plead the cause of the peace and contentment of India and I plead it, I believe, to men who are satisfied, as I am, that one thing which we should now seek to avoid is the recurrence of that widespread disorder which characterised the history of India in the last two years. If that is our object we can brook no division of counsel; we must act together. For, as Burke has justly said:

“When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.”

Mr. President: The question is:

“That this Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi and Maulana Hasrat Mohani.”

The Assembly divided:

AYES—22.

Abdul Majid, Sheikh.
Abdulla, Mr. S. M.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahsan Khan, Mr. M.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Badge, Mr. K. G.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Faiyaz Khan, Mr. M.

Gulab Singh, Sardar.
Mahadeo Prasad, Munshi.
Nand Lal, Dr.
Neogy, Mr. K. C.
Reddi, Mr. M. K.
Shahani, Mr. S. C.
Singh, Babu Ambica Prasad.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.

NOES—40.

Abdul Rahim Khan, Mr.
Aiyer, Sir P. S. Sivaswamy.
Akram Hussain, Prince A. M. M.
Ansonge, Mr. E. C.
Asad Ali, Mr.
Ayyangar, Mr. R. Narasimha.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Barua, Mr. D. C.
Blackett, Sir Basil.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatarji, Mr. P. C.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Dakal, Sardar B. A.
Faridoonji, Mr. R.

Gidney, Lieut.-Colonel H. A. J.
Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Innes, the Honourable Mr. C. A.
Joshi, Mr. N. M.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Nayar, Mr. K. M.
Percival, Mr. P. E.
Richey, Mr. J. A.
Samarth, Mr. N. M.
Sassoon, Captain E. V.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanvon, Colonel Sir Henry.
Subrahmanayam, Mr. C. S.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 12th July, 1923.

LEGISLATIVE ASSEMBLY.

Thursday, 12th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

MEMBER SWORN :

Mr. Frederick St. John Gebbie, C.I.E., M.L.A. (Industries Department : Nominated Official).

HIS EXCELLENCY THE GOVERNOR GENERAL'S ASSENT TO AMENDMENTS OF STANDING ORDERS.

Mr. President : I have to acquaint the Assembly that I have received the assent of His Excellency the Governor General to the Amendments of the Standing Orders passed by the Legislative Assembly on 5th July 1923.

RESOLUTION *RE* CONTINUANCE OF SUPPORT TO LEAGUE OF NATIONS.

GRIEVANCES OF INDIANS IN TANGANYIKA AND PACIFIC ISLANDS.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, I have in the first instance to thank you for having allowed me to reserve my speech after having made my motion* formally day before yesterday when there was no time for discussion. In moving this Resolution, Sir, I desire to guard myself against the idea that I want to anticipate the decision of the Committee which is proposed to be appointed by this Resolution as to whether the existing grant to the League of Nations should be decreased or increased. The Resolution is intended merely to secure a comprehensive consideration of all the aspects of the question arising out of the opportunity afforded by India's entry into the League of Nations as well as its right to participate in the Imperial Conference in its present form, in regard to the various difficulties that Indians are feeling in the mandated territories, and which are not different from their difficulties in the Colonies and Dominions. The time has come to test the reality of this right and its possibilities ; the Indians' complaints are widespread, and are believed to be real, and our action must be shaped according to the acid test I propose to apply, according as it may succeed or fail. It

* " This Assembly recommends to the Governor General in Council that he may be pleased to appoint a Committee with a non-official majority to consider the question of continuing the existing financial and other support by the Government of India to the League of Nations specially in the light of grievances of Indians in the Mandated territories of Tanganyika and the *Ex-German* Islands on the Pacific Ocean. "

[Sir Deva Prasad Sarvadhikary.]

is from many points of view unfortunate that a Resolution like this should have to be moved at a time when the extremely difficult Kenya question is undergoing authoritative examination in the Colonial Office with the assistance of the deputations representing the different points of view. Delay in the determination of the Kenya question has been regretted on all sides, and if an early determination was in view, and if the Legislative Assembly was not soon coming to a close, I should have preferred to bring up this Resolution at a later stage. The Crown Colonies and Dominions stand quite apart, and I do not want to confuse the issues. The feeling all round is, however, strong and acute; the difficulties in the mandatories are also on the increase, and public opinion has to be voiced in this matter betimes.

Sir, in regard to the mandatories or the colonies and Dominions, the question is a large and a very important one because it affects no less than two millions of our fellow-subjects abroad. Sir Tej Bahadur Sapru, who has recently arrived in England has been mentioning difficulties some of which we are now speaking of to-day. He has been telling the British public that the public feeling here is acute and strong. According to a recent telegram, what he has said is this:—the feeling that the Imperial Government must solve the difficulty in conformity with Indians' position in the empire was spreading among the masses and in the towns, while it is significant that a widespread discussion was being held in the vernacular press. He proceeded: 'If the Imperial Government's decision was unsatisfactory, he would not be surprised if the Legislative Assembly and the Local Councils in India adopted a very strong attitude. He did not think that there would be disorder—he did not use the word revolution,—but he said that it might very seriously affect the working of the reforms by the elected Members and certainly there would be a strong demand for retaliation. This is already reflected in the many Resolutions of which notice has been given in this House; though they may not have been lucky in the ballot box, the very notice of these Resolutions is significant. The feeling is that the Colonial and the mandated question cannot be let alone, though by reason of absence of full and reliable materials one can hardly indicate how effective measures can be taken for a solution of the difficulties. One of these Resolutions, Sir, aims at the indication of the mind of the Assembly as to who should represent Indian interests at the forthcoming Imperial Conference. This has been anticipated by the announcement that the Right Honourable the Secretary of State, Sir Tej Bahadur Sapru and an Indian Prince will be such representatives. I have no criticisms to offer on these nominations. As I have shown, Sir, Sir Tej Bahadur Sapru's attitude is clear. But the Assembly is at a loss to understand why the nominations could not be delayed after the expected debate in the Assembly. The Imperial Conference does not meet till October; and the name of the Indian Prince yet remains to be announced. It would have been more expedient and certainly more courteous to the Assembly that its mind should have been permitted to be known in the matter, though it might not be allowed to prevail. The Assembly do not intend to hamper the Government of India in regard to any action that

they have to take with regard to this difficult question. Job-like patience and restraint are, rightly, the attitude of this Assembly in this matter and in other matters, as even ill-conditioned critics who indulge in a lurid description of jazz in this Assembly are prepared to admit, when it suits their purpose. This Assembly realizes and appreciates that in the same way as we ourselves are obliged to make tactful representations to the Government here and in England which do not always succeed, the Government of India and the Secretary of State have to make similar representations to the authorities that be, and they are not always successful, as we are not. The Government itself is sometimes powerless in the matter; that is a position that we cannot ignore and must readily understand; and we must appreciate the efforts of the Government of India in the interest of India in the past.

We want to be quite sure, however, that the hands of the Government are strengthened by public opinion in this country voiced from the platform and the press as well as in this Assembly. We want to stimulate Government endeavours which now and again flag. The mind of the Government and ourselves in these matters cannot but be one, because the interests are the same; and here I think we can successfully influence Government in the way that has been suggested that we should do before we proceed to take other steps. I do not want to go back into remote or recent history of these troubles either in the Colonies or in the Dominions. That is not the purpose of my Resolution. As I expressed my belief on a previous occasion much of Indian unrest had its root in the untold sufferings of our countrymen in Natal and Transval after the South African Union came into history. It is not wise to ignore the lessons of that struggle,—whether in the Colonies or the Dominions or the Mandated Territories. These difficulties are by no means confined to the Dominions or the Colonies. They have been gradually extending elsewhere and almost everywhere. We remember how before Lord Hardinge's statesmanship and sympathy came into existence the trouble of the Indian used to be very great. Since then, the Indian point of view began to be strongly pressed upon the authorities and matters began to improve. Then came the war, then the League of Nations and the Imperial Conference in its present form, all of which promised much in the direction of Indian amelioration. Undoubtedly some advance has been made in that, theoretically at all events, India has been given a recognised place in the League of Nations and in that capacity is called upon to subscribe to its funds. I do not suggest that that status should be sacrificed. Our status in the matter of finding funds is unexceptionable. What the other status is, is another question. I do not want to pause and consider as to what the money value of what we have been receiving in return is. Theoretically the expenditure is well worth incurring, even for the sake of the nominal status that has been secured to India. It is necessary, however, that efforts should be made to see that that status should be real as far as possible in vital matters like those that we are considering. To secure this, India, I am sure, will not mind paying more if necessary and if the Committee that I ask for recommends it, I am sure this Assembly will be glad to respond. It may, on the other hand, make a different recommendation if it appears that it is always the shadow that we are to be contented

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LEGISLATIVE ASSEMBLY.

[12TH JULY 1923.]

[Sir Deva Prasad Sarvadhikary.]

with. In the League of Nations where all the interests are represented and supposed to be protected, the Indian point of view should secure more effective acceptance and enforcement, than has hitherto been possible. Whatever the plausible pleas may be in the Colonies and Dominions which have questions of vested interests, domestic rules and favouring the white races, they cannot and do not apply to the Mandatories. Greater recognition of Indian claims has been secured and some more secured during the troublous times when Indian lives and money were freely given in the defence of the Empire and in the aid of the Allies. Repeated reference to this is unnecessary. But whatever was agreed to before, sometimes equivocally, is now attempted to be whittled down in some quarters. South Africa was frankly opposed to Indian "pretensions" from the beginning and Dominions like Canada that made some show of conceding to such pretensions, are now trying to explain away, nay disavow, what had been agreed to before. When the Kenya question became very acute, Honourable Members will remember that mob violence was threatened and even the intervention of the Church was necessary. The strong and willing arm of General Smutts was offered to be extended in aid of the white settlers, if there was general demand. What was the significance of this Goonda-like offer? It could not be legal or constitutional. The Government here and in England had to pause and consider, for they could not afford another South African War or an East African War. Well, Sir, the significance of all this is that although we are an Empire, the constituent countries of which are allowed predominance of their own views regarding the composition of their own population, India cannot yet by way of retaliation frame edicts and ordinances by which other members of the Empire not favouring the Indian point of view can be similarly treated. We do not want yet to talk of retaliation or revolution and consider how effective retaliation would be possible. We want the help of the League of Nations, to whose funds we contribute, and we want to see what the Imperial Conference can and will do to help us.

Sir, in regard to this matter, I should like to take my cue from the admirable note struck by the Leader of the House in concluding the debate on the Reforms question in this House not many days ago, and I want to make it clear to all concerned that Indians are determined to vindicate themselves at home and to vindicate their brethren abroad. We want it to be made quite clear that under the constitutional rights and powers given to us we want to maintain a determined struggle, involving many vital issues, that can be successful only if we pursue those constitutional methods. Everything points to a state of things abroad so far as Indians are concerned that causes us anxiety; and that is why I ask this Assembly by this Resolution to give its consideration to the matter and try and get such remedies as may be possible. Everything makes it clear that the Indian is not permanently wanted anywhere though he may be tolerated as the drawer of water and the hewer of wood in the interests of industries which cannot go on without him. He is not wanted permanently. He may go as a student, as a tourist and spend his money there if he likes, but as a permanent resident in what

are called white settlements, he is not wanted. Sir, regarding this matter I may draw the attention of this Assembly to a matter that came under our observation in the Lytton Committee. Even the Colonial students in the British Universities,—Rhodes scholars—have started a determined propaganda against Indian students, which is hurting and prejudicing Indian students in the eyes of other students at these seats of learning and in the eyes of the British public. That is a very significant matter. It is not the case of an isolated instance of injustice here or there, but it is a determined organisation against which we have to fight. Sir, a long standing reproach against the Indian is that he is far too fond of his home and will not migrate to improve his prospects. Once he makes up his mind to do that and goes out and gives his best in the building up of a Colony, he is told he is not wanted there. He is to be repatriated and all other kinds of things in that direction that can be thought of are resorted to. I wonder, Sir, whether the Indian sage's prevision really made him legislate against sea-voyage in modern times. The disqualification of the Indian is political as well as economic, which adds to the difficulties of the situation at every turn. He is reminded that the free institutions that he does not enjoy in his own country are not open to him when he goes abroad. Sir, in my Resolution I specifically refer as concrete cases to the Mandated Territories of Tanganyika and the ex-German islands where prescription of disabilities has been steadily going on. The accounts that have reached India would make one almost feel that Indians there were possibly better off,—certainly not worse off—in the old Prussian times and their Mandated lot can hardly be regarded as an improvement.

In regard to these matters, the tribunal of appeal is not Downing Street or even the Dominion Prime Ministers but an international organization which was set up with the avowed object of keeping peace and dispensing justice. As an original member of the League of Nations and contributing annually somewhere in the neighbourhood of 12 lakhs of rupees for its upkeep, the Indian people have some claim upon the good offices of that organisation. And my Resolution desires to test how far our status is real, how it can be improved, how far future participation in the organisation will be possible and under what conditions. I desire to go no further for the present than to draw pointed attention to these widespread complaints. Hitherto we have paid what we have been told; but the time for protest has come, and the protest ought to be well grounded by considered recommendations of a proper Committee going into the whole question, such as I ask for. It is only by strenuous protests against what is going on that we can expect to be heard. I have no time for details, but I shall ask the forbearance of the House in referring to Article 22 of the Covenant of the League of Nations, which provides that, "wherever, owing to sparseness of their population or small areas or remoteness from the centres of civilization, the geographical continuity to the territory of the mandatory and other circumstances, a mandated area can best be administered under the laws of the mandatory as a portion of its territory, subject to the safeguards mentioned under the subject of indigenous population, the mandatory can apply its own laws."

[Sir Deva Prasad Sarvadhikary.]

As the result of this, so far as German South West Africa, New Guinea and Samoa are concerned, the immigration laws of the respective Dominions which administer those territories apply to them. They can always be utilised to keep the Indian out, which is as invidious as unsatisfactory. Sir, in the conquest of these German colonies India helped at least as much as any Colony or Dominion, for which reason, if not for more Imperial reasons, India would be entitled to preferential treatment. What, however, happens is that she is placed on exactly the same footing as any other power, including the former enemy power, Turkey. Comment on this is superfluous. A mandatory may administer the mandated territory under its own laws because of the considerations referred to in Article 22 ; but it is difficult to see why any of these circumstances should by itself constitute a disqualification for differential treatment against the Indian. As regards the anxiety for the native population which is mysteriously developed when convenient, somewhat in the fashion of the anxiety for the masses in this country that we now and again see, it is put forward as constituting as a sacred trust of civilization. No one could possibly object to the application of this high principle if it was equally and without discrimination applied to all, the white and the native as well as the Indians. It cannot be seriously urged that in sparsely populated areas like Samoa and New Guinea, the influx of Indians of the right type can militate against the interests of the natives any more than the influx of Europeans would. We are not aware that the Mandatories in Australia, New Zealand and South Africa have displayed their willingness to adopt a different attitude in administering these laws so far as the mandated territories are concerned. It is intolerable that the mandate should be utilised in practice to keep out Asiatics, particularly Indians, under the cover of solicitude for the native, and also under the high authority of the Convention of the League of Nations. These Dominions are really treating the mandated areas as part of their territories and keeping them as preserves for their own races. The provision of the covenant can always be invoked to reproduce in these territories laws or racial segregation and prohibition from acquiring immovable property, which are such an unfortunate phase of South African politics, and this has been done. The Indians abroad will not, however, always take these things lying down. We know that for weeks in Tanganyika Indians held a *hartal* and protested against the three tax ordinances passed by the Governor. The public did not know what representations the Government of India made with regard to it, but we do know that the Colonial Office has refused to veto or suspend these ordinances. We had only vague promises of modification. It is not the tax by itself that is objected to so much as the agency for collection and the discrimination against Indians that the ordinance implies. It will not be possible, for want of time, to go into the various other provisions that are pressing on the Indians. For example take the troublesome rules about the need of keeping accounts in English, the need of taking out licenses by business men, the power to refuse licenses without assigning of reason, the restriction of areas within which Indians may carry on business and so forth. I shall not refer to the petty pedler's license

and the power that the policeman has to ransack the pedler's pack, resistance to which would involve imprisonment. The result of all this, if not the object, is the breaking of Indians' trade and the squeezing it out of competition. Sir, a position has grown up that no self-respecting Indian can tolerate, and I venture to think no Government can acquiesce in. It is up to the Government of India to make it clear that the interests of the communities there should be guided by absolute equality of principles, economic, civic and political, applicable equally to the Indian and to the non-Indian, to the nationalists of every member of the League. That I submit should be the clear charge of the Government of India to its representatives on the League of Nations, whose agents the mandatories are, as well as to its representatives on the Imperial Conference. And I submit that of this equality not the Mandatory but the League of Nations itself ought to be the sole judge. Incidentally this is not entirely an Indian question, for other Asiatics like the Japanese are treated like this. This I believe is not a weakness of the position I am seeking to take up, but is really an added strength to that position. Whatever view may have been adopted by the Government in the past, this Assembly should make its mind clear that the Indian abroad should be treated with the same respect as the European abroad, and certainly in the mandated territories. Sir, one need not remind oneself in this connection of the stir and commotion that is caused in every diplomatic circle of Europe if one of its nationals is subjected to what is considered unjust or improper treatment abroad, in the mandated territories or elsewhere, and sometimes such treatment has led to war. The Government when it wishes can take up matters with sufficient vigour, as was illustrated forcibly and properly in the case of Miss Ellis recently. The Government of India and all officers and people who took part in the rescue of that unfortunate girl I am sure have the heartiest felicitations and good wishes of right-thinking men, and those who deprecate this comparison should not forget that the fundamental principles are about the same. Our plea is that the Indians abroad, who look to the Government of India as their own Government for help and succour in distress should have a strong helping hand extended to them, willingly and vigorously. Of course I do not suggest that the Government of India should and can take every opportunity, with the assistance of the Honourable Finance Member, of equipping an expedition and sending it out for the succour of Indians abroad.

That is only an idea or suggestion. The suggestion is that Imperial pressure and pressure of the League of Nations should be brought to bear upon offending units in order to secure justice for Indian interests. Sir, India should not have repeated opportunities of thinking and saying to itself that promised justice will be denied to it, because it cannot or will not create revolutions, or disorders in the milder language of Sir Tej Bahadur Sapru, the absence of which the Leader of the House somewhat inappropriately referred to in this Assembly in connection with the Salt Tax agitation. This sentiment was reflected by Earl Winterton in the House of Commons, I do not know whether with the assistance of that wireless to which my friend Mr. K. Ahmed was referred to sometime ago. We do not want any revolution, any retaliation or any disorder ; on the contrary, we are

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anxious to guard against everything of that description. At the same time, if the League of Nations cannot make its power felt and obtain for us redress and, if it is as powerless as the Foreign and Colonial Departments of the British Government with regard to our Colonial grievances, why then the time has come to consider whether Indian revenues need any longer be wasted in contributing to the League of Nations funds. But, as I said, I do not want to anticipate any verdict or any recommendations. What I plead for now is the appointment of a Committee that will go into the whole question and advise the Government and our successors in this Assembly as to what the attitude of the Government and of the Assembly should be ; and I do not want, Sir, that that attitude should be antagonised in any the slightest way, as Sir Tej Bahadur Sapru seems to apprehend.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muham-madan Rural) : Sir, I rise to oppose the motion which has been brought forward by my esteemed friend the Honourable Sir Deva Prasad Sarvadhikary. I do so with the greatest regret. If I oppose the Resolution, it is not because I make light of the grievances of my countrymen, which have been referred to by my Honourable friend. I oppose it because I consider the Resolution to be misconceived, premature and not calculated to achieve the objects we have in view. The Resolution assumes the possibility, at any rate, as a result of the labours of the Committee, of our severing our connection with the League of Nations. It assumes also that the Assembly of the League of Nations has failed in its duty towards India, has failed to protect the rights of Indians, and that it is therefore necessary to consider what our attitude should be in regard to the continuance of our membership of the League. It involves also, if I may say so, a very considerable amount of misconception as to the duties, functions and procedure of the Assembly of the League. The League of Nations is a great organisation, perhaps the greatest organisation that the world has ever seen, for the promotion of peace and security in the world. It does not exist, however, to settle all disputes or to redress all grievances wherever existing. It only interferes in matters which are brought formally to its notice. With regard to the matter specifically referred to, the question of the grievances of Indians in the mandated territories of Tanganyika and the *ex*-German Islands on the Pacific Ocean, may I point out this that it is only within the last few months that we have heard of certain Ordinances passed in the Tanganyika territory detrimental to the interests of our countrymen there. This question had not arisen at the time of the third session of the Assembly of the League last year. The question could not, therefore, be brought and was not brought before the League. As regards the *ex*-German Islands on the Pacific Ocean, I am not aware that there is an Indian problem there or that there is any Indian element in the Island of Samoa or any of the Islands in the Pacific. We have the Indian problem in other countries of the world, but not to the best of my knowledge in the *ex*-German Islands on the Pacific Ocean. Now, if there were no problems at the time of the third session of the Assembly of the League of Nations they could not be brought and were not brought before the Assembly. It is not the fault of the League of Nations that it did not inquire into grievances not brought to its notice at the time that it was sitting. Another

question to be considered is this. Were we or are we even now in a position to bring the question of our grievances in the mandated territories before the League of Nations. In this connection the differences between the various classes of mandated territories have to be borne in mind. The mandates themselves were all issued before the League of Nations was duly constituted. I believe it was the five Great Powers which settled the question to whom the mandates should be given and in respect of what territories. I believe the Powers acted with a shrewd eye to their own interests in settling that question beforehand. Now in drawing up the terms of the various classes of mandates and in classifying the various territories to be administered according to one form or another, very probably the Great Powers had a keen eye to their own interests. There are certain classes of territories which are administered under the form known as the B class of mandates. For instance, with regard to the territories in Central Africa, the form of the mandate requires that the mandatory should have a due regard to the rights of all the other Members of the League as well, but in the other class of mandates under which the Tanganyika and other territories fall, the only obligation which the mandatory undertakes is towards the indigenous population. That is a matter which will have to be borne in mind when we put forward any case before the League of Nations. With regard to the territories to which the C class mandate applies, the language of the covenant is this :

“ There are territories such as South-West Africa and certain of the South Pacific Islands which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the mandatory, and other circumstances, can be best administered under the laws of the mandatory as integral portions of its territory, subject to the safeguards above-mentioned, in the interests of the indigenous population.”

It does not refer to the interests of settlers, whether Indian, or European. On the other hand, in the case of the territories administered under the B class Mandates, it contains a guarantee of equal opportunities for the trade and commerce of other members of the League—as, in the case of some of those territories in Central Africa which were previously under the German administration. Now I do not wish to be understood as saying that in the case of those countries which may be held under the C class of Mandates we have no right of representation to the League of Nations. I think we are entitled to go to the League of Nations and point out to them that the Mandate held in respect of any particular territory has not been properly carried out at any rate, in such a manner as to secure due protection for the rights of the people settled in those countries. But it is quite possible that we may be met with the plea that the Mandate does not impose in itself any obligation towards the Indian settlers or towards anybody of people other than the indigenous inhabitants of the countries entrusted to the administration of those Powers under a Mandate.

Sir Deva Prasad Sarvadhikary : That is what we want clearly to understand.

Sir P. S. Sivaswamy Aiyer : These territories having been committed to the charge of Britain under a form of Mandate which does not impose any obligations towards Indian settlers, the question is whether our complaint is with regard to the terms of the Mandates themselves or

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with regard to the League of Nations. Whatever may be our complaint with regard to the Mandate which has been issued with regard to any particular territory, we are not in a position to say that the League has failed in its duty of settling any disputes, or in seeing that the rights of any parties who bring any particular dispute to its notice and for its adjudication have not been properly respected. That is why I observed that this Resolution was premature.

Then, Sir, the next question is : Supposing that we do bring any particular matter before the League of Nations and that we do not succeed in getting our views accepted or enforced by the League of Nations, should we sever our connection from the League ? This Resolution seems to contemplate the possibility of our withdrawing from membership of the League. That seems to me to be an extremely ill-advised course for us to take. The League of Nations can only act by an appeal to the conscience of the various constituent members. It is not armed with any physical sanctions to enforce its decrees or its views. Now even supposing that the League of Nations decides any particular question against us, it seems to me to be a very shortsighted view for us to say "Because you will not settle a particular dispute in my favour, I will withdraw from membership of the League, and will have nothing to do with the League." Now, supposing you do walk out, do you gain anything ? On the other hand, you will do your cause great harm. The League of Nations was started as a great organisation for the promotion of the peace of the world by mutual co-operation. India was accorded a place in the League of Nations in recognition of the part she played in the Great War, in recognition of her importance in the British Commonwealth, and she was given a position of equality with all the great Dominions in the Empire. It is one of the marks, substantial marks, of recognition of our status and of our daily growing importance. We are hankering after many of the paraphernalia of Dominion status. We want a full-blown Judicial Committee of the Privy Council, a Privy Council to be established in India, so that we may not be lacking in the paraphernalia of Dominion status. Now here in the greatest international Council of the world in which we have been accorded a position of complete equality with all the other Members of the League. We were original members of the League, and we are treated with perfect equality in the Assembly of the League. If we continue to be members of the League we have the opportunity of pressing our grievances, our claims, our rights upon the attention of the League, and though we may not succeed immediately, still as a result of that development of a higher conscience which the League will undoubtedly succeed in promoting, we may hope sooner or later to see the justice of our cause recognised. On the other hand, if we withdraw from the League, it is not going to put an end to the League. The League will go on nevertheless, and you merely leave the field open to the other members of the League, to the European Powers, to the Christian Powers, to act just as they please and to take any steps they like, however detrimental it may be to our interests, and you will not have the opportunity of even raising your voice against it. Remember also the fact that all the other great Asiatic Powers—Japan, China, Siam, Persia—are all members of the League, and we shall be the only members who will

have severed their connection with the League simply because the League has not acted as we wish or perhaps given an unfavourable decision. Now, already the complaint of the Asiatic nations is that the European and the Christian powers do not care for them, that they manage to carry things in their own way, and that they are really so powerful as to be able to do things just as they want and to the prejudice of the interests of other nations. Shall we be advancing the best interests of the Asiatic powers or our interests by walking out of the League of Nations and leaving it to them to combine together, to work together, to their own aggrandizement at the expense of the Asiatic nations ?

Let us not flatter ourselves with the hope that if India or for the matter of that all the Asiatic powers together walked out of the League, the Asiatic powers will be able to form a hegemony sufficiently powerful to resist the encroachment and the spirit of aggrandisement of the western powers. For the first time in the history of the world, all the powers of the world from the east and west, from the north and south, have been brought together on a common platform for the purpose of mutual co-operation. By remaining within the fold of the League of Nations we have every opportunity of pushing our claims forward, of insisting upon their recognition and of ultimately securing their recognition. All those opportunities you will forego by withdrawing from the membership of the League. I think it would be a misfortune to be greatly deplored. It seems to me that we should be taking a most ill-advised step if we think of any withdrawal from the membership of the League. Our policy must be to remain within the League and urge our claims before the League and press for their recognition.

Then, Sir, I pass on to one or two other questions. One is with regard to the question of the treatment of Indians in the self-governing dominions. It is a question which we must all recognise to be beset with immense difficulties. Of course I am aware that what we are now agitating for is not so much the right of free immigration into the self-governing dominions as the rights of full citizenship for those already settled. That is a claim which we all believe to be founded in justice and which I hope will, one day or other, be settled satisfactorily. But it can only be settled satisfactorily by an appeal to the moral sense of the Dominions, of the Imperial Government and of the other Members of the League of Nations. It is not a question which we can possibly settle or dream of settling by any appeal to physical force. There is not a little loose talk among us, if I may say so, in connection with this question. It is often said that we cannot obtain just treatment for Indians in the colonies unless and until we obtain Swaraj. Let me not be understood to be behind anybody else in the desire for Swaraj, but supposing we do obtain Swaraj, how shall we be better off with regard to our claim for better treatment in the colonies ? Is it supposed that as soon as we obtain Swaraj we shall be able to go and make war upon the colonies or that we can expect any outside support from the Empire or from others in securing just treatment ? I do not think it necessary to discuss that matter further. Anything like a possible appeal to force or to the sympathy of Christian or European powers and any expectation of their coming to our aid in regard to the enforcement of our claims by force must be dismissed as chimerical. The only thing

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we can possibly think of is retaliation. Whether you can retaliate successfully or not, whether you can possibly injure them without injuring ourselves to a greater extent, those are questions which need not be considered and which I do not propose to go into now. But it is well to remember that the best way in which we can advance our claims and see that justice is done to our claims is by an appeal to the moral sense of the colonies, of the Empire, and of that higher forum, the great international forum which has been constituted in the League of Nations. Now, the question whether we should bring forward our complaints in regard to the mandated territories before the League is one which may well deserve our attention, and I have thought over this aspect of the question more than once, whether we should take our domestic quarrels within the Empire before this tribunal. It is a matter which may well be considered. But whether we should after due consideration decide to place our case with regard to the colonies or with regard to the mandated territories before the League of Nations and invite their interference by way of arbitration or otherwise is a matter which does not arise now. The question which now arises is whether we should or should not continue our connection with the League. My Honourable friend's remarks ranged over other subjects also; he introduced the subject of the Imperial Conference as well, which has nothing to do with the question of the League of Nations. We may, if necessary, consider the question whether the Government of India should be asked to send instructions to their representatives at the Assembly of the League of Nations to place any particular subject before the League and draw its attention to it. That is a matter to be separately considered and cannot be raised under this Resolution which asks for the appointment of a committee. With regard to the question of the burden of the expenses of the League, that is a question which has been gone into very carefully at Geneva, and in regard to which, if I may be permitted to say so, our interests have been most jealously safeguarded. I should like to pay a tribute to the leader of the delegation last year, Lord Chelmsford, than whom you could not find a more loyal or zealous champion of Indian interests. He was scrupulously obedient to the instructions of the Government of India; he would not depart from them to the extent of an iota. With regard to this question of the share to be borne by India of the expenses of the League, we fought every inch of ground. To me fell the lot of raising every possible objection, whether technical or on the merits.

Our predecessors at the previous sessions of the League were in no way behind us, in all probability they were even more zealous in the safeguarding of our interests.

If I may refer to an account which I heard at Geneva, our friend and representative, the late Sir William Meyer, was usually spoken of as a tiger because he would not yield on any point affecting the interests of India to any Member of the League. The amount of the share of the expenses of the League which has to be borne by India has been only fixed for the year 1923, and it will again come up for consideration. I have no doubt that, whoever may be your representatives, this question of the cost will be carefully scrutinised. But I take it that the real point of this proposition is not so much to take objection to the

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amount of the expenses, as to point out that unless our grievances are redressed we should not continue to be Members of the League. That, Sir, as I have pointed out, is a very ill-advised step, and I for one should deplore that step if the Assembly should accord its support to this proposition.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I join with my friend, Sir Sivaswamy Aiyer, in opposing the Resolution of my friend, Sir Deva Prasad Sarvadhikary. I think it is a proud privilege that India was included as an original Member of the League of Nations, and I think we should be proud of that fact. The League of Nations is scarcely four years old. Its papers were laid before Parliament only in June 1919. It is the youngest child of the nations, and at the present moment 52 Independent and Free States are Members of it. Its object is to secure international peace and justice, and I think India will be the poorer if for any reason she was to withdraw from this great League launched soon after the Great War.

Having said so much, I cannot agree with Sir Sivaswamy Aiyer when he defends the cost of the League. As Honourable Members well know, the actual amount which was contributed by India to the League of Nations in 1921-22 was Rs. 5,49,160, and Rs. 7 lakhs have been budgeted for the current year. Sir Sivaswamy Aiyer says that India's contribution to the League of Nations has been carefully scrutinised, and the cost of the League of Nations was the subject of a special inquiry at Geneva. Well, Sir, only two days back in the papers I read this illuminating comment and which I use as a criticism on Sir Sivaswamy Aiyer's defence of the cost of the League of Nations. "The extravagance of the League of Nations is severely commented upon in a Report which has just been drawn up by Monsieur Margaine on behalf of the Foreign Affairs Committee of the French Chamber. Monsieur Margaine after remarking that while in 1920 the General Secretariat of the League numbered about 100 persons, the staff soon included 480 officials. Examining the salaries paid to heads of departments and others, he quotes the following figures :

	£	
General Secretary	19,440	the largest paid Secretary in the world.
Two Assistants, about	1,000	each.
A Woman Secretary	588	
Two Typists	440	each.

The Director of the International Bureau, gets 3,340.

His two Assistants get £864 and £608 each.

The staff also includes a woman Secretary who receives £492 and a typist £396. The head of the political section is paid a salary of £2,120 and has five Assistants, four of whom receive £1,128 each; also a Secretary £540 and three typists getting £400 each. The Director of the Bureau of Information receives £2,120 and has an extensive staff.

Now, Sir, I submit these figures presented to the French Chamber by a responsible Deputy do not justify the remarks made by my friend, Sir Sivaswamy Aiyer, that the cost of the League of Nations at Geneva was carefully scrutinised and India's contribution thereto subjected to still closer scrutiny. I may remind the Members of this House that

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India bears a very considerable portion of the total cost of the League of Nations. From the latest figures culled from the Official Journal of the League of Nations, I find that out of the total units of 944, the British Empire pays 95 units, France pays 78, Japan 73; then come India and China with an equal contribution of 65 units. Next in order comes Canada which pays 35 units, Australia 26 and South Africa only 15 units. Now, I submit, the quota of contribution of India to the League of Nations is considerable, and while we are anxious to remain and will remain a Member of the League of Nations, we are entitled to ask ourselves as to whether the advantages we derive from the League of Nations are commensurate with the cost we incur annually upon its maintenance; and that is briefly the subject-matter of my amendment. I oppose, as I have said, our discontinuance or even the thought of a discontinuance of our contribution to the League of Nations or of our withdrawal from it. At the same time, like the French Chamber, this Chamber should not be reductant to examine the cost and to see whether the advantage we receive from the League of Nations is commensurate with this contribution to this International League. Now, Sir, it is not denied, it is in fact—a fact too true—that the South African Union who have the mandate for Tanganyika and South Western Africa have recently embarked upon a reactionary policy of placing disabilities upon Indian settlers in that country.

And, unless we make a timely protest, I am afraid these disabilities, promulgated by means of ordinances, may be perpetuated by means of law. Honourable Members cannot forget in this connection the history of Kenya. Ordinances were passed, pressure was used upon the Government and the Governor General confirmed those ordinances and even promised at the earliest moment to reaffirm these ordinances and place them permanently upon the Statute Book. While we were dormant, hopeful and believed that our interests in Kenya were safe, the Government, so far as the South African Government is concerned, has gone against us. Let us not again be caught napping and I therefore suggest that, while there is time, we should form a Committee, examine the whole question, and, if necessary, make representations to the League of Nations against the disabilities that have been placed upon our fellow-subjects settled in the mandated territories in South Africa. I have studied, Sir, the constitution of the League of Nations and I find that under the new constitution a permanent Mandates' Commission is to be appointed and the object of this Permanent Mandates' Commission is to receive complaints from the inhabitants of the mandated area through the medium—the exact language is—through the intermediary—of the local administration and of the mandatory power. It is not, therefore, correct to say that, when the League of Nations is not in session, we have no redress. The constitution of the League of Nations has set on foot a Permanent Mandates' Commission and we can ventilate our grievances to that Commission, specially appointed for the purpose of protecting and safeguarding the rights of the mandated area. It has been said by my friend, Sir Sivaswamy Aiyer, that the mandated areas are sub-divided into three classes and in class 3 the only protection afforded is to the natives or residents of that territory.

But the cardinal principle laid down and settled as the fundamental basis of the League of Nations in the year in which it was constituted and stated in their official documents, reads as follows:

“The Council takes a wide view of the powers of supervision over mandatory territories entrusted to the League. The League must be satisfied that the mandatories make good use of their powers and that their administration conforms with the interests of the native population.”

The Secretaries to the League of Nations have by this covenant given a pledge that the League of Nations shall be the judge of the rights of persons resident in the mandatory area and that it possesses a general power of supervision and control over Indian settlers. I, therefore, submit that the disabilities of the Indians in the mandated territories can be inquired into, and at any rate, should be made the subject of a representation by the Government of India to the Commission constituted by the League and, if that is done, I have no doubt that timely assistance will be given to our Indian fellow-subjects who have already commenced to suffer from several disabilities, caused by ordinances in that territory. On these grounds, Sir, I support my amendment and I think that a small Committee should be appointed for the purpose of examining this question and drawing up a representation, and that the Government of India should be asked to send it through the proper channel either to Commission or the League of Nations, for the purpose of redressing the wrongs of Indians settled overseas within the mandatory area, subject to the jurisdiction of the South African Union.

There is another point of very great importance. Last year, the League of Nations decided that all independent nations who were signatories to the League of Nations shall limit their armaments and a communication to that effect was sent to General Smutts, the Premier of South Africa. In his reply, General Smutts wrote that, so far as South Africa is concerned, its defence had been hitherto undertaken by the Imperial Government but that South Africa now wishes to have an independent defensive force and free itself from the control of the Imperial Government. As a matter of fact, General Smutts pointed out that all the Imperial Government's troops quartered in South Africa for the protection of that country had been withdrawn. Now, Sir, I think it is pertinent to inquire whether, in the scheme which General Smutts has adumbrated in this communication to the League of Nations, which says that he is about to create a South African Force for internal defence, Indians will find an equal footing or whether Indians will remain disarmed while the European settlers in South Africa will form the Citizen Defence Force. Now, that, I submit, is pertinent to the question. The attitude of General Smutts does not encourage me to think that, when he raises the South African Defence Force, Indians will be assigned the position and status of equality and I think, before it is too late, we should bestir ourselves and inquire as to what position is to be assigned to the Indians in the defence of South Africa, in the maintenance of which they are at least equally interested with the white settlers.

Then, Sir, lastly, I submit it is a fact—a regrettable fact but nevertheless a fact—that there is a tendency throughout the world—I see it in South Africa, I see it in Canada, Australia and the other British possessions—to place embarrassing disabilities upon the people of India.

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who go overseas to settle down in the Colonies. The League of Nations cannot, as my friend Sir Sivaswamy Aiyer has rightly pointed out, take up this question of domestic quarrels between two parts of the same Empire. But what right have you to go and ask and contend for equality of treatment before the League of Nations in the mandated areas when you, in your own home, are content to suffer the disabilities which have been placed upon yourselves by other parts of the British Empire. The Commission will say : You are not masters in your own home ; in your own Empire you are treated as helots and how can we assign to you a better position in a territory administered by the mandatory power ? I therefore submit that the two questions must not be regarded as independent questions but as part and parcel of the same question, and I therefore submit that we should press for equality of treatment in all the mandated areas where there are European settlers in the same manner as we have been pressing for equality of treatment in the British Colonies. On these grounds, Sir, I oppose the Resolution and support my own amendment which runs as follows :

“ To substitute the following for the original Resolution :

“ This Assembly recommends to the Governor General in Council that he may be pleased to appoint a mixed committee of officials and non-officials, the latter in majority, to examine the question whether the contribution made by the Government of India to the League of Nations is commensurate with the advantages accruing to India with special reference to the disabilities which Indians suffer in the Mandated Territories under the British Crown.”

Mr. President : Amendment moved :

“ To substitute the following for the original Resolution :

“ This Assembly recommends to the Governor General in Council that he may be pleased to appoint a mixed committee of officials and non-officials, the latter in majority, to examine the question whether the contribution made by the Government of India to the League of Nations is commensurate with the advantages accruing to India with special reference to the disabilities which Indians suffer in the Mandated Territories under the British Crown.”

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I rise to oppose both the original Resolution and the amendment moved by my Honourable friend Dr. Gour. But, Sir, I make it quite clear at the outset that I fully share the indignation expressed by my Honourable and revered friend Sir Deva Prasad Sarvadhikary at the treatment given to Indians in the Colonies and Mandated Territories of Great Britain. I also sympathise fully with his anxiety to remedy this condition. But, Sir, I feel that the remedy which he has proposed is not the right one. In the first place, the League of Nations is not concerned with all the Colonies in which Indians are badly treated. South Africa, Canada, Australia and New Zealand are members of the League of Nations as much as India is and I feel that ordinarily the League of Nations will not be able to interfere with the domestic affairs of any one of the members of the League of Nations.

Sir Deva Prasad Sarvadhikary : Not as mandatories ? My proposition is about the Mandated Territories.

Mr. N. M. Joshi : I am talking of the members of the League of Nations. The League of Nations, I feel, will not be able to interfere with the domestic affairs of any of its members. Sir, the League of Nations can interfere under certain circumstances with the affairs of a Mandated Territory like Tanganyika, as was made clear by Sir Sivaswamy Aiyer.

It is therefore open to the representatives of the Government of India at the Assembly of the League of Nations to raise this question if they think proper and if the Government of India approves of their doing so. But, Sir, there is no use of our talking of refusing or withdrawing our support to the League of Nations. Before we talk of doing this, let us see whether the League of Nations has done some good to us or not. I know there are many people in this country who consider that the League of Nations cannot and has not done any good to the world, and not to India also. But, Sir, I am fortunately one of those people who had occasion to visit Geneva to attend the International Labour Conferences on more than one occasion. The International Labour Organisation is a part of the activities of the League of Nations and that Organisation has done, to my mind, a great amount of good to the working classes of this country. Sir, the factory legislation and labour legislation of this country is not sufficiently advanced—I admit it. But I must also admit that whatever advance we have recently made in this sphere of legislation, is to a great extent due to the International Labour Organisation. We remember very well that our factory legislation was improved only last year. The rules as regards the employment of women and children, the rules as regards the hours of work of the working classes, have been changed and improved to a great extent, and this improvement is mostly due to the activities of the International Labour Organisation of the League of Nations. Sir, the International Labour Organisation has, as I have said, already done a great amount of good. But we must also remember that there is a great possibility of that Organisation doing even more good in the future. Speaking from the point of view of the working classes, we must remember that the working classes of this country are not yet sufficiently organised. They are not yet sufficiently strong. It is therefore necessary from their point of view that their case should be supported by a powerful organisation like the International Labour Organisation. Speaking from the point of view of Indians settled in the Colonies as well as in the Mandated Territories, I think there may be some occasions on which we may be able to do some good to our countrymen there. I remember one occasion when I was at the Washington International Labour Conference. In one of our Committees we were discussing the question of the hours of work. India as a tropical country claimed special exemption from the 8-hour Convention. South Africa also claimed a similar exemption. But South Africa said that they would accept the 8-hour Convention for the white workers but would have a special convention for the coloured workers. I was a member of that Commission and I strongly protested. I said that if the South African Government would put in their Convention words differentiating between Indians and whites, I for one would stand in the open conference and oppose the Convention. Sir, the result was that the representative of the South African Government gave up that attempt. It is thus possible for us to do some good, if not much, to our countrymen even in a country like South Africa. At least we can do it, as far as I can see, in the International Labour Organisation. Sir, from this point of view it will be wrong on our part even to hint that we are thinking of leaving the League of Nations. As regards the expenses of the League of Nations, Dr. Gour said that the League of Nations was an extravagant body. Sir, the League of Nations may be an extravagant body or may not.

[Mr. N. M. Joshi.]

be an extravagant body. But I know that several meetings of the Assembly have considered the expenses of the League of Nations. Committees have been appointed to effect retrenchments.....

Dr. H. S. Gour : I think I may be permitted to correct a misstatement which has been made by my Honourable friend. I did not assert it was an extravagant body. I quoted the report of the Foreign Affairs Committee presented to the French Chamber, stating that it was an extravagant body. I simply quoted from it.

Mr. N. M. Joshi : I am glad to know that Dr. Gour has not given his judgment. He has simply quoted some extracts from a document with which I do not know whether he agrees or not.

Dr. H. S. Gour : The Committee will decide that.

Mr. N. M. Joshi : The Committee appointed by the League of Nations itself is considering the question of effecting retrenchments and my Honourable friend Sir Sivaswamy Aiyer has told the Assembly what great efforts our representative, Sir William Meyer, had made in the meetings of the League of Nations. I also can endorse what Sir Sivaswamy Aiyer has said that Sir William Meyer's name in the League of Nations was feared more than that of any other person as one who would not allow any money to be spent in a wrong manner. Sir, if we find or some people find that the League of Nations spends money somewhat more than we would spend in our own domestic affairs, there are also some reasons for it. The League of Nations has to select its staff from different countries of the world. I know, Sir, one gentleman from India who was appointed on the staff of the International Labour Organisation and that Organisation paid his passage and the passage of his wife from India to Geneva and when he came on leave they also paid his passage and his wife's passage. We must remember the special position in which these international organisations stand and when we judge of their expenditure we must remember these matters also. I therefore feel that there will not be much use in our going into the expenses of the League of Nations and trying to find out whether our contribution is just or not. Moreover I have already said that there is the great importance of our admission into the League of Nations as an original and equal member and for that dignity, if it is only a dignity, I shall not mind spending the amount which we are spending. When we were in Delhi, for the dignity of the imperial city, we were asked to spend a large amount to have the luxury of a tiny University. Nobody raised the question of the usefulness of a university for that city and why should we in an international affair of this kind, when India's independence is guaranteed internationally, when India's equality is guaranteed internationally, why should we object to spend a small sum as that which we are paying to the League of Nations. My Honourable friend Sir Sivaswamy Aiyer has made it clear that India's place in the League of Nations is not only useful to India herself but also to other Asiatic countries. We know that there is a strong feeling both in the International Labour Organisation as well as in the League of Nations that these organisations are dominated by the European countries. I myself have protested several

times on this point. We find that the Asiatic countries are not sufficiently represented there and our protests do not therefore receive that support which they ought to but if India leaves the League of Nations, that much support will be less for the Asiatic countries. It is not only the question of Asiatic countries alone. It is a question of the white and the coloured people also. At present the League of Nations is a League of the white people. The world is also populated by a large number of coloured people. The question of the white and the coloured will some day come before the League of Nations and will not the coloured people, among whom Indians are one, suffer for want of support if India is out of the League of Nations? The dignity and the place of India in the League of Nations is not a small one. Dr. Gour said that India is considered to be a child nation in the League of Nations. It is not correct. India has been given a place in one of the 8 chief industrial countries in the world. You are not the last. You are at least within the first 8 countries in the matter of industries in the whole world. Therefore let us not grudge to pay the small amount which we are paying to the League of Nations.

The Honourable Dr. Mian Sir Muhammad Shafi (Law Member) : Sir, Honourable Members must have noticed that at the very commencement of his speech my Honourable and learned friend Sir Deva Prasad Sarvadhikary made two significant admissions. In the first place he admitted that, I am quoting his very words, theoretically the expenditure is worth incurring, meaning India's contribution towards the expenditure of the League of Nations. In the second place my learned friend told us that he did not want to anticipate the decision of the committee as to whether the contribution should be decreased or increased. Sir, I am glad that better counsels have prevailed and in making these admissions my Honourable and learned friend, to all intents and purposes, has given the go-by to the recommendation contained in the Resolution which is on the agenda paper. When we turn to the terms of the Resolution, what do we find. This is what the Resolution says :

"This Assembly recommends to the Governor General in Council that he may be pleased to appoint a committee with a non-official majority to consider the question of continuing the existing financial and other support by the Government of India to the League of Nations, especially in the light of grievances of Indians in the Mandated Territories of Tanganyika and the *Ex-German* Islands on the Pacific Ocean."

It seems to me that the meaning of the Resolution as it stands on the agenda paper is perfectly clear. It can mean only one thing, that is to say, in view of the position which our countrymen at present occupy in the territories named in the Resolution, the question of continuing India's contribution to the League of Nations should be considered by this committee. This Resolution, I venture to submit, holds out a threat of withdrawal of that contribution by reason of the position of Indians in the territories named. I am perfectly sure that my Honourable and learned friend, when he gave notice of this Resolution, never contemplated that this Committee should be appointed in order to consider whether India's contribution should be decreased or increased, as he has stated this morning. With regard to the case as now put forward by my learned friend, that is to say, that this Committee will consider whether India's contribution should be decreased or increased, may I invite the attention of the House to what has actually occurred in the

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League of Nations itself and to the rule in the constitution of the League of Nations bearing upon this question. Article 6 of the Covenant of the League of Nations in its original form prescribed that the expenses of the Secretariat of the League should be borne by the Members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union. Under the above scale India is placed in category 1 of the contributory States and assessed at 25 units of contribution out of a total aggregate number of units of 510 and 521 in 1921 and 1922, respectively.

That was the original position. As there was general dissatisfaction amongst the Members of the League with Article 6 of the Covenant, a small special committee was appointed by the Council of the League to work out a suitable scheme of allocation. This Committee proposed a new provisional scale of allocation by which India was reduced from class 1 to class 2 of contributing States and made liable for 65 units of contribution out of a total aggregate of 977 units. The Committee proposed another amendment to Article 6—(Now, this is important)—whereby the Assembly were empowered to decide the proportion in which the expenses of the League should be borne by the members. The second Assembly of the League accepted these proposals of this Committee in Resolution No. 30, dated 5th October 1921.

So, the position stands thus. In the first instance India was classed among scale No. 1 of contributing powers, and on reconsideration she was then in a subsequent year included in class 2. Thus, her contribution as a result of that inquiry has already been decreased. But at the same time a rule was passed and adopted in the Resolution to which I have referred that it is the Assembly of the League of Nations which shall apportion the contribution of the total expenditure amongst the various contributory powers in such proportion as it may deem fit. India as a Member of the League of Nations is bound by that rule, and in consequence it is not for this House, I venture to submit, to appoint a Committee to fix India's contribution but for India's representatives in the League of Nations to make any representations that may be necessary in that connection.

Turning now to the original Resolution as it is to be found on the agenda paper, I cannot help saying that in so far as the proposal embodied in that Resolution is concerned the remedy proposed by my Honourable and learned friend is worse than the disease which he seeks to cure. I have already invited the attention of the House to the terms of that Resolution. In so far as it touches the position of Indians in the various territories named, my Honourable Colleague Sir Narasimha Sarma who is in charge of that subject will discuss the question. I propose to address myself to what may be called the League of Nations aspect of the Resolution and in that connection I venture to remind the House of the circumstances in which India obtained the recognition of her international status as a Member of the League of Nations; for it seems to me that those circumstances furnish a complete answer to the recommendation embodied in this Resolution.

Sir, Honourable Members will remember that before the outbreak of the unparalleled conflagration through which mankind had to pass during the four years of the terrible world war, India occupied the position only of a British Dependency. On the commencement of hostilities between the Allies and the Central European powers, her Government, her Princes and her peoples readily and spontaneously placed all their resources at the disposal of His Majesty's Government. Long before the Colonists in the British Dominions across the seas even thought of bestirring themselves, her brave sons were fighting shoulder to shoulder with their British comrades on the battle-fields of France. So profound and so widespread was the effect of this spontaneous demonstration of her devotion to the British Throne that as early as November 1914, speaking on their behalf, Mr. Charles Roberts gave expression to the desire of the British Government that "India should occupy a place in our free Empire worthy alike of her fighting races and of the patriotism of her sons." "She now claims," said he, "to be not a mere dependent of, but a partner in, the Empire." And on behalf of the then leader of the opposition and with his full authority Mr. W. H. Foster, "recognising India's splendid and unswerving loyalty, associated His Majesty's opposition with these sentiments." A little over a year after this, when I moved a Resolution in the old Imperial Legislative Council advocating India's representation on the Imperial Conference, His Majesty's Government readily accepted that Resolution and India's claim to partnership referred to by Mr. Charles Roberts in his speech of November 1914 was thus fully recognized. The terrible world war dragged on its course for a period exceeding 4 years. Throughout this period India continued her efforts in the defence of the British Empire and raised a number of recruits exceeding the total raised by all the British Colonies put together. It was a result of the contribution which India's brave sons made towards the ultimate victory of the Allies over German militarism that her international status was finally recognized at Versailles by her inclusion in this comity of nations, her representatives signed the various treaties, one of which I am glad to say is about to be revised on lines satisfactory to all parties, and she was recognized as an original member of the League of Nations. This House, as the custodian of India's domestic as well as international interests, ought to jealously guard the position which India has won during this terrible world war as a member of the League of Nations, and no Honourable Member should lightly talk of withdrawing India's contribution from the League of Nations in the manner that some of them have done to-day. My Honourable and learned friend, I know, is opposed to non-co-operation. Does he propose that India should non-co-operate with the rest of the civilized world by withdrawing her contribution to the League of Nations?

Sir, there is another aspect of the question to which I would like to invite the attention of the House. Assume that there were a case for action in connection with the position occupied by Indians in any of the mandated territories. The responsibility for that state of things would rest on the shoulders not of the League of Nations but of the mandatory State administering the territory in question. The party aggrieved would in such an event have to make an appeal to the League of Nations itself.

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Now I ask, is it practical politics, is it indeed reasonable for the party aggrieved, to threaten to withdraw its contribution from the very authority to which an appeal would lie against the mandatory State administering the territory in question? Indeed it seems to me that this looks like a complainant, long before his case has run the gauntlet even of the original Court, holding out a threat against a Court of Appeal. In this connection let me invite your attention to what happened at the second anniversary of the Assembly of the League of Nations. Indeed what I am going to read from the book now in my hand has a very important bearing on the subject-matter of the Resolution before the House. This is a book by Mr. Harold Temperley on "The second year of the League." At page 21, speaking of India's representative at the second anniversary, this is what the author says: 'In sheer oratorical distinction the palm was borne away by the second delegate from India. Everything about Mr. Sastri was remarkable. On all occasions he stoutly upheld the use of the British language as against French, yet he was a Brahmin of the Brahmins.... On September 12 he stood up in the Assembly, a figure in a plain black collarless cassock and white turban, and spoke. There were no gestures—though the expression of his face changed continually, and the sustained melody of his voice held every-one entranced. 'Brother and Sister Delegates', (his very opening word was original), 'hard and cold indeed must be the heart that fails to be touched, and touched to noble issues, by such a spectacle as this.' He spoke of the critics and pessimists with scorn, but he reminded the League that it was wiser to limit its scope and not to attempt the impossible. Then he brought a thrill of shame to everyone by reminding the nations, how India, 'almost alone amongst the Great Powers', had not only ratified the International Labour Conventions of Washington, but had passed laws to give effect to them. As regards Mandates, he reminded us that in German West Africa 'the Germans did not make a colour-bar or introduce invidious distinctions.' If the Mandates did introduce them, then one day a delegate from India might have to 'come on this platform and tell the Assembly that we are worse off under the trustees of the League than we were under the Germans. Either rectify these matters or put us back where we were. It would be a matter of profoundest regret for any of us to come and speak in that fashion on the Assembly.' And after a solemn pause he slowly quitted the tribunal. There were few present whom his oration did not cause to rate India higher because she could produce such a man.

Sir, those who carefully study these lines can see the manifold advantages to India of India's representation on the League of Nations. A warning has already been given by Mr. Sastri. Wait, wait until it becomes necessary to give effect to that warning and do not indulge in premature Resolutions of this kind which are calculated to do more harm than good.

The Honourable Sir Narasimha Sarma (Education, Health and Lands Member): Sir, my task is a very simple one and a prosaic one. If I did not rise earlier, it was to give the House an opportunity of showing unmistakably that there is not one assembled here who is in the faintest manner connected with the idea of dissociating himself either now or in the future with that important international body which

is to preserve the peace of the world, the League of Nations. Nor did I read in the speech of the Honourable Mover of this Resolution any desire to associate himself with that idea. I took it that he utilised the League of Nations only as a peg on which to hang his tale, the tale of the woes that are supposed to be suffered (*Voices*: "Real.") by our Indian fellow-subjects in the Mandated Territories. Well, I hope to be able to show to the House that there is a good deal of misconception in this regard, and I am sorry really that I did not rise earlier to remove that misconception. I shall deal with that proposition first. The Resolution asks that a committee should be appointed to investigate the question of the utility of the League of Nations especially with regard to the position of Indians in the Mandated Territories connected with the British Crown. I may say, Sir, that so far as the Government of India's information goes there are no Indians in any of the Mandated Territories for which mandates had been given to the British Dominions, the Dominion Commonwealth of Australia, New Zealand or the Union Government of South Africa. An investigation was made some time ago when this question came up as to whether there were any Indians domiciled in the Islands of New Guinea for which the mandate was given to Australia, the Island of Samoa, for which the mandate was given to New Zealand and in German South-West Africa, for which the mandate was given to the Union Government of South Africa. It was reported that in New Guinea and New Samoa, at one time there were about two or three, one of whom died. No British Indians went latterly to any of these Dominions. So, I take it that on the information available to us there are no Indians settled in any of those Dominions under the mandates of either Australia or New Zealand. A similar query was addressed by the India Office to the Colonial Office as to the position of Indians in German South-West Africa. It was stated that prior to 1909 there were no such Indians, though the Germans were desirous of importing some Indians there. There was no information available that there were any Indians in German South-West Africa, so that on the information available to us we may take it that there is no question of privileges or rights of Indians settled so far in these territories.

There may be a few stragglers who have gone from South Africa, but we have no information on the subject. So

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that we are not now concerned with any question as regards Indians domiciled with regard to the mandated territories forming Class 3 in respect of which these Dominion Governments have been allowed to administer their own laws with regard to the territories for which the mandate has been given them. But I shall not say that India has no complaint whatsoever with regard to the action of these Dominion Governments regarding the treatment that they have accorded her after the mandates had been granted to them. Mr. Montagu addressed a letter to the Colonial Office to exhort these several Governments, having regard to the wording of the mandate, to treat India fairly, to remember the services that India had rendered to the Empire at a time of great peril and also to remember the grave discontent which would be aroused in India if any discrimination was shown against Indians with regard to the laws that may be administered in those territories. I regret to say that the immigration laws which effectually,

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though not in theory, bar Indians from going there to settle down as permanent residents, have been applied in the case of all these C mandate territories. The Government of India has not rested silent. We have brought to the notice of the India Office that it was extremely undesirable that in the case of these tropical countries any discrimination should be shown in the manner I have referred to. There was an answer given, I should say a fairly plausible, though not a very satisfactory answer, and that is that those immigration laws were proposed to be introduced, or have been introduced, not for the purpose of discriminating against Indians, but for the purpose of protecting the interests of the natives of those lands whose destinies were entrusted to the charge of the Governments of those Dominions inasmuch as those Governments felt that the competition of the settler from India might prejudicially affect the position of the indigenous inhabitants as mechanics, artisans and in other occupations. Well the Government of India were not satisfied with this answer and are now negotiating with the Dominions and the Home Government for the purpose of inducing those Dominions to exempt both on practical as well as on theoretical grounds the Indian community from these restrictions. On practical grounds, because there are no Indians there. No Indians wish to go there and there is no likelihood of any Indians going there. Under our Emigration Act we shall not permit any Indians to go there as labourers for a term under agreement. Therefore on practical considerations, the problem is not of any pressing importance at all, and our sentiment might be respected by exempting the Indians from these restrictions.

We hope for success, and there the matter rests. There is the question of the construction of these C mandates. That is under consideration. We are in negotiation with those Dominions as regards the removal of these restrictions, which practically amount to nothing, because, as Honourable Members are aware, no labourers, no artisans, are likely to go from here to these distant Pacific Islands or to German South-West Africa under the conditions which now exist there. In connection with that, Honourable Members will remember that it is not open even to the League of Nations or to the Council to modify or amend the mandates which had been given to the Dominions except by a unanimous vote of the Members which constitute the Council of the League, and, inasmuch as these Dominions are also Members of the League, there is not much chance of any modification being made with regard to the actual terms of the mandates themselves. But there is a provision, article 7, to some of these C mandates, under which there is a machinery provided for adjusting any disputes between any members of the League of Nations, and I shall refer to that. It runs :

“The mandatory agrees that, if any dispute whatsoever should arise between the mandatory and any Member of the League of Nations relating to the interpretation or application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by article 14 of the Covenant of the League of Nations.”

I am only quoting this for the purpose of showing two things, that it would be extremely foolish on the part of any one to think of dissociating himself from all connection with the League of Nations when some sort of power is entrusted under the constitution of the League

for the purpose of adjusting any disputes which may arise between the various Members. At the same time I would lay stress once again upon the fact that, so far as this particular question is concerned, the matter is more one of sentiment than of any practical significance. We hope by negotiation to succeed, and I would also say that, so far as we, the Government of India, and I also hope the people of India are concerned, they would always dissociate themselves from the idea of appealing to the League of Nations from the decisions of the smaller League of Nations to which we have the honour to belong, whose relations are invariably settled by mutual amicable agreement and discussion at the various Imperial Conferences, as has been done for the last 10 years. I think we should resent any idea of having to appeal to the League of Nations, an outside body, in our domestic concerns, because I hope that the idea, the convention, would grow that we shall treat the Empire as one, as indivisible, howsoever temporarily we may be subjected to some disabilities at the hands of one or more of the component parts of the Empire, and that we should resent any outside interference, just as we should resent any interference with regard to the affair of India herself.

Then, Sir, I will just say a word about Tanganyika. I know Honourable Members have had Tanganyika more in mind than any of these distant possessions because recently there has been a good deal of controversy with regard to the taxation ordinances which had been passed by the Government of Tanganyika territory. It is not my purpose to dwell upon the merits of that controversy. I may state that the Tanganyika Mandate falls within the second class or the B Mandates in respect of which there is a distinction drawn with regard to the terms on which the Mandatory holds the administrative and other powers entrusted to it. Now here the British Government are directly responsible for the administration of Tanganyika. Some of the Honourable Members who have spoken have stated that there were some disabilities imposed upon Indians and that discrimination has been shown against them. I think, strictly speaking, those statements are not accurate. In none of those ordinances which have been passed mainly or wholly with a view to meet the deficit which threatened that Colony—wholly intended for the purpose of raising revenue—in none of those taxation ordinances is there any discrimination shown against the Indians. It is true that the Indians being small traders in that Colony, may be more largely affected by reason of some of the provisions of those ordinances than others ; but I think it would be wrong to say that any discrimination whatsoever of any kind has been shown against the Indians in favour of Europeans, Britishers, Africans or anybody else—except to this extent that some favour has been shown to the native, to the indigenous inhabitants of Tanganyika ;—and I do not think that Honourable Members can take exception to favour shown under the taxation laws with regard to the indigenous inhabitants of that country, whose interests were primarily entrusted to the safe keeping of the British Government. Barring that, there is no discrimination whatsoever. Furthermore there are no disabilities whatsoever. What the Indians complained of was that they were asked to keep accounts in English or in Swahili that they were asked to take licences every year ; that taxation was imposed at a time when there was a tremendous

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trade depression and consequently they were not in a position to pay the taxes conveniently and comfortably, and that therefore some of these provisions might be modified and the operation of the ordinances might be postponed.

Mr. T. V. Seshagiri Ayyar : Is there any Indian on the Licencing Boards constituted under these Ordinances ?

The Honourable Sir Narasimha Sarma : We do not know anything about the constitution of any Boards formed under these Ordinances. No complaint has been made that there were no Indians on any licensing boards constituted under any of those ordinances in the same manner as complaints have been addressed to the Government of India with regard to the constitution of licensing boards in South Africa. Be that as it may, on this question as soon as the Government of India came to know of these grievances they promptly put themselves into communication with the Home Government and after carefully going through all the Ordinances drew the attention of the Home Government to what the Government of India conceived to be provisions which might suitably be modified which they in their opinion, not perhaps knowing correctly the facts of the case, thought might possibly injure Indian interests. They asked the Home Government to intervene and to do all that they could to see that those laws did not prejudicially affect the interests of the Indians who are settled in that country ; and the Home Government I am glad to say have promised such consideration and have authorised the Government of India to state that " the question of introducing amendments into the Ordinances shall be considered in due course by the Secretary of State in consultation with the Governor."

So the matter has not been lost sight of, and I am sure that the Secretary of State for the Colonies in consultation with the Governor will do everything that lies in his power to modify these Ordinances in a suitable manner so as to remove any legitimate grievances under which the Indians may be suffering in Tanganyika and I may assure the House that the Government of India would not lose sight of this matter and would secure every information that is possible as to how those Ordinances are being worked there and would use their best endeavours for the purpose of getting the redress of any wrongs under which the Indians may be suffering there. But I may state that so far as the laws of that territory are concerned, there is no discrimination as between one class of His Majesty's subjects and another. All are subject to the same laws ; there are no immigration restrictions ; there are no restrictions of any kind with regard to the sales of land ; Indians, I am glad to say, have purchased some large estates there and therefore I think, except for this unhappy controversy which has arisen mainly because the Government of Tanganyika revised their taxation laws with a view to balance their budget, and those taxation laws came in at a time when there was a grave trade depression, that we have heard so much about Tanganyika. But here again the Permanent Mandates Commission last year have recommended that any petitions which the inhabitants of a territory might submit to them might be forwarded with the remarks of the mandatory power. I am not suggesting for a moment that the

inhabitants should resort to the Commission or the League of Nations ; I would deprecate that, because I would suggest that the inhabitants of Tanganyika may rest assured that justice would be done to them by the Secretary of State for the Colonies who has promised to go into the question thoroughly ; but still I am pointing out that there is a machinery which the Assembly hopes to devise for the purpose of hearing any grievances which the inhabitants of these mandated territories, like Tanganyika, may place before that Assembly through the properly constituted authority for redress or consideration. So here again the laws and the rules and regulations and recommendations have been so framed that it would be idle on the part of any one to suggest that it would be expedient on the part of India to dream of going out of the League of Nations.

Well, Sir, I have done with that part which relates really to the substance of the Resolution, as I take it, namely, the desire to draw the attention of the House and the Government to the disabilities and the grievances of the people settled in these mandated territories. I have only one word more to say, in addition to what has fallen from Honourable Members, with regard to the grievous wrong we should be inflicting upon India if this idea of dissociating ourselves in any manner whatever from the League of Nations be pursued by any class of His Majesty's subjects in India. What would be the position ? The British Empire is a party to the League of Nations. We owe to His Majesty's Government, we owe to the then Secretary of State, Mr. Montagu, we owe to all parties in England and in the United Kingdom, gratitude for having given us a definite status on the League of Nations.

Supposing it is open to us after two years to say that India is not going to be an Independent Member, I may assume for a moment that the Government of India or the British Government should ratify the wishes of anybody here. Well, if we do that, somebody will have to represent us there ; the British Government must continue to represent us. Does the Assembly consider that our position would be improved by the Government of India not sending its own direct representative and by somebody else representing us in the League ? There are of course matters on which Indian interests can be gravely prejudiced by reason of absence from representation on the League of Nations. For instance, take the question of Opium which is now greatly troubling the League of Nations. Suppose we were not represented there, what would happen ? We know that there is a section in the British House of Commons, there is a section of the British public, which does not understand the real Opium question of India and is inclined to favour some of the theories of the faddists, or of persons who wish to introduce reforms in this matter, and they have done so in the past. Even now it will be difficult for us to safeguard our interests. What would our position be if we had to leave to others the advocacy of our cause, the representation of our difficulties ? Take again another question, the Trade restrictions which might be imposed upon India if we were not represented there. We owe a deep debt of gratitude to our Members who were present there, and to Colonel Hutchinson for saving us from any restrictions being imposed and for saving the wool trade of India from disabilities which might have been imposed upon India on account of the difficulties which were felt on account of Anthrax.

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With regard to labour, my friend, Mr. Joshi, has expatiated at great length as to the benefits which we are deriving. With regard to Health organizations, similarly, a good deal could be said, but I think it will be unpardonable on my part to expatiate any longer on these subjects. I think it would be a grave misfortune if we should in any way discourage the idea of withdrawing ourselves from the League of Nations or to break off our connections with the League of Nations.

Well, Sir, to sum up: The position with regard to mandated territories is not really of any great significance. The Government of India are taking all the steps possible with regard to securing the legitimate constitutional rights of Indians. We should not therefore encourage any idea of going outside the small League of Nations or of the British Empire to which we have the good fortune to belong or of separating from the League of Nations. Apart from that, even if any outsider thinks of doing so, we here should not discard the machinery of which by the Grace of God we are a part. I think, Sir, after this explanation, my Honourable friend, Sir Deva Prasad Sarvadhikary, would himself see the advisability of not pressing the matter any further and that inasmuch as his object has been gained, he will withdraw the Resolution.

(Cries of "Withdraw, withdraw" from several parts of the House.)

Dr. Nand Lal (West Punjab : Non-Muhammadan) : I have got an amendment, Sir, and I wish to speak on it first before Sir Deva Prasad Sarvadhikary is called upon to speak.

Mr. President : Order, order.

Sir Deva Prasad Sarvadhikary : Sir, I shall accept the invitation that the Members of Government have extended to me and not be a party to a grave misfortune. Members of the Government of India, I know, often disagree amongst themselves. (*A Voice from the Government Benches* : "No, no.") I hear a cry of "No, no", but we know better fortunately that to their credit they disagree. But they generally do not show it here.....

Dr. Nand Lal : May I rise to a point of order, Sir ? Under what procedure has the author of the Resolution been allowed to speak again when there is an amendment on the agenda standing in my name ? I rose five times but I could not catch the Honourable the President's eye.

Mr. President : In the interest of the phrase the Honourable Member is very fond of using, namely, "the economy of time."

Sir Deva Prasad Sarvadhikary : There has been serious disagreement among Members of the Government Benches. On this occasion one Honourable Member has tried to read into my Resolution though not into my speech sinister things, of which the other completely acquits me. I think, Sir, a very useful purpose has been served by this debate and some misconceptions have been removed. I regret that we have not had

opportunities of considering the Colonial question in all its bearings yet, but the ground has been to a certain extent cleared.

As regards Dr. Gour, Sir, one does not know when he is supporting or opposing one and whether he is cursing or blessing. It is a problem, that one does not always successfully solve. I take it, Sir, that he has completely supported my point of view and so has my friend, Sir Sivaswamy Aiyer, though he was unaccountably nervous like Mr. Joshi.

The question that I raise is not negligible and we have it on the authority of Sir Narasimha Sarma ; read between the lines of his speech, we are glad that the question is engaging the serious attention of the Government. Whether charges are to be given to the Government of India representatives in the way that I suggest or not, are matters that must be entirely solved by the Government.

Regarding the importance of the question, Sir, you will permit me to read a short extract from a paper which has the authority of the Imperial Citizenship Association :

"From the Crown Colonies let us come to the new mode of economic exploitation—the mandate."

That is merely a question of balancing the budget—a good stick to beat anyone with ; and when we wanted to beat Manchester for our own purposes, the same stick was used.

The paper proceeds :

"The recent Ordinances in Tanganyika make it absolutely clear that the whole object of imposing heavy taxes and compelling the traders to keep the accounts in English or in Swahili with English character is to eliminate the Asiatic from the ranks of the trading community of Tanganyika. As Indians form nearly 95 per cent. of the trading population of the country, they are naturally hit the hardest. The provision for annual registration only means that the trading community must be kept constantly under the thumb of the authorities."

Whether domestic questions as they have been called like those raised by my Resolution are to be brought before the League of Nations or not and in what manner they are to be brought or how the mandates are to be rectified and the procedure is to be corrected are matters about which this Assembly cannot possibly, in the absence of materials, advise either the Government or itself. If the suggested Committee was appointed, all these matters might have been gone into, but, as there is a general desire that the question of the Committee should not be pressed for, I would, with your permission, ask leave to withdraw the motion standing in my name. The general object of the Resolution has been achieved and I don't think I need press it to a division.

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

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President in the Chair.

RESOLUTION RE IMPERIAL INDIAN SERVICES.

ALTERATIONS IN PAY, PENSION AND OTHER SERVICE CONDITIONS.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Division : Non-Muhammadan) : Sir, I beg to move :

"That this Assembly recommends to the Governor General in Council that no alteration in the pay, pension or other service conditions of Imperial Indian Services be made before giving the Indian Legislature an opportunity for an expression of their opinion thereon."

Sir, as will appear from the wording of my Resolution it is a very simple one and is very modest in its demands. By this Resolution I do not want to curtail the powers already vested in the Secretary of State for making rules and regulations about the Imperial Services. But what I want is that before any rules or regulations are made in connection with the pay, pension and other service conditions of the Imperial Services, an opportunity should be given to us to express our views on the matter. Sir, under the Government of India Act this power is vested in the Secretary of State in Council who controls and regulates the appointment, pay, pension and other conditions of the Imperial Services. In the Dominions this power is vested in the Governor General in Council for the same purpose. The differences between the powers in the Dominions and in this country are very vast. Even the nature of the Services differs to a very vast extent from that of the Services in England and in the Dominions. In England, the Services are the executive agents to carry out the policy of the Government and the people. In India, they peculiarly combine the two functions of agency for carrying out the policy and of laying down the policy inasmuch as they also as component part of the Government lay down the policy that has to be carried out. It is for this reason that unlike the sister services elsewhere, they are not amenable to the control of the Legislature, at least of the Indian Legislature. It may be said that being under the control of the Secretary of State in Council who is directly responsible to Parliament for the good government of the country, they are under the control of the Legislature, but of the English Legislature—the British Parliament—and not that of the Indian Legislature, which, I beg to submit, is in a better position to know the conditions of the country than the British Parliament can ever be. No doubt Members of the House of Commons take some interest in Indian affairs, but they do not exhibit that keen interest which is necessary and essential in dealing with matters affecting such a vast Dominion like India in the British Possessions. It is for this reason that it has often been said by many critics of Government that India is governed more in the interests of the Services than that of Indians themselves. It is for this reason that a suspicion has been created in the minds of my countrymen that their interests and claims are not safeguarded in matters of Indianisation of the Services. These suspicions have been accentuated by the overzealous and malignant activities of some reactionary retired Anglo-Indian Officers who exhibit great opposition in all beneficial matters affecting the interests of my countrymen. It has been further confirmed by the speech of His

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Majesty's ex-Prime Minister, Mr. Lloyd George, during the debate on the Services in the House of Commons last year, which was a subject of heated debate in this House. Sir, this suspicion has also been further enhanced by the recent appointment of the Royal Commission, so soon after the Public Services Commission and the Report on Constitutional Reforms has been given effect to and substantial and repeated increases of pay, prospects and better conditions of the Imperial Services had been made.

The suspicion has not been only one-sided. It has also been engendered in the minds of the Imperial Service officers as well. They consider that with the further grant of reforms towards responsible self-government their interests in the Services will not in future be safe in the hands of—according to them—impatient and importunate Indian politicians who may ultimately have the burden of government placed on their shoulders ; and it is no wonder that the growing voice of Indians in the legislature, their growing influence over the public purse and their insistent demands for the Indianisation of higher Services may have given them the justifiable cause for further apprehensions of encroachment in their privileges, emoluments and the cadre. This fear was recognised by the authors of the report on the Indian constitutional reforms who advocated for some provision being inserted in the Government of India Act for the protection of the Services. They said :

"Our labours will be vain and worse than vain unless the Indian public men who will be responsible for the working of the reforms which we advise, succeed in so working them as to retain for India the willing help and guidance of many men like those who have led her thus far on her way, until such time as she has produced a generation of administrators of her own."

From their remarks it is quite clear that even the learned authors concluded from the past insistent demands of Indianisation of Services that Indians when they secure power in their hands would reduce the recruitment of the Englishmen for the Services and may probably do away with the present English officers or even stop further recruitment. They no doubt made clear the meaning of the word "protection" subsequently when they said that :

"Any public servant whatever the government under which he is employed shall be properly supported and protected in the legitimate exercise of his functions and that any rights and privileges guaranteed or implied in the conditions of his appointment shall be secured to him."

They further said :

"No changes that will occur can be allowed to impair the power of the Government of India or Governor in Council to secure the essential requirements."

They were not satisfied with this much only but went on further to justify their remarks by saying :

"We have definitely to secure their essential interests because we believe that they are indispensable to the future of India and also because, as has always been recognised at similar periods of transition, His Majesty's Services have the strongest possible right to be secured by His Majesty's Government."

All these led the Joint Committee of Parliament to provide in the Government of India Bill of 1919 that the Secretary of State in Council may make rules for regulating the classification of Civil Services in India, the

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methods of their recruitment, their conditions of service, pay and allowances and discipline and conduct; and the Parliament accepted these recommendations and the provisions were duly embodied in the Act.

The Secretary of State has been working under that provision and has made certain changes in the pay, pension and service conditions of the Imperial Services. The slow rate of Indianization coupled with the rapid changes in the pay, pensions and other conditions in the Imperial Services made by the Secretary of State has not been conducive to the removal of the suspicion and apprehensions aroused by the breach of promises and pledges in the matter of employment of Indians in the higher services of this country. If these promises and pledges had been consistently kept, from the year 1833 when the first Charter was given in this respect to Indians, I think we would not have had occasion to complain, we would have had sufficient administrative experience, and probably by this time we would have been able to get full responsible self-government, which has been refused to us on account of lack of administrative experience. Many Indians think, and I am afraid rightly think, that similar indifference is shown even now to their claims and aspirations. They think that at this pace Indians may not be able to secure full responsible Government even within the space of a century or two. They also consider that the changes already made put a very heavy financial liability on India at a time of financial stringency. It is feared that such a burden will be difficult for her to bear in the future. They also think that the Secretary of State is unduly influenced by the reactionary retired Anglo-Indians at Home and is made to carry out changes which do not meet with approval in this country. They further consider that as they have to pay for their services they should also have some voice in the settlement of terms and conditions of recruitment for the Imperial Services. As I have already pointed out, this feeling has been accentuated by the recent appointment of a Royal Commission against the wishes of this House and so soon after the effect was given to the recommendations of the Islington Commission. It is also feared, and freely said, that similar considerations have not been shown to the Provincial or Subordinate services, in regard to which many schemes for the allotment of the higher posts which are ordinarily reserved for the Imperial Services and for the betterment of their prospects submitted by the Provincial Governments are still under consideration and no definite action in respect to these matters seems to have yet been taken. Even suitable promotions of the subordinate officers in the lower ranks of the Services have been withheld or not given for lack of funds and general financial stringency; while on the other hand no such considerations are allowed to come in the way of changes and repeated changes that have been made in the pay of the higher Imperial Services. The attitude of Service Associations of various provinces with reference to the O'Donnell Circular has given cause, rightly or wrongly, of much embitterment of feeling, and the people still, rightly or wrongly, continue to say that as the Government of India and the Secretary of State in Council are mostly composed of and are influenced by Englishmen they take good care to look after

the interests of their own countrymen and find excuses for giving them bigger salaries and opening out new non-votable appointments. This fear is all due to the power being centred in the Secretary of State in Council. The existence of such a feeling cannot be said to be for the good and honest working of the reforms and will necessarily be injurious to all concerned and indeed will enhance the bitterness of racial feeling which is already in existence to some extent. It is not desirable in the interests of Government itself that it should give such a handle to its critics and enemies, and in the words of Sir Theodore Morrison, "the Government must not only be fair but must be seen and acknowledged to be fair." It is for these reasons desirable that such a power should if possible be taken away from the hands of the Secretary of State in Council. But as it will create a similar apprehension of insecurity in the Imperial Services and it may have an injurious effect on the recruitment of new entrants to the Services and create discontentment among the officers already in the Services, the cure may prove worse than the disease, and by way of compromise therefore I would suggest and recommend for the adoption of the House the Resolution which I have just had the honour to move, that is, the proposition for giving the Indian Legislature an opportunity to give expression to their views in respect of any changes that may be made in such matters in future.

Now, apart from the consideration on the merits of any changes made—whether or not they be made in accordance with the public opinion or with the needs of the country or the financial capacity of Indians to meet the heavy additional burden involved in such changes; and apart from the considerations of their creating any disparity of treatment to other public Services in the country, it is on principle desirable that on matters affecting the country as a whole, the representatives of the people of the country be consulted and have the voice in such changes and much more so when by such changes, permanent or even temporary, financial liability is placed on the shoulders of the public who may ultimately have to bear a further burden of taxation on that account. This course will also be in keeping with and consistent with the declarations and protestations so often made by the Government that it was always amenable to the non-official influence in the Legislature and was always guided by the public opinion. It is immaterial whether or not any such changes be regarded by the public as just and proper for the Services or by the Services themselves. It seems to me essential that in changes, good or bad, the representatives of the country should be given adequate voice. Such methods will go a long way in dispelling the suspicions existing in the minds of Indians, as much of the suspicion is often due to ignorance of facts and conditions. By the debate in this House, the public will also be in a position to better judge the effects of such changes and may be reconciled to them. It is further, Sir, in the interests of justice, fair play and political expediency that I move my Resolution and request the support of this House.

Mr. President : Resolution moved :

"This Assembly recommends to the Governor General in Council that no alteration in the pay, pension or other service conditions of Imperial Indian Services be made before giving the Indian Legislature an opportunity for an expression of their opinion thereon."

M. K. Reddi Garu (South Arcot *cum* Chingleput : Non-Muhammadan Urban) : Sir, it is known to you that, as the result of the incessant cry that has been raised in and outside this Assembly, to reduce the alarming increase of expenditure of this Government, the Incheape Committee has been appointed. Now the Committee has come and gone. We are aware it has done its best to lop off some branches, though not the stout branches, of this extravagant Government, in order to avoid the imposition of any more additional taxation. Though Fate has ordained otherwise, we are yet thankful to the Committee for their labours and we are also thankful to the Government for having accepted their findings, though they have not yet given effect to the full recommendations of the Committee.

Though the terms of reference of this Committee were rather wide, the Committee, while trying their very best to cut down the expenditure from the various points of view, have avoided considering the question and what I consider to be the most important question of the high scales of pay given to the European and Indian officials in the country ; nor have the Committee considered, whether these officials are not paid much higher scales.....

The Honourable Sir Malcolm Hailey (Home Member) : May I interrupt the Honourable Member, because it seems to me as though he is speaking on his amendment ; and I wish to ask you, Sir, whether you regard that amendment as one which may properly be moved to this Resolution, for, I would suggest that it is really something of an entirely different nature ?

Mr. President : I called the Honourable Member because his name stood on the paper, and I was waiting to see whether he would move his amendment. As the point has been raised, I may draw his attention to the fact that the Resolution is one laying down the principle that no change shall be made until an opportunity has been given for discussion ; that is to say, the essence of the Resolution is the consultation of the Legislative Assembly. The proposal which the Honourable Member proposes to make is a substantive proposal, standing on its own feet, and should more properly be made after the presentation of the Report of the Public Services Commission. It is not in order here.

M. K. Reddi Garu : I will give some specific illustrations in regard to whether the European and the Indian should be paid the same standard of wages for holding similar appointments and how much retrenchment could be effected if the Indian, consistent with his standard of living, could be paid a lower standard of wages than an European coming over to serve in India.

It is therefore to draw the attention of this Government and of the Royal Commission that is to come over to India, that I am obliged to table an amendment for discussion to-day.

Sir, it is very well known to you that while the state of the finances of the country was at a very low ebb and when military expenditure was swallowing more than 50 per cent. of the total revenue, the Government

of India and the Secretary of State, soon after the passing of the Act of 1919, have, with a magnanimity worthy of a better cause, given princely increase to the various civil services, Imperial and Provincial. I am afraid, Sir, that these increases to Services that were already too well paid, could hardly be justified, especially when the country was financially in a very crippled condition. I believe, Sir, I am not overstating the facts when I say that the increase of expenditure consequent on these huge salaries, is no less than 21 million pounds.

The Honourable Sir Malcolm Hailey : Will the Honourable Member kindly mind repeating that astonishing figure ?

M. K. Reddi Garu : It covers the whole of India, Provincial and Imperial.

The Honourable Sir Malcolm Hailey : And Subordinate ?

M. K. Reddi Garu : I do not think it includes the subordinate service, but only Imperial and Provincial. If I am wrong, it is for the Government to disprove my facts. This increase of the cost of the Civil Services by no less than 21 millions in five years is staggering. Together with the military expenditure it forms a burden, the Indian population cannot long sustain. That the living of 320 millions of the poor and most submissive peasantry in the world should be depleted on such a scale for their Government and defence, has no parallel unless we revert to the forced labour of ancient Egypt.

I am aware of the stock argument that is usually trotted out on these occasions, that the increase of expenditure was due to the recommendations of the Public Service Commission and with a view to attract suitable candidates, the Government had to give such increases. Sir, the Commission was appointed, consequent on a Resolution moved in the late Imperial Council by the Honourable Mr. N. Subba Rao, and the terms of the Resolution make it abundantly clear, as well as the speeches of the Honourable Members, particularly the late Mr. Gokhale, that the whole object was to consider the claims of Indians to higher and more extensive employment in the public services connected with the civil administration of the country. I am aware, Sir, that by the terms of reference the Commission was asked to report on the conditions of salary, leave and pension, but while there is nothing to show that it necessarily implied a proposal for the further improvement of these Services, it is painful to record, that the Commission recommended large increases to practically every Service, while the essential object of the Commission, namely, the increased employment of Indians in the public Services, was but meagrely and grudgingly dealt with. While, therefore, the Commission dealt with this question from a purely Service point of view and paid no consideration whatsoever either to the necessarily increased burden of taxation on the poor ryot, or to the low financial status of a country, with 15th century standards of social comforts. Even this increase was not to the satisfaction of the Services, and as hunger grows by what it feeds on, there was a clamour in interested quarters supported by an unholy agitation, which soon induced the Government of India to be even more liberal and to grant princely salaries undreamt of even by these Services, with a proportionate

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increase of comforts all round. Thus while the Commission recommended only a 12½ per cent. increase, the Government, which is supposed to be proverbially concerned about the poor tax payer, have given increases even upto 50 per cent., as in the Medical Service. The pensions have been increased, the leave rules made much more liberal, all allowances have been considerably enhanced.

This pernicious principle of satisfying an unquenchable and morbid thirst of the All-India Services, necessarily meant a proportional increase in the provincial Services and thus we find that in the Judicial Service, for instance, a District Munsiff who used to start on Rs. 200 and rise to Rs. 400 at the end of 18 or 20 years now started on Rs. 300 and rises to Rs. 500, in the 6th year of his service, while the recommendation of the Public Service Commission itself would entitle him to draw the sum of Rs. 500 only in his 16th year of service. Thus each individual judicial officer of the Provincial Service is enabled to earn Rs. 30 to 40 thousand of the poor tax-payers' money in excess of what he would have earned under the old system. This scandalous waste of public money in over-paying these Services when there is no dearth of competent candidates for the same, is a matter for severe condemnation and I will leave it to the Government of India to satisfy their own conscience, whether they have done their duty to their public in so lavishing other people's money. There is another Service which has been treated in a manner that defies all description. The Indian Medical Service was recommended an increase of 12½ per cent. by the Public Service Commission, subject to this proviso that this should further be considered after the War.

Mr. President : Order, order. The Chair has no intention of being pedantic in applying the rules, and the Honourable Member may use what has happened in the past as an illustration of his fears as to what may happen in the future, but his Resolution deals with the future and he must confine his main argument to that point.

M. K. Reddi Garu : I believe, Sir, that in considering this question of civil salaries, one must have a sense of proportion and necessarily an attempt to adjust the salaries to the means of the people. President Harding, while talking on this question of economy and retrenchment, said that 'Government is under obligation to give the greatest service for the lowest possible cost.' The salaries of high officials of Government in all departments in India are very high in proportion to the average income of the people who contribute towards the cost of the administration. I say, with a view to avoid unnecessary heat and artificial agitation, I propose there should not be any increase in the pay of the Services, at least so far as the Indians are concerned. I am aware, Sir, that some people wish to imagine a racial inferiority in this proposal, but to me it has always seemed a very poor sort of patriotism, that for an imaginary slur, the tax-payer was to be saddled with a heavier expenditure. In every country in the world it is the custom that the foreigner was always paid a more handsome salary than the native of the soil. And in Japan, where Americans and Europeans were employed in fairly large numbers,

either in the universities or in the various technical and industrial concerns, larger salaries were given without any hesitation—in some cases twice what has been paid to the Japanese, just because it was necessary to offer inducements to the foreigner which would be quite superfluous to indigenous talent. I fail to see where the slur comes in when the one-third extra is given as a definite allowance. I would also request the Assembly to keep in mind the object I have in view, and I hope this Assembly also will have in view that we should Indianise all Services as soon as possible and that foreigners should be employed only in case of proved and absolute necessity. In this connection I am proud to recall to my memory the words of one of the greatest of Indian patriots, the late Mr. Gokhale, whose advice and exhortation I would commend to this House. Speaking on a Resolution of retrenchment of public expenditure in the Imperial Council in 1911, the late Mr. Gokhale said :

"My Lord, my third suggestion is, that there should now be a more extended employment of the indigenous Indian agency in the public service. In this connection I am free to recognise the necessity of paying, as a rule, the Indian at a lower rate of payment than the Englishman who holds the same office. I think this is part of our case. If we insist on Indians being paid at the same rate as Englishmen, we cut away a large part of the ground from under our feet. Except in regard to those offices with which a special dignity is associated, such for instance as Members of Executive Councils, High Court Judgeships and so forth, where of course there must be strict equality even as regards pay between the Indian and the Englishman, there must, I think, be differential rates of payment for the Indian and European members of the public service. What is however necessary is that care must be taken not to make such distinctions galling. Instead of the present division into Provincial and Imperial services, or instead of laying down that Indians should be given two-thirds of what the Englishman gets, I would provide a fixed salary for each office and I would further provide that if the holder of the office happens to be an Englishman, an extra allowance should be paid to him because he has to send his wife and children to England....."

Mr. President : Now the Honourable Member is using arguments which he designed to support the amendment which is out of order.

M. K. Reddi Garu : I am quoting what the Honourable Mr. Gokhale said.

Mr. President : Mr. Gokhale's words happen to be out of order just now.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I shall very briefly explain why I should like to modify the terms of the Resolution moved by the Honourable Mr. Agnihotri. As I read his Resolution, it seems to me too wide, for he asks this House to pledge its vote in favour of the Resolution that no alteration in the pay, pension or other service conditions of the Indian services be made before giving the Indian Legislature an opportunity for an expression of their opinion thereon.

Now, I have said that this Resolution is too wide. I will explain to the Honourable Members why it is so. My friend **S. R. V.** says that no alterations should be made. He does not limit in point of time when these alterations are to be made, and I understand that at no time and in no circumstances could any alterations be made without consulting the Indian Legislature. Now, this is obviously too wide. The Indian Legislature, as this House knows, comprises two Chambers, and I am not in a position to say as to what would be the views

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of another Chamber regarding this Resolution. They may like that alterations should be made without consulting them, and I am not in a position to dogmatise in favour of a House where I have no place. I therefore submit that this Resolution is too wide. I should like the Resolution, therefore, to be limited to a recommendation formulated and made by this House and further to limit it to the event which has already taken place and to which my Honourable friend Mr. Agnihotri has referred in the course of his speech. He has already informed the House that what he really seeks to establish is that the Royal Commission, which has been appointed by His Majesty's Government to reconsider the position, pay and general prospects of the All-India Services, should not formulate their recommendations and that the Secretary of State should not accept all or any of them without giving this House an opportunity to express its views upon those recommendations. In other words, while my Honourable friend has worded his Resolution in a somewhat loose sense, the whole of his speech is really in support of my amendment and in direct modification of his own Resolution. Well, Sir, this is a compliment in disguise and, if my friend will limit his Resolution to my amendment and support it, I shall accord him a hearty support.

Now, Sir, I shall very briefly state why my amendment should receive the acceptance of this House. Honourable Members will remember that in a series of interpellations addressed to this House, it has been the desire of the Members of this House that the Secretary of State and the Government of India should make no commitments in respect of the Imperial Services without giving this House an opportunity to express their views upon the subject. My friend on the other side has been complaining of the increased salaries and emoluments of the Indian services. I repeat here what I have said before, if you wish to employ first-class men you must pay them not what you want to pay but what they will receive. I have further pointed out, Sir, that the present reforms and their further developments are inconsistent with the present Indian Civil Service, and, as the popular control over the subjects increases, the power of the Civil Service must necessarily diminish. At the present moment the Civil Service is not merely the executive head of the Government but lays down the policy which it carries out. The policy under the reforms will be laid down by the Ministers and the Civil Service will in the course of time occupy the position of executive officers under the responsible Ministers of the Crown.

Now, I cannot expect any Englishman to say that I shall continue to serve this country upon my present pay though my prospects will be very different and in fact will materially deteriorate in the course of the next few years. The hearty co-operation of the members of the Civil Service is absolutely necessary for the success of the Reforms. Then, whatever my friend may say with regard to a few reactionaries who are opposing the Reforms, I venture to submit that it is the loyal co-operation of the Indian Civil Service which accounts for such success as the Reforms have already achieved, and that further development will depend upon the continued good will of the Indian Civil Service. We cannot therefore come to open quarrel with the members of the Indian Civil Service. We

have no reason to. I said, Sir, open quarrel because while we condemn the system which centres all authority and power among the members of the Indian Civil Service, we have absolutely no objection to the members of the Indian Civil Service who come here and support and work the Reforms. In any future scheme for the development of Indian reforms the Indian Civil Service will be allotted a place, but it will be a place of marked inferiority, and I submit that if you assign to them such a place you must increase their emoluments. You may limit their employment for a term of years; you may limit their number but such few as you employ you must employ upon terms upon which they are willing to serve this country. As the Reforms increase, the number of Civil Servants will decrease, their prospects will decrease and the terms of employment may have to be altered. I therefore submit that the mere question of the alteration of pay cannot be considered apart from the other questions which I have just now indicated. I therefore submit that the amendment which I have moved deserves support, namely, that before taking any action on the recommendations of the Royal Commission on Public Services, an opportunity be given to this House to express its views upon their recommendations.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : You are approving of those recommendations in anticipation.

Dr. H. S. Gour : Now, Sir, there is another fact that I should like to bring to the notice of this House. My friend has confined his Resolution merely to the Imperial Services, but the inter-relationship between the Imperial and the Provincial Services is so intimate that the Royal Commission may make recommendations which will affect not merely the Imperial but also the Provincial Services. You cannot look at one Service without also looking at the other Service. I therefore submit that my friend's argument, namely, that you shall not alter the pay and prospects of the Imperial Services without a previous consultation with this House would not, I submit, meet the requirements of the case, and I therefore suggest that what the Government should do is to place the Report of the Royal Commission on Public Services in the hands of Members, receive their views and afterwards formulate their own recommendations. Now, Sir, some of my friends say that I am approving of the recommendations of the Royal Commission in anticipation. I beg to submit I am doing nothing of the kind. There are some doctrinaires with their heads in the clouds who always think of the abstract possibilities divorced from all the realities of life. If you want men in the scientific and technical subjects, there can be no doubt that you will have to import for many years to come experts from over-seas. Are you to employ them upon your own terms, whether they accept your employment or not? Are you not to negotiate with them and give them such terms as will be acceptable to them? That, I submit, is a truism and I cannot understand how any member of this House should contradict me when I say that the question of all the services must be considered as a whole and the question of the pay, pension and other prospects cannot be considered unless you take all the recommendations together and see their cumulative effect not only upon your financial capacity, but also upon the efficiency of the services which you are bound to employ. I, therefore, suggest that my amendment should receive the

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concurrence of the House. It is an amendment which, I venture to submit, is reasonable and, as I am reminded by my friends, wholly acceptable. I shall read it :—

“ That for the Resolution as it stands the following be substituted :

‘ This Assembly recommends to the Governor General in Council that before taking any action on the recommendation of the Royal Commission on Public Services an opportunity be given to this House to express its views upon their recommendations.’ ”

Sir, I beg to move my amendment.

The Honourable Sir Malcolm Hailey : I speak at once, because I feel that the debate on the main proposition so far offers few real points of objections to my side, and I should be sorry if prolonged discussion on this question called forth more contentious views. Everything that I heard from Mr. Agnihotri impressed me, if he will allow me to say so, with a sense of moderation which I have seldom had the pleasure to feel when he was speaking. Like the House, I have heard nothing at all from Mr. Reddi, for Mr. Reddi's speech belongs in legal phrase to that class of evidence of which the Court can take no cognisance : he was not speaking on the main proposition, but on his own amendment ; and his amendment has been ruled out of order. It is true that he made in the course of his speech statements which, if his amendment had been in order, I should have been very glad to answer. He quoted figures which filled me with amazement and dismay. But unless I hear more on that subject this afternoon, I shall be content to leave the matter alone.

Then we had from Dr. Gour an amendment which was also couched in terms of studied moderation and indeed contained some sentiments which many members of the Services will, I am sure, welcome ; his proposition was one to which I am quite prepared to give, if not a full, at all events a qualified approval. Before I state the terms to which my agreement is limited, the House will perhaps allow me to make two preliminary remarks. Mr. Agnihotri, I think unwittingly, misled the House. He stated that under the powers conferred by the Government of India Act and since the days that the Government of India Act was passed, there has been a very rapid increase in the pay of the Services and a very slow rate of Indianisation. But the increases which were made in the pay of the Imperial Services,—and of course he was only discussing the question of the Imperial Services,—really preceded the Reforms. That is to say, that before the Government of India Act was passed the matter had been under consideration with the Secretary of State ; in some cases, the orders referring to particular Services were passed before the Bill was itself enacted and the rest were almost simultaneous in time. As to the enormity of those increases, I think the House can best realise how great they were from the case of our premier Service, both in point of numbers and in point of remuneration,—I mean the Indian Civil Service. The increase in pay in the Indian Civil Service which was sanctioned in 1912 has been variously calculated, but different calculations give between 8 and 13 per cent. The Police Service came somewhat better off, and received an increase of something about 25 per cent. I admit that the case of the Indian Medical Service

received more special consideration on grounds special to itself ; but the two instances I have given you will perhaps disabuse your minds of any idea that the increase was in itself out of all proportion to the increase in the cost of living and the standards of life. Remember that there were some branches of the Services which had not had their pay dealt with for very many years, in some instances for as much as forty years. There has also, I think, been a good deal of misapprehension throughout the country as to the exact direction in which the increased expenditure on Services has gone. I would refer the House to a study of the answers that have been given by me from time to time as to the amount of money that has been spent respectively on the Imperial, Provincial and Subordinate Services, the latter of course being accountable for far the largest part of the increase. We are best able, I think, to appreciate the relation of these figures if we take the case of a particular province ; it brings the matter home in a more conspicuous manner than if we took all-India figures which are much confused by inclusion of purely commercial services. Here, for instance, are the calculations in regard to Bombay ; I take first what are roughly known as European Services. Some 8 or 10 years ago, the European Services cost Bombay 60 lakhs of rupees. They now cost them 75 lakhs of rupees, that is to say, an increase of 25 per cent. Now, during the same period, the cost of the Provincial Services had risen from 50 lakhs to 80 lakhs or an increase of 60 per cent. But, further, during the same period, the cost of subordinate Services had risen from 2½ crores to 4½ crores or an increase of 100 per cent. It is figures of that nature, I think, which bring home best the relative proportion of the total increased cost of the Services.

There is a further interesting fact not unconnected with the ideas underlying such propositions as Mr. Reddi has tried to advance. When we are told that retrenchment is necessary—and we have all agreed that retrenchment has been necessary—and that a substantial difference can be made in our total budget by retrenchment in the pay of these Services, I think it is well to bear in mind that the expenditure on Services such as those with which we are now dealing in this Resolution, bears a comparatively small proportion to the civil expenditure. Thus, in Bombay the expenditure on Services of this nature accounts for 5 per cent. of the total expenditure. In the Government of India it accounts for 10 per cent., for reasons peculiar to the class of work we do in the Central Government. But my point is that it is only 10 per cent. of the total expenditure which would be affected by any reductions that could be made under these heads.

These remarks are only incidental to my discussion of the main proposition, and I have made them solely to disabuse the minds of the Assembly of any feeling that may have been created by what was perhaps a chance remark of Mr. Agnihotri's on this matter. But, further, I would point out that the alleged slow rate of Indianisation is also a charge which should not be allowed to stand against us. The House will no doubt remember the recommendations of the Public Services Commission, and the recommendations of the Montagu-Chelmsford Report which followed it. Now, in almost every case—I think I may, with

[Sir Malcolm Hailey.]

accuracy, say in every case—we have gone beyond the standards of the Public Services Commission. We have gone beyond those standards in framing our recruitment regulations, and again we have in many cases gone beyond those regulations themselves in nearly every case in practice. I would refer—not to weary the House with this topic—to my answer to a question which was put to me by Mr. Joshi on the 22nd of July. If they will refer to that, they will see that in many cases our actual practice is beyond the regulations in the matter of Indianisation, and those regulations themselves lay down a rate of recruitment which those who remember the discussions on the Public Services Commission in the old Imperial Council will agree with me in regarding as an advance far beyond the expectations of those who considered the question so short a time as 6 years ago.

I have cleared those misapprehensions out of the way, and can now come to what is really the main question—whether we should bind ourselves to submit to the Legislative Assembly in every case any proposals that are under consideration for an alteration in the pay, or other service conditions of the Imperial Indian Services, or whether we should have power to carry out any such alterations without previous reference to the Assembly. In terms of course, and quite apart from any question of principle, that proposal, as Dr. Gour has pointed out, is impracticable. It must be realised that we have frequently to make small changes in our regulations, not necessarily expensive, sometimes even resulting in a reduction of cost. These extend over a large sphere of subjects, and in some cases present very complicated and technical issues. I do not imagine that it is the desire of the Assembly that on each occasion that we desire to effect a small alteration in our travelling allowance rules, or, shall we say, lay down the exact terms on which a Provincial Service officer should come on to the Imperial Service cadre, we should bring a Resolution before the Assembly. Probably the Mover himself will agree with me that he really only intends to lay stress on the principle or spirit of his Resolution. I need not remind the House that we agreed in answer to Mr. Kamat's Resolution about a year and half ago that wherever practicable, we would place before the Assembly any proposals following the recommendations of a Commission or Committee appointed by the Government of India or the Secretary of State. I think the Assembly will agree that we have fully implemented that promise. I can remember no case in which action has been taken on an important Committee without giving the Assembly an opportunity of discussing it. Indeed, I can remember one case when we offered discussion of the question, and the Assembly was unwilling to accept the invitation, perhaps because of the complicated nature of the question; I mean of course the question of Railway Finance. While, therefore, one must agree that in ordinary circumstances, and as far as practicable, the recommendations of any important Committee dealing with general service conditions should be the subject of discussion in the Assembly, yet I should be very unwilling to agree to the proposal in the form in which it has been put forward by Mr. Agnihotri. I am, on the other hand, more in favour of going from the general to the particular, from the

abstract to the concrete, and dealing with this matter in the form in which it was treated by Dr. Gour. Every one at present, in thinking of this question, has in mind the changes likely to be made as the result of the Royal Commission. The Services are considering it in that aspect and that is the aspect in which the Assembly is considering it; what every one has in mind is this: what will happen when the recommendations of the Royal Commission are received? Here there are of course certain limitations. We have to recognise the position of the Secretary of State. I shall not go into the constitutional reasons for the enactment of 96-B of the Government of India Act; we are dealing with a practical question and not with constitutional principles; after the long constitutional discussions during the last two days the House is probably prepared, for present purposes, to recognise the Act as it stands. At all events any Resolution on this particular point would not affect the Act or the practice under the Act. The Secretary of State has a constitutional position with regard to the Services. The question which will be taken up by the Royal Commission has been for some time under acute discussion, and it is possible that the Royal Commission may have recommendations to make of an urgent nature. While therefore it would be possible to place before the Assembly for discussion such of the main recommendations of the Commission as did not necessitate immediate action, it will be necessary to reserve the right of the Secretary of State to pass orders on those recommendations which involve any question of urgency. That is the qualification to which I referred. We cannot here either as an Assembly or as a Government of India, limit the constitutional and statutory powers of the Secretary of State in this respect, and if there are matters pressed upon him by the Royal Commission which require immediate orders, then it will be necessary to recognize his power to take a decision in advance of any discussion by the Assembly. For the rest we shall be quite prepared to allow the Assembly an opportunity of discussing the main recommendations of the Royal Commission; we shall meet any views it may advance in discussion in the usual way, and shall forward its recommendations to the Secretary of State. As you will see, I have gone a long way to meet Dr. Gour. We are agreed on the principle, as indeed we have always been agreed on the principle, that wherever practicable we should bring matters of public importance or the recommendations of important Committees for discussion before the Assembly. But I cannot here attempt any agreement which would abrogate the constitutional powers of the Secretary of State under the statute, but saving those powers and the necessity of allowing for them being utilized in any urgent matter, we can fully agree with the amendment that has been put before us by Dr. Gour and I hope that he will accept my assurance in this respect.

Mr. K. C. Neogy: I never had much of luck at the ballot for Resolutions, and although I gave notice of a somewhat similar Resolution more than a year ago, it has fallen to the lot of my friend, Mr. Agnihotri, to move the Resolution on the present occasion. But I do not envy my friend. As one of the authors of this Resolution, I may be permitted to say a few words to explain the genesis of it. It was given notice of long before the Public Services Commission was even thought of. I believe as early as September 1921 some questions were asked in this House by Mr. Ranga-

[Mr. K. C. Neogy.]

chariar and others regarding the increases that had been granted to the various Imperial Services just on the eve of the introduction of the Reforms, and in reply to those questions we had not much illuminating information from the Government benches. In fact, all that the Honourable Sir Malcolm Hailey, who was the Finance Member at that time, did was to refer my Honourable friend Mr. Rangachariar to some Resolutions which had already been published announcing the revision of salaries. And this seems to have put out even a man of the sapience of Mr. Rangachariar so much that he put the evidently absurd question as to whether the Assembly would have any voice in revising the proposals that had been sanctioned. To that of course Sir Malcolm Hailey gave the only reply that he possibly could give, and that was that he did not understand the exact process by which the Assembly could revise the orders which had been already passed. I draw attention of the House to this question of Mr. Rangachariar's only to show the frame of mind in which the Assembly then was. I think it was shortly after this that notice of the Resolutions of the kind that we have now placed before us was given by us. Now, speaking frankly, it was my intention, and I think I can speak on behalf of my Honourable friend Mr. Agnihotri also, it was his intention too, that we should try to establish a convention under which the Executive Government would have to place all their proposals relating to the future service conditions of the Imperial Services before the Legislature before taking any definite action thereon. Now, Sir, I do not think we were very much in the wrong to have entertained the idea of establishing any such convention, because I think that such an idea was not altogether incompatible at least with the intentions of the framers of the Government of India Act of 1919. For, when I looked at section 96B, which protects the civil services in India in regard to their service conditions, I found that whereas it reserves to the Secretary of State in Council and to the Government of India effective control in regard to pay, pensions and other emoluments of the services, in clause (2) of the same section a possibility is mentioned of the Legislature having some control in the matter as well. I will now place clause (2) of section 96B before this House. It reads thus :

"The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances and discipline and conduct. Such rules may to such extent and in respect of such matters as may be prescribed delegate the power of making rules to the Governor General in Council or to Local Governments or authorize the Indian Legislature or Local Legislatures to make rules regulating the public services."

When I saw that, and when I remembered that this Act was intended to furnish us with merely a transitional constitution which was liable to be revised at the end of 10 years, I thought within myself that if it was not intended that such rules were to be framed before the expiry of the period of 10 years, why should the authors of this Act have placed a provision like that in the Act at all? Now, Sir, whatever our expectations were when the Reforms Act was passed, we know only too well that we cannot expect any further liberalization of the Act, or rather of the system brought into being under the Act, so long as we have a reactionary Government in England and fossilised reactionaries installed in the India

Council who would certainly not be a party to the framing of any rules as are contemplated in the clause which I have just now read out to this House. Honourable Members will find that under section 96E of the Government of India Act, it is laid down that the rules under this section shall not be framed without the concurrence of a majority of votes at a meeting of the Council of India. Therefore, we thought that as it was not within the range of practical politics to get such rules framed for the purpose of giving this House some sort of a voice in regard to the Imperial Services, we might as well ask for the establishment of a convention under which all the proposals of Government in this behalf might be placed before us before being acted upon. Now, Sir, I was surprised to find my Honourable friend, Dr. Gour, opposing this Resolution on the ground that it asked for too much, because, it was only the other day that he put forward a claim, I believe, in one of his interpellations, that the possibility of a further expansion of the constitution should be explored, and, particularly, that it should be examined whether rules could be framed under the different sections of the Government of India Act for the purpose of relaxing the control of the Secretary of State over the Government of India. I do not think my Honourable friend had looked at section 96B, or at least clause (2) of this section, for if he had done so, he would certainly not have opposed this Resolution, which asks for far less than the framing of rules under that clause. Now, Sir, as I have already made it quite clear, when this Resolution was given notice of, we had no idea that the Public Services Commission would be appointed within a very short time, and therefore this Resolution was not at all prompted by the idea of the Public Services Commission or of what additional expenditure would have to be borne by India as a result of the recommendations of that Commission. I therefore, think that my Honourable friend, Mr. Agnihotri, went a little wide of the mark when he dealt with the question of the Public Services Commission and the question of Indianization in connection with this Resolution. I am not going into the question whether the rates of salary admissible to the members of the different Imperial services are adequate or not, whether they should be further increased in the near future or not. I am not at all concerned with this question. My object in supporting the Resolution is to put forward the claim that, as a rule, this House shall be consulted before it is committed to any expenditure that may be involved by the recommendations of Government. Now, Sir, it may be said that the financial powers of this House do not govern the services at all. But what happens? Supposing a general increment is given to the services; it is true that in so far as the salaries of the Imperial services are not votable by this House, we have got no direct control over the increased expenditure. But such increment is reflected upon the votable portion of the Budget as well, because when available revenue is taken up by the non-votable items, the inevitable result is that this House is called upon to agree to fresh taxation proposals. Now, this House has got to shoulder the responsibility of raising taxation which ultimately is going to be spent to a certain extent for the benefit of the Services. Why should not this House then ask for some voice, at least some remote voice, in determining the question as to what the salaries should be? Supposing this House does not approve of the increments sanctioned on a particular occasion by the services, if the proposals relating thereto

[Mr. K. C. Neogy.]

are not placed before this House at all, what is the procedure to be followed by us? Being deprived of an opportunity of having a direct say in the matter, we are left with the expedient of resorting to obstructionist tactics. When really our grievance is that these increments are unjustified, as we have no opportunity of discussing the merits of the question, we have got to use our power in connection with the budget in throwing out perhaps the votable items, which on their merits might be quite acceptable to this House. I do not think that Government should drive us to such a pass. Now, Sir, it has been said that it will be altogether impracticable for Government to consult the House in regard to any proposal for the revision of the service conditions. I do not think that the emoluments of those Services at least that concern the Government of India, are revised almost every day. We in the Finance Committee have experience of many such petty details of alterations in the service conditions being brought up for consideration. I do not see why it should be difficult for Government to place all their proposals in regard to the Imperial Services before the Finance Committee, as they do in regard to certain votable services at present. If it be considered on certain occasions that the proposals were so urgent that they could not wait for the Assembly to meet, then certainly it would be quite possible to summon the Finance Committee to consider the proposals; and so far as our experience goes, the recommendations of the Finance Committee, if they are reasonable, are never rejected by this House. Sir, I therefore beg to support the Resolution which has been moved by my Honourable friend Mr. Agnihotri. I oppose the amendment moved by Dr. Gour, for this additional reason that, as has been pointed out by the Honourable the Home Member, Dr. Gour's amendment is absolutely redundant; it does not go beyond what we affirmed in Mr. Kamat's Resolution during the very first session of this House. With these words, Sir, I beg to support the Resolution.

Mr. Pyari Lal (Meerut Division : Non-Muhammadan Rural) : Sir, I do not think any useful purpose is being served by further discussing this Resolution. Sir Malcolm Hailey has gone as far as it was possible, on behalf of Government, to concede the position. He says ordinarily this House will be consulted before any change is made in respect of the terms that may be given to the Imperial Services as to their pay, pension and other prospects. But in cases which are very urgent indeed and in which the Secretary of State passes orders which have to be carried out immediately only such orders will, of necessity, be carried out before consultation with the Assembly is made. Mr. Neogi, Sir, has said that the object of his Resolution was to create a convention because the plain words of the Government of India Act, as they are just now, preclude this Assembly from having any voice in regard to the Imperial Services—section 96. But as he wanted a convention, that convention has now been conceded, I think the mover of the Resolution would be perfectly justified in withdrawing the same.

(Several Honourable Members : "The question may now be put.")

Mr. President : The question is that the question be now put.

The motion was adopted.

Mr. President : The original question was :

"This Assembly recommends to the Governor General in Council that no alteration in the pay, pension or other service conditions of Imperial Indian Services be made before giving the Indian Legislature an opportunity for an expression of their opinion thereon."

Since which an amendment has been moved to substitute the following for the original Resolution :

"This Assembly recommends to the Governor General in Council that before taking any action on the recommendations of the Royal Commission on Public Services an opportunity be given to this House to express its views upon their recommendations."

The question I have to put is that that amendment be made.

Dr. H. S. Gour : Sir, before you put the question, may I be permitted to put in a word?

4 P.M.

Mr. President : No, I am afraid the question has already been put.

The motion was negatived.

Mr. President : The question is :

"That this Assembly recommends to the Governor General in Council that no alteration in the pay, pension or other service conditions of Imperial Indian Services be made before giving the Indian Legislature an opportunity for an expression of their opinion thereon."

The Assembly divided :

AYES—25.

Abdul Majid, Sheikh.
Abdul Quadir, Maulvi.
Abdulla, Mr. S. M.
Agnihotri, Mr. K. B. L.
Asad Ali, Mir.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Gulab Singh, Sardar.
Joshi, Mr. N. M.
Mahadeo Prasad, Munshi.

• Venkatapatiraju, Mr. B.

Majumdar, Mr. J. N.
Mukherjee, Mr. J. N.
Mukherjee, Mr. T. P.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Reddi, Mr. M. K.
Sarvadikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.

NOES—33.

Abdul Hamid Khan, Khudadad Khan,
Mr.
Abdul Rahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Ansonge, Mr. E. C.
Ayyangar, Mr. R. Narasimha.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Barodawalla, Mr. S. K.
Blackett, Sir Basil.
Bray, Mr. Denys.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatarji, Mr. P. C.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.

Faridoonji, Mr. R.
Gebbie, Mr. F. St. J.
Gidney, Lieut.-Colonel H. A. J.
Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Hussanally, Mr. W. M.
Innes, the Honourable Mr. C. A.
Mitter, Mr. K. N.
Nayar, Mr. K. M.
Percival, Mr. P. E.
Richey, Mr. J. A.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanyon, Colonel Sir Henry.

The motion was negatived.

RESOLUTION *RE* EMBANKMENT PROJECT FOR THE PROTECTION OF DERA ISMAIL KHAN.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Sir, the Resolution which stands in my name reads thus :

" This Assembly recommends to the Governor General in Council that (1) sanction be immediately accorded by the Finance Department to the Embankment Project submitted and strongly supported by the Honourable the Chief Commissioner, North-West Frontier Province, and approved of by the Revenue and Agriculture Department of the Government of India, for protecting the prosperous town and Cantonment of Dera Ismail Khan containing 33,000 souls and property worth millions of rupees, against the erosion of the River Indus ; (2) that half the cost, viz., 7 lacs of rupees the share of the public of Dera Ismail Khan be at once advanced on usual terms as a loan applied for by the Municipality, so that the collection of stones, etc., may immediately be taken in hand during the current flood season, and (3) that the remaining 7 lacs of rupees asked for and agreed upon as Government contribution towards the Project be provided for in the Budget for the year 1924-25."

Sir, the terms of this Resolution, as is usually said, speak for themselves. That is, the language is so put as to give all the reasons and all the justifications for this Resolution. But apart from the language the essence of the matter is this : Dera Ismail Khan is a town comprising 33,000 inhabitants—a town of considerable political importance—on the right bank of the Indus. It was about 4 or 5 miles away from the river. Now since 1902, the river Indus by one of those vagaries common to rivers in this country has been approaching nearer and nearer this town. During the last twenty years it has come within a mile of this town and it has also, it appears, caused the falling down of some of the buildings there. The people of the town have, as usual, been memorialising, petitioning and presenting addresses to the chief authority of the Province. They first approached in 1913 Sir John Donald, and it appears that he gave what is ordinarily known as a very sympathetic reply. Subsequently, when Sir Hamilton Grant was in charge of the Province, they presented an address to that officer and represented the facts again. Again they got a very sympathetic reply. In their representation they said the frontier tribes on one side and the Indus on the other were devastating their houses and their homes ; and that sums up very neatly the situation in which the people of this town have been placed. Now since then they have approached with similar memorials and petitions the Chief Commissioner the Honourable Sir John Maffey who seems to have visited the place in 1921. On that occasion also they got a very considerate reply. They also approached the Honourable Member in charge of the Department of Revenue and Agriculture, and they have put questions both in the old Council and in the present Assembly, and their member Khan Bahadur Abdur Rahim Khan has made speeches in this Assembly. Now the present situation is that there is every danger, every possibility and even probability of the town being eaten up completely by the river if things are allowed to stand as they are. After all, the expenditure which is estimated to be necessary to protect the town from further attacks by the river seems to be a sum of 15 lakhs. That sum is not a large sum by any means considering the straits to which the town is put.

(4610)

There is one consideration which has to be complied with. That is, they have been asked to contribute a substantial sum. Now I know this rule which requires the people of a locality to contribute a substantial sum applies to cases which are intended to meet the ordinary needs of the town, such as water-supply, drains, etc., in which the well-established rule in all local Governments is to ask the people first of all to demonstrate the principle and the rule of self-help. But on occasions like this, which are not of ordinary occurrence, which are not of their own creation and which are intended to protect people from the ravages of a mighty and uncontrollable power, in a question of this nature, to higgly haggly about the amount of money to be given by one party and to look at it from the point of view of commerce and trade, I think is very derogatory to the position of a big Government. I can understand that in a question of water-supply, where revenue is earned by the supply of water, or of lighting, or any of those things which yield a revenue to the local authority in addition to providing comforts to the local people, Government might bargain and ask for terms. But this is a question of protecting the people of the town, protecting the town itself in fact, and protecting the geography as it exists ; and for Government to come and bargain and say " I propose this : you give half, I give half ; you give this contribution," I think, it is very unworthy of a big Government. The cantonments are not in danger. I wish they were in danger ; for then the military authorities would come in, and there would not be this bargaining between the Government and the people ; the expenditure would be borne on the military budget and the assent of the Assembly and their votes would not be necessary for that purpose. I wish it were so. But unfortunately the civil population only are concerned.

Now, the amendment which the Honourable Mr. Chatterjee has put forward is there on the paper ; I do not quarrel with the Government, because I sit here not as an advocate specially to plead for the people of the place. I do not know anything of the locality personally ; but after reading about the matter and talking to the people of the place I thought that this was a question in which we should all take interest and therefore I proceeded upon general lines. The amendment of the Honourable Member is all right till we come to the last Clause. The trouble is in the tail, as it happens in regard to certain animals ; the sting of it is in the tail. The people of the place have been liberal in their contributions during the period of the war, not only in the matter of money contributions, but in respect of loyalty and in respect of the endeavours which their leading men have made in negotiating with the Government across the border. Taking all these circumstances into consideration, to say, as the last clause does, that the people of the locality themselves should find some of the money in order to strengthen the Government of India loan, which fortunately for us has met with such ready and ample response, is, I think, very ungracious on the part of my Honourable friend. Therefore, Sir, without more ado, I submit that this Resolution, or the substance of it, should be accepted by this House.

The Honourable Mr. A. C. Chatterjee (Industries Member) : Sir, I wish to express my gratitude to the Honourable Member for having given

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[Mr. A. C. Chatterjee.]

the Government opportunity to obtain the sense of the Assembly on a question which has been under negotiation between the Government and the citizens and Municipality of Dera Ismail Khan for some months past. I also wish to congratulate my Honourable friend Mr. Subrahmanayam on the public spirit that he has shown as a resident of the extreme south of India in taking interest in the affairs of a town in the extreme north-west of the country. The amendment, Sir, of which I have given notice, as has been pointed out by the Honourable Member himself, differs from his Resolution only in giving a little more precision to the recommendations of the Assembly and in the last paragraph of the amendment. I need not recount the history of the case. As my friend has stated, Dera Ismail Khan is situated on the Indus, and even as far back as 1879 when the Settlement Report of the District was published, it was felt that the town was liable to danger from erosion by the Indus. But for a long time the danger was not acute, and if any part of the town was in danger, it was only the Cantonment. The citizens of the town did not take any very great interest in the Cantonment. I may mention, Sir, that as my Honourable friend lives, I should think, more than a thousand miles away from Dera Ismail Khan, he was rather inaccurate in stating that if the Cantonment had been in danger Government would have been more prompt in coming to the assistance of the town. As a matter of fact, even now, the Cantonment is in far greater danger than the city itself. (A Voice : "We want to help the people ; protect the town.") As I said, the position was not very acute until about 5 years ago. In 1918 the Indus took a sudden turn and came much nearer the town than it had been. But the position has been very carefully watched, and it is only during the last year or so that it has really become acute. The river is at the present moment within about a mile of the town. If nothing is done now, it will probably come much nearer the town. It has been estimated that the progress is about 600 ft. every year nearer and nearer the town. The danger is that if the river comes very much nearer the town, the subsoil water might rise and all the wells of the town might get contaminated and there might be serious danger to the health of the town, even if it is not washed away. Well, the Government officers on the spot have been watchful of the situation, and estimates and designs for the protection of the town have been prepared. Only a few days ago my friend behind (Mr. Gebbie), who is perhaps a greater authority on the Indus than anybody else in India, went down to Dera Ismail Khan to look at the place and to examine the proposals. He has advised us that, in his opinion, the work should be taken in hand at once. His opinion is that there is no immediate danger to the town, but if nothing is done now, it is quite possible that any steps taken eventually may prove to be futile as was the case with Dera Ghazi Khan. Government, therefore, are quite willing to come to the assistance of the town, and that is the proposal which I have made in the amendment. As regards the point to which reference was made by Mr. Subrahmanayam, namely, whether the citizens of the town should show their keenness and earnestness in the matter of saving their own city, I think, Sir, it is only fair to the general tax-payer of India that there should be some security offered by the town itself. It is not a question of

their making a free gift. It has already been arranged that the Municipality should defray half the cost and Government should defray the other half. The only question is as to how the Municipality is to obtain the amount which falls to its share. What I suggest, Sir, is that the Municipality should obtain a substantial portion of the amount it has to spend from Government and that the richer citizens of the town should also subscribe a loan to the Municipality. This proposal of mine is nothing very strange because at a meeting of the residents of Dera Ismail Khan itself, held as far back as January last, a Resolution was passed which I shall read to the Assembly. The Resolution was :

"That this meeting emphatically contradicts the reports circulated by a few interested persons that the people are averse to paying their share of the cost of the protective works, and assures the authorities that the public (*I stress the word 'public'*) are willing to contribute any reasonable share that may be fixed for the towns people to pay."

All that I am suggesting, Sir, is that they should subscribe a loan and not a gift to the Municipality. As a matter of fact, it cannot be contended that this is a poverty-stricken town. I have here papers relating to the River Indus Erosion Prevention Committee at Dera Ismail Khan, and I see amongst the Members of the Committee there are at least 5 Nawabs, about 4 or 5 Khan Bahadurs, several Rai Bahadurs, an equal number of Rai Sahibs and Khan Sahibs, and, what is more important, there are at least 25 lawyers, headed by my Honourable friend, Mr. Abdur Rahim Khan ; I don't mean lawyers of a very low status—they are all B.A.'s and LL.B.'s and some are Barristers-at-Law. There are at least 4 or 5 bank managers. I don't think, Sir, it is unfair to ask the citizens of a rich city like this to guarantee that they are in real earnest about saving their own town.

I commend my own amendment to the House :

"That for the original Resolution the following be substituted :

"This Assembly recommends to the Governor General in Council :

- (1) that the construction of works designed for the protection of the city of Dera Ismail Khan be commenced immediately after the close of the present inundation ;
- (2) that, if the expert advisers of Government so advocate, the collection of materials for the work be taken in hand forthwith ;
- (3) that the cost of the works be borne in equal shares by Government and the Municipality of Dera Ismail Khan ;
- (4) that Government consider favourably any application for a loan which may be made by the Municipality for the purpose of defraying their share, subject to a reasonable proportion of the loan being taken up by the inhabitants of the city."

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : Sir, I have given notice of an amendment to this Clause (4) in the amendment proposed by the Honourable Mr. Chatterjee, and I find my friend, Mr. Subrahmanayam, has also taken exception to that clause of his amendment. So far as the Municipality of Dera Ismail Khan is concerned, they have already, I understand, applied for a loan to Government and it has been represented to me that it will not be easy for them to raise any very large amount of money by loan in the city of Dera Ismail Khan at the present moment on account of the tightness of the money market. It was with that view that I gave notice of my amendment. But since then I have had

[Mr. W. M. Hussanally.]

a talk upon the subject with the Honourable Mr. Chatterjee, and I understand the Government will not insist upon a very large amount of money being raised by loan by the municipality. They will allow the city people to raise as much as possible. Therefore, I do not insist upon moving my amendment, and I beg permission to withdraw it, because, it is of the greatest importance that the works should be commenced at once, and there should be no difficulty created in the way. But I do hope that in case no large amount of money is raised by loan in the city, Government will not insist upon that method of finding money. So long as the municipality of Dera Ismail Khan has consented to bear half the cost, I think the Government ought to be satisfied, and I understand the municipality is going to raise their taxes in order to meet the loan that they wish to raise from the Government of India.

Khan Bahadur Abdur Rahim Khan (North-West Frontier Province : Nominated Non-Official) : Sir, before I request my Honourable friend, who has moved this Resolution, to withdraw it and accept the amendment which has been moved by my Honourable friend, Mr. Chatterjee, I think it will be fit and proper that I should say a few words, because I do not want to detain this Honourable Assembly long. Some remark was made that Dera Ismail Khan contains a few Nawabs, Khan Bahadurs and Lawyers and that it could easily raise money. I can assure the Honourable Mr. Chatterjee that the market condition of Dera Ismail Khan at present is very deplorable. It was Dera Ismail Khan that topped the list at the time of the war. Dera Ismail Khan contributed Rs. 8 lakhs then. But now, Dera Ismail Khan is in a pitiable condition on account of speculation. The condition of the big people there is very precarious. If the Honourable gentleman wants to be quite certain about that, he can make inquiries from the head of the Government there whether what I have said is true or not. Some Honourable Members have got the impression that as Government has been good enough to contribute half towards this, I should express my sense of gratitude. But at the same time, as a citizen of the Empire, I must protest against this, because, when the same conditions prevailed in the town of Dera Ghazi Khan, not a single penny was contributed by the citizens of that town. But when we ourselves are prepared to meet half the burden, they say they are showing us a favour.

The Honourable Mr. A. C. Chatterjee : The Government spent a much smaller sum in that case.

Khan Bahadur Abdur Rahim Khan : That is true. But I want to clear my position before this Honourable Assembly. Our only fault, our only misfortune is that we belong to that turbulent part of the country where all the money available is needed for military purposes. We are not responsible for that. I think this Assembly should be grateful that we perform the function of gate-keeper of that part of the North-West Frontier. Let the Government boldly say what they spend on the people of the settled districts. Having given expression to my views, I must

express my gratitude to Government. At the same time, I would request my Honourable friend (Mr. Subrahmanayam) to withdraw the Resolution and to accept the amendment moved by the Government.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I strongly support the last speaker and urge upon the mover of the original Resolution to put an end to this discussion by accepting the amendment. The heading of the Government amendment calls this town "Dera Ismail Khan." I do not know whether that is an allusion to the amount of money that is to be spent on it. I myself think that it indicates the solicitude of Government for the preservation of the town. But the point is this. What fell from the last speaker showed that on matters of detail, there may be much to be said on both sides. After all wherever the Municipality may raise the loan, it is the tax-payers of the town who will repay ; and I do not think that this House can reasonably be asked to go further than to urge upon the Government, as clause 4 of the amendment does, that favourable consideration be given to the loan. That leaves the whole position open. If the inhabitants are in a position to subscribe towards that loan, which no doubt will bear a fair amount of interest, they will do so : if not, Government may find the whole of the money. But that is a matter of detail and therefore I prefer the amendment to the original Resolution. Besides there is no practical difference between the two. I strongly urge upon the mover to withdraw his Resolution in favour of the amendment and close the discussion.

Rao Bahadur C. S. Subrahmanayam : I do not want to enter into a long controversy about this matter. I only repeat that the last clause sticks in my throat. I do not like the condition put upon the people of a town which has been so loyal and so generous and which, as my friend said, gave 8 lakhs during the war. Anyhow the town is going to pay 7 lakhs and the interest on it and I suppose they will make the necessary arrangements for a sinking fund, for interest and all that. After all, Government is not going to stop the works if the people do not take a reasonable share. Therefore why put in this clause which is, as lawyers call it, a *brutum fulmen* and shows a commercial spirit, instead of being magnanimous and statesmanly ? I, however, withdraw my Resolution in favour of the amendment which is better, more precise, more correctly worded and I would prefer the amendment more for its language than for its substance.

Mr. President : The original question was :

"This Assembly recommends to the Governor General in Council that (1) sanction be immediately accorded by the Finance Department to the Embankment Project submitted and strongly supported by the Honourable the Chief Commissioner, North-West Frontier Province, and approved of by the Revenue and Agriculture Department of the Government of India, for protecting the prosperous town and Cantonment of Dera Ismail Khan containing 33,000 souls and property worth millions of rupees, against the erosion of the River Indus ; (2) that half the cost, viz., 7 lacs of rupees the share of the public of Dera Ismail Khan be at once advanced on usual terms as a loan applied for by the Municipality, so that the collection of stones, etc., may immediately be taken in hand during the current flood season, and (3) that the remaining 7 lacs of rupees asked for and agreed upon as Government contribution towards the Project be provided for in the Budget for the year 1924-25."

[Mr. President.]

Since which an amendment has been moved :

“ That for the original Resolution the following be substituted :

“ This Assembly recommends to the Governor General in Council :

- (1) that the construction of works designed for the protection of the city of Dera Ismail Khan be commenced immediately after the close of the present inundation ;
- (2) that, if the expert advisers of Government so advocate, the collection of materials for the work be taken in hand forthwith ;
- (3) that the cost of the works be borne in equal shares by Government and the Municipality of Dera Ismail Khan ;
- (4) that Government consider favourably any application for a loan which may be made by the Municipality for the purpose of defraying their share, subject to a reasonable proportion of the loan being taken up by the inhabitants of the city .”

The question is that that amendment be made.

The motion was adopted.

RESOLUTION *RE* THE FUNCTIONS AND POWERS OF THE COUNCIL OF STATE.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : I beg to move the Resolution which stands in my name on the Agenda Paper. It runs thus :

“ This Assembly recommends to the Governor General in Council that effect be given, by an amendment of the Government of India Act, if necessary, to the Statement of the Joint Parliamentary Committee that they have so constituted the Council of State as to be ‘ a true Second Chamber ’ by making it obligatory to observe in practice the following principles :

- (1) Bills appropriating revenue or moneys or imposing taxation or containing provisions incidental to the financial arrangements for the year shall originate only in the Legislative Assembly :
Provided that a Bill shall not be taken to fall under this category by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses or fees for services under the law proposed therein.
- (2) The Council of State may not amend any Bill falling under the category aforesaid.
- (3) The Council of State may not amend any Bill so as to increase any proposed charge or burden on the people as voted by the Legislative Assembly.
- (4) The Council of State may, within the time laid down by the Legislative Assembly, return to the Legislative Assembly any Bill which the Council of State may not amend, requesting by message the omission or amendment of any items or provisions therein. And the Legislative Assembly may, if it thinks fit, make any of such omissions or amendments, with or without modifications.
- (5) Except as provided hereinabove the Council of State shall have equal power with the Legislative Assembly in respect of all proposed laws.”

Sir, if I may be permitted to simply move the Resolution to-day in order that it may be taken up on the next non-official day, I should prefer that course if the Chair so permits and the Government do not object.

The Honourable Sir Malcolm Hailey (Home Member) : We should have no objection to that course, Sir.

The Assembly then adjourned till Eleven of the Clock on Monday, the 16th July, 1923.

LEGISLATIVE ASSEMBLY.

Monday, 16th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

DEATH OF MR. PYARI LAL MISRA.

Mr. President : I regret to have to inform the Assembly that by the death of Mr. Pyari Lal Misra on the 9th of July we lost one whom we all knew as a very active participator in these debates and as one who has played a considerable part in the public life of his own Province, namely, the Central Provinces. I am sure I shall be carrying out the wishes of this House if I convey to his bereaved relatives our sense of their loss and ours.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, may I be allowed to associate myself with all that you said about Mr. Pyari Lal Misra. He belonged to the Democratic Party and was one of the most active workers in it. He took a deep interest in everything connected with politics, and even before he came to this Assembly he was known as a public man. His loss is very much regretted and we have suffered very much from his death.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, in the death of Mr. Pyari Lal Misra I feel a personal loss. He not only represented my Province, but he was one of my oldest friends. I have watched his career from his early boyhood. He had risen from a subordinate position in Government service to be a member of the Bar, then a Member of the Local Council, and latterly a Member of this Honourable House. I thank you, Sir, for making such an appreciative reference to his services in this House. We feel obliged to you, and the House for the appreciation of the services of my late esteemed colleague and fellow representative from the Central Provinces.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, in associating myself with all that has fallen from you and from my colleagues, I desire to bear testimony to the conspicuous honesty of purpose of the late Mr. Misra. However, much we may have had reason from time to time to differ from him, his honesty of purpose was always to the fore. We feel that by his death the House had indeed a great loss.

The Honourable Sir Malcolm Hailey (Home Member) : I hope you will allow me to add, on behalf of the Government Benches, expression of very sincere regret at the news which you have conveyed to us, and to say that we also on our side desire to associate ourselves with that expression of sympathy which it is the wish of the House you should convey to the relatives of our deceased friend.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : Sir, I also join in these remarks and endorse all that has been said by your good self and the other speakers because Mr. Pyari Lal Misra was a special

friend of mine, and oftentimes I used to see his work in this House. I especially remarked the quality to which Sir Deva Prasad Sarvadhikary has given utterance, namely, his honesty of purpose, and I may add industry also.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, as a former Judge and Member of the Bar of the Central Provinces, I earnestly desire to associate myself in everything that has been said by other speakers with regard to Mr. Misra, and in doing so I am quite sure that I am authorised to represent the feelings of the whole non-official European community.

MEMBERS SWORN.

Rai Bahadur Girish Chandra Nag, M.L.A. (Surma Valley *cum* Shillong : Non-Muhammadan) ; Krishna Sivaswamy Ayyangar Rama Ayyangar, M.L.A. (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural).

INABILITY OF GOVERNMENT TO ACCEPT CERTAIN RECOMMENDATIONS OF RETRENCHMENT COMMITTEE.

The Honourable Sir Basil Blackett (Finance Member) : Sir, with reference to the concluding portion of my reply to a question by Sir Deva Prasad Sarvadhikary on the 2nd of July as to the action taken with regard to the recommendations of the Retrenchment Committee, I place on the table a further statement giving fuller reasons in the more important cases why Government have been unable to accept the recommendations of the Committee.

Statement showing the reasons why Government have been unable to accept the recommendations of the Retrenchment Committee in some of the more important cases.

ABOLITION OF EDUCATIONAL COMMISSIONER.*

It was considered necessary to retain an experienced adviser upon educational matters with the Government of India, but in order to effect economy, it was proposed, as an experiment for one year, to put him in charge of the duties of the Superintendent of Education, Delhi and Ajmer-Merwara, in addition to his own work. At the same time the Central Advisory Board and the staff of the Bureau of Education have been brought under reduction. Thus a saving of approximately Rs. 75,000 out of the estimate of Rs. 1,00,000 made by the Retrenchment Committee should be effected.

ABOLITION OF THE APPOINTMENT OF INSPECTOR GENERAL OF IRRIGATION.†

The Retrenchment Committee recommended the abolition of the post of Inspector General of Irrigation and also the amalgamation of the Public Works Department with some other department of Government. Had this recommendation been accepted in full, it would have led to the abolition both of the Inspector General and of the Public Works Secretary. Both these officers had technical functions, the one in connection with Irrigation, the other with Civil Works, and it was decided that the responsibility of the Central Government in regard to these matters was such that expert advice at headquarters was essential. A single Consulting Engineer to the Government of India, who will primarily be an irrigation expert, has, therefore, been appointed, who discharges the technical duties which formerly devolved upon the two officers mentioned.

* Page 130, paragraph 15 of Report.

† Page 136, paragraph 30 of Report.

TOTAL REDUCTIONS IN THE EDUCATIONAL EXPENDITURE.

North-West Frontier Province.*—A lump reduction of Rs. 1,00,000 in the budget grants for 1923-24 under the head "31—Education" was made provisionally in order to give partial effect to the recommendations of the Indian Retrenchment Committee. But further investigations showed that it was not possible in a secondary school to ration teachers on a pupil basis in the manner recommended by the Committee. At the most it was considered possible to cut Rs. 60,000 in the current year. The Government of India will, therefore, require a supplementary grant of Rs. 40,000 this year. The question whether expenditure on education should not be reduced or restricted in other ways in 1924-25 is being examined.

Delhi.†—A reduction of Rs. 75,000 was made provisionally in the budget grants for 1923-24 under the head "31—Education". Further examination showed that it would be false economy to starve the private colleges into decay and that reductions on secondary education could not be made on the lines proposed by the Committee, as in the case of the North-West Frontier Province. The Government of India will, therefore, require a supplementary grant of Rs. 50,000 this year (Rs. 25,000 on account of arts colleges and Rs. 25,000 on account of secondary schools). The question whether expenditure on education should not be reduced or restricted in other ways in 1924-25 is being examined.

Delhi University.‡—The Government of India were advised that the university could not be put an end to without a repealing Act, and that by the mere repeal of the Act the three Delhi colleges now included in the university would not automatically be restored to the Punjab University. Doubt was also expressed as to whether a repealing Act could be passed through the Legislature before the close of 1922-23. It was accordingly decided to keep the university in being so long as the Assembly voted the money needed. The matter was brought up in the Assembly and the money for 1923-24 was voted.

The remaining recommendations regarding the reduction of educational expenditure are dealt with in the following statement :

Page of Report.	Paragraph of Report.	Recommendations of the Committee.	Remarks.
192	3	We consider that if any grant is made to the Aitchison College, it should be limited to Rs. 15,000.	Recommendation given effect to. The grant has been reduced to Rs. 15,000.
192	3	We are informed that the (Rajkot) College authorities hope to make the Institution self-supporting in 1923-24. No provision should therefore be necessary.	It has been found impossible to withdraw the Central Government's subvention before 1924-25, but for the current year the grant has been reduced by Rs. 15,000.
127	19	The grant to the Government College, Ajmer, has been increased from Rs. 28,614 in 1913-14 to Rs. 64,700 in 1922-23. In 1921 the teaching staff comprised a Principal and 8 Professors as against a Principal and 6 Professors in 1913-14, although the average daily attendance of students had only risen by 9. We consider that there is no justification for the increased staff and that in present financial circumstances the staff should	The Agent to the Governor General has definitely stated that no reduction in the staff of the College is possible. His views were invited on a proposal to reduce the college to an intermediate status. In his report, which has just been received, he has strongly deprecated the reduction until a definite decision is arrived at about the proposed establishment of a University for Rajputana. His views are under consideration.

* Pages 193-5 of Report.

† Pages 195-6 of Report.

‡ Page 196, paragraph 15 of Report.

Page of Report.	Paragraph of Report.	Recommendations of the Committee.	Remarks.
		be reduced to at least pre-war level. We are informed that the question of raising the fees charged for tuition is now under consideration and we recommend that the grant for 1923-24 should be limited to Rs. 45,000."	The fees for tuition have been raised and an additional income of Rs. 5,000 a year is expected thereby.
198	20	"This table shows that whereas the average daily attendance at the Government schools has fallen off, there has been an increase in the number of teachers employed. We consider that the number of teachers should be reduced to pre-war standard, saving 19 teachers, also that the scale of fees which is lower than in the aided schools should be raised and the grant reduced to Rs. 70,000. "The standard of staffing in the aided schools is also excessive and we think that the grant to these schools should be reduced to Rs. 10,000."	The Chief Commissioner has reported that the fees have been raised to the rates prevailing in the United Provinces. He deprecates reduction in the teaching staff of the schools as also any reduction in the grants-in-aid which are now given at rates below those followed in the United Provinces, Delhi or Punjab. His views are under consideration.
198	21	<i>Primary Schools.</i> —The average number of pupils per teacher in the Government Primary schools is only 19.4 and in the aided schools 12.7. We consider that these standards should be materially raised, which would set free funds for increasing the number of schools. N.B.—The Chief Commissioner has effected a reduction of Rs. 13,566-5-1 towards meeting the lump out of Rs. 29,000 made by the Legislative Assembly in the education budget of Ajmer-Merwara for 1923-24.	The Chief Commissioner deprecates any retrenchment in Primary education; his views are under consideration. He has reported that he is considering the question of raising the District Board cess, which may provide extra funds.
195	13	That the grant of secondary education in Baluchistan be reduced by Rs. 15,000.	The Agent to the Governor-General has been able to effect a reduction of Rs. 15,000 in all under the head "31—Education."
195	13	That the provision for scholarships in Baluchistan should not exceed Rs. 24,000.	
198	24	That the grants-in-aid to secondary schools in Rajputana amounting to Rs. 34,000 should be reduced to Rs. 20,000.	The Agent to the Governor-General has intimated that a reduction of Rs. 3,380 only can be effected during the current year.
198	26	That the grant for secondary education in Hyderabad be reduced by Rs. 18,490.	The Resident at Hyderabad intimated in May last that the lump reduction of Rs. 9,000 made under the head "31—Education" in the Central budget for 1923-24 would be effected by reducing the grant to the secondary schools in the administered areas to the extent of Rs. 9,000.

PUBLIC HEALTH COMMISSIONER.*

It has been decided not to abolish the post of Public Health Commissioner for 1923-24. But savings amounting to Rs. 13,000 have been effected by the abandonment of the proposal to depute the Public Health Commissioner to attend a Conference in Paris during the current year and by the appointment of a Captain in place of a Major to the post of Assistant Director General, Indian Medical Service (Sanitary) with effect from the 1st June 1923.

REDUCTION IN BACTERIOLOGICAL OFFICERS.†

The Government of India have been unable to agree with the Retrenchment Committee that all the existing appointments of bacteriological officers holding unspecified posts in the Medical Research Department should be abolished. They have decided that 11 out of the 17 sanctioned posts should be held in abeyance in 1923-24 and that not more than 6 posts should be filled until the financial situation improves. The pay of the six officers will be charged to central revenues but the Indian Research Fund Association will find the money for their travelling and field allowance and the expenses generally of their enquiries. The Association is unable to meet the pay of the officers.

INDIAN STORES DEPARTMENT.§

The views expressed by the Indian Retrenchment Committee regarding the Indian Stores Department have been carefully considered by the Government of India: they have, however, now decided to proceed with the expansion and development of that Department as circumstances and the financial situation permit. In arriving at this decision they were influenced by the following facts:—

- (1) In the absence of a properly constituted Stores Department with an intelligence, purchase and inspection agency it is impossible to divert to Indian mills and workshops the large indents for stores which are at present sent to the London Stores Department for compliance. The organization of each branch of inspection and purchase means another step in the direction of transferring the balance of Government purchases India.
- (2) Economies are expected from the centralised purchase of stores. The sooner these can be effected the better.
- (3) The existing headquarters staff of the Department was created with a view to expansion along the lines already announced, and it would be in the highest degree uneconomical, while retaining this headquarters staff, to cripple its activities by postponing such expansion for an indefinite period.

The Retrenchment Committee recommended that the further expansion of the Department should be postponed until it had been ascertained whether the provinces collectively were prepared to utilize it, but this recommendation appears to have been based on a mistaken conception of the position. Compared with the purchasing transactions of the Government of India and of Railways, the purchases of provincial Governments are comparatively trifling and, whether Local Governments choose to utilize the services of the Department or not, the quantity of stores purchased by the Central Government and Railways alone amply justifies the development of the Indian Stores Department.

* Page 204, paragraph 3 of Report.

† Page 208, paragraph 8 of Report.

‡ Provision was made only for 12 in the budget for 1922-23.

§ Page 216, paragraph 15 of Report.

QUESTIONS AND ANSWERS.

APPOINTMENTS TO THE COUNCIL OF INDIA.

222. *Mr. K. C. Neogy : With reference to my starred question No. 195, dated the 20th January, 1923, regarding appointments to the Council of India, will Government be pleased to state whether they have received any reply from the Secretary of State on the subject ?

The Honourable Sir Malcolm Hailey : No reply has been received from the Secretary of State.

Mr. Harchandrai Vishindas : Are Government in a position to state whether the recommendations of the Joint Parliamentary Committee for the introduction of more Indians in the India Council have been given effect to ?

The Honourable Sir Malcolm Hailey : I am afraid I do not recollect the actual passage of the Joint Parliamentary Committee's report.

Mr. Harchandrai Vishindas : I have read it this morning.

The Honourable Sir Malcolm Hailey : If the Honourable Member will refer me to it, I will give him an answer.

Mr. K. Ahmed : Was the Government kind enough, while giving the answer to my Honourable friend Mr. Neogy, to keep in mind my supplementary question with regard to the additional number of members from India for the India Council ?

The Honourable Sir Malcolm Hailey : No, Sir.

Mr. K. Ahmed : In view of the fact that my Honourable friend from Karachi has put the same question as was my supplementary question to the original question at the last Delhi Session, would the Government of India be good enough to remind the Secretary of State in regard to this, that additional numbers of Members in the Council of India from amongst Indians may be appointed

The Honourable Sir Malcolm Hailey : With regard to the supplementary question I may be allowed to state that we do not, as at present advised, propose to make any further communication to the Secretary of State on the subject.

GRANTS REJECTED BY LOCAL LEGISLATURES

223. *Mr. K. C. Neogy : (a) Are Government in a position to make any statement to supplement their reply to my starred question No. 641, dated the 27th March 1923, regarding the extent of authority of the Governor General in Council to instruct a Governor in regard to the exercise of his statutory powers for the restoration of grants rejected by the Local Legislative Council ?

(b) If the opinion of the Law Officers of the Crown has been obtained on this point, will Government be pleased to place a copy thereof on the table ?

The Honourable Sir Malcolm Hailey : (a) and (b). Government are advised that the exercise of the power of certification vested in the Governor of a Province under proviso (a) to sub-section (2) of section 72D of the Government of India Act is subject to the superintendence, direction and control of the Governor General in Council, but regret that the usage regulating the publication of the opinions of the Law officers prevents them from laying those opinions on the table.

RECRUITMENT OF PORTERS, EAST INDIAN RAILWAY.

224. *Mr. N. M. Joshi : Will Government be pleased to give the following information :

- (a) (i) How are the porters at the Howrah Station recruited, i.e., are they recruited direct by the East Indian Railway Company or are they recruited through some Agency by issuing to it a periodical license ? (ii) If the latter, what is that Agency and what are the terms or conditions laid down for it by the East Indian Railway Company ? (iii) Will a copy of these terms or conditions be laid on the table or made available to the Members of the Assembly ?
- (b) (i) Who is the present license-holder of that Agency ? (ii) When was the license issued to him and what is the period of that license ?
- (c) (i) Is any admission or license fee charged to each and every porter by the license-holder when a license is issued to him for the first time ? (ii) If so, is the license-holder allowed to charge this fee under the terms or conditions of the contract entered into with him by the East Indian Railway Company ? (iii) If so, what is the maximum fee allowed to be charged under the terms or conditions of the contract ? (iv) What is the present admission or license fee ? (v) Is this always the same or does it vary with every new license-holder ? (vi) If the latter, under what rule is this fee allowed to vary ? (vii) Is it a fact, as is alleged by the *Amrita Bazar Patrika* of Calcutta in its editorial article of the 14th June 1923, that the last two predecessors of the present license-holder used to charge each porter less admission or license fee than the present license-holder ? If so, what was the fee of these past license-holders ? (viii) Do Government intend to take the necessary steps to bring down this admission or license fee to the minimum ? If not, why not ?

The Honourable Mr. C. A. Innes : I propose to answer this and the next three questions together.

Government are not in possession of all the detailed information asked for in the Honourable Member's questions but their attention has been drawn to the articles in question and the matter is already under reference to the Railway Administration. A reply will be sent to the Honourable Member as soon as the Agent's reply is received.

Mr. N. M. Joshi : May I also ask, Sir, whether the Government of India would draw the attention of the proper authorities to the recommendation of the Washington Conference as regards employment agencies run for profit ?

The Honourable Mr. C. A. Innes : I did not know that any employment agency came into this question, but I will certainly look into the point.

Dr. Nand Lal : May I ask what system, in respect of the recruitment of railway porters is in vogue on the North-Western Railway ?

Mr. President : The North-Western Railway does not arise under these questions.

Mr. N. M. Joshi : Is not Government aware that the Agent at Howrah, who engages the labourers there, is an employment agency ?

The Honourable Mr. C. A. Innes : I have already said I would look into the point raised by the Honourable Member.

LEVIES ON PORTERS.

†225. ***Mr. N. M. Joshi :** (a) What is the average monthly income of a porter at the Howrah Station ?

(b) (i) Is it a fact, as is alleged by the *Amrita Bazar Patrika* in its editorial article of the 14th June 1923, that the present license-holder for recruitment of porters, for his act of supervision over the porters, levies a monthly toll of Rs. 7 on each porter over and above the admission or license fee that he has to pay at the time of his admission ? (ii) If so, is this levy allowed under any of the terms or conditions of the contract ? (iii) If not, why has this levy been allowed to continue ? (iv) If Government have no information regarding this matter, will they kindly enquire into it and place the result of their enquiry before the public at an early date ?

(c) (i) Is it a fact that the present license-holder has engaged nearly 20 mates or supervisors under him for supervising the work of the porters and that, as is alleged by the *Amrita Bazar Patrika* in its editorial article of the 14th June 1923, they exact Rs. 7-8-0 from each porter ? (ii) If so, why is this amount exacted and is this exaction allowed under any of the terms or conditions of contract between the license-holder and the East Indian Railway Company ? (iii) If not, why is this system of exaction allowed to continue ? (iv) If Government have no information on the point, will they kindly enquire into the matter and place the result of their enquiry before the public at an early date ?

(d) (i) Have Government laid down any rules to the license-holder about the manner in which the porters are to be recruited, paid and treated ? (ii) If so, will they kindly lay a copy of these rules on the table ? (iii) What steps do Government take to see that the rules laid down by them are strictly observed by the license-holder ?

(e) (i) Is it a fact that the porters are indiscriminately dismissed from their service and deprived of their licenses without any sufficient reason ? (ii) How many porters were dismissed from service during the year 1922 ?

† For answer to this question—see Answer below Question No. 224.

WRONGFUL RESTRAINT OF BALDEO KANOO, PORTER.

†226. ***Mr. N. M. Joshi :** (a) Has the attention of Government been drawn to a case (the summary of which has been given by the *Amrita Bazar Patrika* in its editorial article of the 14th June 1923), recently instituted in the Howrah Police Court by the Superintendent of the Howrah Station Police, at the instance of the Howrah Porters' Association, against Baladin Kalwar, Munji Kalwar, and Ganga Goala, the mates or supervisors working under the present license-holder, who were convicted under Sections 341 and 384 of the Indian Penal Code for wrongfully restraining one Baldeo Kanoo, a licensed porter at the Howrah Station, and extorting money from him ?

(b) If the answer to (a) be in the affirmative, will Government be pleased to state whether they have taken any steps to stop the practice of exactions and extortions on the part of the license-holder and his subordinate mates and supervisors ? If so, what steps have they taken ? If not, why not ?

(c) Will Government be further pleased to state whether it is a fact that Baldeo, the complainant, and his two witnesses, Bishwanath and Ramprasad, in the case referred to in (a) above, were dismissed from service by the license-holder ? If so, what was the reason of this dismissal ?

(d) Is it, also, a fact that the mates or supervisors who were convicted in the case referred to in (a) above, are still retained in their posts by the license-holder ? If so, why ?

GRIEVANCES OF PORTERS, HOWRAH.

†227. ***Mr. N. M. Joshi :** Will Government be pleased to state whether the Agent of the East Indian Railway Company has ever looked into the state of affairs in the case of the porters at the Howrah Station after it was brought before the public by the Calcutta Press ? If so, what has he done so far to remove the grievances of the porters ? If not, why not ?

EMIGRATION AGENTS IN CEYLON, MALAYA AND MAURITIUS.

228. ***Mr. N. M. Joshi :** Will Government be pleased to state whether they have appointed Emigration Agents in Ceylon, Malaya and Mauritius ? If so, will Government be pleased to state the names of these Agents ? If the Agents have not yet been appointed, will they state the reason why they have not yet been appointed ?

Mr. M. S. D. Butler : It is hoped that Indian Emigration Agents in Ceylon and Malaya will be appointed shortly. Government have decided to abandon the idea of appointing an Agent in Mauritius pending further experience elsewhere. Some time has been taken in correspondence with Local Governments principally concerned regarding the selection of officers and the conditions of their employment.

RECONSTITUTION OF OFFICE OF DIRECTOR-GENERAL OF STORES, INDIA OFFICE.

229. ***Rai Bahadur Lachmi Prasad Sinha :** With reference to paragraph 218 of the report of Stores Purchase Committee will the Government be pleased to state whether the question of the reconstitution of

† For answer to this question—see Answer below Question No. 224.

the office of the Director General of Stores, India Office, has been taken up? If not, when do the Government propose to take up the matter?

The Honourable Mr. A. C. Chatterjee : I propose with your approval, Sir, to answer this and the next question together.

The recommendation of the Stores Purchase Committee, to which the Honourable Member refers, presupposes the establishment of a fully organized stores department in India. The Indian Stores Department is at present only in the process of formation, and it is consequently premature to consider the question of the reconstitution of the London Store Department; although, as the Honourable Member is no doubt aware, the interim measure suggested in paragraph 218 of the Stores Purchase Committee's Report has already been carried into effect. Until the Indian Stores Department is fully organized and is in a position to handle a substantial volume of business, it is impossible to expect any appreciable reduction in the expenditure of the London Store Department. The question is, however, under the consideration of Government, who are about to address the High Commissioner on the subject.

EXPENDITURE ON STORES DEPARTMENT, LONDON.

†230. ***Rai Bahadur Lachmi Prasad Sinha :** (a) In view of the formation of the Indian Stores Department, will the Government be pleased to state whether the expenditure on the Stores Department in London under the High Commissioner has been reduced?

(b) If not, why not?

(c) Will the Government be pleased to state what steps they propose to take to reduce the expenditure?

BRANCH POST MASTERS.

231. ***Rai Bahadur Lachmi Prasad Sinha :** (1) (a) Will the Government be pleased to state whether there is any system of employing unpaid apprentices as under training for the posts of Branch Post Masters?

(b) If so, will the Government be pleased to state the number of such unpaid candidates?

(c) Is it a fact that those unpaid apprentices were required to furnish security bond?

(2) Will the Government be pleased to state the number of approved candidates amongst those unpaid apprentices?

(3) (a) Is it a fact that the services of such approved candidates have been dispensed with?

(b) If so, will the Government be pleased to state the number of men whose services have been dispensed with in each Province?

(4) Is it a fact that outsiders have been brought in supersession of the claims of those candidates?

(5) Will the Government be pleased to state whether they propose to reconsider the question of reinstituting those approved candidates?

The Honourable Mr. A. C. Chatterjee : The information asked for is being collected and will be communicated to the Honourable Member as soon as it is received.

† For answer to this question—see Answer below Question No. 229.

POSTAL DEPARTMENT LEAVE RESERVE.

232. ***Rai Bahadur Lachmi Prasad Sinha :** (1) Is it a fact that the present sanctioned leave reserve in the Postal Department is only 15 per cent. of the clerical strength of the Department?

(2) (a) Is it a fact that clerks in the Postal Department are being refused leave even on Medical Certificates owing to the low percentage of leave reserve?

(b) If so, will the Government be pleased to state whether they propose to take any step to raise the present sanctioned percentage of leave reserve?

The Honourable Mr. A. C. Chatterjee : (1) The sanctioned leave reserve in the case of Post Offices and the Railway Mail Service is equal to 17 per cent. of the total working staff.

(2) (a) There may have been occasional instances in which leave has been unavoidably refused, even though the requests for the grant of leave were supported by medical certificates. If the Honourable Member can mention any specific instances in which this has occurred, I shall be willing to have them examined.

(b) The reply is in the negative. Government are of opinion that the leave reserve is adequate.

Mr. Harchandrai Vishindas : Will Government be pleased to state how the leave reserve in this department compares with the leave reserve in other departments?

The Honourable Mr. A. C. Chatterjee : I should like notice of the question, Sir.

REDUCTION IN THE NUMBER OF POSTAL PEONS.

233. ***Rai Bahadur Lachmi Prasad Sinha :** (1) (a) Will the Government be pleased to state whether the number of Postal peons employed in the delivery staff in mofussil towns and villages are being reduced?

(b) If so, is the Government aware that such reductions in the number of Postal peons is reducing the number of Postal deliveries in the interior villages?

(2) Is the Government aware that in certain Mofussil villages in the District of Monghyr Postal deliveries have been so curtailed as to result in considerable delay in the transmission of letters and money-orders?

(3) Will the Government be pleased to state whether they propose to take early steps to ameliorate their condition?

The Honourable Mr. A. C. Chatterjee : (1) A reduction in the number of postmen throughout the country, with the consequent curtailment of deliveries, is one of the measures that have had to be adopted in order to effect the very large reduction which was demanded in respect of the expenditure of the Post and Telegraph Department.

(2) and (3). I have no such information but I shall make enquiries. If however the Honourable Member will furnish me with the particulars of any cases in which, in his opinion, some amelioration is essential, the matter will receive attention.

Dr. Nand Lal : Is the Government of India aware that the delivery of letters in villages is very dilatory and that there is a great amount of complaint in that direction ?

The Honourable Mr. A. C. Chatterjee : No, Sir, no more dilatory than is inevitable on account of the retrenchment that has been effected.

Rai Bahadur Lachmi Prasad Sinha : Is the Government of India aware that the delay in the transmission of monthly remittances from labourers through Postal money orders has become a source of hardship to their families ?

The Honourable Mr. A. C. Chatterjee : The answer is in the negative.

Rai Bahadur Lachmi Prasad Sinha : Will the Government of India be pleased to take steps to inquire into the matter and remedy it ?

The Honourable Mr. A. C. Chatterjee : Yes, inquiries will be made.

PERSONAL ASSISTANTS TO POST MASTERS GENERAL.

234. ***Rai Bahadur Lachmi Prasad Sinha :** (1) Is it a fact that each of the Post Master Generals are given a Personal Assistant ?

(2) Will the Government be pleased to state the different kinds of allowances sanctioned for each of such Personal Assistants ?

(3) (a) Is it a fact that some of these allowances paid to such Personal Assistants vary in different seasons of the year ?

(b) If so, will the Government be pleased to state the reasons of granting such varying scale of allowances ?

The Honourable Mr. A. C. Chatterjee : (1) Every Postmaster-General has two or more Personal Assistants.

(2) Every Personal Assistant is granted an allowance of Rs. 100 a month which was formerly called a "duty allowance" and is now classed as "special pay." The Personal Assistants to the Postmaster-General, Bengal and Assam, and the Postmaster-General, Bombay, also draw allowances under the Calcutta and Bombay House Allowance Schemes, respectively, while the Personal Assistants to the Postmaster-General, Burma, draw Burma allowance and allowances under the Rangoon House Allowance Scheme.

(3) and (4). The amounts of the allowances under the Calcutta and Bombay House Allowance Schemes vary with the seasons of the year, and the variation is one of the features of the Schemes which were sanctioned by the Secretary of State many years ago for the benefit of all gazetted officers both of the Central and of the Local Government stationed in these cities.

WAITING ROOM AT MOHESHKHUND RAILWAY STATION.

235. ***Rai Bahadur Lachmi Prasad Sinha :** (a) With reference to the reply given to my starred question No. 1003, will the Government be pleased to state whether the work of constructing the Waiting-room at Moheshkhund Railway Station has been taken up and if so, when did the work of construction commence ?

(b) Is it a fact that construction work has been stayed for the last 4 or 5 months owing to some difference between the Contractor and the Engineer ?

The Honourable Mr. C. A. Innes : (a) The Agent reports that the waiting room at the railway station in question has nearly been completed.

(b) Government have no information.

DANGERS TO PASSENGERS AT MOHESHKHUND.

236. ***Rai Bahadur Lachmi Prasad Sinha :** (1) (a) Is the Government aware that the unfenced condition of the very deep foundation dug out for the erection of the Waiting-room at Moheshkhund Station is very dangerous to the safety of the passengers and the public using the railway platform during night ?

(b) Is it a fact that a passenger fell into the foundation and got severely injured ?

(c) Is it a fact that such injured person has had to be removed to Hospital for his injuries ?

(2) (a) Will the Government be pleased to state whether any compensation has been awarded to such injured person ?

(b) If not, will the Government be pleased to state the reasons for it ?

The Honourable Mr. C. A. Innes : (1) (a) The Agent reports that the excavation made for the erection of the waiting room at the station has been fenced.

(b) A passenger crawled through the fence, slipped into the foundation and sustained very slight injury.

(c) Government have no information.

(2) (a) and (b). No compensation was claimed.

CONGESTION AT HYDERABAD, SIND.

237. ***Mr. W. M. Hussanally :** (a) Is it a fact that the Indian portion of the city of Hyderabad, Sind, is very congested ?

(b) If so, is the Cantonment at that place blocking the way of the expansion of the city on the hill ?

Mr. E. Burdon : (a) Government understand that this is so.

(b) The Cantonment area is said to be blocking the expansion of the city in one direction, but this Government understand is not the only direction in which the city can be expanded.

REMOVAL OF HYDERABAD CANTONMENT.

238. ***Mr. W. M. Hussanally :** (a) Did the Government of India appoint a committee last year to consider the question of the removal of the Cantonment of Hyderabad, Sind ?

(b) If so, what was the personnel of that Committee ?

(c) What were the terms of their reference ?

(d) What were their recommendations ?

(e) Were their recommendations communicated to the local Municipality and the Bombay Government ?

(f) If so, what were their replies ?

Mr. E. Burdon : (a) Yes.

(b) Lieutenant-General Sir Walter Braithwaite, K.C.B., the then General Officer Commanding-in-Chief, Western Command ; E. J. Bolus,

Esq., I.C.S., Collector of Hyderabad (Sind); Mr. Chatursingh Ailmal, Vice-President of the Hyderabad Municipality; Lieutenant-Colonel N. C. Bannatyne, representative of the Hyderabad Cantonment Committee; the Honourable Member himself; Lieutenant-Colonel H. N. North, D.S.O., officiating Chief Engineer, Western Command; Mr. Gopal-das Jhamatmal, representative of the Hyderabad Municipality; Lieutenant-Colonel E. S. J. Anderson, Controller of Military Accounts, Western Command; and Major G. A. Kempthorne, D.S.O., Deputy Assistant Director of Medical Services, Western Command.

(c) To investigate the question of relieving the existing congestion in the city of Hyderabad (Sind) and the possibility of locating the normal garrison in the neighbourhood of Hyderabad or elsewhere, the new cantonment being built in accordance with the present day conditions governing the provision of military accommodation.

(d) The Committee were of opinion that the best means of relieving the existing congestion lay in the transfer to the civil authorities of the land now occupied by the military cantonment.

(e) Yes.

(f) The Municipality stated that they were unable to find the funds for the proposed transfer of the cantonment and the question has been dropped on the recommendation of the Bombay Government who are also unable to provide funds for carrying out the measure recommended.

COMPENSATION FOR REMOVAL OF HYDERABAD CANTONMENT.

239. *Mr. W. M. Hussanally : (a) Is it a fact that Government of India demanded about 2 lacs of rupees from the Municipality to compensate them for the removal of the Cantonment of Hyderabad, Sind ?

(b) If so, what were the terms offered by the Municipality ?

Mr. E. Burdon : (a) No.

(b) One of the conditions under which the Government of India were prepared to agree to the removal of the cantonment from its present site was that no additional expenditure should be thrown on to the army estimates. The expenditure involved had to be borne by the local civil authorities. The approximate cost of the scheme recommended for the removal and reconstitution of the cantonment was estimated roughly at Rs. 80 lakhs. The Municipality made no offer.

REMOVAL OF CALCUTTA CANTONMENT.

240. *Mr. W. M. Hussanally : (a) Is it a fact that the Government of India in the past bore all the expenses of the removal of the Cantonment at Calcutta or any other place ?

(b) If so, are the Government prepared to consider the question of extending the same privilege to the city of Hyderabad, Sind ?

Mr. E. Burdon : (a) I have been unable to trace any case in which the military estimates have borne the cost of removing a cantonment, the location of which was altered at the request of the civil authorities and the civil population.

(b) This question does not now arise.

MILITARY POPULATION OF HYDERABAD.

241. *Mr. W. M. Hussanally : (a) What is the strength of the military population of the Cantonment of Hyderabad, Sind ?

(b) What is the total population of the Cantonment ?

(c) What is the total area of the Cantonment ?

(d) How much of this area is built upon ?

(e) What is the population of Hyderabad city according to the last census ?

(f) What is the total area of the city ?

(g) How much of it is built upon ?

Mr. E. Burdon : (a) 2,214.

(b) 6,104.

(c) 2,650 acres.

(d), (e), (f) and (g). The Government of India have no information on the subject, but are enquiring. I will let the Honourable Member know the result in due course.

Mr. Harchandrai Vishindas : Is it not a fact that while the rich have expanded towards the Central Jail site, there is no room for the expansion of the poor ?

Mr. E. Burdon : I have no local knowledge of the Cantonment. If the Honourable Member wishes to have the information, I can make enquiries.

Mr. S. C. Shahani : Is there any proposal before Government to remove the small cantonment at Hyderabad, Sind, either to Karachi or to Quetta, as a matter of convenience to the city of Hyderabad ?

Mr. E. Burdon : No ; there is no proposal of that kind at present before Government.

POPULATION OF HYDERABAD.

242. *Mr. W. M. Hussanally : What is the comparative density of population of the city and the Cantonment of Hyderabad, Sind ?

Mr. E. Burdon : The information asked for by the Honourable Member has been called for and will be furnished to him when received.

REMOVAL OF HYDERABAD CANTONMENT.

243. *Mr. W. M. Hussanally : (a) Is there any proposal before Government to remove the small Cantonment of Hyderabad, Sind, either to Karachi or Quetta as a matter of retrenchment ?

(b) If not, will the Government consider the proposal ?

(c) If such a proposal has been before Government, have they decided to remove it ?

(d) If they have negatived the proposal, what has been the impediment ?

Mr. E. Burdon : (a) No.

(b) (c) (d). No, there can be no question of removing the Cantonment elsewhere as a matter of retrenchment.

NEW CANTONMENT AT KARACHI.

244. *Mr. W. M. Hussanally : (a) Is it a fact that a new Cantonment is being built at Karachi by extending the present Cantonment to Drigh Road ?

(b) If so, why cannot the Hyderabad Cantonment be shifted to Karachi ?

Mr. E. Burdon : (a) No. The proposal to extend the existing cantonment towards the Drigh Road aerodrome is still under consideration and has not yet taken definite shape.

(b) This question does not at present arise but I may explain that apart from everything else there would be the same financial difficulty in the way of removing the cantonment to Karachi as at present bars its removal to the suggested site at Kotri.

FAILURE OF BANKS.

245. *Mr. K. C. Neogy : With reference to the reply to starred question No. 108, dated the 3rd July, 1923, will Government be pleased to state whether it is a fact that a few other Banks failed about the same time as, or since the failure of, the Alliance Bank of Simla, Limited ? And if so, whether Government have taken, or propose to take, action similar to that taken in the case of the Alliance Bank of Simla, Limited ?

The Honourable Sir Basil Blackett : Government have seen reports of the failure of one or two small banks. The answer to the second part of the question is in the negative.

Mr. Harchandrai Vishindas : Will Government be pleased to lay down any policy with regard to their assisting failing banks in future ?

The Honourable Sir Basil Blackett : Sir, you drew attention to the fact that supplementary questions became a debate the other day ; and as we are to have a debate on Wednesday, I suggest that the question be postponed till then.

Dr. Nand Lal : May I ask what object the Government had in view in extending their sympathy to the Alliance Bank ?

Mr. President : That does not arise out of the question.

Mr. S. C. Shahani : Will Government be pleased to mention the names of the banks that have to their knowledge failed about the time of the failure of the Alliance Bank ?

The Honourable Sir Basil Blackett : I have not the names in front of me, but I shall be ready to give the names to Honourable Members on Wednesday.

PUBLICATION OF CORRESPONDENCE RE ALLIANCE BANK FAILURE.

246. *Mr. K. C. Neogy : Will Government be pleased to publish the correspondence that passed between the Government of India and the Secretary of State in regard to action taken in connection with the failure of the Alliance Bank of Simla, Limited ?

The Honourable Sir Basil Blackett : Government do not propose to publish the correspondence.

Dr. H. S. Gour : Seeing that the Government is in a quandary, regarding the end from which their initiative came, will not the Honourable the Finance Member avail himself of the opportunity of publishing the correspondence so that we may be able to ascertain the exact origin of the initiative regarding the support given to the Alliance Bank ?

The Honourable Sir Basil Blackett : Sir, in view of the fact that Government is not in a quandary, the rest of the question does not arise.

Mr. W. M. Hussanally : May I inquire if the correspondence on the question is confidential.

The Honourable Sir Basil Blackett : The Government of India's correspondence is always confidential.

RAILWAY ESTABLISHMENT ROLLS.

247. *Rai Bahadur Lachmi Prasad Sinha : Will the Government be pleased to state what progress has been made in the direction of compiling and publishing an Establishment roll of each of the Railway Administrations of India ?

Mr. G. G. Sim : The attention of the Honourable Member is invited to the answer given on the 9th July 1923 to Question No. 165 by Mr. P. L. Misra.

Mr. S. C. Shahani : Will Government be pleased to state how each Railway Administration is carried on without an establishment roll ?

Mr. G. G. Sim : Establishment rolls are maintained by each individual Railway. This question, I understand, refers to the printing and publishing of the rolls for the whole of India.

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS.

248. *Rai Bahadur Lachmi Prasad Sinha : (a) Will the Government be pleased to state what action they have taken in the matter of separation of judicial and executive functions ?

(b) Has the Government any report as to how many of the Provinces are considering the question of such separation and how many have actually separated the functions ?

(c) If so, will the Government be pleased to state the names of such Provinces ?

The Honourable Sir Malcolm Hailey : (a) The Honourable Member is referred to the Resolution of the Government of India in the Home Department No. F-196-Judicial, dated the 7th December 1921, published in the supplement to the "Gazette of India."

(b) and (c). The Governments of the United Provinces and Bihar and Orissa have made proposals to the Government of India which are under consideration and according to information available the question is being examined by certain other Local Governments. Separation has not yet taken place in any province ; as the Honourable Member perhaps realizes, the matter is one in which the initiative rests in the first instance with Local Governments, who are handicapped at present by financial stringency.

Mr. Harchandrai Vishindas : Sir, can the Government of India state whether they propose at any time hereafter to consider the question for the whole of India ?

The Honourable Sir Malcolm Hailey : As soon as we receive the recommendations of the other Local Governments who we know are considering the question, we shall of course take up their proposals, because they may need legislation : we shall then have to decide whether such legislation shall be put forward and in what form.

Dr. Nand Lal : Has the Government of India any knowledge whether the Punjab Government has taken any steps in this direction, namely, the separation of judicial from executive functions ?

The Honourable Sir Malcolm Hailey : I do not remember to have seen any recommendations from the Punjab Government.

Mr. K. Ahmed : May I ask, Sir, about the Government of Bengal, whether they have in their opinion or in any other way requested the Government of India that they would like to have the separation of judicial and executive functions ?

Mr. President : These questions, which relate to the Provincial Governments, ought in the first instance to be asked in the local Councils.

Mr. K. Ahmed : But in view of the fact that the Honourable the Home Member has referred to it, a supplementary question, according to the rules, to elicit further facts on the subject does arise.

The Honourable Sir Malcolm Hailey : Our position in the matter is largely concerned with the consideration whether legislation is required for any steps that are taken in this direction ; the necessary provision for finance will of course lie with the Local Government. We have seen the report of the Committee appointed by Bengal but, so far as I am aware, the Bengal Government have not submitted to us any recommendations on the subject. Certainly there have been no proposals for legislation.

STAFF SELECTION BOARD ENQUIRY COMMITTEE.

249. ***Rai Bahadur Lachmi Prasad Sinha :** (a) Will the Government be pleased to state whether the Staff Selection Board Enquiry Committee has finished their labours ?

(b) If so, will the Government be pleased to place a copy of such report on the table of this House ?

(c) If not, will the Government be pleased to state whether they propose to expedite the enquiry with a view to an early submission of the report ?

The Honourable Sir Malcolm Hailey : (a) No.

(b) Does not arise.

(c) It is hoped that the Committee will conclude its work during the present session, and submit its report to Government.

SUPERSESSION OF MR. BHAGWAN DAS, B.A., AT ABBOTTABAD.

250. ***Bhai Man Singh :** (a) Is it a fact that when an additional Senior Anglo-Vernacular Teacher's post was created in July 1922 at Abbottabad, one Mr. Bhagwan Das, B.A., B.T., a Teacher at Kohat

sub-protem in the Senior grade, was superseded by one Masud-ur-Rahman, a Teacher far junior in service and inferior in educational qualifications ?

(b) If so, will Government be pleased to give reasons for this supersession ?

(c) Is it also a fact that the record of service of Mr. Bhagwan Das has been good and approved of by all his superior officers ?

(d) If so, do Government propose to consider the case of Mr. Bhagwan Das and appoint him to the new Senior Post ?

Mr. M. S. D. Butler : (a) The answer is in the negative. M. Masud-ur-Rahman was appointed *sub-protem* as 3rd master on the 20th December 1920, while Lala Bhagwan Das was appointed *sub-protem* to the same grade as 3rd master, at a later date, namely, the 13th June 1921. M. Masud-ur-Rahman is senior in his grade to Lala Bhagwan Das and has been confirmed in that grade.

(b), (c) and (d). In view of the foregoing these questions call for no reply.

EXCLUSION OF BHAGUR FROM DEOLALI CANTONMENT.

251. ***Rai Bahadur Pandit J. L. Bhargava :** (1) Are the Government aware that on 28th February 1923, Sir Ibrahim Rahimtulla, Leader of the Bombay Legislative Council, gave assurance to the Council that the "Government of Bombay have already recommended to the Government of India to exclude Bhagur from the limits of the Deolali Cantonment" ?

(2) (a) Have such recommendations been received by the Government of India ?

(b) Have the Government taken into consideration these recommendations ?

(c) If not, when should the decision of the matter be expected ?

Mr. E. Burdon : (1) On the date mentioned, Sir Ibrahim Rahimtulla stated in the Bombay Legislative Council that the Government of Bombay had decided to recommend to the Government of India that Bhagur village should be excluded from the cantonment limits. He did not say that the Government of Bombay had already recommended the exclusion of the village.

(2) (a)—(c). The attention of the Honourable Member is invited to the reply given on the 10th July to the questions asked by Mr. Joshi on the same subject.

Mr. S. C. Shahani : Will Government be pleased to state if in any place readjustments of municipal and cantonment limits are done without reference to the Government in the jurisdiction of which that place is situated, and secondly, are Government aware if the Bombay Government have satisfied themselves that in the exclusion of Bhagur from the limits of the Deolali Cantonment no risk is involved to the troops stationed at Deolali ?

Mr. E. Burdon : The answer to the second part of the question was given in my reply to Mr. Joshi's question on the same subject. The Bombay Government did give an assurance that sanitary control could be maintained as a matter of administration by the civil authorities and on that assurance it was decided that we should exclude the village. As

regards the first part of the question, an alteration of cantonment limits is not carried out without reference to the Government of India. I am unable to make any statement about municipalities.

CLASSIFICATION OF POLITICAL EXPENDITURE.

252. * **Colonel Sir Henry Stanyon** : (a) Is an order ever issued under Section 67-A (3) (v) of the Government of India Act, or any decision given under 67-A (4) of the Act which has the effect of classifying as Political expenditure which is not recorded under the major head "Political" ?

(b) If so, what is the reason for the distinction ?

(c) If such an order is issued under 67-A (3) (v), or if a decision is given under 67-A (4) having this effect, is the advice of the Auditor General taken before the order is issued or the decision given ?

The Honourable Sir Basil Blackett : (a) Yes.

(b) The existing accounts classification has closer reference to the department in which the expenditure occurs than to the object of the expenditure or the grounds on which it is sanctioned. For example, expenditure in the Public Works Department on buildings or other works required by a non-commercial department has to be charged under the existing classification under the head 'Civil Works.' But when it happens that such a work is required on political grounds, it may be classified as 'political' under Section 67-A(3) (v) of the Government of India Act.

(c) It is not necessary to obtain the advice of the Auditor General in such a case.

RATES PAYABLE ON BILLS OF EXCHANGE.

253. * **Colonel Sir Henry Stanyon** : (a) Will Government be pleased to state whether they are aware of the widespread dissatisfaction in commercial circles caused by the decision of the Finance Department not to undertake legislation on the lines of the Hongkong Bill of Exchange Ordinance, 1921, definitely laying down whether a Past Due Bill of Exchange is payable at the rate of exchange ruling at the date of the ultimate payment or at the rate of exchange ruling at the date of maturity ?

(b) Are Government aware that their action in this respect is directly contrary to the considered, emphatic and unanimous opinion of the Associated Chambers of Commerce of India and Ceylon ?

(c) Will Government be pleased to give the name of any Chamber of Commerce or Public Body which does not favour legislation on the lines indicated by the Associated Chambers ?

The Honourable Sir Basil Blackett : (a) and (b). Government are aware that many of the Commercial community, including those represented on the Associated Chambers of Commerce of India and Ceylon, are anxious for this legislation and it was pressed upon Government by the latter body. Government have, however, so far been unwilling to undertake legislation in the absence of practical unanimity in commercial circles.

(c) The legislation proposed was not favoured by the Indian Merchants' Chamber, Bombay, and by the Bengal National Chamber of Commerce.

Mr. S. C. Shahani : Will Government be pleased to state if they would reconsider the opinion of the Associated Chambers of Commerce of India and Ceylon with a view to undertaking legislation on the lines recommended by the Associated Chambers ?

The Honourable Sir Basil Blackett : I think I have already answered that question.

LEGISLATION RE DIVORCE SUITS.

254. * **Colonel Sir Henry Stanyon** : (a) Is Government aware that as a result of the decision of the English Divorce Court last year in the case of *Keyes v. Keyes and Gray*, a conflict of judicial opinion and a diversity of practice is growing up in the Indian High Courts, where some Honourable Judges take the view that under the Government of India Act of 1861 the Indian Legislature was incompetent to confer jurisdiction upon Courts in this country to dissolve a marriage between persons not domiciled in India, and that, consequently, though such persons may have been married and may still be resident, and though the matrimonial offence giving a right to divorce may have been committed, in India, no valid decree of divorce can be passed under the Indian Divorce Act (IV of 1869) ?

(b) Does Government contemplate the introduction of legislation to ensure—

(i) that the Courts in India shall give effect to the jurisdiction which Act IV of 1869 purports to confer on them :

(ii) that such Courts shall not be competent to question the power of the Indian Legislature to confer such jurisdiction : and

(iii) that in matters of jurisdiction in India such Courts shall not hold themselves bound by the decisions of foreign Courts which possess no territorial jurisdiction in this country ?

Mr. M. S. D. Butler : (a) Yes.

(b) The Government of India have addressed the Secretary of State in the matter.

AMENDMENT OF INDIAN DIVORCE ACT.

255. * **Colonel Sir Henry Stanyon** : (a) Is Government aware that an amendment of the Law of Divorce has been approved by both Houses of Parliament in England and is about to be enacted whereby a wife will become entitled to obtain a dissolution of marriage on grounds similar to those available to a husband ?

(b) If so, does Government contemplate legislation for a similar amendment of the Indian Divorce Act, 1869, or does it intend to leave such amendment to be introduced by way of a private Bill ?

Mr. M. S. D. Butler : (a) The Government of India have no official information but have seen statements in the Press in the sense of the Honourable Member's question.

(b) Until the Government of India have seen the enactment in question they are unable to make any statement.

FINANCE DEPARTMENT LETTER TO INDIAN MERCHANTS' CHAMBER RE
ALLIANCE BANK FAILURE.

256. ***Mr. K. C. Neogy :** With reference to answer to Sir Sivaswamy Aiyer's question regarding the Alliance Bank failure, on July 5th, has the attention of Government been drawn to that part of the Judgment of the Chief Justice of the Bombay High Court on the appeal in the Imperial Bank case, in which he observed that " Mr. McWatters, in reply to the Indian Merchants' Chamber, used language which cannot be easily reconciled with what is now disclosed " ?

The Honourable Sir Basil Blackett : Yes, I would refer the Honourable Member to the answers which I have already given in reply to other Honourable Members. Government's letter to the Indian Merchants' Chamber did not refer to the arrangements between Government and the Imperial Bank by which the latter were put in a position to take action.

Mr. Harchandrai Vishindas : Was such language, if used by Mr. McWatters, used for a set purpose or accidentally? If the first, why?

The Honourable Sir Basil Blackett : I think the answer will be given on Wednesday.

Dr. Nand Lal : Will the Government of India be kind enough to enlighten this Assembly in clear words as to what was the object in view which actuated the Government of India in extending their sympathy to the Alliance Bank?

The Honourable Sir Basil Blackett : In so far as that question has not been answered already it will be answered in the future.

INDIAN SEAMEN AND WORKMEN'S COMPENSATION ACT.

257. ***Mr. K. C. Neogy :** Will Government be pleased to state whether any reference has been made to the Board of Trade in England on the question of providing the Indian seamen employed in vessels registered under the English Merchant Shipping Act of 1894, an alternative remedy under the Indian Workmen's Compensation Act?

The Honourable Mr. A. C. Chatterjee : The attention of the Honourable Member is drawn to the reply given to a similar but unstarred question asked by Mr. Joshi on the 2nd July last.

Mr. K. Ahmed : Have the Government of India, especially has my Honourable Friend Mr. Chatterjee's Department referred the matter to England, to the Board of Trade, at all?

The Honourable Mr. A. C. Chatterjee : We are in communication with the Secretary of State and not with the Board of Trade in the first instance.

Mr. K. Ahmed : Have the Government of India referred that matter to the Secretary of State in England showing our demands, Sir?

EXCLUSION OF BHAGUR FROM DEOLALI.

258. ***Mr. K. G. Bagde :** (a) Have the Government received any proposal from the Bombay Government recommending to exclude the village of Bhagur, near Deolali, District Nashik, from the operation of the Cantonment Act; and if so, on what date?

(b) When did the Government first receive a petition from the residents of Bhagur in connection with their grievances under the Cantonment Act?

(c) Has any and what final order been passed in connection with this matter?

(d) If the reply to part (c) be in the negative, when is such an order likely to be passed? and

(e) Were Octroi and Licence fees collected from the villagers during any part of the year 1923?

Mr. E. Burdon : The attention of the Honourable Member is invited to the reply given on the 10th July 1923 to questions asked by Mr. Joshi, Nos. 186-198, from which he will note that the Government of India have decided to exclude Bhagur village proper from the cantonment of Deolali.

UNSTARRED QUESTION AND ANSWER.

GOVERNMENT CONTROL OVER COMPANY-WORKED RAILWAYS.

109. **Rai T. P. Mukherjee Bahadur :** Will the Government be pleased to state whether the Government is now taking steps to take charge of Railways as soon as the term of the company is over?

The Honourable Mr. C. A. Innes : The Government is taking the steps necessary for taking over the East Indian and the Great Indian Peninsula Railways on the expiry of their leases.

ACQUISITION OF A TUG FOR THE IRAQ RIVER FLEET.

Captain E. V. Sassoon (Bombay Millowners' Association : Indian Commerce) : Sir, the question of which I have given private notice runs as follows :

" 1. Has the Government of India seen an article recently published in an Indian newspaper on what is described as a case of reckless waste of the Indian taxpayer's money? It is alleged that in 1916 the Government of India agreed to terms which proved to be grossly extravagant for the acquisition of a tug for the Iraq River Fleet.

2. Are the facts as stated in the article in question, and if so, why did the Government of India incur any expenditure from Indian revenues on hiring a river craft for use in Mesopotamia?

Mr. E. Burdon (Army Secretary) : The Government of India have seen the article in question including the suggestion which it contains that it was extravagances of the character mentioned that led the Government to double the salt tax. The actual facts are these. The tug in question was taken up by the Straits Settlements Authorities on behalf of His Majesty's Government and the Straits Settlements Authorities fixed the terms on which the tug was acquired. No payment in respect of the tug was made from Indian revenues.

MOTION FOR ADJOURNMENT OF THE ASSEMBLY.

QUESTION OF UNEMPLOYMENT.

Lieut.-Colonel H. A. J. Gidney (Nominated : Anglo-Indians) : Sir, I ask for leave to move the adjournment of the House of which I have already given notice. The notice is in these terms :

"The appalling condition leading to unparalleled economic upheaval in India due to the unemployment of middle classes, Domiciled Community and Indians."

Sir, in asking for your permission for leave to move the adjournment of this House, I feel I must demonstrate to you before you grant it that not only is it a matter of urgency but it is of recent occurrence.

The Honourable Sir Malcolm Hailey (Home Member) : May I ask purely as a matter of form and procedure whether you are prepared to give leave to move the adjournment of the House ?

Mr. President : At present, from my knowledge regarding the question which the Honourable Member proposes to raise, it appears to me to be neither urgent nor definite in the sense in which those words are used in the rules. But if the Honourable Member can draw my attention to any event of recent occurrence which bring it within the scope of the rule, I am prepared to hear him, but otherwise on general grounds it is not within the scope of the rule.

Lieut.-Colonel H. A. J. Gidney : I thank you for the opportunity, but after what the Honourable the Home Member has said, I fear that I shall not be successful.

The Honourable Sir Malcolm Hailey : I was not opposing it. I was asking merely in the general interests of procedure.

Lieut.-Colonel H. A. J. Gidney : We are in cloudland, but I may say that the situation is very acute and those Members who come from the capital towns of India will bear me out when I state here that the position in those places is certainly one of great acuteness and urgency. I refer particularly to Calcutta where the local press has given great prominence to the situation ; I refer also to Bombay. I think that the publicity given to this matter recently in the public press shows that although the matter of unemployment has been one of some duration, yet, I think that since the publication of the Incheape Committee's Report the wholesale dismissals from the Railways and various Government Departments have accentuated matters to such an extent as to really give it a complexion of urgency, such as undoubtedly exists to-day in the capital towns

not so much in the mofussil towns. I therefore submit, Sir, with all respect to the Honourable the Home Member that it is really a matter of urgency and I plead with you to adjourn this House so that we can from the floor of this House proclaim to all India and various Provincial Governments the circumstances as to the acute condition of unemployment amongst the middle classes. I specify the middle classes, especially the Domiciled Community, and not the general situation of unemployment with which this House cannot cope and with which no Government could cope. I therefore submit that it is a matter of extreme urgency and the present accentuation renders it recent in origin.

Mr. President : I am afraid the Honourable Member has mistaken the bearing of the rules. The rule, as I think I have explained, provides an opportunity for Members of this House to draw the attention of Government to a matter of recent occurrence which could not otherwise be discussed under the ordinary procedure of the House. The matter to which the Honourable Member is referring, namely, the appalling condition of the middle classes due to unemployment is a matter which, though urgent in his reading of the word, is not urgent in the sense of the rule and therefore I am afraid I cannot admit it.

The Honourable Sir Malcolm Hailey : I was not opposing the Honourable Member in any way ; I was merely acting in what I conceived to be the interests of the procedure of the House in asking the President a question as to the admissibility or otherwise of such a motion.

THE LAND ACQUISITION (AMENDMENT) BILL.

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : I beg to present the report of the Select Committee to which was referred the Bill further to amend the Land Acquisition Act, 1894, for certain purposes.

THE INDIAN ELECTRICITY (AMENDMENT) BILL.

The Honourable Mr. A. C. Chatterjee (Industries Member) : I beg to move for leave :

"To introduce a Bill further to amend the Indian Electricity Act, 1910."

The House will remember that last year we passed a Bill to amend the Indian Electricity Act and to bring it up-to-date. At that time a provision was introduced in the Bill enabling a licensee under the Act to have trees that endanger aerial lines to be removed under the orders of a magistrate. At the time, Sir, the framers of the Bill overlooked the fact that in the word 'licensee' we were not including railway administrations. As Members are aware, a great many railways now are electrifying some portions of their lines, especially in the suburbs of the big cities, and a difficulty has arisen with regard to the powers of these railways to exercise the same privileges as are now enjoyed by licensees under the Act. This is a small Bill which aims at removing this difficulty. The Statement of

[Mr. A. C. Chatterjee.]

Objects and Reasons explains the purpose and I hope that leave will be granted.

Mr. President : The question is :

“ That leave be given to introduce a Bill further to amend the Indian Electricity Act, 1910.”

The motion was adopted.

The Honourable Mr. A. C. Chatterjee : Sir, I introduce the Bill.

THE INDIAN PORTS (AMENDMENT) BILL.

The Honourable Mr. C. A. Innes (Commerce Member) : Sir, I beg to move for leave :

“ To introduce a Bill further to amend the Indian Ports Act, 1908.”

I do not propose to detain the House over this little Bill, which is fully explained in the Statement of Objects and Reasons. It is designed to remedy a defect in the Indian Ports Act, which has just come to our notice. It is a rather serious defect, because as the law stands at present, Local Governments and Port Trusts have no power to regulate the disposal and the discharge of oil in ports and harbours. That is the object of this Bill. It is merely an enabling Bill. Each Local Government will be able to decide for itself whether such rules are necessary in the particular circumstances of each port. When the rules have been framed, the law requires that they must be published for three months in order that all parties interested may have an opportunity for objecting.

Mr. President : The question is :

“ That the Report of the Select Committee on the Bill further to amend the Act, 1908.”

The motion was adopted.

The Honourable Mr. C. A. Innes : Sir, I now introduce the Bill.

THE INDIAN STAMP (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

“ That the Report of the Select Committee on the Bill further to amend the Indian Stamp Act, 1899, be taken into consideration.”

As Honourable Members will see from the Report of the Select Committee, there is no difference of opinion in regard to what is now clause 3 (i) and (ii), the operative portions of the Bill, but there is a difference of opinion as regards promissory notes. I think it will probably be for the convenience of the House, therefore, if I confine myself at the present stage to moving that the report be taken into consideration and that when we come to the clauses themselves we should deal with the difference of opinion that was disclosed in the Select Committee in regard to promissory notes.

Mr. President : The question is :

“ That the report of the Select Committee on the Bill further to amend the Indian Stamp Act, 1899, be taken into consideration.”

The motion was adopted.

Mr. President : I propose to postpone clauses 1 and 2 and to take clause 3 first. The question is that clause 3 do stand part of the Bill.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : I beg to move :

“ That in clause 3 (i), for the words and figures ‘ No. 36, No. 37 and No. 52,’ the words and figures ‘ and No. 37 ’ be substituted.”

My object is, as will be evident, to drop No. 36 and No. 52. Sir, when the Bill is passed into law it will be very difficult for any one who is not a Member of this House to find out exactly what these numbers stand for, unless of course reference is made to the principal Act. I find that the items in the Schedule to the English Stamp Act are not numbered at all, and if any such amendment were necessary to the English Act every item to be amended will have to be set out in full. Now, Sir, this is after all a very small matter. But I think that this is rather symbolic of the principle, or rather the lack of principle, that governs Indian taxation. These items, Government take it, are merely so many numbers ; “ Do we want any additional revenue ? Then let us raise the rates under this or that number ; it does not very much matter what these items stand for.” I will place before the House the statement from the principal Act with regard to No. 36, which I want to be omitted :

“ 36. Letter of allotment of shares in any company or proposed company or in respect of any loan to be raised by any company or proposed company, the existing duty is one anna ; it is proposed to be raised to two annas.”

The next item which I propose to be omitted is No. 52 :

“ 52. Proxy. Empowering any person to vote at any one election of the members of a district or local board or a body of municipal commissioners, or at any one meeting of :

- (a) members of an incorporated company or other body corporate whose stock of funds is or are divided into shares and transferable,
- (b) a local authority, or
- (c) proprietors, members or contributors of the funds of any institution : The present stamp duty is one anna and it is proposed to enhance it to two annas.

Now, Sir, confining myself first of all to No. 36, we find that this relates to letters of allotment of shares in a limited company. Now, this instrument is of mere temporary importance. It has been defined in an English case as representing the acceptance by the company of an offer to take shares. It is nothing more than that. It is not evidence of any proprietary interest in the shares, and as a matter of fact this has got to be exchanged for the share certificate which is issued at a subsequent stage. As is well known, a mere acceptance of an offer does not require any stamp duty in other spheres of action. It is only in regard to the shares of limited companies, that we find that the acceptance of an offer, which is required to effect the contract, has to be stamped. Having regard to the nature of this instrument, I do not think that the duty should be enhanced at all. The duty under the English Stamp Act for a letter of allotment has long been one penny, and I may point out to the House that a low rate

[Sir Basil Blackett.]

taxation. Among them is an interesting one by Sir Nathaniel Highmore entitled "Stamp Duties"; unfortunately I have here only the second edition, which is dated 1902, and not the latest one. In that I find that in 1900 the duty on letters of allotment and letters of renunciation which had previously been a penny was raised to six pence where the amount to which the letter of allotment or letter of renunciation relates is not less than five pounds. Unfortunately I have been unable to obtain a full statement of the exact rates of duty on stamps in England at the present time, but I remember very well that since the war they have all been raised; whether this particular one has been raised or not I am not quite sure. But my recollection is that it has, so that the comparison that Mr. Neogy made between the rate of a penny and the rate of two annas is not quite so much in favour of the British tax-payer as he suggests. If he wishes to support the introduction of English rates of stamp duty into this country and will bring forward a Bill on the subject, I shall be very happy to consider how far I can support him in taxing the Indian tax-payer. Mr. Neogy's amendments refer to two out of the four specific duties which are raised by this clause. I should like to say that the reason why these particular duties are proposed to be raised by an all-India Act is that it was felt by the Government of India that it was not desirable that on instruments of this particular character there should be varying rates in the different provinces. The provinces soon after the reforms came in began to look to the stamp duties as a direction in which they could raise the additional revenue which they needed from people who could well afford to pay, and they were proposing to raise among other duties these particular duties. The Government of India came to the conclusion that it was undesirable that this should be dealt with piecemeal by the different provinces, and arranged to introduce a Bill altering these particular rates throughout India, and this is the Bill that we have before us now. Mr. Neogy has quoted an opinion to the effect that these particular duties to which he refers will possibly interfere with the promotion of Companies for the development of India. Sir, I have read through all the opinions that we have received, and I think they are practically unanimous—I have hardly found a case in which they differ—practically unanimous in favouring a small increase of these duties. Mr. Neogy went on to make a further observation that we shall get practically no revenue out of this. As a dialectical argument, if we will get practically no revenue, it would not damage the companies. I am unfortunately not in a position, as Mr. Neogy says, to give any real estimate of what will be the product of the increase of duties proposed in this Bill. One can make a guess that there is something like a crore in the total Bill, but it is only a guess and I do not want to mislead the House by putting forward figures which the Government do not feel that they can substantiate by any definite facts. The Bill, as Mr. Neogy rightly says, aims at providing the provinces with some small increase of their revenues and thereby to assist them in providing money for the transferred departments. So far as the Government of India itself is concerned, neither this duty nor the other duties will make any appreciable difference to the total revenue of the Government of India. It will bring in some small sum in the North-West

Frontier Province and in Ajmer, and help *pro tanto pro tantillo* I should say—to reduce the expenses of those provinces to the tax-payer of India as a whole. But that is not a consideration of any importance. The importance of this Bill, of this clause and of this particular duty, is that it will provide some small addition to the revenues of the provinces and from a class of tax-payer who not only can afford to pay but certainly in this instance thoroughly recognises that he can afford to pay. I hope, therefore, the House will not support this amendment.

The amendment* was negatived.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I beg to move the omission of sub-clause (iii) of clause 3 of the Bill. This sub-clause relates to the enhancement of duty on promissory notes payable on demand. There has been a very widespread opposition to the enhancement of duty on promissory notes. These instruments are very largely in use all over India, not merely among the educated classes or among the moneyed classes in the towns, but also among the agriculturists, among the small traders, among the illiterate classes all over the country. Almost all the opinions which have been received bear testimony to this fact that this is a class of instruments which is very largely resorted to all over the country. That may perhaps be said to be just the reason why the stamp duty on them should be enhanced so that a large amount of revenue might be derived; but on the other hand having regard to the prevalence of this class of instruments among small tradesmen in the rural areas and having regard also to the illiteracy which prevails in these areas, it would be a source of great inconvenience and hardship to enhance the stamp duty. At present the fact that a promissory note payable on demand bears only a duty of one anna has come home to the knowledge of all people in the country. But if you raise the stamp duty from one anna to two annas, it will give rise, not merely to inconveniences, but to serious loss and hardship. In the first place, the stamp duty of one anna can be paid by procuring an adhesive stamp of one anna. But if you take it out of the category of instruments upon which one anna is chargeable, you cannot affix these stamps and stamps of higher denominations will not be so easily procurable.

The Honourable Sir Basil Blackett : I do not want to interrupt the Honourable Member's speech, but I should like to point out to him that he is under a misapprehension. I am very sorry that when his Minute of Dissent came round at the same time as the document for signature I did not notice this point. But it is stated "that the removal of promissory notes from the class of instruments chargeable with the duty of one anna will disentitle them to the privilege of the use of adhesive stamps." That is not the case. Provision for the use of adhesive stamps on promissory notes can be made by rules and will be provided for.

Sir P. S. Sivaswamy Aiyer : That will remove only one of the inconveniences which I am pointing out.

* "In clause 3 (i), for the words and figures 'No. 36, No. 37 and No. 52' substitute the words and figures 'and No. 37'."

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) :
One word. As regards 4 annas ?

Sir P. S. Sivaswamy Aiyer : That will only remove one of the inconveniences which, I have pointed out, is likely to arise from the enhancement of the duty. Now, the real hardship comes in on account of the provisions of section 35 of the Stamp Act, according to which if a promissory note is not properly stamped, the defect can not be cured by payment of a penalty, and the instrument will not be admissible in evidence in the civil courts for any purpose. That is the real source of the hardship which will be caused by an enhancement of the stamp duty. Even those people who are in favour of an enhancement can reconcile themselves to this enhancement only by suggesting that the provisions of section 35 of the Stamp Act should be amended. For instance, the Bombay Government is in favour of enhancing the stamp duty on promissory notes. But they propose to get over the hardship which is likely to be caused by the enhancement, by an amendment of section 35 of the Stamp Act so as to validate insufficiently stamped promissory notes on payment of a penalty. The question whether the provisions of section 35 should or should not be modified was considered in the Select Committee and the recommendation of the majority of the Select Committee is in favour of a temporary relaxation of the provisions of section 35, by removing from its operation instruments which may be executed within the interval of one year subsequent to the amendment of the Stamp Act. But that temporary relaxation will not really be sufficient to meet the requirements of the case. I do not think that the interval of one year which is allowed by the amendment of clause 2 will be sufficient to bring home to the minds of the people who are likely to be affected by this enhancement that the duty has been raised. If the provisions of section 35 are permanently relaxed, I should have no objection to the enhancement of the stamp duty from one anna to two annas, assuming of course, that it is necessary to have recourse to this particular class of instruments for enhancing the revenue. But inasmuch as it has not been found practicable to relax permanently the provisions of section 35, I think it is necessary that the duty on promissory notes payable on demand should remain at the present rate of one anna. The reason why it has been considered impracticable to permanently modify section 35 is this. This provision invalidating insufficiently stamped promissory notes has been in existence in the Stamp Act for a period of nearly 60 years. It has been in existence in the English Act for a similar period, and the reason why such a provision has found a place in the Stamp Law is that, otherwise it might give rise to a very considerable amount of evasion. Now I do not wish to pronounce an opinion upon the question whether section 35 should or should not be permanently relaxed. But as the majority of the Select Committee have recommended only a temporary relaxation of section 35 it seems to me that it is altogether insufficient to meet the requirements of the case. I may here refer to one or two opinions which have been received to show the House to what a large extent promissory notes enter into the economic life of the country. I will refer to the opinion received from the Upper India Chamber of Commerce, which is probably the most elaborate. Now they observe :

" My Committee are very strongly opposed to the proposal to increase the duty on Promissory Notes made in sub-section (11) of section 2 of the Bill. In their opinion to raise the stamp duty, or to place on an *ad valorem* basis the stamp duty on demand Promissory Notes might almost be described as a chimerical scheme.

A great deal has been made by the supporters of the proposal of the fact that the Chambers of Commerce were consulted in regard to this proposal,"

but they point out that the people who are represented in the Chambers are not the people most affected. Then they say :

" One certain and almost immediate result of the raising of the duty or of placing it on an *ad valorem* basis will be widespread evasion and consequent prosecution for understamping. And the worst feature of this will be that the persons who are most likely to be prosecuted will not be the original drawers of the notes but those to whom they will pass in the ordinary course of business."

I may point out that under section 62 a man who accepts, endorses or receives payment of a promissory note or an unstamped or under-stamped one is also liable to prosecution.

They go on to observe :

" Demand Promissory Notes serve the purpose of currency to a very great extent in districts where banks and other financial facilities are not available. They are used as a means of remittance to finance buying and selling operations all over the country. Almost the whole of the export trade of large portions of the country is financed by demand promissory notes and the makers of these bills are the small traders who carry on buying operations in the various crop centres and marts on behalf of importers at the ports. The bills come to the central money market at the various towns under the endorsement of local *shroffs* and are discounted by the local banks, the proceeds going to the village for purchase of the various crops. During the season when the crops are moving the number of such bills emanating from these small marts is in the aggregate very large and represents amounts varying from Rs. 100 to Rs. 25,000 individually. The first advance is made by the village *arathia* who send out these various drawings to the central market under his own signature. He, however, is not the maker of the Bill : very often there are five or more transfers of the bill before it reaches its destination and is presented for payment,"

and so on.

Now, even in Bombay, though the Government is in favour of an enhancement, provided it is accompanied by a permanent relaxation of the provisions of section 35, the majority of the judges of the High Court who have recorded opinions are opposed to this measure. Now it is not merely the provisions of section 35 that have to be modified, but also other provisions. For instance section 62, exposes the holder of an insufficiently stamped promissory note to a liability to prosecution. Now having regard to all the inconveniences and hardships and to the great length of time which will have to pass before this amendment of the law comes to the knowledge of the class of people who are really affected by the enhancement, I think it would be very inexpedient to enhance the stamp duty on promissory notes. For very good reasons the Government have decided not to raise the duty on cheques, the reasons being that they are transactions of extremely common occurrence and that it is desirable to encourage banking. Now, if as sources of revenue we had to choose between an enhancement of the duty on cheques and an enhancement of the duty on promissory notes payable on demand, I for one should prefer to raise the stamp duty upon cheques, which is paid really by people with a banking account to whom stamped cheque books are supplied by the banks and to whom the addition of one anna would not matter much. But these promissory notes are often entered

[Sir P. S. Sivaswamy Aiyer.]

into between illiterate persons, persons to whom the knowledge of this new amendment is not likely to come till it is perhaps too late, and I think it would be most inexpedient to raise the stamp duty on promissory notes payable on demand. For these reasons I think it is desirable to omit sub-clause (3) of clause 3 of the Bill.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I rise to support the amendment that has been put forward by Sir P. S. Sivaswamy Aiyer, namely, that there should be no enhancement of duty upon demand promissory notes. My first reason against the enhancement is that the small tradesmen will be adversely affected and that business will on that account suffer. The revenue that is to be derived from the amendment of the Stamp Act is to come mainly from the enhancement of the duty on promissory notes, and if so, I would object to it on another ground too. It does not seem to have occurred to the Members of the Assembly after the certification of the Salt Tax to determine not to be a party to the raising of any taxation by the Government of India. Government have chosen to certify the doubled Salt Tax ; and it would be only in the fitness of things if we resolved to let Government certify this enhancement of duty too. Some part of the enhanced duty is intended for the Local Governments, and possibly a very small part for the Central Government ; but whatever be the extent of the revenue which is to be derived under the amended Act, I submit that it would be absolutely proper and self-respecting on the part of the Assembly to decide not to be a party to the passing of this Bill to amend the Stamp Act.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhammadan) : I have also given notice of a similar amendment and I rise to support this. As has been pointed out by Sir Sivaswamy Aiyer, there is more than one ground for not enhancing the duty on promissory notes payable on demand. There is one additional reason why no duty should be raised on stamps, and it is this, that nearly in all Provinces stamp duties and court fees have been considerably enhanced and there is a general feeling against any further taxation in the shape of stamp duty.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, if I may think of the needs of the Government of India, then I may allow myself to oppose this amendment, but if I may take into consideration the present current of opinion of the people, then I should prevent myself from opposing this amendment. Taking the view of the people, I feel forced to support this amendment, and my reasons are as follows :

In the first place, so far as the theory goes, it is all very well to say that the commencement clause is inserted in the Bill and that the Act will be considered to be in force with effect from the date which is given therein. But if we may think of practice, how it is acted upon, then I must say that some people in villages do not know whatsoever whether there has been any change in the law or not ; and this is one of the grounds which has impressed me very much to be in favour of this amendment. Now, suppose this duty is enhanced. In some village a

moneylender advances money to a poor peasant. The promissory note is executed and it is stamped with one anna. The peasant thinks that the document is sufficiently stamped, so does the moneylender. Some time after litigation crops up and the case finds its place in a court. The document is produced ; that document will be considered insufficiently stamped and hence inadmissible. Therefore, this alteration in the Bill, this enhancement of the Stamp duty, will, I am afraid, give rise to many unhappy results.

The second ground which I beg to urge is this. We should never forget to examine the pulse of the people whom this Government of India is governing. They will feel, and some of them are still feeling, aggrieved in consequence of the increase both in the court fees and stamp duty, and, if the Government of India will also allow themselves to make this proposed enhancement, I am afraid, the people will not only not countenance it but will also take it as an additional cause for complaint ; and I shall, therefore, be the last person to see this Assembly doing a thing which may give birth to any kind of discontent, because this is not the proper occasion that we should do any act which may make one section of the people or some people feel exasperated on account of this quick succession in the enhancement of duties.

The third ground which has prompted me to raise my voice in favour of this amendment is this, that I am afraid there will not be much gain to the Government of India, and I share this view with the Honourable the Finance Member that the Government of India, so far as its jurisdiction is concerned, will not be benefited very much, but that the Local Governments may be benefited to a certain extent, so far as their financial condition is concerned. But, Sir, I may say at once that we should try to see that we may not be subjected to criticism. The Local Governments may be able to manage for themselves and perhaps they may make it a convenience to make the people a little more satisfied in a better manner than we may do so. The opinion of the Government of India that this enhancement is such that it should be legislated upon or allowed by the Central Legislature, I may submit at once, with due deference to the Law Member and the Law Advisers of the Government, does not seem to be very sound. This expression of opinion which I am putting forward is subject to correction. As advised at present, I must say that that argument has not great force in it.

On these three grounds, I feel inclined to support this amendment. If these conditions would not have been in existence, according to my way of thinking, I may say at once that I should have opposed this amendment, but, conditioned as we are, I feel compelled, as I have already submitted, to support this amendment, which speaks for itself so far as the present circumstances are concerned.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, with your permission I beg to move an amendment to the amendment that is now before the House. The reason upon which the amendment of Sir Sivaswamy Aiyer is based will perhaps be removed from the way if we leave the present rate of duty on promissory notes exactly as it is now up to Rs. 250. My Honourable friend's argument is that

[Mr. J. N. Mukherjee.]

the small proprietors or business men or agriculturists, who do not keep any information as to any change in the law, will be very largely affected if all at once the duty be changed from one anna to two annas. My submission to the House is that these difficulties can be removed if we leave transactions up to Rs. 250 exactly as they are, the duty remaining as it is. The illiterate classes will have to pay one anna, because we cannot suppose that these illiterate classes go in for business of values more than Rs. 250, generally speaking.

Therefore, Sir, I put it for the consideration of the House that in clause 3 (iii), after the words "Promissory note [as defined by section 2 (29)]—

(a) when the amount
or value is less than Rs. 250"

instead of "two annas" I would beg to put "one anna," and I would ask the House to consider the *via media* which I suggest.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, the questions before this Honourable House are simple.

The first question is, are the Provincial Governments in need of additional revenue? The answer to that question from every Government of whose opinion I am aware is strongly in the affirmative.

The next question is whether this House is prepared or disposed to assist those Local Governments in obtaining that additional revenue?

With regard to Dr. Nand Lal's suggestion that additional revenue by means of stamps should be treated separately by each Local Government by its own legislation, the impracticability of that suggestion will be obvious to everybody.

It is impossible to imagine that a promissory note should be stamped with one anna in one Province, two annas in another, six annas in a third and so on. The whole of the stamp revenue, though it goes largely to swell the provincial revenues, must be enacted by the Central Legislature.

Well, I will assume for the sake of what I am saying that this House is disposed to come to the help of the Provincial Government.

Then the third and last question remains : how is this to be done? The Government have come forward with a Bill which was suggested by some and is strongly approved by all the Local Governments. The opinions on that Bill are what we might have expected them to be. Those who will collect the revenue are all in favour of it : those who will have to pay it are all against it. It is for this House to decide between these two conflicting views. Now I have no statistics before me, but my own impression is that by far the greater part of the additional revenue which it is hoped to obtain by the raising of these duties will come by way of the enhanced duty on promissory notes, and that if we drop promissory notes from the Bill the residue is hardly worth the trouble of legislation. The amendment now before the House is purely destructive as it stands.

There is nothing constructive about it. No alternative is proposed : we are asked to cut out the pro-note irrespective of what the result may be. But the Honourable the Mover of the amendment has certainly put forward constructive suggestions in his speech in support of the amendment.

If I heard him correctly he said that he would not object to the proposed increase in duty if section 35 were amended, so as to make it lawful to validate under-stamped pro-notes, not in the first year of duty but for all time. (*Voices* : "No, no.") That seems to be a reasonable proposal. The promissory note has been coupled up with all the other one-anna instruments for a long time, but if you are going to take it out of that category for the purpose of a higher duty then I for one do not see anything unreasonable in giving to this higher stamped promissory note the advantage which comes of subsequent validation. A further suggestion contained in the dissentient opinion is that adhesive stamps should be allowed. That also is a matter upon which I cannot pose as an authority, but speaking from the point of view of the man in the street, there seems to be no reason why two anna and four anna adhesive stamps should not be used and allowed.

Then the Bill may also be open to amendment by the introduction of a commencement clause postponing its coming into force to some date which would give the country plenty of notice of the change,—let us say, the first January, 1924. These are all constructive proposals, and they deserve the consideration of Government ; but to refuse to raise the duty altogether is purely destructive, and if we are to help the Provincial Governments in the way that I think we should help them, we should not object to the raising of the duty. It is always possible to prove hardship, and there is hardship, whenever a tax is imposed or an existing tax is raised ; but where there is financial stringency a self-governing people loyal to themselves are always willing to undergo such hardship. I therefore oppose the amendment as it stands.

Mr. K. M. Nayar (West Coast and Nilgiris : Non-Muhammadan Rural) : Sir, I quite see the force of the arguments advanced by my Honourable friend Sir P. S. Sivaswamy Aiyer and associate myself with what has fallen from him. If therefore I support this amendment it is not at all because of any hostility as a result of the certification of the Salt Tax.

Mr. Harchandrai Vishindas : Before the Honourable the Finance Member replies, might I ask how much revenue is expected from this duty?

The Honourable Sir Basil Blackett : Sir, perhaps it would be convenient if I first of all said that in the event of this amendment being withdrawn or negatived, the Government would be very ready to consider my friend Mr. Mukherjee's suggestion that the duty should remain at one anna up to Rs. 250, and I think if we did that the greater part of the objection which we all recognise, that this will possibly work hardship to the very small man, will thereby be met. This is a case where the people who are going to pay this duty are in vast bulk perhaps not the small man ; but there will be a good many of these small men with small promissory notes to whom the fact of this change will not be brought home. Really

[Sir Basil Blackett.]

the whole difficulty that we have been in is how to get over that problem, how to bring home to the small man if this duty is changed, the fact that it is changed, in time to prevent him from being hurt by the change. Now the main thing that hurts him is the fact that these promissory notes, if insufficiently stamped or not stamped in the first instance, cannot be validated afterwards. I am not really sure that hurts him quite so much as has been suggested, because it is not the man who owes the money but the money lender who lends the money who is hurt if he cannot sue on an under-stamped promissory note. I think if that point is taken into consideration it is not really the small cultivator so much as the man who lends money to the small cultivator who is going to get into trouble. That is a point to be remembered, although I do not think it gets completely over the difficulty. The very small man will in certain circumstances suffer hardship, but I believe myself that we can get over that by alteration of the scale so as to leave the duty at one anna up to Rs. 250. I had better perhaps answer some of the other remarks that have been made, but if by this means we could get this amendment withdrawn and proceed to consider a scale, I need perhaps not spend too much time answering the other arguments.

As regards Mr. Shahani I do not want to dwell on what he has said. After all if this House thinks that the Provincial Governments are in need of money, and that an increase of the duty on promissory notes is a form of tax that can be afforded by the taxpayer and will help the Provinces, I do not think that any incidents that may have happened last March ought to induce Mr. Shahani to cut his own nose off in order to spite my face. Mr. Bhargava made the point that stamp duties had been so much increased that these particular duties ought not to be increased. I think he misunderstood the position. The position is that we have left it to the Provincial Governments to raise the other stamp duties as they wish, because they are duties in which it does not matter if the duty varies from one Province to another.

But when they proposed to raise these we said, "No. These must be raised, if at all, simultaneously throughout India, and therefore they must be raised by an Act of the Central Legislature." It is just exactly that that we are doing now. What we are proposing to do now is what the provinces would have liked to have done for themselves, but what we thought we ought to do for the provinces in order that there might be a uniform rate throughout India. I do not know whether I need answer the other arguments of Sir Sivaswamy Aiyer who moved this motion, because they merely came to this that this would be a hardship on the small man which ought not to be imposed upon him, and if the suggestion of my Honourable friend Mr. Mukherjee is taken that we should alter the scale, we shall get over that difficulty. I should like to make it clear—I understand the suggestion to be, in place of clause 2 and of the present clause 3 we should omit clause 2 and alter the scale in clause 3. That being the position, I would suggest to the House to now come to a conclusion on this particular amendment in order that we may go to the next question as to what the scale should be.

Mr. J. N. Mukherjee : That is my suggestion, Sir,—to omit clause 2.

Mr. Harchandrai Vishindas : The answer to the Honourable Sir Basil Blackett with regard to the disabilities falling upon the money lender is that that may be true so far as the question of evasion of duty is concerned, but the burden of paying the enhanced stamp duty surely falls upon the executant. That is a point for consideration, and as all legislation is introduced with a view to save the poor man and the peasant in India as far as possible from taxation, that is the main reason for Sir Sivaswamy Aiyer's amendment. It was just suggested in the speech of my Honourable friend Sir Henry Stanyon that if you take away the promissory note then you entirely destroy the object of the Bill. With a view to the elucidation of that point I appeal to the Honourable the Finance Member to let us know the exact amount of revenue that is expected to be derived from this source. That is one point. In reply to Sir Henry Stanyon, it may be said that Sir Sivaswamy Aiyer has really made constructive alternative proposals, namely, that the duty on cheques can be enhanced and that won't affect poor people at all.....

Mr. President : Order, order.

Mr. Harchandrai Vishindas : That is the suggestion.

Mr. President : I cannot allow the Honourable Member to roam over all possible alternatives on this motion. We are reverting to the position which we had when discussing the salt tax.

Mr. Harchandrai Vishindas : As the Honourable the President has mentioned the salt tax, I say the reason why the doubling of the salt tax was attacked was also that it affected the poor people. The same principle should be observed here. I support the amendment on these grounds, but not on the ground put forward by Mr. Shahani. Mr. Shahani said that as a protest against the salt tax we should refuse this Bill altogether, but as the President pointed out during the speech of Mr. Neogy that stage has been passed. When the proposal that the Select Committee do report was being considered Mr. Shahani should have got up and said, "I oppose the whole Bill," as a kind of protest against the salt tax. He will agree with me that this is not a proper stage for that proposal at all, and I do not support this amendment on that ground at all.

(Several Honourable Members : "Let the question be put.")

Mr. President : Though I am very reluctant to accept the closure, the situation has been altered by the speech of the Honourable the Finance Member.

Sir P. S. Sivaswamy Aiyer : I want to press the amendment.

The motion that the question be put was adopted.

Mr. J. N. Mukherjee : There is my amendment.

Mr. President : The Honourable Member's amendment must come afterwards. The Honourable the Finance

1 P.M. Member has explained fully his attitude to the amendment of Sir Sivaswamy Aiyer in relation to the new proposal which

[Mr. President.]

Mr. Mukherjee made. Mr. Mukherjee's amendment will come on afterwards, but as it is already on the paper it will have to be moved by Mr. Agnihotri.

The original question was :

"That clause 3 stand part of the Bill,"

since which an amendment has been moved :

"to omit sub-section (iii) of clause 3."

The question that I have to put is that sub-section (iii) be omitted.

The Assembly divided :

AYES—38.

Abdul Majid, Sheikh.	Joshi, Mr. N. M.
Abdul Qadir, Maulvi.	Lalthe, Mr. A. B.
Agnihotri, Mr. K. B. L.	Mahadeo Prasad, Munshi.
Mahmed, Mr. K.	Majumdar, Mr. J. N.
Masan Khan, Mr. M.	Mudaliar, Mr. S.
Aiyer, Sir P. S. Sivaswamy.	Nabi Hadi, Mr. S. M.
Asad Ali, Mir.	Nag, Mr. G. C.
Asjad-ul-Jah, Maulvi Miyan	Nand Lal, Dr.
Ayyangar, Mr. K. S. R.	Nayar, Mr. K. M.
Ayyar, Mr. T. A. Seshagiri.	Neogy, Mr. K. C.
Bagde, Mr. K. G.	Reddi, Mr. M. K.
Basu, Mr. J. N.	Sarvadhikary, Sir Deva Prasad.
Bhargava, Pandi J. I.	Sassoon, Captain E. V.
Das, Babu B. S.	Shahani, Mr. S. C.
Faiyaz Khan, Mr. M.	Sinha, Beohar Raghubir.
Gour, Dr. H. S.	Sohan Lal, Mr. Bakshi.
Gulab Singh, Sardar.	Srinivasa Rao, Mr. P. V.
Ibrahim Ali Khan, Colonel Nawab	Subrahmanayam, Mr. C.
Mohd.	Tenkatapottiraju, Mr. B.
	Vishindas, Mr. H.

NOES—38.

Abdul Hamid Khan Khudadad Khan,	Gidney, Lieut.-Colonel H. A. J.
Mr.	Graham, Mr. L.
Amjad Ali, Maulvi.	Gwynne, Mr. C. W.
Anson, Mr. E. C.	Hailey, the Honourable Sir Malcolm.
Ayyangar, Mr. R. Narasimha.	Holme, Mr. H. E.
Bardwell, Mr. H. R.	Hussanally, Mr. W. M.
Barnes, Mr. H. C.	Innes, the Honourable Mr. C.
Barua, Mr. D. C.	Mitter, Mr. K. N.
Bhanja Deo, Raja R. N.	Muhammad Hassan, Mr. T.
Blackett, Sir Basil.	Muhammad Ismail, Mr. S.
Bridge, Mr. G.	Mukherjee, Mr. J. N.
Burdon, Mr. E.	Mukherjee, Mr. T. P.
Butler, Mr. M. S. D.	Percival, Mr. P. E.
Calvert, Mr. H.	Richey, Mr. J. A.
Chatterji, Mr. P. C.	Samarth, Mr. N. M.
Chatterjee, Mr. A. C.	Sin, Mr. G. G.
Faridoonji, Mr. R.	Singh, Mr. S. N.
Gebbie, Mr. F. St. J.	Sinha, Babu Adit Prasad
Gulam Sarwar Khan, Chaudhuri.	Sinha, Babu L. P.
	Stanyon, Colonel Sir Henry.

Mr. President : The 'Ayes' are 38 and the 'Noes' are 38 and I give my vote for the 'Noes'.

The motion was negatived.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I beg to move :

"That in sub-clause (iii) (a), for the figures '250', the figures '1,000' be substituted and for the words 'two annas' the words 'one anna' be substituted."

It is rather unfortunate.....

Sir Deva Prasad Sarvadhikary : I want to propose "2,000" for "1,000" if I have your leave and in that case I ought to come before Mr. Agnihotri. I have not given notice of this motion but there are reasons why I should like to urge 2,000.

Mr. President : I should take Mr. Agnihotri's amendment first of all in relation to the figure 250 and the Honourable Member can then bring forward his motion.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadian) : On a point of order. May I suggest that Mr. Mukherjee's amendment might be taken up first and then Mr. Agnihotri's amendment would be a modification of that amendment. So far as I can see that amendment must come in first and that can be amended by subsequent speakers by raising the figure from 250 to 500 or 1,000.

Dr. Nand Lal : I like to support this motion

Mr. President : Mr. Agnihotri has already given notice of his intention to amend both the rate and the figure in clause 3 of the Bill and I have called him to move the first part.

Mr. K. B. L. Agnihotri : It is very unfortunate that the amendment of Sir P. S. Sivaswamy Aiyer should have failed. The amendment proposed by him was in consonance with the views of the public as well as of the Provincial Governments ; the Provincial Governments suggested that in case it was desired by the Government of India to increase the taxation on the promissory notes then certain other provisions be made in the Bill. The Select Committee have made some new provisions but the fixing of the limit of Rs. 250 with two annas, is very undesirable. In the first place the amount of 250 is very small indeed. In the second place we shall not be able to give protection to the poor people and the middle class people who are generally habituated to the use of promissory notes ; even the small traders shall not be able to get the desired protection and the provision will not even partially meet with the wishes of the public. Therefore, Sir, I propose that Rs. 1,000 should be the minimum amount on which the old duty be payable. I may state here that it is the view of the Bombay Chamber of Commerce that Rs. 2,000 should be fixed as such minimum. I considered that Rs. 2,000 was rather a high amount, which the Government may not be prepared to accept and therefore I suggested a minimum of Rs. 1,000 only by way of compromise. Now, to my great surprise I find Mr. Mukherjee's further reduction. I am not prepared to accept the proposed amendment of Mr. Mukherjee as

[Mr. K. B. L. Agnihotri.]

the amount put by him is very very small and the small traders in the mofussil will not get any protection. Therefore in order to protect their interests and the interests of the illiterate villagers, I propose the minimum amount of Rs. 1,000, on which a duty of one anna should continue.

Mr. President : The question is :

“ In sub-clause (iii), for the figures ‘ 250 ’ substitute the words ‘ 1,000 ’ . ”

Sir P. S. Sivaswamy Aiyer : May I make a suggestion, Sir. The amendment reads—“ when the amount or value is less than Rs. 250.” I beg to suggest that it may be worded—“ when the amount or value does not exceed Rs. 1,000.” Because if a hundi is drawn for Rs. 1,000 it would be liable to the enhanced stamp duty, and therefore I suggest that the wording ought to be “ either less than Rs. 1,001,” or “ does not exceed Rs. 1,000.”

Mr. K. B. L. Agnihotri : I have no objection to accepting that suggestion.

Mr. J. N. Mukherjee : I think, Sir, I may put to the House the amendment that I have submitted to it, namely :

“ That instead of Rs. 1,000 the limit should be Rs. 250 up to which the duty should be one anna.”

My reason for differing from my Honourable friends is that if our object is to get revenue, the limit of Rs. 1,000 will not materially help us in getting a substantial portion of what we want. We all know, Sir, that provincial revenues are depleted and it is mainly for the benefit of the provincial revenues that this Bill has been introduced, so that if the limit be put so high, in my humble opinion, “ the game will not perhaps be worth the candle,” as the saying goes. By my amendment we shall save the people whom we want to save, and this should be the rule of our conduct. We should try and get some revenue unquestionably, for the Provinces but if we put the limit up to which we charge one anna duty, so high, we shall defeat our purpose. With this object I put my amendment, namely :

“ That one anna be substituted for two annas up to Rs. 250.”

Mr. President : I think it would be more convenient to put the amendment separately, so that Members can discuss the proposal to substitute the words ‘ one thousand ’ for the words ‘ two hundred and fifty ’, bearing in mind that the amendment to substitute ‘ one anna ’ for ‘ two annas ’ will follow.

The Honourable Sir Basil Blackett : Sir, the House is I think in search of a scale and possibly it may be convenient if I got up at this point. The Government do not wish to accept the amendment moved by Mr. Agnihotri, but they are prepared, as I said before, to accept a change in the scale. Now, the amendment which Mr. Mukherjee has moved is that :

“ When the amount or value does not exceed Rs. 250 the amount shall be one anna ; in any other case four annas.”

I do not think that would do in practice, because, suppose a man wants to draw a promissory note for Rs. 300 or Rs. 400, he will obviously

prefer to draw two for Rs. 200 each at one anna instead of one for Rs. 400 at 4 annas. I think that therefore you cannot quite apply that scale. What I would suggest to the House, if we can possibly come to an agreement, is that we might have this :

“ When the amount or value does not exceed Rs. 250, one anna.”

That saves the small man.

“ When the amount or value is greater than Rs. 250 but does not exceed Rs. 1,000, two annas ; in any other case four annas.”

If that could be accepted we are prepared to adopt it.

Mr. K. B. L. Agnihotri : Sir, I am advised to accept the suggestion put forward by Sir Basil Blackett.

The original amendment moved by Mr. Agnihotri was, by leave of the Assembly, withdrawn.

The Honourable Sir Basil Blackett : Sir, I beg to move the amendment which I tried to frame just now, namely,

“ That for (1) and (2) of part (a) of clause 3 (iii), substitute the following :

- ‘ (1) when the amount does not exceed Rs. 250, one anna ;
- (2) when the amount exceeds Rs. 250 but does not exceed Rs. 1,000, two annas ;
- (3) in any other case, four annas ’ . ”

Sir P. S. Sivaswamy Aiyer : Sir, may I move an amendment to that, namely, to substitute Rs. 500 for Rs. 250.

Sir Deva Prasad Sarvadhikary : Sir, I desire to move an amendment, namely :

“ To substitute the word and figures ‘ Rs. 2,000 ’ for the word and figures ‘ Rs. 1,000 ’ . ”

and for definite reasons. Have I your leave to do that ?

Mr. President : Yes, the amendment is in order.

Sir Deva Prasad Sarvadhikary : Well, Sir, it is in no captious or capricious spirit that I am moving this amendment. I am sure that we are obliged to the Honourable the Finance Member for the concession which he has already made in the interests of the smaller people ; but there is another class of small people whom we have very much in mind, and they are the small tradesmen and small commercial men who have to negotiate with banks. Rs. 2,000 is the usual hundi limit and it is on that limit that I want to put the two anna stamp, so that this class of small people may be equally benefited. It is for this reason, Sir, that I wish to substitute Rs. 2,000 for Rs. 1,000.

Mr. President : Further amendment moved :

“ In the amendment proposed, substitute the words ‘ Rs. 2,000 ’ for the words ‘ Rs. 1,000 ’ . ”

The Honourable Sir Basil Blackett : Sir, I should very much like to reach an agreement because the House has treated me very well over this, but I really think the Government have gone as far as they can, if I may say so, in the interests of the Provincial Governments. Sir Deva Prasad's proposal would alter the rate for everybody from Rs. 250 to Rs. 2,000,

[Sir Basil Blackett.]

yet it would lose quite a considerable amount of the revenue which we are seeking in this matter. I have tried to meet the House and I hope that the House will not press this. The proper way of meeting Sir Deva Prasad would be, I think, up to Rs. 2,000, 4 annas; above Rs. 2,000, 6 annas. But I do not wish to propose that and I therefore say on behalf of Government that they cannot accept the amendment.

Mr. President : Amendment moved :

"In the proposed amendment substitute the words 'Rs. 2,000' for the words 'Rs. 1,000'."

The question is that that amendment be made.

The motion was negatived.

Mr. President : Amendment moved :

"In sub-section (iii) of clause 3, for (a) (i) and (ii) substitute the following :

'(a) when payable on demand :

(i) when the amount or value does not exceed Rs. 250—one anna ;

(ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000—two annas ;

(iii) in any other case—four annas'."

The question is that that amendment be made.

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Mr. President : The question is that clause 2 stand part of the Bill.

The Honourable Sir Basil Blackett : I propose, in view of the change that was made in clause 3, that clause 2 be omitted.

Mr. President : The question is that clause 2 stand part of the Bill.

The motion was negatived.

Mr. President : The question is that clause 3 be re-numbered clause 2.

The motion was adopted.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Basil Blackett : Sir, I move that the Bill be passed.

Mr. President : The question is that the Bill to amend the Indian Stamp Act, 1899, as amended, be passed.

Mr. K. Rama Ayyangar (Madras and Ramnad *cum* Tinnevely : Non-Muhammadian) : Sir, I should think this Bill ought not to be passed into law at this stage, and I suggest that the matter be put off, and that the opinion of the provincial Legislative Councils be invited before it is passed into law. My submission is that this increase in stamp duty

on pro-notes has been made at the instance of a motion here carried by a casting vote. It is certainly valid, it may be passed into law if insisted on, but it would be very proper to consider what the feeling is that prevails in the provinces, and the matter may be reconsidered in the light of the reviews of the provincial Legislative Councils. In fact time has been allowed by the Select Committee in this case—till which the penal provisions of section 35 shall not apply. I would therefore suggest that this Bill be passed into law at a later stage, and if necessary the Councils of the provinces should also be asked to make a statement as to what they approve of in the matter.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadian Urban) : Sir, I am afraid we cannot support the observations from the last speaker. It is necessary that this Bill should be passed without delay because the provincial Governments have been long waiting for a measure like this for supplementing their depleted resources. But there is just one observation I desire to make with regard to what the Honourable Sir Basil Blackett said in reference to the difficulties about a unified stamp to which Sir Sivaswamy Aiyer referred. Sometime ago in 1921 there was a proposal in the Bengal Legislative Council for a separate receipt stamp of one anna for the purpose of receipts as well as promissory notes, as in olden times. The Honourable Mr. Kerr, as he was in those days, pointed out that there were very great difficulties in keeping accounts, and that is the reason why they had a unified postage and receipt stamp; and the question of assignments and allotments came. I do not want to go into the question of assignments and allotments now; I am sure Sir Basil Blackett will be generous to the provinces, and that the provinces will then now have more, but what I desire to point out is the difficulty that Mr. Kerr pointed out in this connection. He deprecated the separation of the receipt stamp from the postage stamp, and one of the things he said in that Bengal debate in 1921 was that there was serious complication arising out of the fact that in 1906 as at the present day the income from revenue stamp was a provincial asset, whereas the receipts from postage stamps are Imperial revenue. And then he proceeded to state that when the reforms came into force, the matter was further considered in connection with financial arrangements, and the Government of India said that they were satisfied that any change in the existing system of unified stamps would result in great inconvenience to the public, and that the existing practice must therefore be retained. That is how matters stood in 1921. Since then there has been a rise in the postage stamp, and now there is going to be a rise in the promissory note stamp. How this is to be done is one of the matters to which I would invite the attention of the Government in connection with this question. With these observations, I desire to give my support to the passing of the Bill.

Mr. President : I may point out that no motion is in order at this stage for circulation or re-circulation. The Honourable Member might exercise his right, if he chose, to object to the motion that the Bill be passed to-day on the ground that amendments have been made in the Bill to-day. If that is the objection, I am prepared to hear it. But I must point out to him that he cannot move a motion that the Bill be re-circulated at this stage.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I rise to support my friend, Mr. Ayyangar to the extent of one part of his objection, that is, that the Bill may not be passed into law to-day because of certain amendments having been made in the Bill. Sir, as I have already pointed out, it is very unfortunate that the provisions of this Bill should have been accepted by the House to-day, at least so far as regards promissory notes. But as certain amendments have been passed under some sort of confusion, there is no other alternative but to support Mr. Ayyangar in his wish that the passing of the Bill be postponed for a day or two before it be enacted into law, so that we may get another opportunity to put forth our views on the point. There is another objection to the Bill. It has been pointed out by many speakers, that the revenue received from this enhanced duty will go to the provinces. There should have been provided in this Bill a clause that the provincial legislature should be consulted in regard to or should have a voice in the extension of this Bill to their own provinces if they wanted it. Therefore, Sir, I think that so far as the objection goes to the postponement of the passing of this Bill into law to-day till some other day, we should all support Mr. Ayyangar.

Mr. K. C. Neogy : Sir, while I support the motion for postponement of the final passing of this measure into law, I desire to correct one error into which Mr. Agnihotri has just now fallen, because under the Government of India Act and the Devolution Rules it is not left to the option of the different provinces either to adopt a particular scale in regard to revenue stamps or not. The scale must be uniform throughout India ; that is the position ; so if we pass this into law, it must hold good in respect of all the various provinces. But, Sir, I desire to bring out one point which I think my Honourable friend, Mr. Ayyangar, wanted to make in this connection, and that is this. As we know, this legislation is intended exclusively for the benefit of the provinces. (*Mr. N. M. Samarth* : "Mainly.") It is exclusively, I say, not mainly. Now that being the case, I think that it is a pure accident that we should be legislating in this matter at all to-day, because while in regard to judicial stamps the provincial Governments are quite independent in regard to fixing their own scales ; in regard to non-judicial stamps the authorities in England and the Montagu-Chelmsford Report pointed out that it was desirable that there should be uniformity of rates in regard to commercial transactions which were to be assessed for revenue purposes in this manner. I say therefore that it is an accident that this Legislature should be called upon to legislate in this matter. Now the point to which I was referring was that, as Mr. Ayyangar said, the provincial legislatures should be given an opportunity of expressing their opinion on this Bill before it is passed into law. I have no intention of blocking this motion for any indefinite period of time, but I think that Government should make it a point to give each and every individual Provincial Legislature an opportunity of expressing its opinion on the provisions of any such measure that may be brought forward in future. What do we find here ? The Bill was circulated for opinion upon a motion which was carried in this House at Delhi. In the collection of

opinions we find individual Chambers of Commerce consulted, some officials here and there and some Bar Associations. That is all. But what about the Provincial Legislatures ? (*Sir Deva Prasad Sarvadhi-kary* : "They took the initiative.") (*Mr. N. M. Samarth* : "They took the initiative.") They did not. I want my Honourable friend, Mr. Samarth to point out a single instance in which they took the initiative in this matter. I think I am a faithful student of the proceedings of the Provincial Legislatures, and I do not find that the Provincial Legislatures have been consulted at all. I do not mean the provincial executive Governments who have put forward the suggestion that the rates of non-judicial stamps should be increased. So, as I said, it is not my desire to postpone this measure for an indefinite period of time, but I should like to see a convention established under which Government, on all future occasions when they may ask this Legislature to legislate for the benefit of the provinces, should give the Legislatures of the different provinces an opportunity of expressing their opinion on such measures. I hope, Sir, that this suggestion of mine will be taken into favourable consideration by Government.

Mr. President : Before I let the debate proceed any further, I should like to clear up a difficulty which evidently is in the Honourable Member's mind. If a Member rises to object to this motion being taken to-day, it lies in the discretion of the Chair to decide whether it be taken or not. No dilatory motion can be made and the House can only vote for and against the passage of the Bill. No amendment can be made at this stage except one, in the words of Standing Order 49, either formal or consequential upon an amendment made after the Bill was taken into consideration. Therefore I cannot take to-day a motion for the postponement of the consideration of the Bill. Nobody has actually put the objection, and therefore....

Mr. K. B. L. Agnihotri : I do object on that very ground, i.e., on the ground of amendments having been made in the Bill which alter the nature of the Bill ; that came from the Select Committee.

Mr. President : I must point out that the ground of the objection of the Honourable Member appears to me to be the hope that he may be able to move amendments of substance when the Bill is taken up again. He must not entertain that hope, because he will not get that opportunity.

Mr. K. B. L. Agnihotri : Not exactly that, Sir.

Mr. President : In any case, the Bill has been fully considered and it is no business of mine whether the Local Governments have consulted their Legislatures or not.

The Honourable Sir Basil Blackett : Sir, I will first refer to the speeches that have been made. They are not difficult to answer, because each speaker has answered the one before, and there are not many points left. But I should like to point out this, that this Bill has been twice before the Local Governments and the only change that we have made from the form, in which they considered it is that we have inserted the step between 250 and 1,000, and left the original duty of one anna unchanged up to 250. My purpose in rising now is in the words of Standing Order

[Sir Basil Blackett.]

49 (4) to move a consequential amendment. As the Bill stands at present the second clause reads "In Schedule 1 to the said Act". I think it would be better, as we have now left out clause 2, if we restore the words "In Schedule 1 to the Indian Stamp Act, 1899." It would read better, I think, in that form. I hope the House will not consider it necessary to delay the passing of this Bill. It has been, as I say, very carefully considered, having been circulated twice, and we have discussed it in full to-day, and of course the moment at which it comes into force is the moment from which the hope of additional revenue begins to accrue to the people in whose interest we are acting.

Mr. President : Consequential amendment moved :

"In clause 2, to omit the word 'said' in order to insert the words 'Indian Stamp Act, 1899'."

The question is that that amendment be made.

The motion was adopted.

Mr. President : The question is that the Bill, as amended, be passed.

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : Sir, I beg to move :

"That the Bill further to amend the Code of Criminal Procedure, 1898, for certain purposes, be taken into consideration."

I have no further remarks to make to the House in commending this Bill to it. It was explained by me somewhat fully to the House on introduction. We have received no comments or criticisms relating to its various clauses.

Mr. President : The question is :

"That the Bill further to amend the Code of Criminal Procedure, 1898, for certain purposes, be taken into consideration."

The motion was adopted.

The Honourable Sir Malcolm Hailey : I move that the Bill be passed.

Mr. President : The question is that the Bill be passed.

The motion was adopted.

THE INDIAN LUNACY (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : Sir, I move :

"That the Bill further to amend the Indian Lunacy Act, 1912, be taken into consideration."

We have received no comments in regard to this proposal.

Mr. President : The question is :

"That the Bill further to amend the Indian Lunacy Act, 1912, be taken into consideration."

The motion was adopted.

The Honourable Sir Malcolm Hailey : Sir, I move that the Bill be passed.

Mr. President : The question is that the Bill be passed.

The motion was adopted.

THE INDIAN TERRITORIAL AND AUXILIARY FORCE (AMENDMENT) BILL.

Mr. E. Burdon (Army Secretary) : Sir, I move :

"That the Bill to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes, be taken into consideration."

It is quite unnecessary for me to add anything to the few remarks I made in regard to this Bill on the day when I introduced it. It relates to a matter of relatively unimportant details and the amendment which it is proposed to make is of an obviously necessary character.

Mr. President : The question is :

"That the Bill to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes, be taken into consideration."

The motion was adopted.

Mr. E. Burdon : Sir, I move that the Bill be passed.

Mr. President : The question is that the Bill be passed.

The motion was adopted.

THE INDIAN ARMY (AMENDMENT) BILL.

Mr. E. Burdon (Army Secretary) : Sir, I move :

"That the Bill further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes be taken into consideration."

The purpose of this Bill was explained by me on the day when I introduced it and since then no comments and no criticisms have been received.

Mr. President : The question is :

"That the Bill further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes, be taken into consideration."

The motion was adopted.

Mr. E. Burdon : Sir, I move that the Bill be passed.

Mr. President : The question is that the Bill be passed.

The motion was adopted.

THE CUTCHI MEMONS (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I move :

"That the Bill to amend the Cutchi Memons Act, 1920, be taken into consideration."

This again is a small matter which calls for no comment on my part.

Mr. President : The question is :

“ That the Bill to amend the Cutchi Memons Act, 1920, be taken into consideration.”

The motion was adopted.

The Honourable Sir Malcolm Hailey : I move that the Bill be passed.

Mr. President : The question is that the Bill be passed.

The motion was adopted.

Mr. President : I have been asked to acquaint Members of the Select Committee on Mr. Neogy's Legal Practitioners Bill that the Committee will meet this afternoon at 3 o'clock.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 17th July, 1923

LEGISLATIVE ASSEMBLY.

Tuesday, 17th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

DEATH OF BABU BAIDYANATH PRASAD SINGH.

Mr. President : I regret to have to inform the Assembly that we have once again lost one of our Members by death this morning, namely, Babu Baidyanath Prasad Singh from Muzzaffarpur. I am sure that, as in other cases, the Assembly will wish me to convey to his bereaved relatives a communication of our sense of loss at his death.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, we feel very sad, and feel for you as much as you feel for us, that you have had to announce so many deaths among our Members during the short course of our existence. The death of Babu Baidyanath Prasad Singh is a personal loss to many of us. He was one of the gentlest, nicest and sweetest of men, and, at the same time, one of the most independent, fearless and right-thinking. I am sure, Sir, the Assembly feels just as much as you feel for the bereaved family.

Khan Bahadur Saiyid Muhammad Ismail (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Sir, with your permission, I should like to associate myself with the reference which you have very kindly made to the death of Babu Baidyanath Prasad Singh. Babu Baidyanath Prasad Singh came from the same Province from which I come. He was my own colleague in the now defunct Bihar and Orissa Legislative Council. For several years he had been Chairman of the Muzzaffarpur Municipality and in his capacity there he had taken an active interest in the affairs of the public bodies. He was a very much respected citizen of the Province of Bihar and Orissa and was universally loved. I would therefore like to associate myself with everything that has fallen from you, Sir, and from Sir Deva Prasad Sarvadhikary and very sincerely thank you on behalf of the Members of my Province for the kind references which you have made.

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa : Nominated Non-Official) : It is with a very heavy heart that I express a few words of sympathy and condolence on account of the sad, sudden and premature demise of my esteemed friend and colleague, Babu Baidyanath Prasad Singh. He was one of those good men of Bihar who spent his best time, money and energy for the public good, and he possessed many rare qualities of head and heart. He was an active, energetic and a very useful Member of this Assembly. He died in harness here. We all

wish that he may have peace in Heaven and we desire to express our profoundest condolence to his bereaved family.

The Honourable Sir Malcolm Hailey (Home Member) : I wish to associate the Government Benches also with the expression of deep regret which has fallen from our friends opposite on the series of fatalities which it has been your sad duty to announce to us ; and in particular, I must associate myself with the feeling of real sorrow arising from the news you have just given to us. We have lost one who we know has spent the greater part of his life in the service of the public, and who, since he has been here, has endeared himself to all who have met him by the sterling qualities of his character and his independent temperament.

QUESTIONS AND ANSWERS.

PRIMARY TEACHERS IN NORTH-WEST FRONTIER PROVINCE.

†259. ***Mr. S. C. Shahani** : (a) With reference to the reply given to Bhai Man Singh on the 10th January 1922, to Question No. 18 (g) and (h), will the Government be pleased to state whether the scale of the grant-in-aid of Rs. 8 and 12 paid for the untrained and trained Primary teachers, respectively, in the Aided Schools in North-West Frontier Province since 1913, remains still unrevised ?

(b) Is it a fact that the Educational Conference held at Peshawar in December last, under the Chairmanship of the Director of Public Instruction, unanimously recommended the increase of grant-in-aid in the Primary Department of the Aided Schools, as well as of the rate of Contingencies ? If so, do the Government intend to give immediate effect to those recommendations ?

VEDIC BHARTRI COLLEGE ; EXAMINATION RESULTS.

†260 ***Mr. S. C. Shahani** : (a) Is it a fact that the Honourable the Chief Commissioner, North-West Frontier Province, is Patron of the Vedic Bhartri College, a second grade aided Arts College, started at Dera Ismail Khan, from the 1st June, 1921 ?

(b) Is it a fact that in the very first University Examination held in April last, a student of the above College has stood first in the whole Province, on the Arts side ?

VEDIC BHARTRI COLLEGE ; MAINTENANCE GRANT.

†261. ***Mr. S. C. Shahani** : (1) Is it a fact that the College Council of the Vedic Bhartri College has persistently been bringing to the notice of the Director of Public Instruction as well as the Honourable the Chief Commissioner, by means of representations, the inadequacy of the recurring Maintenance Grant for the College and requesting for its increase ?

(2) Is it a fact that the Inspection Committee of the Punjab University, consisting of Dr. Lucas, Principal, Forman Christian College, Lahore, and Rai Bahadur Sundar Das Suri, M.A., of Lahore, strongly recommended in their Inspection Report of 1922 that the Local Govern-

† For answer to this question—see answer below Question No. 263.

ment should raise the said grant from Rs. 5,000 to 10,000 per annum, for otherwise the " College was bound to be faced with a serious financial stringency." If so, do the Government intend to give effect to the above recommendation and provide the sum recommended in the next Budget for the year 1924-25 ?

EDUCATION DEPARTMENT, NORTH-WEST FRONTIER ; APPOINTMENTS TO.

†262. ***Mr. S. C. Shahani** : Has the attention of the Government been drawn to the representation made by the leading Hindu gentlemen of the North-West Frontier Province to the Director of Public Instruction, printed in the " Tribune " of Lahore, dated the 3rd July, 1923, re the absolute disregard of Hindu feelings and interests in the matter of appointments in the Education Department ? If so, what steps do the Government propose to take in redressing the grievances of the Hindus, referred to therein ?

AWARD OF SCHOLARSHIPS.

263. ***Mr. S. C. Shahani** : Is " merit coupled with poverty " recognised as a basic principle for the awarding of scholarships, in Open Scholarship Competition Examinations, in any other Province in India than the North-West Frontier Province ?

Mr. M. S. D. Butler : With your permission, Sir, I will answer Questions Nos. 259—263 together.

The information asked for is being obtained and will be supplied to the Honourable Member in due course.

TRANSPORT OF WHEAT AND GRAM, NORTH-WEST FRONTIER.

264. ***Mr. S. C. Shahani** : (1) Is it a fact that the wheat and gram trade between Marwat Tehsil of Bannu and Dera Ismail Khan is carried on by means of bullock carts and camels ?

(2) Is it also a fact that the people of Dera Ismail Khan have, when presenting addresses of welcome to the Honourable the Chief Commissioners during their visits since 1920, invariably pressed upon their attention the necessity of connecting Pezu on the Tank-Pezu-Lakki Railway, with Dera Ismail Khan, as Tank is connected at present ? If so, do the Government propose to seriously consider the question ?

Mr. Denys Bray : (1) Yes.

(2) The answer to the first part is in the affirmative, but though the extension of a line from Pezu to Dera Ismail Khan is desirable it is not of urgent necessity and Government do not propose to proceed with the project in the present financial stringency.

ODDH AND ROHILKHAND RAILWAY TIME TABLE.

265. ***Munshi Mahadeo Prasad** : (1) Will the Government be pleased to state what steps are taken and in what way to consult public opinion and public convenience and profit to the railway when a new railway timing is brought into force by the Oudh and Rohilkhand Railway ?

† For answer to this question—see answer below Question No. 263.

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(2) Who is the officer entrusted with this duty and under whose orders and direction is the new time table framed and published ?

The Honourable Mr. C. A. Innes : (1) The Oudh and Rohilkhand Railway Advisory Committee is consulted before the revised timings are brought into force.

(2) The Traffic Manager.

ODUH AND ROHILKHAND RAILWAY TRAIN CONNECTIONS.

266. ***Munshi Mahadeo Prasad :** Is the Government aware that great inconvenience is felt by the people of Benares intending to travel to places above Laksar and below Lucknow since the Oudh and Rohilkhand Railway Punjab Mail has been discontinued to and from Moghal Sarai ?

The Honourable Mr. C. A. Innes : Government have received a representation on the subject.

ODUH AND ROHILKHAND RAILWAY TRAIN TIMINGS.

267 ***Munshi Mahadeo Prasad :** (1) Will the Government be pleased to state why the timings of the Oudh and Rohilkhand Railway Punjab and Dehra Dun mails have been so arranged that a passenger travelling from stations above Laksar and below Lucknow has to lose one day in travelling between Moghal Sarai and Saharanpur ?

(2) Will the Government be pleased to state what effect the above timings had and have in diverting mail and passenger traffic from the Oudh and Rohilkhand Railway (State-managed) to East Indian Railway (Company-managed) ?

(3) Will the Government be pleased to state if the timings of the Oudh and Rohilkhand Railway Dehra Dun and Punjab mails can be so arranged as to enable the passengers of the one to and from stations not common between the two, to shift from the one to the other either at Lucknow or Laksar and thus causing one day's saving of time in their journey ?

The Honourable Mr. C. A. Innes : (1) These timings were necessitated as it was found impossible to run the Punjab mails through between Moghal Sarai and Saharanpur within the limited time between the arrival and departure of the connecting North-Western Railway and East Indian Railway trains at Saharanpur and Moghal Sarai, respectively. The requirements of local passengers were therefore given primary consideration in fixing the time table which has been in force since April 1922.

(2) Government are informed that the maximum number of passengers which could have been diverted from the Oudh and Rohilkhand Railway from traffic originally routed *via* Moghal Sarai amounts to some six to seven thousand per annum.

(3) This cannot be arranged in the present circumstances.

ODUH AND ROHILKHAND RAILWAY TRAIN TIMINGS.

268. ***Munshi Mahadeo Prasad :** Is it a fact that the Benares Municipal Board has passed a Resolution complaining of the new timing

of the Oudh and Rohilkhand Railway as resulting in great inconvenience to the people of Benares ?

The Honourable Mr. C. A. Innes : The answer is in the affirmative.

SHUTTLE TRAIN BETWEEN BENARES AND MOGHAL SARAI.

269. ***Munshi Mahadeo Prasad :** Will the Government please state why the shuttle train running between Benares Cantonment Railway station and Moghal Sarai in the morning has been abolished recently ? Are not the passengers for the Up Punjab and Bombay mails, East Indian Railway, from Benares greatly inconvenienced as there is no train for Moghal Sarai from Benares Cantonment except one at midnight preceding ? What effect will this abolition of the shuttle train have on the income of the Railway ?

The Honourable Mr. C. A. Innes : The shuttle trains were cancelled as a measure of economy. It is understood that they have been restored from the 15th instant.

INCLUSION OF BHAGUR IN CANTONMENT LIMITS.

270. ***Munshi Mahadeo Prasad :** Is the Government aware that a memorial has been addressed to the Honourable the President and the Members of the Legislative Assembly on behalf of the residents of Bhagur village (Bombay Presidency) complaining of the hardships which they have been subjected to, owing to the inclusion of that place within Cantonment limits ? If yes, what steps are in contemplation to relieve them of those hardships, and when ?

Mr. Denys Bray : I have been asked to answer this question. I invite the attention of the Honourable Member to the reply given on the 10th instant to certain questions asked on the same subject by Mr. Joshi.

WAITING ROOMS AT BENARES.

271. ***Munshi Mahadeo Prasad :** Is it a fact that waiting rooms for 1st and 2nd class passengers at Benares Cantonment Railway station are closed after midnight to the great inconvenience of such passengers ? If it be so, will some steps be taken that such waiting rooms be not so closed ?

The Honourable Mr. C. A. Innes : Government understand that the 1st and 2nd class waiting rooms at Benares Cantonment Station are open all night for the use of *bona fide* passengers.

MR. RALA RAM'S REPORT ON FLOODS IN NORTHERN BENGAL.

272. ***Mr. K. C. Neogy :** (a) What action has been taken for giving effect to the recommendation of Rai Bahadur Rala Ram, in his report on the floods in Northern Bengal in September 1922, that additional waterway should be provided on the following sections :—

(i) Santahar-Jamalganj Section by about 150 feet.

(ii) Santahar-Kahaloo Section by about 480 feet.

(iii) Sara-Serajganj line by about 400 feet (effective).

(b) Have gauges been put up upstream and downstream of the line near each bridge, both on the main line of the Eastern Bengal Railway and on Sara-Serajganj Railway, as recommended by Rai Bahadur Rala Ram ?

The Honourable Mr. C. A. Innes : (a) (i), (ii) and (iii). The Railway Administration concerned has been instructed to give effect to the recommendations contained in Rai Bahadur Ralla Ram's report with the least possible delay.

On the Santahar-Kahaloo section work has already been started.

(b) The Government is advised that this is being done.

WHIPPING SENTENCES.

273. * Mr. K. C. Neogy : (a) Has reference been made to Local Governments and High Courts in regard to the question of abolition of the sentence of whipping in the case of Indians, as promised by the Home Member in February 1923 ?

(b) If so, have the replies been received ?

The Honourable Sir Malcolm Hailey : (a) Yes.

(b) Replies have been received from 2 minor administrations, but none as yet from the more important Local Governments.

Mr. S. C. Shahani : Sir, will Government be pleased to state if the whipping sentence has been abolished in any other country, and secondly, if there is anything peculiar to Indians which makes the retention of the sentence here in India desirable ?

The Honourable Sir Malcolm Hailey : The first part of the question is a matter which does not concern the Governor General in Council, and the second is a matter of opinion.

IMPERIAL AND ALLIANCE BANKS, TERMS OF AGREEMENT.

Mr. W. M. Hussanally : Sir, with your permission I desire to put one or two questions to the Honourable Sir Basil Blackett in regard to the Imperial Bank and the Alliance Bank :

(a) What are the terms of the agreement between Government and the Imperial Bank of India in regard to Government funds deposited with the Bank and loans made to Government by the Bank ?

(b) Do Government pay any interest to the Bank if they overdraw their account ? If so, how much ?

(c) Has it ever occurred that Government has overdrawn its account ?

The Honourable Sir Basil Blackett : (a) I am prepared to lay a copy of the agreement† on the table if desired.

(b) Government can take Ways and Means advances from the Imperial Bank if necessary, and if they consider this method of recouping their balances more economical than sales of treasury bills to the public or otherwise. Such advances carry interest at rates mutually arranged and in accordance with market conditions at the time. Full details are invariably given in the annual reports of the Controller of Currency.

In regard to part (c), as explained in answer to part (b), the Government do not overdraw their account. The last occasion on which Ways and Means advances were taken was in 1921-22.

* Below.

AN AGREEMENT made the twenty-seventh day of January 1921 BETWEEN THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called "the Secretary of State") of the one part and THE IMPERIAL BANK OF INDIA (hereinafter called "the Bank") of the other part WHEREAS the Bank was constituted and incorporated and is regulated by the Imperial Bank of India Act, 1920 (being Act No. 47 of 1920 of the Governor General's Legislative Council and hereinafter called "the Act") in supersession and by way of amalgamation of the Presidency Banks of Bengal, Madras and Bombay (with a capital of Rs. 11,25,00,000) with and subject to the various powers provisions and restrictions in and by the Act set forth and it was thereby *inter alia* particularly provided as follows, *viz.*, by section 23 that the Bank should have local head offices in Calcutta, Bombay and Madras and at such other places in British India as the Bank (the constitution of which was provided for by the Act) with the previous sanction of the Governor General in Council might determine and that the Bank might also subject to the provisions of the Act as to the business to be transacted there establish an office in London and by section 10 that it should be lawful for the Bank under any agreement with the Secretary of State for India in Council (i) to act as banker for and to pay receive collect and remit money bullion and securities on behalf of the Government, (ii) to undertake and transact any other business which the Government might from time to time entrust to the Bank provided that every such agreement should provide (a) that the Governor General in Council should have power to issue instructions to the Bank in respect of any matter which in his opinion vitally affected his financial policy or the safety of Government balances and that in the event of the Bank disregarding such instructions the Governor General in Council might declare such agreement to be terminated (b) that within five years from the commencement of the Act the Bank should establish and maintain not less than one hundred new branches of which at least one-fourth should be established at such places as the Governor General in Council might direct.

NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED by and between the said parties hereto as follows, that is to say :—

1. This agreement shall come into force on the signing of these presents and shall remain in force for the term of 10 years from the twenty-seventh day of January 1921 and thereafter unless and until determined as hereinafter provided.

2. The general banking business of the Government of India and of all Local Governments (in which business is included the payment receipt collection and remittance of money bullion and securities on behalf of the said Governments respectively) shall during the subsistence of this agreement be carried on and transacted by the Bank in accordance with and subject to the provisions of this agreement and with and to such orders and directions as may from time to time be given to the Bank by the Governor General in Council or by any officer or officers of the Government of India authorised in that behalf and at such of the local head offices and branches of the Bank for the time being in existence as may from time to time be so directed and for this purpose such accounts shall be kept in the books of the Bank with the Government of India and the said Local Governments and at such local head offices or branches of the Bank as shall be necessary or convenient or as the Government of India shall from time to time direct.

3. During the subsistence hereof the Secretary of State and the Government of India shall employ the Bank as their sole Banker in India and deposit or cause to be deposited with the Bank or allow the Bank to receive and hold as Banker the whole of the Treasury funds and balances in cash of or belonging to the Government of India or the Local Governments and for the time being at any places at which for the time being the Bank shall have a local head office or branch and the Bank shall subject to such orders as may from time to time be prescribed by the Government of India receive and hold for the said Government of India and the said Local Governments respectively all such moneys and balances as may be or become payable to or on account of those Governments respectively and the Bank shall transact at its local head offices and at its several branches for the time being existing respectively all such business for the said Governments respectively regarding the receipt collection payment and remittances of money and securities and other matters, as is usually transacted by bankers for their customers. The Bank shall make the said Treasury funds and balances at the said offices and branches available for transfer to such places and at such times as the Governor General in Council or an officer of the Government of India authorised in that behalf may direct. No interest shall be

payable to the said Governments respectively or any of them on any of the funds moneys or balances for the time being held by the Bank, and no charge shall be made to the Bank for or in respect of payments to or transfers from the Government treasuries currency offices and currency chests.

4. The Bank shall within five years from the said date on which this agreement shall as aforesaid come into force open one hundred new branches in different localities in India other than the Presidency Towns and places where a branch now exist and the Government of India shall be entitled to determine the location of one in every four of such branches taking the same as far as feasible in the order of their opening, and the Bank shall not close any of its local head offices or branches now existing or hereafter to be opened except a sub-branch in a town where more than one branch exist unless with the express consent in writing of the Governor General in Council or an officer of the Government of India authorised in that behalf.

5. From and after the said date the management and transaction of all the business of the registered Public Debt and Securities for the time being of the Government of India and the Secretary of State and the performance of all duties relating thereto respectively, including the calculation and payment of interest and the consolidation division cancellation and renewal of Government securities and the keeping of all registers books and accounts and the conduct of all correspondence incidental or necessary thereto shall be transacted by the Bank at its local head office in Calcutta (in the same manner as heretofore by the said Bank of Bengal) and at its local head offices in Bombay and Madras and at any of its branches at which respectively the administration of any portion or portions of the Public Debt is for the time being conducted or interest thereon is for the time being payable and shall also keep and maintain such registers books and accounts in respect of the portion or portions of the Public Debt administered or the interest whereon is paid at such local head office or branches respectively as the Controller of the Currency may for the time being direct and shall audit all payments of such interest and the Bank shall during the subsistence hereof act generally as agents for the Secretary of State and the Government of India in and for the payment of the interest or principal of the said Public Debt and Securities or any of them as may be directed by the Government of India and in and for the maintenance of such registers accounts and books and the auditing of all such payments of interest as aforesaid and shall conduct such agency subject to such orders and directions with regard to the general management thereof and to the opening and keeping of books accounts and registers as may from time to time be given to the Bank by the Governor General of India in Council or the Controller of the Currency and shall not alter any practice in relation to the matters aforesaid or any of them without the permission in writing of the Governor General in Council or the Controller of the Currency PROVIDED ALWAYS and it is hereby agreed and declared that the Bank shall under and subject to the orders and directions of the Governor General in Council or the Controller of the Currency use its best endeavours to decentralise the administration of the said Public Debt and to distribute the same amongst its various local head offices and branches.

6. The Bank shall not be entitled to any remuneration for the conduct of the ordinary banking business of Government as hereinbefore described other than such advantage as may accrue to it from the holding of the funds, moneys and balances of Government free of obligation to pay interest thereon.

7. As and by way of remuneration to the Bank for the management of the business of the Public Debt and Securities as aforesaid the Bank shall be entitled to charge to the Secretary of State half-yearly a commission at the rate of Rs. 2,000 per crore per annum on the amount of the Public Debt on the books of the Public Debt Office (inclusive of that portion of the said Debt and Securities whereof the interest is payable elsewhere than in Calcutta) at the close of the half-year for which the charge is made. In calculating this charge the following amounts shall be excluded from the amount of the Public Debt, viz. :—

- (a) The amounts of loans discharged outstanding after one year from the date of a notice of discharge.
- (b) The amount of the currency investment.
- (c) The amount of Stock Certificates for Rs. 50,000 and upwards held by the Controller of the Currency, the Deputy Controller of the Currency, Bombay and the Accountants General, Bengal, Madras and Posts and Telegraphs.
- (d) The amount of stock and notes outstanding in the London Register.

And in addition to the charge of Rs. 2,000 per crore per annum the Bank shall be entitled to charge and shall receive a fixed sum of Rs. 2,000 a year on account of the Stock Certificates referred to in head (c) of this clause and the Bank shall be also entitled to charge and collect from the public (but not from Government) for the use of the Bank all such fees and charges as are now or may hereafter from time to time with the consent of the Governor General in Council be made payable for and upon the renewal consolidation division or otherwise of all notes which the Bank shall themselves renew consolidate or divide.

7A. In the event of the Bank managing and transacting the business of the debt of a Local Government the maximum half-yearly commission which the Bank shall be entitled to charge to the Local Government shall be at the rate of Rs. 2,000 per crore per annum on the amount of the debt of such Local Government on the books of the Bank at the close of the half-year for which the charge is made. In calculating this charge the amounts specified in heads (a) and (d) of clause 7 hereof shall be excluded from the amount of the debt. The amount of Stock Certificates for Rs. 50,000 and upwards shall also be excluded from the amount of the debt and in respect of these the Local Government will make special arrangements with the Bank.

8. The Bank shall be at liberty for the purpose of the transfer of its funds from any of its local head offices or branches to any other of such offices or branches to make payments into and withdrawals from the Government Currency Offices and Currency chests free of charge.

8A. Government shall not make any transfers of money for the general public between any two places in which a local head office or a branch of the Bank is situated. The Bank shall as far as practicable give the public every facility for transfer of money between its local head offices and branches at rates not exceeding such rates as the Controller of the Currency may by special or general direction approve.

9. Government shall maintain a Currency chest at each branch of the Bank situated at a place where there is no head office of a circle of issue of the Currency Department and the Bank shall provide sufficient accommodation for such chest or chests as may be required for the deposit of currency notes or coin held at the disposal of the Currency Agent or other Government Officer appointed in that behalf. Government shall supply the said chests together with the necessary currency whether notes or coin and the Bank shall subject to any directions received from the Controller of the Currency in that behalf do the work of exchanging notes for coin and coin for notes and shall supply the Controller of the Currency with such periodical information as he may from time to time require as to the silver balances held by the Bank at each of its local head offices or branches. One key of the said chest or chests shall remain in the custody of the Bank, and the Bank shall be responsible for the safe custody in its strong room of the said chest or chests and its or their contents and the responsibility of the Bank in respect of the said chest or chests and its or their contents shall be that of a bailee as prescribed by section 151 of the Indian Contract Act (Act IX of 1872). The Bank shall allow the Currency Agent or officer as aforesaid to have access to the said chest or chests at all reasonable times for the purpose of withdrawing or depositing currency notes and coin. The Bank shall also be responsible for the examination and correctness of coin or notes at the time of deposit in or withdrawal of the same from the said chest or chests.

9A. Government shall as far as practicable supply local head offices and branches of the Bank with the amount of coin of denominations less than Re. 1 which may be required by the Bank.

10. The Bank shall receive and accept at any of its local head offices or branches in payment of Government revenue and from the administrations of State Railways on account of their traffic receipts Government currency notes of all circles indiscriminately.

11. The Bank shall not be at liberty to close any of its local head offices, respectively, except on Sundays, New Year's Day, Christmas Day, and if either of such two last mentioned days falls on a Sunday the next following Monday, Good Friday and on any other day declared to be a public holiday by any notification published in pursuance of the Negotiable Instruments Act (Act XXVI of 1881) or to close any of its branches for the time being existing except on Sundays and on holidays authorised by the Local Government within whose jurisdiction such branches may be respectively situated.

12. The whole responsibility for any loss or damage which may result from or arise in respect of or be occasioned by any theft forgery fraud misrepresentation or concealment or by any wrongful payment exchange or satisfaction through mistake or any error in calculation or any accident or mistake whatsoever to or by the Bank whether at any of its local head offices or branches or to or by any of its officers or agents whether in conducting the business of the Public Debt and Securities or in the payment of the interest thereon or in the renewal consolidation sub-division or cancellation of any Government Promissory Notes or Note or other Security or in any other connection shall as between the Secretary of State and the Bank rest solely and entirely with and shall be borne by the Bank who shall indemnify the Secretary of State against all losses costs and charges therefrom arising PROVIDED ALWAYS that if any loss or damage which may result from or arise in respect of or be occasioned by any theft forgery fraud misrepresentation or concealment shall be incurred in the conduct of the business of the Public Debt Office in connection with the renewal consolidation sub-division cancellation exchange or payment (whether of principal or interest) of any Government Promissory Note or other Security and such damage or loss shall not be due to or caused by any negligence or default on the part of the Bank or any of its officers or agents such loss or damage shall be borne by Government and the Bank in equal shares PROVIDED however that any loss or damage which may result by reason of the acceptance by the Bank at the time of the renewal, conversion, consolidation or sub-division of Government Promissory Notes, of endorsements which *prima facie* appear to be in order and the genuineness of which the Bank shall have no reason to question, shall if such loss or damage is not due to or caused by any negligence or default on the part of the Bank or any of its officers or agents be borne by Government PROVIDED ALSO that in the event of the Bank being in doubt as to whether any endorsement on a Government Promissory Note should or should not be accepted the Bank shall be entitled to refer the matter to the Controller of the Currency or other authorised officer and if upon such reference the Controller of the Currency or other authorised officer directs the Bank in writing to accept such endorsement any loss or damage which may result from such acceptance shall be borne by Government PROVIDED further that in regard to the ordinary banking business of receiving and realising money and securities for money on account of Government and paying cheques orders draft bills and other documents whether negotiable or not in the Bank's capacity of bankers for Government the responsibility of the Bank to the Secretary of State shall be that of a banker to an ordinary customer.

13. If the Bank shall open an office in London a statement of the total funds and balances and particularly of the Government balance held by or at such office for the time being shall at all times while such office shall be maintained be furnished weekly by the Manager or other proper officer thereof or thereat to the Secretary of State. And the Secretary of State shall be at liberty at any time and from time to time to require the Bank to pay to him any sum which he thinks fit from the funds or balances of the Bank for the time being held at the office in London against a corresponding debit against the Government in its account with the Bank in India PROVIDED ALSO that no such requisition shall be made without due notice to the Bank in London or at any of its local head offices in India and that before actually making the same the Secretary of State shall give due consideration to any representations which may be made by the Bank to him as to the detriment or inconvenience to the Bank apprehended by it as the result of the proposed payment if made.

14. The Governor General in Council shall be entitled to issue instructions to the Bank in respect of any matter which in his opinion vitally affects his financial policy or the safety of Government balances for the time being deposited with the Bank and if the Controller of the Currency or such other officer of Government as may be nominated by the Governor General in Council to be a Governor of the Central Board of the Bank shall give notice in writing to the Managing Governors of the Bank that he considers that any action or step or proceeding proposed to be taken or carried out by the Bank will be detrimental to the Government as affecting the matters aforesaid such action step or proceeding shall not be taken or carried out unless and until the Governor General in Council shall have approved thereof in writing. And if there shall at any time be any wilful disregard or failure on the part of the Bank to comply with the provisions of this clause the Governor General in Council shall be entitled by notice in writing addressed to the Managing Governors of the Bank and left at any of its local head offices to determine this agreement forthwith and on such notice being given the same shall forthwith be determined accordingly

but without prejudice to any rights acquired by either party prior to such determination.

15. The Bank shall forthwith supply the Controller of the Currency with all such information as he may by special or general direction from time to time require and shall also supply to the Governor General in Council a weekly statement as to the position of the Bank and a copy of the Bank's half-yearly Balance Sheet.

16. This agreement may be determined at or at any time after the expiration of the said term of 10 years by notice in writing given in manner hereinafter mentioned that is to say that if on or after the expiration of nine years from the said twenty-seventh day of January 1921 either of the parties hereto shall give to the other party a notice in writing expressing the desire to determine this agreement such notice if given by Government to be addressed to the Managing Governors of the Bank and to be served by being left at any of its local head offices and if given by the Bank to be served by leaving the same with or addressing the same by registered post to the Secretary to the Government of India in the Finance Department, this agreement shall immediately upon the expiration of twelve calendar months from the day of such service absolutely cease and determine save as to rights or liabilities acquired or incurred prior to such termination.

In witness whereof Edward Mitchener Cook, Secretary to the Government of India in the Finance Department by the order and direction of the Governor General of India in Council acting for and on behalf of the Secretary of State for India in Council has hereunto set his hand and the common seal of the Imperial Bank of India has been hereunto affixed the day and year first above written.

Signed by the said Edward Mitchener Cook, Secretary to the Government of India in the Finance Department for and on behalf of the Governor General of India in Council acting in the premises for and on behalf of the Secretary of State for India in Council in the presence of

(Sd.) E. M. COOK.

(Sd.) J. C. NIXON,
Under Secretary to the Government of India.

Imperial
Bank of
India.

The common seal of the above-named Imperial Bank of India was affixed hereto in the presence of me and also of

ROBERT MIDDLETON WATSON
SMYTH.

and also of
SATHAPPA RAMANATHA MUTHIA
ANNAMALAI CHETTY.

and also of
Sir NORCOT HASTINGS YEELES
WARREN, Kt.

who in my presence have signed their names hereto in token of their having been so present.

G. W. MCNAIR,
Solicitor, Calcutta.

(Sd.) R. M. WATSON SMYTH,
(Sd.) S. R. M. ANNAMALAI
CHETTY.

Governors.

(Sd.) N. H. Y. WARREN,
Managing Governor.

PAYMENT BY IMPERIAL BANK TO CREDITORS OF ALLIANCE BANK.

Mr. W. M. Hussanally : (a) Was the amount of money paid by the Imperial Bank to the creditors of the Alliance Bank a loan to Government of India, the Secretary of State or the Alliance Bank ?

(b) At whose instance did the Imperial Bank forego interest on the advance?

(c) Has any period been fixed for the advance or loan? If so, how much? If no period has been fixed, when is it likely the loan will be repaid?

(d) Why did Government not advance the money to the creditors of the Alliance Bank out of their own funds instead of guaranteeing the Imperial Bank against any loss by the transaction?

(e) Should there be any loss to the Imperial Bank, will the same be borne by the Indian or British Exchequer?

The Honourable Sir Basil Blackett : (a) I think I had better treat this question as being a matter which is *sub judice*.

(b) It was a matter of mutual arrangement.

(c) No period is fixed. The Government do not anticipate that any payments by Government will be required.

(d) In regard to the next question the Government considered that in a crisis of this kind it was the natural function of the Central Bank to support credit and to protect the banking interests of India.

(e) As to the last question, any loss will be borne by Indian revenues, but as I have already said, Government do not anticipate that there will be any loss. The British Exchequer is obviously not concerned.

UNSTARRED QUESTIONS AND ANSWERS.

OFFICE SUPERINTENDENT OF NORTH-WESTERN RAILWAY CHIEF ENGINEER'S OFFICE.

110. **Rai Bahadur Bakshi Sohan Lal :** Will the Government be pleased to state how far it is correct :

(a) that the post of the Office Superintendent of the Chief Engineer, North-Western Railway, is about to be vacant by the retirement of the present incumbent?

(b) that it is intended to fill the vacancy by appointing a European or an Anglo-Indian in preference to the Indian who has already officiated in the appointment several times with creditable approval of his work in every respect?

(c) that no applications are intended to be invited by public advertisement or otherwise in order to allow a selection of the best without regard for colour or creed from amongst the sons of the soil?

Mr. G. G. Sim : (a) and (b). Government have no information on the subject.

(c) As the incumbent must possess certain technical qualifications the post will ordinarily be filled by the promotion of a suitably qualified employee.

IMPORTATION OF STORES FOR GOVERNMENT DEPARTMENTS.

111. **Rai Bahadur Bakshi Sohan Lal :** Will the Government be pleased to state how far it is correct :

(a) that stores for the requirements of the Public Works, Irrigation, Railway and other Government Departments are still imported from other countries when the articles of equal efficacy can be supplied in India at cheaper or equal prices?

MOTION FOR ADJOURNMENT.

(b) that articles of Indian production and manufacture such as timber, cloth, iron and house fittings, etc., are not given preference to similar articles of foreign manufacture and production?

The Honourable Mr. A. C. Chatterjee : The Government of India are unable to estimate the extent to which there may have been failure to observe the rules for the supply of articles for the public service, which prescribe that preference is to be given to articles produced or manufactured in India provided that quality is sufficiently good and price not unfavourable. As the Honourable Member is aware, purchases have hitherto been effected by individual departments and officers, and such failure as may have occurred on their part to resort to Indian markets to a larger extent, has no doubt been due to lack of knowledge of available sources of supply, or to the absence of efficient agencies for the inspection of stores. It is to remove these obstacles that the Government of India have now taken in hand the organization and expansion of the Indian Stores Department.

SALT SALES AND DUTIES.

112. **Rai Bahadur Bakshi Sohan Lal :** Will the Government be pleased to lay on the table a statement showing :

(a) the whole quantity of salt issued by Government for sale during the period from 1st March 1923 to 30th June 1923 as compared with the quantities issued during the same part of the previous five years?

(b) the whole amount of duty on salt raised during the period of 4 months from 1st March 1923 to 30th June 1923 at the rate of Rs. 2-8-0 per maund as compared with the duty received during the same parts of the five years at the rate of Rs. 1-4-0 per maund?

The Honourable Sir Basil Blackett : Figures are not yet available for the period in question. The Honourable Member will, I think, find a general answer to his question in statistics already published or given by me in answer to previous questions during this session.

MOTION FOR ADJOURNMENT OF THE HOUSE.

DISCUSSION ON KENYA.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-official) : Sir, I ask your permission to move the adjournment of the House to call attention to the Kenya negotiations and to the desirability of an immediate representation by the Legislature for the purpose of upholding the claims of Kenya Indians in order that a just decision may be obtained from His Majesty's Government.

Sir, a word of explanation is necessary, because I made a similar motion sometime ago, and you ruled that it was not of an urgent character. Since I made that motion, there have been two telegrams, one from the deputation of this House sent to England asking us to take steps immediately to express the views of the Legislature on the

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subject. Yesterday evening another telegram was received. It is probably public property by now. I will read the opening lines which are as follows :

“ The latest information regarding Kenya decision alarming. Probably decision going against Indians, against India Government's declarations, despatches and so on.” That shows, Sir, that crisis has been reached in the negotiations ; it is therefore desirable that the hands of the Government should be strengthened by the expression by this House of its views on the subject. If we delay the expression, the result of it will be that the negotiations will go on without the Home Government knowing what we think on the matter ; and though the Government have been good enough to express their views, it is desirable that we should have an opportunity of expressing what we feel on this question in order that the Government may be able to cable to the Home Government our views. In this view the matter is urgent, as, if we do not move to-day there is hardly any chance of the views of the Legislature being brought to the notice of the Home Government. I therefore ask you, Sir, to give me permission to move the adjournment of the House this afternoon.

Mr. President : Mr. Seshagiri Ayyar asks leave to move the Adjournment in order :

“ To call attention to Kenya negotiations and the desirability of an immediate representation by the Legislature for the purpose of upholding the claims of Kenya Indians in order that a just decision may be obtained from His Majesty's Government.”

I understand the Honourable Member bases his request upon two telegrams, the first of which appears to me to be a private telegram and not public in the sense in which the word is used in the rules. I am a little in doubt as to the exact origin and authoritative character of the second telegram—whether it represents any statement by any public authority which should be brought to the notice of this Chamber.

Mr. T. V. Seshagiri Ayyar : It is from the Associated Press, and the Associated Press, if I understand aright, has been circulating it to the evening newspapers. It was in the hands of very many officials last night.

Mr. President : The Associated Press is a private organisation as far as we are concerned, and unless it is made the channel of communication for some official statement which has been made either here or in England, I do not think I can regard that as authentic.

Mr. T. V. Seshagiri Ayyar : It has been circulated to all the newspapers, Sir, and also to Government officials, if I understand aright. I have got a copy of it here.

Mr. President : I am afraid that whatever the Honourable Member proposes to do, I cannot rely on the newspapers for a purpose of this kind.

Mr. T. V. Seshagiri Ayyar : It is a telegram, Sir, which is in the hands of everybody.

The Honourable Sir Malcolm Hailey (Home Member) : If I understand it correctly, it is an anticipation from a correspondent of Mr. Seshagiri Ayyar, as to what may happen as the result of the negotiations now going on regarding Kenya. It is not an announcement on the part of His Majesty's Government or any similar authority.

Mr. T. V. Seshagiri Ayyar : No. If there was an announcement I would not have risen in my place to ask for an adjournment of the House. It is because we want to help in arriving at a decision before the announcement is made, that I want to move in this matter, so that the Government may know our views and may take steps to bring to the notice of the Home Government not only their own views but the views of the House.

Mr. President : The Honourable Member does not appear to have supplied me with any new information. The point at issue is this. We have already discussed fully the position of Indians in Kenya. The message which the Government of India transmitted to the Home Government conveyed the considered opinion of this Assembly on that subject, and the only means by which a motion for adjournment could be taken this afternoon would be some authentic official information regarding a new development of grave significance which had not been discussed before. Now I am afraid I cannot accept two private telegrams as proof of that grave development.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : The Government has not contradicted what has been stated in the telegram, and if it has information to the contrary, it will no doubt reassure the House.

The Honourable Sir Malcolm Hailey : May I say it will be quite impossible for us to contradict such an anticipation. As I understand these two telegrams, they are nothing but forecasts of what is likely to happen when a decision is arrived at.

Mr. T. V. Seshagiri Ayyar : Sir, may I say only one word more. I said I believed the Government was in possession of the news which I have had. Only to that extent, Sir Deva Prasad Sarvadhikary says the Government will not be in a position to contradict the news which I am communicating to the House, namely, that in England our deputation is feeling that it is not possible to obtain a just decision unless both the Legislature and the Government join hands and press upon the Home Government the necessity of dealing with this matter in an impartial manner. The telegram put into my hands has also come into the hands of Government and they know as well as I do that there is every possibility of the decision going against us unless we—the Legislature and the Government together—move in the matter and press upon the Home Government the necessity of proceeding in this matter in a different spirit. That, Sir, is the urgency ; the matter is to be decided on the 25th. and unless the Legislature and the Executive Government put their heads together and come to a decision, and wire to the Home Government our views on the matter the decision there would be practically *ex parte*, and all our efforts would be useless. In these circumstances I again ask you, Sir, to consider whether this is not an urgent matter, urgent in the sense that if we do not move now the decision will go against us, urgent also in the sense that it is desirable that if the Government wish to know our views before they cable to the Home Government, this is the time for doing so. They know the feeling in the country ; they know their own minds ; but they must know something about our minds and unless we express our feelings at the present moment, the Government have no chance of being in possession of our views. In these circumstances, having regard to the feeling in the

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country, I hope you will consider that this is an urgent matter and that you will allow me to move the adjournment of the House.

Mr. President : I can assure the Honourable Member that, if the rules permitted me to take account of the feeling in the country, I should be prepared to allow him ; but the rules do not allow me to do so. I am afraid the Honourable Member has not proved his case in regard to this matter and I cannot therefore allow him to make the motion.

THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to lay on the table the *interim* report of the Public Accounts Committee.

INTERIM REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE ACCOUNTS OF 1921-22.

Reference.

The following motion was made by the Honourable Sir Basil Blackett on the 8th March 1923 and adopted by the House :—

“ That this Assembly do proceed to elect 8 Members to be Members of the Committee on Public Accounts.”

In pursuance of this, the following Members were elected by the House :—

Mr. K. C. Neogy.	Mr. K. G. Bagde.
Mr. K. Ahmed.	Syed Nabi Hadi.
Mr. N. M. Joshi.	Rao Bahadur P. V. Srinivasa Rao.
Mr. Ambica Prasad Sinha.	Mr. Braja Sundar Das.

The following Members were nominated by the Governor General under rule 51 (2) of the Indian Legislative rules :—

Mr. A. O. Jamall.	Mr. J. P. Cotelingam.
Mr. P. B. Haigh.	

Under rule 51 (3) of the Legislative rules the Finance Member is the Chairman of the Committee.

I.—Introductory.

This report is concerned with the accounts for the year 1921-22. 1921-22 was the first year the expenditure of which was subject to the vote of the newly constituted Assembly. The accounts of this year are therefore the first accounts in the scrutiny of which the Public Accounts Committee was called upon to compare the grants voted by the Assembly with the actual expenditure under the voted heads, and to exercise its functions of examining into and reporting to the Assembly on the action of the Government of India in giving effect to the wishes of the Assembly as expressed by their votes in regard to that part of the expenditure which is voted.

2. The reports placed before us by the Auditor General are grouped in two sets ; audit reports and appropriation reports. The latter show how actual expenditure compares with sanctioned grants, while the former deal with irregularities in expenditure discovered in the course of audit. Each set consists of a number of reports by three Accountants General who deal solely with the revenue and expenditure of the Government of India, (the Accountant General, Central Revenues, the Accountant General, Railways, and the Accountant General, Posts and Telegraphs), by the Accountant General, Punjab, with regard to the Accounts of the North-West Frontier Province, and by the various Provincial Accountants General who, in addition to being responsible for the accounts of the particular province to which they are attached, deal with a certain number of Central heads of expenditure, consisting mainly of those which are administered by the provincial Government as agent of the Government of India. The audit reports were ready about the end of last year and some of them were examined by the Committee appointed by the House for the year 1922-23, who held two meetings in March in Delhi. The appropriation reports were not available till May, but even if they had been ready in March, they could not have been considered by the previous Committee, as the

time of members was so fully occupied in that month with the ordinary business of the House that it was practically impossible to arrange for more meetings. We have now examined the appropriation reports, and hope soon to have finished the audit reports but we think it will be more convenient to the House if we submit our report on the appropriation accounts at once.

3. At the outset we feel it necessary to draw attention to the special difficulties that exist in India in the way of getting oral explanations of excesses in expenditure. The actual disbursing officers who are in a position to give full explanations are far away ; of the various account officers whose reports are placed before us only the Accountant General, Railways, is at the headquarters of the Government. We were this year, by a fortunate coincidence, enabled to have the assistance of the Accountant General, Posts and Telegraphs, when going through his report ; and we feel that our task will be considerably lightened, when the Accountant General, Central Revenues, who finally accounts for all the grants voted by the Assembly with the exception of those in connection with Railways and Posts and Telegraphs is at headquarters at Delhi instead of at Calcutta.

4. We recognise fully the difficulties met with, both by the administrative authorities and by the accounting staff in this, the first year of the Reforms. It could hardly be expected that immediately after the inauguration of the new system, the responsibility of the Government of India and their departmental officers for keeping their expenditure under voted heads of expenditure strictly within the limits of the amounts for which the Assembly had voted money would be fully realised and that the machinery for securing strict attention to the rules of Parliamentary appropriation could at once be put in working order. In the year 1921-22 for the first time the Government of India were responsible to an authority in India other than themselves in regard to a certain portion of their expenditure. In commenting on the actions of the Government of India, we are fully conscious of the fact that during the year in question all the authorities were feeling their way towards a complete understanding of the new system. Many of the defects which we have noticed have, we are informed, already been observed by the Government of India themselves, who have in many cases taken steps to improve the system. Many more will, we have little doubt, be gradually overcome in course of time even without our drawing attention to them. But in other cases, we believe that the scrutiny of the Public Accounts Committee is doing, and will do, real service in bringing defects to light and suggesting remedies. Where we feel called upon to make criticisms, we do so in performance of our duty of co-operating with the Government in establishing and improving the system of working of the new control by the Assembly over expenditure which the Reforms have brought about. We are convinced that the existence of the Public Accounts Committee and the knowledge that it will in due course scrutinise the accounts of the year's expenditure, examine witnesses from particular Departments, and call on the Government for explanations of any irregularities or of any failure to keep expenditure on voted items within the limits voted by the Assembly, will be most helpful in introducing new methods and machinery into the Departments of the Government of India in dealing with voted expenditure. The Departments of the Government of India will realise that they are now for the first time being brought face to face with the necessity of justifying their expenditure in detail to a responsible body of representatives of the Indian tax-payer. By realising this, they will be led naturally, as expenditure is incurred during the course of the year, to keep in mind, and devise machinery for, the task of justifying their expenditure before the Assembly.

II.—General.

5. The total amount of grants voted by the Assembly for the expenditure of the year 1921-22 (including supplementary grants) was Rs. 1,34,56,87,000, and the total expenditure for the year out of these grants was Rs. 1,25,26,63,766, resulting in a saving on the whole of Rs. 9,30,23,234. As compared with the original grant of Rs. 1,13,29,88,000, there is an excess of Rs. 11,96,75,766.

6. There has however been an excess in expenditure over sanctioned grants under 24 heads aggregating Rs. 1,95,00,183, details of which are given in an appendix to this report. These are covered by savings aggregating over 11 crores

*The figures for expenditure may require very slight alteration, but the change will be almost negligible.

under other heads, the result being a total saving of about 9½ crores as mentioned above. We recommend that the Assembly assent to the demand for an excess grant in respect of these heads which the Governor General in Council will place before them.

7. In addition to the excesses over sanctioned grants in the actual expenditure of the years, there has been an excess under the two heads 'Interests free advances' and 'Loans and Advances bearing interest' to the extent of Rs. 2,98,32,976. The Original grants voted by the Assembly amounted to Rs. 13,43,89,000; and the final grants as sanctioned in March 1922 were Rs. 20,89,56,000; and the actual disbursements in the year amounted to Rs. 23,87,88,976. The causes of this excess are given in page 103 of the Appropriation Report of the Accountant General, Central Revenues. Nearly 2½ crores was due to the system of accounting in the Army Department. The explanation of the Military Accountant General on the point is as follows:—"The excess over the revised estimate is due to the value of stores issued on payment being credited to Army by debit in the first instance to 'Advances Repayable,' the head being credited when recoveries are effected from individuals, etc., in accordance with the cost accounting instructions and also to larger amounts having been debited to the head in the first instance in the absence of relevant vouchers and information but subsequently adjusted to the proper heads of account. The increase in expenditure is thus also reflected in receipts." The excess is therefore due in great part to the fact that the grant voted by the Assembly is a gross grant, and takes no account of recoveries; if the Assembly had voted net grants under these heads, there need not have been any excess. As for the rest of the excess, almost the entire amount (about 45 lakhs) is due to the fact that the Punjab Government had to be allowed a considerable overdraft during the year. We recommend that these excesses be also formally sanctioned by the Assembly.

8. In many of the cases where the accounts showed that the actual expenditure had exceeded the grant sanctioned, we found that the excesses were more apparent than real being due to one or both of the following causes:—

- (i) a change of classification, in the accounts introduced after the demands were passed whereby the expenditure was accounted for under a head other than that under which funds had been provided for it; the most striking instance of this being due to the decision to show 'loss on exchange' under the various heads of expenditure, instead of under the separate head 'Exchange' where 903 lakhs had been provided for it.
- (ii) the fact that certain items of expenditure on stores in England could not be adjusted by the High Commissioner under the correct heads for want of full information in the indents and the expenditure had consequently to be passed on to be adjusted in India under the various heads. Funds had been provided for the purchase of these stores under the head 'Expenditure in England' where, as a result, there is a net saving of over 58½ lakhs.

9. The complications arising from the change of classification during the course of the year under the head 'Exchange' will not disturb the figures in future. As a matter of principle we deprecate effect being given in the middle of the year to changes in classification of expenditure and of methods of accounting and trust that such changes will rarely if ever be made in future in the course of the account year.

10. We are informed that the second cause will not operate in future years, as arrangements have since been made to give complete information on the indents which would enable the accounting officer of the High Commissioner to allocate the charges without any difficulty. We are not quite convinced however of the necessity or suitability of a separate grant for expenditure in England and suggest that the Government of India should consider the advisability of bringing the expenditure to account in India under the various demands into which it is at present sub-divided, thereby enabling the true expenditure on a given service, whether incurred in India or in England, to be ascertained at a glance.

11. Another minor difficulty which has several times come to our notice is due to the separation between 'voted' and 'non-voted' items of expenditure. Non-voted expenditure sometimes takes the place of voted expenditure and vice versa. Administrative requirements often involve the replacement in the course of the year of an officer whose salary is voted by one whose salary is not—and vice versa—

and it is impossible to foresee those changes in preparing the budget estimates. This difficulty is inherent in the system laid down by the Government of India Act and, we feel it desirable to mention it here.

12. In our examination of the accounts of 1921-22 we have been struck by the fact that in many cases the actual expenditure though in excess of the final grant and technically requiring to be regularised was within the original grant sanctioned by the Assembly. Apart from variations due to this cause under minor heads, we have noticed that under six of the demands (*viz.*, Taxes on Income, Irrigation and Waterways, Administration of Justice, Mines, Education and Miscellaneous Departments) under which there are excesses as compared with the final grants, the expenditure has fallen short of the original grants; and, in six more, (*viz.*, Land Revenue, Other Scientific Departments, Public Health, Civil Works, Superannuation allowances and Miscellaneous) there would have been no excess but for reductions sanctioned by the Assembly in passing the final Supplementary Demands placed before it by the Government in March.

13. We understand that this somewhat curious result is due to the existing practice of basing the final voted grants for the expenditure of the year on the revised estimates of expenditure prepared by the Finance Department in connection with the next year's Budget, the original grants being supplemented or reduced under each separate head with the sanction of the Assembly. The Accountant General, Central Revenues, and the Auditor General have pointed out that this method is both inconvenient and inaccurate. In the year under review, the final supplementary demands were passed by the Assembly on the 11th March 1922, and reductions made could not be communicated to the spending officers till some time after the close of the year. As a result, there were many cases where the expenditure had been kept by the disbursing officers well within the original grants of which they were cognisant, but proved to have exceeded the final reduced grant of which they were informed only after the close of the year.

14. In order to avoid this difficulty it has been suggested that the supplementary grants and reappropriations from one head to another when presented to the Assembly should not be based on the revised estimates at all; but should be framed in full consultation with the administrative authorities, the authorities actually responsible for the expenditure being given the fullest opportunity of expressing their views in the matter. This procedure, if feasible, might solve the difficulty but would, in our opinion, if extended to re-appropriations inevitably prove very inconvenient as it practically involves the setting of the full budget machinery of the Government of India in motion twice over for this purpose.

15. The other suggestion put before us, which we favour, is that no re-appropriations should be proposed in placing the supplementary grants before the Assembly. A saving under one head is by itself no justification for an excess under another; and from the point of view of Parliamentary control of expenditure, it is obviously undesirable to encourage underspending under one head with a view to overspending under another. If reappropriations from one demand to another were treated as a matter of course, there would be a great temptation to keep a margin of possible savings under some heads when preparing the budget.

16. If this suggestion were adopted, the Government would place before the Assembly, in good time before the close of the financial year, a statement showing under what demands an excess in expenditure was necessary or desirable and would ask the Assembly for supplementary grants for these excesses. The Assembly would not be asked to sanction a reduction in any grant already made, but it would be the duty of the Government to point out at the same time what savings were, on the best information available at the moment, likely under other demands and to place before the Assembly any other facts, such as an increase in anticipated revenue, which would affect the closing balance of the year.

17. The chief advantage of this system would be that the Assembly, when asked for a supplementary grant, would have placed before it demands based on the representations of the administrative departments actually responsible for the expenditure and not on estimates of probable expenditure prepared mainly by the accounts officers and the Finance Department. It is easier to enforce the responsibility of a spending officer if he exceeds the estimates for which he is himself responsible than if he exceeds estimates he knows nothing about.

18. We consider that this procedure will avoid most of the difficulties experienced at present. It may be argued that the actual reduction of a grant under any particular head may be of use in checking expenditure under that head. But, apart from the fact that the Assembly is not itself in a position to foresee savings under any head, and that it must depend on estimates furnished by the executive Government, it is not difficult to see that an actual reduction of expenditure can follow only if the saving is foreseen long before and the reduction in the grant communicated to the disbursing officers early enough. This, we are assured, is, in most cases, impracticable, as the total saving which may be foreseen has to be distributed under different sub-heads and communicated to various disbursing authorities. Most, if not all, of the advantages of an actual reduction of the grant can be obtained by the issue of orders to a Department to underspend its grant to a certain fixed extent. A grant cannot be exceeded without the sanction of the Assembly, and it ought to be the duty of the Finance Department of the Government when during the course of the year it becomes apparent that unexpected savings can be anticipated under that head, to fix a lower maximum to the spending department, any excess over which should be dealt with by departmental action if no sufficient explanation was forthcoming. Such an excess should be reported to the Public Accounts Committee by the Auditor General.

19. When this system is in full working order, excesses ought not to occur in any but extraordinary circumstances. But if after the accounts for the year are closed, in spite of all precautions, the total grant under any demand has been exceeded, the excess ought to be regularised by a vote of the Assembly. The excess would naturally be examined, in the first instance, by the Public Accounts Committee, and in making a demand for an excess grant, the Government would place before the Assembly any recommendation that the Committee might desire to make.

20. Before leaving this part of the subject we desire to draw attention to the importance of impressing upon the actual disbursing officers the absolute necessity of obtaining funds from the Assembly before incurring expenditure on voted heads, for we feel that this was not sufficiently realised in the year 1921-22. Cases have come to our notice where expenditure has been incurred which could, so far as we could see, have been postponed till funds had been provided for it by the Assembly; and we think that it is essential that means should be devised of effectively stopping irregular expenditure by making some officer of the Department responsible for excesses under each demand and of enforcing this responsibility when necessary. In this connection, the question was raised of the possibility of preventing excess expenditure by making it impossible for spending officers to get money in excess of a certain fixed sum without proper authority. We understand that there are grant difficulties in the way of an absolute control in this matter owing to the large number of disbursing centres in India at which money has to be made available for expenditure. The matter, however, is so important that we would recommend that the suggestion should be carefully considered by the Government.

21. Our attention has been drawn to the question of the powers of the Government to reappropriate within the same demand. It may be argued that as the Assembly in voting the total grant under any demand grants the money for the purposes detailed in the estimates placed before it, any important variations should be brought to the notice of the Assembly. When, for instance, money voted by the Assembly for one purpose is utilised by Government for another purpose not approved of, or perhaps specially disapproved of by it, it may be considered that there should be some means whereby the Assembly could be seized of it. At present the Finance Department of the Government exercises in theory absolute powers of reappropriation, and there are various other authorities which have certain restricted powers. We notice, however, that these powers of reappropriation are, in practice, largely modified and controlled by the fact that all important items of new expenditure are placed before the Standing Finance Committee whether the expenditure can be met by reappropriation or requires a supplementary grant. Ordinarily the executive should, it is urged, have power to vary the expenditure within a grant so long as they spend it within the purposes of the grant, and the remedy for preventing abuses of the power of reappropriation is to split up the vote where such abuses occur into two or more votes.

22. This brings us to the question of parliamentary control over the large sums voted under the heads 'Railways' and 'Posts and Telegraphs.' In these

particular cases, we consider that there is a strong *prima facie* case for splitting up the vote and we recommend that the Government should consider, in consultation with its expert advisers, the most convenient method of placing the demands before the Assembly in order to make its control more effective. As regards the grant for Railways, it has been suggested that a separate demand may be made on account of each Railway. This would increase considerably the number of demands and might necessitate the allotment of a longer period of time than is allowed at present, for the discussion of the demands. An alternative suggestion is to have separate demands for the various sub-heads into which the present head is sub-divided, but some of the minor heads will still run into many crores. We are not at present in a position to express an opinion on the matter, but recommend that the possibility of sub-division of the demands should be carefully considered.

23. In connection with the question of reappropriations within a demand, we considered a suggestion that the appropriation reports instead of dealing only with variations in expenditure under minor heads of account, should show in detail the various re-appropriations made, and the actual expenditure incurred under each detailed head shown in the Demands for Grants for the year in which the Assembly sanctioned it. On the other hand it was pointed out that this procedure would involve still further delay in issuing the appropriation reports, and would increase considerably the work involved in preparing them, as explanations would have to be given of every important variation if the figures were to be of any use. Moreover, the demands of grants for 1923-24 contained the details of actual expenditure for 1921-22 and anybody interested could compare the budget figure shown in the demands for 1921-22 with the actuals shown in the demands for 1923-24.

24. We have not had time on this occasion to arrive at any final conclusion with regard to the questions dealt with in paragraphs 20-22, but we think that they deserve further consideration.

25. The only other observation of a general nature that we have to make on the accounts is based on what has been represented to us as the cause of an excess over grants in one or two cases, viz., the revision of pay of establishments with long retrospective effect. We understand that at present the Government do not usually sanction increases of emoluments from a date long previous to the date of sanction, but we feel it desirable to place on record our opinion that any proposal to increase emoluments with retrospective effect should require strong justification.

III.—Particular Accounts.

26. In this part of the report, we deal with matters which have come to our attention in connection with individual grants.

Stamps.

27. We notice that under this head, the excess in the gross grant is entirely explained by the adjustment of the loss on exchange and of expenditure in England on stores under this head. Consequently there would have been no excess but for these exceptional factors. On the other hand, the recoveries from Provincial Governments and the Department of Posts and Telegraphs which are taken as a reduction of expenditure considerably exceeded estimates partly for the same reason. There is a possibility in this and similar cases where there are recoveries taken as a reduction of expenditure that an excess over a gross grant may be covered by larger recoveries, so that there is no excess in the net grant under the head. We feel it therefore desirable to place on record our opinion that in such cases an excess over the gross vote should require the sanction of the Assembly irrespective of the amount of recoveries. There may be converse cases where the recoveries are less than anticipated with the result that there is an excess in the net grant without an excess in the gross grant. Such cases too should, in our opinion, be reported to the Assembly for sanction.

Irrigation and Waterways.

28. Though the excess is comparatively trifling, we were struck with the fact that in Baluchistan the grant had been exceeded by over 160 per cent. We have also noticed a similar excess in the same province under Civil Works. We suggest

that the matter of more effective control of expenditure on works in this province should be investigated.

General Administration.

29. We have also noticed the excess under Executive Council which has been explained as due to tour expenses. We would suggest that a proper estimate of tour expenses of Members of the Executive Council should be made and some central authority charged with the duty of watching the expenditure and of seeing that, when excesses were likely, a supplementary grant is obtained.

30. We note that the excess under the head "Legislative Assembly" is partly due to the cost of the Racial Distinctions Committee and the Railway Finance Committee being taken under this grant. We are not quite satisfied that expenditure on Committees appointed otherwise than by the Assembly and containing persons who are not members of the Assembly should be taken against this vote and suggest that the question of the correct classification of the expenditure be further considered.

Jails and Convict Settlements.

31. We understand that the large excess in expenditure in Delhi under this head was due to an unexpectedly large number of prisoners in December 1921 and January 1922 in connection with the non-co-operation and similar movements just before the visit of His Royal Highness the Prince of Wales. We recognize that the expenditure was inevitable, but the excess was not. It ought to have been possible to obtain a supplementary grant on this account in time, but we are informed that the administrative authorities in Delhi did not move in the matter. This is not the only case of its kind in Delhi. We have noticed a number of excesses under various heads which seem to suggest that means for control of expenditure in that province are not quite adequate. We are of opinion that the attention of the Chief Commissioner, Delhi, should be specially drawn to the necessity of obtaining grants from the Assembly before incurring expenditure, and of taking steps to obtain supplementary grants if excess expenditure has unavoidably to be incurred in anticipation of the approval of the Assembly.

Survey of India.

32. In our examination of the Surveyor General in connection with the excess under this head and that attributable to this head under "Land Revenue" we were struck by his statement that he had not been informed till lately of the accounts adjustment of expenditure transferred from England to India which was the chief cause of the excess. The apparent lack of co-ordination between the disbursing department and the accounts department disclosed by this would, in our opinion, detract from the efficacy of any means that exist at present to secure efficient control of expenditure and steps should be taken to remedy this.

Miscellaneous.

33. It was suggested that some of the charges under this head could be classified more appropriately under some of the specific heads of account. For instance, 'charges on account of European vagrants' which are presumably incurred under the Vagrancy Act could possibly be taken to the head 'Administration of Justice'. We are of opinion that this matter deserves consideration.

34. We noticed that in 1921-22 there were three reserves under this head, one at the disposal of the Finance Department and one each in Delhi and Baluchistan. We saw no reason for any reserve but the first which might more appropriately be styled a general reserve. We have been informed that in the current year there is no other reserve under this head. We think it desirable that information about the amounts reappropriated from the reserve with the purposes for which they were utilized should be shown in the appropriation reports in future.

Posts and Telegraphs.

35. There are serious excesses under Stationery and Printing in this vote, but the representative of the department who gave evidence before us disclaimed all knowledge of or responsibility in connection with this, on the ground that the Controller, Stationery and Printing, supplied the stationery and charged for it at the usual rates. We are of opinion that arrangements should exist in every department to watch all expenditure whether directly incurred by the Department or by an agent acting on its behalf. We trust the appointment of a Financial Adviser to the Posts and Telegraphs Department will lead to an improvement in this case.

36. We find that neither the estimates nor the accounts of the Indo-European Telegraph Department are intelligible in their present form. We suggest that the question of modifying them so as to make them more easily understood should be considered. The possibility of giving fuller explanatory memoranda in the appropriation report may also be examined.

Railways.

37. As we have already indicated a close examination of the expenditure under this head is very difficult in view of the fact that there are only two grants—one for revenue and one for capital expenditure, each involving crores of rupees, and under the present system vast powers of re-appropriation are secured to the executive. The accounts of this year show that they did not take the necessary formal steps in exercise of these powers to regularise the accounts with the result that some of the minor heads show large excesses; but as there is a saving on the total grant, these excesses need not have occurred.

38. It has been explained that the supplementary grants were sanctioned too late to allow the amount to be allocated to the different railways in time. It is not clear why a preliminary allocation of the amount for which the Railway Department had decided to place a supplementary demand before the Assembly was not made earlier and communicated to the Railways in anticipation of the sanction of the Assembly to the grant. Similarly it is difficult to understand why the reserve in the hands of the Railway Board was not allotted to the railways where excesses were anticipated. The reserve was instituted just for that purpose.

39. Our attention has been drawn to the large increase in Suspense which is due to expenditure on account of sleepers incurred by the Bengal-Nagpur Railway and on account of workshop charges in the North-Western Railway not being fully adjusted in the accounts of the year. We are glad to note that steps have been taken to improve the arrangements for adjustment and trust it will be found possible in future to adjust debits and credits on the same account in the same year.

40. Our attention was also drawn to the fact that the amount of stores at any time standing charged against the Suspense Item in the Capital Account is to some extent dependent on the amount provided for the grant for Railways chargeable against the revenue of the year. The practice has been to place orders for such items as wagons, wagon parts, etc., which are required for renewal purposes some time before the beginning of the financial year on the basis of the demands originally put forward by the Railway Agents. These stores are, for convenience, debited in the first instance to the Suspense Item in the Capital Account, and this item is afterwards cleared as the stores are taken over for the renewal programmes of individual Railways. If, however, the grant originally demanded is cut down by the Finance Department or by the Assembly, as has happened in the current financial year for example, the result is that the stores remain charged to Capital for an unduly long period. During this period interest has to be paid on such capital, and the wagons, etc., remain idle and possibly deteriorating in store earning no revenue even though they may be badly needed for carrying traffic. The revenue accounts of the year show an apparent reduction in expenditure. But this is obtained not only without any saving whatever to the Indian tax-payer but actually at the cost of some loss of revenue, which might otherwise have been earned simply by bringing the wagons out of store and putting them to use. It is clear that the system is at fault. We are glad to learn that the new Financial Commissioner on the Railway Board is taking up this question.

BASIL P. BLACKETT.

P. B. HAIGH.

P. V. SRINIVASA RAO.

K. G. BAGDE.

N. M. JOSHI.

K. C. NEOGY.

BRAJA SUNDAR DAS.

K. AHMED.

SYED NABI HADI.

APPENDIX.

Number of grant.	Title of grant.	Excess over net grant.	For details, see Appropriation Report of the A. G., Central Revenues, page.
<i>Expenditure charged to Revenue.</i>			
		Rs.	
2	Taxes on Income	1,22,340	9
5	Land Revenue	57,219	12
6	Excise	11,200	13
7	Stamps	51,18,904	14
8	Forest	3,28,165	15
11	Irrigation and Waterways ..	8,088	16
12	Posts and Telegraphs ..	50,36,065	... Appropriation Report of A. G., Posts and Telegraphs.
14	General Administration ..	14,53,152	19-20
16	Administration of Justice ..	39,261	23
18	Police	1,11,280	26
20	Survey of India	6,11,539	23
21	Meteorology	53,315	30
23	Botanical Survey	4,61,466	29
26	Mines	6,679	31
27	Other Scientific Departments ..	17,148	32
28	Education	24,722	33-34
29	Medical Services	3,30,587	36-37
30	Public Health	18,885	38
39	Miscellaneous Departments ..	3,088	8
40	Currency	19,89,624	47
43	Civil Works	3,27,071	50
44	Superannuation allowance and pensions.	1,80,855	52
45	Stationery and Printing ..	15,30,528	53
46	Miscellaneous	16,29,002	54-56
	Total ..	1,95,00,183	

Expenditure charged to Capital.

No excess.

Disbursement of Loan and Advances.

58	Interest free advances ..	2,52,54,879	103
59	Loans and advances bearing interest	45,78,097	"
	Total ..	2,98,32,976	

RESOLUTION RE FUNCTIONS AND POWERS OF THE COUNCIL OF STATE.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I moved on the 12th instant a Resolution* which I then read out and which is first on the agenda to-day. I do not think I need read it again. My Resolution, Sir, does not raise the question as to the desirability or necessity or otherwise of a second Chamber or an Upper House as a component part in the legislative machinery of the State, especially in a federal form of Government. On the contrary, my Resolution postulates the continuance of the Council of State as a second Chamber in the legislative machinery of the Government of India. The only question that my Resolution raises is as to the right distribution of power between the two Houses, the Legislative Assembly and the Council of State, the latter as a true second Chamber, and the former as a body which has exclusive power, under the Government of India Act, to grant supplies. It is this marked distinction between the powers of the two Houses of which the logical, legal and constitutional result must be that the Council of State could not have power to amend any Money Bill. I do not say that no Money Bill should be sent to the Council of State for consideration. But I contend that the Council of State has no right to make, nor can that body be rightly empowered to make, amendments to a Money Bill, which must necessarily originate in the Lower House as a result of the supplies granted by it. Last March this Assembly decided by its vote not to increase the salt tax, that is to say, to keep it at Rs. 1-4-0 per maund ; the Council of State by its vote raised it to Rs. 2-8-0 as proposed by Government and in opposition to the vote of this House. Is any amendment of a Money Bill by an Upper Chamber conceivable in any other part of the British commonwealth, and will Government be pleased to point to any Upper House in any other part of the British Empire which can by

* " This Assembly recommends to the Governor General in Council that effect be given, by an amendment of the Government of India Act, if necessary, to the Statement of the Joint Parliamentary Committee that they have so constituted the Council of State as to be " a true Second Chamber " by making it obligatory to observe in practice the following principles :—

- (1) Bills appropriating revenue or moneys or imposing taxation or containing provisions incidental to the financial arrangements for the year shall originate only in the Legislative Assembly :
Provided that a Bill shall not be taken to fall under this category by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses or fees for services under the law proposed therein.
- (2) The Council of State may not amend any Bill falling under the category aforesaid.
- (3) The Council of State may not amend any Bill so as to increase any proposed charge or burden on the people as voted by the Legislative Assembly.
- (4) The Council of State may, within the time laid down by the Legislative Assembly, return to the Legislative Assembly any Bill which the Council of State may not amend, requesting by message the omission or amendment of any items or provisions therein. And the Legislative Assembly may, if it thinks fit, make any of such omissions or amendments, with or without modifications.
- (5) Except as provided hereinabove the Council of State shall have equal power with Legislative Assembly in respect of all proposed laws."

[Mr. N. M. Samarth.]

its vote increase a charge or burden on the people against the wishes of the Lower House? The thing is inconceivable. In the case of Bills referring to the raising and spending of money the powers of the Upper House in most of the chief States of the world are more or less limited. The reasons for this are partly historical and partly rational. Historically it may be said to be in imitation of the relation existing between the House of Lords and the House of Commons in England, where the power of the purse ever since the fourteenth century has been vested exclusively in the Commons. But it is hardly correct to regard this almost universal restriction on the power of Upper Houses as merely an accidental adaptation. It is based on reason. In the matter of Money Bills it is wiser to make the wishes of that House which more directly and proportionately represented the people decisive and final and not liable to be overridden by an Upper House which has not the power to assent nor refuse its assent to any demand for money that the State may make.

Well, Sir, as regards the various clauses of this Resolution, as Government knows and as Honourable Members know, I have taken the language of these clauses from the Commonwealth of Australia Act, 1900, section 53, and the Union of South Africa Act, 1909, section 60. They are identically in the same words and I need not repeat them.

Then I come to the next question. As Honourable Members will see, I have said in the Resolution that effect be given to it by an amendment of the Government of India Act, if necessary. I maintain that even under the Government of India Act, as at present worded, the legal and constitutional position, according to the proper interpretation of the sections, would be that the Council of State has no power to amend a Money Bill. When the Government of India Bill was before the Joint Parliamentary Committee, Mr. Montagu, curiously enough, moved an amendment to insert a new clause to clause 20 of the Bill. The report of the proceedings read thus :

"It is moved by Mr. Montagu after clause 20 to insert the following new clause :

(1) The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year, and the proposals of the Governor General for the appropriation of revenue or moneys in any year shall be submitted first to the Legislative Assembly for its assent, and, after consideration by the Legislative Assembly, to the Council of State for its assent, in the form of demands for grants."

The Honourable Sir Malcolm Hailey (Home Member) : May I have the date of that ?

Mr. N. M. Samarth : It is in Volume I, at page 32, of the Joint Select Committee's Report on the Government of India Bill—Command paper 203. Mr. Montagu's amendment then proceeded as follows :

"(2) Either Chamber may assent or refuse its assent to the demand as a whole, and the Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand, either by reduction of the whole grant or by the omission or reduction of any items of expenditure of which the grant is composed : "

and then we have certain provisos. The point is that it was originally intended by the Secretary of State to give this power to grant supplies and vote them to both Houses of the legislature. The Joint Parliamentary Committee did not accept that amendment and entrusted this power

exclusively to the Legislative Assembly in order that the Council of State may be so constituted as to be what they call a true second Chamber ; and accordingly the Bill was modified and we have those provisions in the Government of India Act now, the result of which is that this Assembly alone has the power to grant supplies and the original proposal to constitute the two bodies as co-ordinately entrusted with that power fell through. The section which is relied on by Government for the purpose of supporting their view that Money Bills also must go before the Council of State for their vote and must be passed and agreed to by that body is the latter part of section 63 of the Government of India Act. That part says :

"Except as otherwise provided by or under this Act a Bill shall not be deemed to have been passed by the Indian Legislature unless it has been agreed to by both Chambers either without amendment or with such amendments only as may be agreed to by both Chambers."

Now, the interpretation which was placed upon this section by the late Law Member, Dr. Sapru (now Sir Tej Bahadur Sapru), was that this was inserted with a view to provide for the contingencies hereinafter referred to, namely, the certification by the Governor General to pass a Bill although it has not been agreed to by both the Chambers or his using his emergency powers to pass any Bill and so on. If that were the right interpretation, surely the Legislature would have said "except as expressly provided by or under this Act," but they have omitted the word "expressly" which they have used in other sections of the Act scattered all over and left this particular section without the insertion of any such word. My interpretation of the exception clause is that it means "except as otherwise expressly or by necessary implication provided by or under this Act," and the necessary implication in the case of a Money Bill is that it must be deemed to be excluded from the operation of the provision that it shall not be deemed to have been passed unless it has been agreed to by both Chambers with or without amendment or with such amendments only as may be agreed to by both Chambers. Now, Sir, in support of my view, I would cite the opinion given in 1872 by the Attorney General and Solicitor General of England, both distinguished names, namely, Sir J. D. Coleridge and Sir G. Jessel, when the question of the right of the Upper House of New Zealand to amend a Money Bill was formally submitted to them by the Legislature of that Colony. The Constitution Act of New Zealand provided that Money Bills must be recommended by the Governor to the House of Representatives, as is the case here, but did not formally deny to the Upper House the right to amend such Bills. Nor does the Government of India Act do so. It does not deny to the Upper House the right to amend such Bills. Well, Sir, the Law Officers of the Crown gave the opinion that, having regard to the above provisions, the Upper House of New Zealand was not justified in amending a Money Bill, and I would here refer to another case, that of Queensland. It was provided by section 2 of the Constitution Act of 1867 of Queensland that "all Bills for appropriating any part of the public revenue or for imposing any new rate, tax or impost shall originate in the Legislative Assembly." Now nobody, I take it, disputes that that is also the case here ; these Bills must originate in the Legislative

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Assembly. Even in the amendment of Mr. Montagu it was provided that these Bills must originate in the Legislative Assembly and then they should be taken to the Council of State, and both should have the power to grant supplies. So there is no question that such Bills must originate in the Legislative Assembly here. Now the exact force of this clause formed the subject of a Report of the Judicial Committee of the Privy Council on a reference from the two Houses in 1886. The two Houses, that is the Upper House and the Lower House (the Upper House there was called the Legislative Council and the Lower House was called the Legislative Assembly), the two Houses came into conflict on a Money Bill and by a Resolution of the two Houses the Presidents of the two bodies, the President of the Legislative Council and the Speaker of the Legislative Assembly, were asked to state the case for the decision of the Judicial Committee of the Privy Council in which both the views, *pros* and *cons*, the view of the Legislative Assembly as well as of the Legislative Council, were set forth. The Privy Council had these two questions before it, namely, whether the Constitution Act of 1867 confers on the Legislative Council powers to co-ordinate with the Legislative Assembly in the amendment of all Bills, including Money Bills. It was raised only on the ground that the power rested with the Legislative Assembly to originate Money Bills. The second question was whether the claims of the Legislative Assembly as set forth in their message of 12th November 1885 were well-founded. Their Lordships agreed to report to His Majesty that the first of these two questions must be answered in the negative; that is to say, the Upper House has no power to amend Money Bills, and the second question was answered in the affirmative. Now, Sir, I take my stand upon these two decisions, and I say that having regard to those two decisions, the right interpretation of the Government of India Act will be and should be this, that by necessary implication the Upper House, that is the Council of State, has no power to amend Money Bills. The Upper House may by message suggest modifications or amendments to a Money Bill, but it will rest with the Legislative Assembly to accept the suggestions or not or to deal with them in such manner as it may deem fit. If the Government of India question the correctness of this interpretation, then I submit they should refer the matter to the Law Officers of the Crown, and if the Law Officers of the Crown agree with their view, then my submission is that the Government of India Act should be so amended as to give effect to the terms of this Resolution. Sir, sooner or later, perhaps sooner than later, the demand embodied in this Resolution is bound to be conceded. I appeal to the British instincts of every Britisher here and put it to him, can he honestly reconcile himself to an Upper House having the power to tamper with the decisions of the Lower House in regard to Money Bills? I said that the demand is bound to be conceded sooner or later. Well, let it be conceded before it is too late; otherwise, the Legislative Assembly will get restive and will begin to syllogise unwelcome truths and will ultimately wring out of the hands of an unwilling Government what could have been gracefully granted in time by wise statesmanship.

Dr. Nand Lal (West Punjab : Non-Muslims) : Sir, I am afraid this Resolution may be misconstrued in some quarters, but I may submit,

for the information of those critics, that this Resolution in reality tries to show how much this Assembly is jealous of safeguarding the interests of the tax-payers in this country, and how much this Assembly is, always, on the alert to see that its privileges and powers may be maintained in a legitimate manner. Now, Sir, this Resolution recommends that, since the representatives of the people, constituting this Assembly, are, to all intents and purposes, the custodians of the purse, consequently, the other House may not allow itself to interfere with our way of dealing with money affairs. We are not trying to make any encroachment upon the rights of the other House but what we are doing is this, that our own rights may be protected properly. Sir, if this proposition may be accepted to, that we are really the supplier of money to the Government of India, then we have every justification to say that our opinion in regard to the Money Bills may be accepted as final, and that the Upper House may not take the trouble of interfering unduly. Well, Sir, as my learned friend, Mr. Samarth, the author of this Resolution, has very rightly said, it depends largely on the interpretation of section 67-B. This section 67-B of the Government of India Act raises very material and vital questions of constitution.

The Honourable Sir Malcolm Hailey : Sir, in Mr. Samarth's absence, and in order to protect him, I may say that he referred to section 63 and not to section 67-B.

Dr. Nand Lal : Very good, Sir. I thank the Honourable the Home Member for his correction. I will accept that he said so. But, all the same, I will myself introduce sections 67-A and 67-B. Now, Sir, it depends on the interpretation of the provision as laid down in sections 63, 67-A and 67-B of the Government of India Act. Now, that interpretation is to be made with reference to the conventions and relative circumstances and with reference as to the manner in which in other countries Money Bills are treated and to what extent the second House has got power to interfere. On a birds-eye view of other countries statutes and constitution, I am induced to submit before the House that it is extremely difficult to accept this interpretation that Money Bills, as a right, can be amended by the Upper House. It is the right and privilege of the Legislative Assembly who have got direct concern therewith and, therefore, in brief, I submit that it is right and proper that these Money Bills may not be interfered with by the Upper House. I think the precedent, namely, an instance of their interference, which can bear out this submission, is the last Finance Bill. They passed it at once and we could not see our way to do so. What was the result? The result was a conflict, an unfortunate dispute, I must say. And, therefore, I am very anxious to put forward this view before this Assembly that the power, which is wrongly considered to belong to the Upper House, may be taken away, that that House should have no power at all to interfere with Money Bills. With these few remarks, I support this Resolution whole-heartedly.

The Honourable Sir Malcolm Hailey : I did not expect to be obliged to address myself to this question so speedily. Remembering what I do remember of the previous history of this case, and the acute feelings expressed only two years ago by Members of this House when it was proposed that the other Chamber should join it in a Committee on the Finance Bill,

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I thought that we should have heard a concerted and vigorous attack against the exercise by it of its powers in financial matters. But, what has happened? Mr. Samarth has put before us a somewhat restricted case, based on severely legal and technical considerations. He has been supported only by Dr. Nand Lal who suggests that since the other House does not represent the people, it should not interfere with our financial arrangements.

Dr. Nand Lal : I did not submit the question in those terms. What I submitted was that we are practically the custodians of the purse of the country and they are not.

The Honourable Sir Malcolm Hailey : What Dr. Nand Lal has suggested, if I may paraphrase his words, is that he is a better custodian of the finances of the people than the various men of means and position who sit in the other Chamber. I waited for the attack to develop, and I waited in vain. Where was the fighting spirit of the House? Not a soul rose. In the circumstances, am I to argue this case at length? Some parts of it, I must do. I confess that I should have preferred on a constitutional question of this magnitude to have had what is called a full-dress debate. For there are many aspects of this question of great interest to the constitutional development of India, and we should have been glad to have had an opportunity of discussing them at length. I confine myself, however, to meeting Mr. Samarth's arguments.

Dr. Nand Lal : If the Chair allows me, I can spend two days on this question.

Mr. President : Order, order.

The Honourable Sir Malcolm Hailey : Severely legal as his arguments have been, I am well aware of the origin of the feelings at the back of his motion. We had an indication of them in March 1921. It will be apposite to quote what happened then, because it has a very direct bearing on the arguments that Mr. Samarth has addressed to us this morning. It will be remembered that in the lightness of my heart I proposed that our first Finance Bill should be put to a Joint Committee of the two Houses. But I had reckoned without my constitutional enthusiasts. I was at once countered by Dr. Gour and countered, curiously enough, by almost the same argument as has been used by Mr. Samarth this morning. He dwelt on the terms of section 63. He said that the proper reading of those terms would deny to the Council of State any power of dealing in any manner at all with our Finance Bills.

Mr. N. M. Samarth : That is not my position, Sir.

The Honourable Sir Malcolm Hailey : That was Dr. Gour's position at the time. But I am not going at length into Dr. Gour's arguments. I will take them up at the point at which Mr. Samarth has developed his position. With regard to the words used in the Act "Except as otherwise provided by or under this Act a Bill shall not be deemed to have been passed by the Indian Legislature, etc.," we on our side maintained then that unless there was an express provision in the Act that the other House should be debarred from amending or otherwise dealing with

Finance Bills, then the words "as otherwise provided" could not be taken by implication to prevent the other House from so dealing with them. That is to say, we maintained that although this House was explicitly given by law the power of voting supply and otherwise dealing with the Budget, yet that fact in itself did not warrant so wide an implication as that the other House could not amend our Money Bills; the grant of one definite power to this House did not necessarily imply the exclusion of another power, of a somewhat different nature, in the case of the other House, and that the words "as otherwise" could not be held to debar the other House, by virtue of any such implication, from dealing with our Money Bills. We found support in Sir Sivaswamy Aiyer and Mr. Seshagiri Ayyar, two lawyers of renown, so renowned that perhaps I need not attempt to make any amateur effort to supplement their arguments. If further argument on this question is required, and if the House desires a more complete refutation of the deductions which Mr. Samarth has drawn from decisions relating to Colonial Acts,—Acts I may say, entirely differently worded from ours—indeed in no case do I find the slightest similarity in wording—then I shall leave the case in the expert hands of my friend Mr. Graham. It is sufficient for my present purpose to say that we take exactly the same stand as we took then; our position was indeed, I think, then admitted by the whole House; and if that position is correct, then Mr. Samarth's proposition that no amendment of the Government of India Act is required to effect his purpose, obviously falls to the ground.

I come to his second point, that the Joint Parliamentary Committee insisted that the Council of State should be "a true second Chamber." As a fact, that is correct; his deductions however seem to me entirely incorrect. What the Joint Parliamentary Committee meant when they said that the Council of State should be a true second Chamber is clear, but it is not what Mr. Samarth means. They had before them the proposition for a Council of State with a small official majority, which would be the instrument for effecting legislation which the Legislative Assembly was unwilling to pass. It was to be an instrument for carrying out Government legislation in an emergency. The House will remember that the Joint Parliamentary Committee finally yielded to the protests which were addressed to it against the provision of any such feature in the constitution, and substituted instead what we know now as the exceptional powers of the Governor General; the powers that is comprised in section 67-B. Their reference to a "true second Chamber" meant simply that they proposed to substitute for the original proposition a Chamber with an elected majority. The use of that expression did not in any way predicate any particular function on the part of that Chamber in regard to financial powers or otherwise. I was paraphrasing from memory; but have now before me the actual passage:

"There is no necessity to retain the Council of State as an organ for governmental legislation. It should, therefore, be reconstituted from the commencement as a true second Chamber."

They recommended that it should consist of 60 Members, of whom not more than 20 should be Official Members. That alone was their meaning.

Now, for the third argument, the argument drawn from parallels of legislation elsewhere, and meant to demonstrate to us that "true

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second Chamber" has, and must have, very restricted financial powers. Here, Mr. Samarth's point is that nowhere in the British Dominions do you find a second Chamber which is empowered to amend the Money Bills of a first Chamber. We are now entering on constitutional comparisons of a wider aspect. He admits—apparently Dr. Nand Lal also admits—the necessity of a second Chamber, and we are not called on to justify the existence of the Council of State in our constitution on that ground. But is it also true that no true second Chamber throughout the British Dominions has the powers which are given to our Council of State in regard to financial Bills? I will examine this point in somewhat greater detail. It is of course true that the power of amending Money Bills has been finally and definitely withdrawn from the House of Lords. But I would invite anyone who desires to utilize that fact as an argument, first to study the debates of 1910 and 1911 which led up to the Parliament Act of the latter year. It is of course true that the powers of the House of Lords in respect of Money Bills had long been in partial, if not altogether in total, eclipse. Their effective power of interference was seriously curtailed in 1678; and for some thing like two centuries they did not again interfere with Money Bills. In 1860 they attempted interference with the Bill withdrawing the tax on paper and were countered by Mr. Gladstone; nevertheless the power survived, and was actually used by them in 1909. But what were the reasons which then led the British Parliament finally to withdraw the power of amending Finance Bills? They were mainly political reasons. The House of Lords had not only interfered with the Budget. They had interfered with the Education Bill and dealt with the Licensing Bill, and it was in those circumstances that the Liberal Party determined that a House of Lords so constituted, and with tendencies so confirmed against Liberal legislation should have its powers curtailed. If you look at the Preamble of the Act of 1911, the fact becomes abundantly clear. The Preamble declares that "Whereas it is intended to substitute for the House of Lords as it at present exists a second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation" and goes on to assert that it is necessary to restrict the existing powers of the House of Lords. Even more direct was the masterly speech in which the Prime Minister of the day, Mr. Asquith, attacked the position of the House of Lords. You will find in that ample confirmation of what I say. Like our friends opposite, he did not deny the need of a second Chamber; he was not an advocate of a single Chamber; but he made it clear what he thought a second Chamber should be, and left no doubt regarding his reason for curbing the activities of the House of Lords as he found it:

"The body which is to perform these functions must be a relatively small body. Next, it must be a body which does not rest on an hereditary basis. Lastly it must be a body which in its origin, composition and attitude is not governed as the present House of Lords is governed, by partisanship tempered by panic."

One need to be no deep student of politics to realise that if the numerous attempts to modernize the House of Lords and to liberalise its tendencies, which originated with Lord Russell in 1869 and which continued up to

Lord Newton's proposals of 1907, had yielded fruit in time, we should never have had the Parliament Act of 1911. Be that as it may, I feel that I am on sound ground in claiming that you cannot quote the Parliament Act of 1911 as affording a parallel which can apply to India. After all, that decision was the deduction from a long series of historical premises altogether inapplicable to India. The Assembly is not yet the House of Commons; and it has not yet gained in India the unique position which the Commons have by long tradition acquired in England. Nor have we yet in India that development of parties which in England provides checks and counter-actions sufficient to secure some stability of Government and balance of interests even with a second Chamber that cannot function in a normal manner. Finally, our second Chamber is not on a hereditary basis and cannot be convicted of that naked partisanship in favour of our political party with which Mr. Asquith charged the House of Lords in 1910. Those parallels therefore do not apply; and you must go elsewhere for your analogy. Following Mr. Samarth, I turn to other parts of the British Dominions. Where, may I ask Mr. Samarth, does he find in the British North America Act, 1867, a disability such as he would apply to our Council of State? He said that nowhere in the British Dominions would be found a second Chamber with powers similar to these now enjoyed by our Council of State. Has any disability such as he would now apply to the Council of State been formally placed by law on the Senate in Canada? He knows there is none. I admit that he is supported by the precedent of the Australian Constitution Act of 1900 and the South Africa Act of 1909. Here he finds, I admit, ample support, but I would ask him to remember one fact, that the constitution gives these second Chambers the power of rejecting a Finance Bill. (Mr. N. M. Samarth: "*En bloc*, altogether.") Certainly; it gives to those second Chambers the power not of amending but of rejecting a Finance Bill altogether. Now, his Resolution, I believe, would give a similar power to the Council of State; he would allow the Council of State to reject a Finance Bill but not to amend it. But, he cannot by the force of circumstances apply the parallel throughout. The reason for giving those second Chambers the power of rejecting a Finance Bill and not of amending it, is that the rejection of the Finance Bill would involve sending to the country that party which has put the Finance Bill forward. He cannot make a similar result follow here, and he should wait until our constitution involves a similar consequence. (Mr. N. M. Samarth: "Not necessarily.") That at all events is the reason for the particular arrangement arrived at in the case of South Africa and Australia. I now go further. I have dealt with the case of countries within the British Commonwealth. But the world is wide, and our comparative study of such institutions should not be confined to British parallels. Indeed, I have it from Sir Deva Prasad Sarvadhikary that we have made many mistakes in the past by following too closely British parallels. "I am afraid" he said in this same connection "that we have suffered too much by legislation by analogy. . . . A variety of things come in by British analogy that would have no salutary effect here." It is instructive at all events to widen the scope of our

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inquiry. Is it the fact that nowhere else in the world has the second Chamber the power of dealing with Finance Bills? The constitution of the United States gives the Senate such power, and it has frequently been used. In France the Senate has powers of rejection and has claimed and exercised the power of amendment. In Spain the powers of the Senate and the Congress of Deputies are co-ordinate and much the same is the case in Switzerland. I will not quote at present German or Austrian parallels, for pre-war analogies drawn from these countries do not apply to the present condition of affairs. But it certainly would not be correct to deduce that second Chambers as a whole, and throughout the world, have been refused the power of dealing with Money Bills. In one instance only does the parallel drawn from other countries assist Mr. Samarth; that is to say, there is a general weight of practice in favour of confining initiation of Money Bills to the Lower House. It is not indeed a universal practice. There are instances where such legislation can be initiated in the Upper House, as in the component States of the United States of America. It was also the case in one or two of the pre-war constitutions of the Continent, but on the whole, the weight of practice is against it, and that practice rests on reasonable grounds, because it is the Lower House which deals with supply and the Budget. The true function of a second Chamber is revision and correction or as affording a means of securing a proper interval of delay in questions of high national import. I feel, however, that the question is one of little vitality. We have always observed that practice; as far as I can see, we are likely to observe that practice; and for my own part I should have no objection whatever if, when the Act at any time comes under amendment, such a provision were inserted in the Statute. But with regard to his main proposition, there I of course differ and differ strongly.

I maintain that quite apart from parallels drawn from past history or present practice elsewhere, the existence of the procedure by which Money Bills are dealt with by a second House is sound, is valuable, and should be retained. I will give my reasons shortly to the House. My first argument is drawn from a source which may appear perhaps somewhat strange to the Assembly. One of the witnesses, speaking before the Joint Parliamentary Committee, showed much foresight in this respect. He claimed that at present we did not want a Council of State, especially as it was then proposed to constitute it; but, he said, the case will be different when you have transferred subjects in the Central Government, and the devolution of powers has been completed. That is to say, he foresaw clearly that although in present conditions, when the Executive occupies a somewhat exceptional position, and has not only the power of veto but has ultimately the power of forcing legislation which is not approved by the Assembly, it may be true that your second House is not so necessary a part of the constitution as it would be in other circumstances, yet a far different set of conditions would arise when India has gained some of that political advancement which she claims. The growth of responsible Government involves the gradual divestment on the part of the British Parliament of its powers of control over the Indian Executive, and the transfer of those powers of control to the Indian Legislature. As my witness before the Joint Parliamentary

Committee truly foresaw, when that process takes place, then a second Chamber will become essential. My witness, I may mention by way of parenthesis, was Mr. Tilak. I feel that if we retain a second Chamber in this country with full powers, and not the curtailed powers Mr. Samarth would predicate, all the greater is the possibility of a surrender or a divestment of its powers by the British Parliament. I maintain that Parliament, knowing the conditions of India, the variety of problems which arise and the great divergence of interests, the impossibility in this vast country of rapidly focussing opinion in a decisive form in the sense to which we are accustomed in European countries, would demand, before it divested itself of any of its more important powers of control, that there should be some mechanism for ensuring that financial measures affecting large masses of the population of our variously constituted continent should be submitted for reconsideration before they are finally enacted. Secondly, I say we need a second Chamber and a second Chamber with full powers, because the development of India must be harmonious and well ordered. It is necessary that we should take into consideration not only the interests of those classes of electors which are given to us by our present electorate, and will be given to us in much larger numbers by the broadened franchise of the future, but if the progress of India is to be harmonious, we must take into account the claims also of the land-owning and the larger tax-paying classes. It is necessary, in other words, that you should find an adequate representation, particularly in regard to Financial Bills, not only of those classes who are largely responsible for paying our indirect taxes and which are likely to be largely represented in a first House, but we should also give adequate representation to the classes who are mainly responsible for the payment of our direct taxes and who are usually represented in an upper Chamber. Those are the grounds of substance which I put forward. I believe that the future constitution of India will demand a second Chamber with full powers. I have pointed out that the parallel of England does not apply. I have pointed out that Mr. Samarth is not wholly correct in saying that nowhere in the British Commonwealth will you find a second Chamber which has the power of amending Finance Bills. I have further pointed out that the grant of powers of this description is common in other countries of the world. I have attempted to show that our chance of gaining responsible Government for India is likely to be greater if we have a full powered second Chamber, than if we are to present to the British Parliament a scheme of things in which the financial destinies of India are committed to a single Chamber. However legitimate may be the pride of this Assembly in its achievements and belief in its capacity, I nevertheless think that those who take a long view of the future will feel with me that it is necessary to retain for India a second Chamber, however constituted (and it may be far differently constituted to the present Council of State), but a second Chamber with full powers.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : The Leader of the House has correctly diagnosed the situation when he said that there is going to be no full dress debates upon this matter. There is no enthusiasm at present in regard to matters of this kind, because of various events which are at present happening outside India; I am sure greater interest would have been evinced in such matters

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had it not been for these events. Moreover we are in our death gasp and we do not feel very much drawn to discussions of this nature, which are of a practically academic character. I agree with the Leader of the House on one matter. I do not think that Mr. Samarth was justified in saying that the law does not require amendment in order to secure the rights which he has advocated. That was my view two years ago and I see no reason to change that view. Unless there is express taking away of the power from the other Chamber you cannot by implication deprive it of its powers in regard to Money Bills. 'Except as otherwise provided' certainly connotes that unless there is a specific provision saying that the other House shall not have the power, they shall possess that power; but, Sir, I cannot agree with the Honourable the Home Member that the time has not come for making a change in consonance with the spirit of the Government of India Act. I shall draw his attention to a few sections in the Act which would show that the intention of the framers of the Act was that the second Chamber should have little or nothing to do with Money Bills. I would invite his attention to section 67A. If he will turn to clauses (3), (5), (6) and (7) he will find that powers are given to the Legislative Assembly to vote upon matters connected with finance, whereas those powers are not given to the second Chamber. Clause (3) says: "The proposals of the Governor General in Council for the appropriation of revenue or moneys shall not be submitted to the vote of the Legislative Assembly nor shall they be open to discussion by either Chamber at the time." That is, whereas the power of voting is given to the Legislative Assembly, the power simply to discuss is given to the other Chamber. Take again clause (5): "The proposals of the Governor General in Council for the appropriation of revenues or moneys relating to heads of expenditure, etc., shall be submitted to the vote of the Legislative Assembly in the form of demands for grants." (6) says: "The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount." (7): "The demands as voted by the Legislative Assembly shall be submitted to the Governor General in Council, and so on. It seems to me that it was the intention of the framers of the Act that as far as finance is concerned, the power of initiation, the power of voting supplies and the power of passing Bills should be solely in the Legislative Assembly. I admit that by using the language which the Honourable the Home Member has referred to in section 63 they have to a certain extent deprived the Assembly of that full power which has been given under the other sections. Therefore, Sir, I think the time has come for bringing the Act into conformity with the real intention of the framers of the Act. (The Honourable Sir Malcolm Hailey: "The intention?") Yes, the intention. If you read section 67A, you will see that the intention was not to give the second Chamber the power to vote. The intention apparently was to vest that power in the Legislative Assembly, and I think my Honourable friend Mr. Samarth was justified in asking that the attention of the Home authorities should be drawn to this state of affairs so that the Act may be amended to make it clear that the Legislative Assembly alone has the power to initiate, sanction and pass Money Bills. Sir, I do not agree with the Honourable the Home Member when he says that this power should be exercised also by the second Chamber. The

Honourable the Home Member said that there is no parallel between India and England and any analogy drawn from the absence of power in the House of Lords should not be utilised for the purpose of depriving the Council of State of similar powers. Sir, I read the want of analogy in a different way. You were introducing an experiment into this country. In doing so, why cumber it by giving us a second Chamber which has every power to veto what we are sanctioning and thereby rendering our position difficult? If you had tried, in the first instance, a single-Chamber experiment and, if you found that that experiment did not succeed, one would have expected that you should invoke the analogy of other similar institutions, e.g., the analogy of the United States and institute a second Chamber here. I do not think, however, that it was expedient to have brought in at once a second Chamber and thereby to have deprived the Assembly of a great deal of its powers.

Sir, the Honourable the Home Member said it is necessary to have a second Chamber for two reasons. One of the reasons struck me as curious. He said the monied interests and the landed interests should have their representation and their say. Now, I ask the Honourable the Leader of the House what is there to prevent the landed interests and the monied interests coming into this Assembly, and what is there in the Statute or anywhere which stand in the way of these high dignitaries sitting with us and sharing with us all our difficulties and also our privileges. If they are with us, and rub shoulders with us, they will be able to understand the difficulties of the situation; and then they may be able to agree with us. If, on the other hand, they only read our debates and then begin to pass judgment on what we have done here, they would not be in a safe position. For the monied interest and for the aristocracy the proper thing to do is to seek election to this Assembly. This Chamber should be enlarged so that the landed aristocracy and the monied people may have their representatives in this Chamber. The result of it will be that all of us would sit together and consider matters which relate to the interests of India as a whole and come to a right conclusion. Instead of that, we first have an opportunity of expressing our opinion and then our judgment is vetoed or set aside by another Chamber by a perusal of our debates. Sir, what is our position? We pass certain Bills, Money Bills. Those Bills may be vetoed by the Council of State; and then there may be certification or restoration by the Governor General; and lastly a higher power may turn down all that has been done; we thus find that our power in regard to money matters is circumscribed in every way. We are subjected to all kinds of restrictions and are under all manner of appellate authorities; the result of it is we do not feel the same responsibility as we would otherwise have felt had we a free hand in dealing with money matters.

There was one other argument used by the Honourable the Home Member in advocating a second Chamber. He said that it was contemplated at the time of the Parliamentary inquiry that, if there was to be complete responsible Government in this country, meaning thereby the granting to us of some of the powers now exercised by the Secretary of State and Parliament, then it would be desirable to have a second Chamber: because unless, as he said, there is a second Chamber, we may

[Mr. T. V. Seshagiri Ayyar.]

not exercise the powers fairly and well. Sir, I join issue with the Honourable the Home Member on that matter. Is it a *sine qua non* to the devolution of powers by Parliament to the Indian Legislature that there should be a second Chamber? Why should you not trust to the exercise of these powers by a single Chamber? After all, you have got other powers reserved to you by the Act. If you find that the Single Chamber is not acting properly, you have got your own ways and means of setting it right. In these circumstances, I do not see that it is absolutely necessary to have a second Chamber. For all these reasons I am of opinion that the Honourable the Home Member has not shown that it is necessary to have a second Chamber; but, as we have a second Chamber, the practical question for consideration is whether that second Chamber should interfere with the powers exercised by the Assembly in regard to money matters. As I have said, the intention of the framers of the Act seems to have been that in money matters this Chamber should be supreme, and, by giving powers to the other Chamber, you are not only depriving this Chamber of its rights, but are giving the other Chamber a very shadowy right which may be misused (and I am afraid has been misused), and which may lead to friction between the two Chambers. If only to avoid such a feeling between the two Chambers, if only to make the two Chambers work harmoniously together, it is desirable that the second Chamber should have nothing to do with money matters and that the entire power with regard to them should be in the hands of the Assembly.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, the more I think about the matter, the more certain am I that Mr. Samarth was well advised in confining himself to the bare legal and constitutional aspects of the question and not attempting to contribute to what Sir Malcolm Hailey has described as a full dress debate or in other words appeals to passions and prejudices. Mr. Samarth's Resolution admits by more than implication, that the law as it is, does not stand in the way of the second Chamber interfering in regard to money matters. To this I ventured to draw attention in another connection, when more by convention to start with and then by clearing up legal difficulties the second Chamber did come to have their say with regard to money Bills, earlier in the stage of our existence. I think it is from that point of view that Mr. Samarth has introduced in his Resolution words to the effect that the object in view should be achieved by an amendment of the Government of India Act, if necessary. This necessity must have more than dawned upon him and he has provided for that contingency. Mr. Seshagiri Ayyar has submitted to this House—and if I may venture to say so correctly submitted, his reading of the situation created by section 67A in all its sub-clauses—I see I am raising a smile on Mr. Graham's always beaming face; probably he will have another onslaught upon me in my presence now in the same way as I am told he did the other day in my absence—in connection with this section. I, however, repeat that reading the different clauses of section 67A, the impression, the more than impression left on the mind of a diligent student of that section is that it was the

intention and more than the intention of the framers of the Act that the Legislative Assembly should have entire seisin of the earlier stages of the money question what is called the stages of initiation.

When the Finance Bill comes to be included under the purview of section 67B as it must be, as this section now stands the second Chamber by implication of that section, comes to have seisin of money matters. That to my mind fortifies my position, that expenditure which is not provided or contemplated by the different clauses of 67A ought not and cannot come under the purview of any Finance Bill that might be dealt with by section 67B which furnishes ways and means, I repeat, under 67B. That is to say, the different clauses of expenditure are provided and contemplated by 67A. Ways and means to be provided for meeting this expenditure are to be furnished by a Finance Bill which is now provided by 67B. The first class of expenditure is that which, in the normal course, in the ordinary course of things, is sanctioned by the Indian Legislative Assembly, in the shape of the Budget; the second class is that which the Governor General in Council restores under clause 67A (7), namely, for the purpose of discharge of his responsibilities mentioned there, and then comes clause (8) of section 67A—the safety and tranquillity clause—under which the Governor General can incur expenditure without reference to the estimate. Now when all these classes of expenditure, foreseen and unforeseen, have been provided, namely, those provided by the Budget, those restored by the Governor General in Council in variation of the Budget and those incurred by the Governor General under clause 8 of section 67A; when you have come to that stage, and that stage is essentially and entirely a stage which belongs to the Legislative Assembly, or is in variation of the action of the Assembly—then you come to the Finance Bill which is now included within the purview of section 67B. The other day we resolved to recommend an amendment of the Government of India Act by omission of the words “or interest” in section 67B. I take it that if Mr. Samarth's Resolution is carried and given effect to in due time—not to-morrow—what will have to be done will be to exclude the Finance Bill from the purview of 67B, and the reason of that exclusion I submit is amply furnished by the enumeration of the different stages provided in 67A. Well, the Honourable the Finance Member is shaking his classic head. As I observed on a previous occasion, shaking of heads is beginning to rule the destinies of Empires, here and elsewhere. That is his point of view; the other point of view is what I am trying to submit. If that is borne out by the careful reading of the whole of 67A, the Finance Bill has to stand out of the purview of 67B. The Honourable the Finance Member has done me the honour of quoting my grievance with regard to going far too close with regard to our conduct of affairs here according to British analogies at every step. One of those is the provision of a second Chamber. What he has said to-day is not in defence of a second Chamber, but my reading of his argument is that there ought to be a single Chamber, better constituted—a Chamber that may in time take the place of the House of Commons. We have according to him not here those who pay taxes direct. I think we do pay, Sir, otherwise we should not be here.

Mr. N. M. Joshi (Nominated : Labour Interests) : This House represents the income-tax payers.

Sir Deva Prasad Sarvadhikary : This House does. The other House represents the larger income-tax payers, which is the second commentary of the Honourable the Leader of the House in favour of the second Chamber. Well, Sir, it is a plea for raising the suffrage limit. Sometimes when it suits people we are told that we represent the country. Sometimes when it does not suit some other people, we are told we represent only a fraction,—a vulgar fraction—and some people say we do not represent the country at all. Quoting the very valuable witness that the Honourable Sir Malcolm Hailey has named, he has put before us the very tempting proposal that unless we support the second Chamber—which is always or at all events is now—on its best behaviour, unless we support that Chamber the British Parliament is not likely to divest itself of some of its power which it may do in time if it is satisfied that the second Chamber is doing its duty well and is keeping us in control. All that to my mind points to the necessity of not only getting rid of the present Assembly but of placing it on a higher pedestal.

The Honourable Sir Malcolm Hailey : I hope that the Honourable Member is merely guilty of a mistake of words. Does he really intend to get rid of the present Assembly ?

Sir Deva Prasad Sarvadhikary : I do not. That would be getting rid of myself and I do not propose to commit *hari kari* at least for the present. I am only interpreting the Honourable Sir Malcolm Hailey's proposition and argument that because those who come here do not pay what he calls direct taxes or the larger taxes—I do not know what the limitation is to be—it is useful to have a second Chamber. It cannot be hereditary, but it can be a better Chamber, a better behaved Chamber, a Chamber that can carry out the Government ideal of things and can be trusted by future Parliament in the matter of divesting itself of some of its powers. All that is argument in favour of a single Chamber and a good single Chamber. If however the outside analogy of two Chambers is to be continued in spite of the slight Canadian variation upon which Sir Malcolm Hailey's researches have enabled him to lay his hand.....

Mr. N. M. Samarth : I question the correctness of that.

Sir Deva Prasad Sarvadhikary : Well, Mr. Samarth will do that when he refers to it in his reply. I have not the necessary materials before me now. But I will take it at that. Some constitutions framed in the early sixties of the last century or earlier have an obsolete provision which the later advanced reformed constitutions have got rid of and rightly got rid of.

But we as a constitution came much later in the field than the South African Union or the Australian Commonwealth. Either we have a right to a proper constitution in the light of gathering experience or we have not, and when we are on the look out for a proper constitution we naturally look to those that have gone before us, suffered, struggled and won. We are entitled to benefit by the sum total, the

resultant, of experience, all which points to the supreme necessity of the lower Chamber, as it is called being entrusted with exclusive financial responsibility. Unless one has responsibility and ultimate responsibility, you cannot expect the spirit of self-government to develop. As has been pointed out by Mr. Seshagiri Ayyar we do not know where we stand ; and if now and again for lack of a supreme sense of responsibility we make mistakes, I think we may be forgiven. However, Sir, on the pure merits of the question it seems to us that an amendment in the direction indicated in the Resolution is needed and a recommendation from this House is necessary in view of what has happened in recent times. I am sure no Member of this House desires to take away in the slightest degree from the dignity and usefulness of the other Chamber. We are only changeable bodies and some who are here to-day may go to the other Chamber and its Members may come to us. So long as it is a part of the constitution it is up to us to do all we can to support that Chamber with regard to its rights, with regard to its possibilities ; but that which does not belong rightfully to it in the reading of things that we have placed before this House ought to be given up, and powers that ought to belong exclusively to this House should come back to it.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhamadan Rural) : Sir, I had no intention of participating in this debate even for the purpose of investing it with the dignity of a full dress debate, worthy of the proposition moved by my Honourable friend, Mr. Samarth. But having heard the speech of Sir Malcolm Hailey, a speech which perhaps is more skilful and less convincing than any that I have ever heard from him, I am tempted to intervene in the debate. The Honourable the Home Member referred to a number of side issues and unfortunately some of my friends who have preceded me have played into the hands of an all too skilful adversary by raising all sorts of side issues. The real question before us is not the construction of the existing Statute. Upon that differences of opinion may exist and have existed and I have once before expressed my own views upon that subject. The real question is what is the proper function of a second Chamber in any well-devised constitution ? The real issue is the necessity for amending the Act so as to secure to the second Chamber in our Legislature that position which it ought to occupy in any well-devised constitution. Now, I do not think it can admit of any doubt that whether in the English constitution or in those constitutions of the dominions which have adopted a bicameral system the functions of the upper Chamber with regard to money bills are strictly limited. But apart from the question what is the practice in all these Chambers, let us consider the question what should be the proper function of a second Chamber. The Honourable the Home Member said that the harmonious development of our constitution requires a second Chamber with full powers in no way restricted and in no way different from those of the lower House. According to him the harmonious development of the constitution requires the existence of two Chambers with co-ordinate powers. Perhaps if we were to judge of the matter theoretically, without any experience derived from the actual working of the constitutions, there may be something to be said in favour of it. But having regard

[Sir P. S. Sivaswamy Aiyer.]

to our experience of the way in which constitutions have actually worked, such a second Chamber with co-ordinate powers is one which will be found to be utterly impracticable. Let me first dispose of one argument by the way. It was said that the second Chamber represented men with large interests, landlords, and moneyed classes, and it was desirable that their opinion should be properly represented and given effect to. I fully appreciate the force of that argument, but if there was any second Chamber in the world which represented wealth and land ownership and other important interests in the country, it is the House of Lords in England and yet it has been found necessary to shear the House of Lords of its powers with regard to money Bills. As regards this claim to more extended powers by a second Chamber on the ground that it represents wealth or money, it is always a very invidious ground of claim, and it has been pointed out that it would be unwise for the representatives of those interests to put forward such a claim. I should like, Sir, to refer to one or two passages in a text-book of some authority, a book on politics by a writer of conspicuous fairness acumen and impartiality. I refer to Professor Sidgwick's book on the Elements of Politics. He starts with the question whether there need be any second Chamber at all. He says that *prima facie* there is no necessity for a second Chamber, but however comes to the conclusion that it is desirable to have a second Chamber. It is a pity that my friend, the Honourable Sir Deva Prasad Sarvadhikary, should have dragged in the controversy of a uni-cameral and bi-cameral legislature, which, I submit, is not quite relevant to the present discussion. Now I will refer to one or two passages from Sidgwick :

"This last consideration leads us to another, widely prevalent, view of the upper Chamber, which regards it as required to give adequate representation of the aristocratic element of the community, in order to balance the undue preponderance of the masses in the House of Representatives. The need of such a balance I have already recognised : but in considering this method of meeting the need, we have to distinguish clearly two elements, frequently blended in the notion of 'aristocracy' as thus used : (1) superiority in general culture and political enlightenment, and (2) inherited wealth—especially landed property—considerable in amount. For these two attributes are only to a limited extent likely to be found together ; since, though the leisure and opportunities which large wealth brings with it have a certain tendency to produce culture and enlightenment in their possessors, this tendency is seriously counteracted by the temptations to idleness and self-indulgence which beset the rich."

He also says, after referring to the invidious opposition between wealth and numbers which it introduces by any such claim :

"I think, therefore, that a wise partisan of the wealthy minority, in framing a new constitution for a modern country, would accept as a principle of construction that a Senate ought primarily to represent superior culture or political enlightenment rather than wealth."

Then, Sir, with regard to the co-ordinate powers of the two Chambers, he observes :

"The most obvious and simple arrangement is to make the two Chambers co-ordinate, with equal powers ; so that the free consent of both shall be necessary to any binding decision of the legislature ; and, therefore, if either House refuse its consent to any proposed legislative measure, it must drop or be postponed. Now, apart from the advantage of harmony between the legislative and executive organs, there would seem to be ordinarily little danger of harm in the postponement in such a case of a proposed law, assuming that the judgment of the Senate on the merits of the law is as good as that of the primary representative Chamber : a conflict

between the Chambers would mostly have only the effect of deferring legislation, of which the advantage is at best doubtful."

I will not trouble the House by reading many more extracts, but after discussing the question, he makes one or two observations which I think it is necessary to read to the Assembly :

"To meet this difficulty—otherwise than by relying on the wisdom and moderation of both Chambers—we must sacrifice either (a) the duality of the Chambers, or (b) the equality of their powers, or (c) the extent of their financial control."

Then the conclusion he comes to is this :

"On the other hand, the system of two really co-ordinate Chambers does not seem to be suited to any form of Parliamentary Government ;"

—not even to a Government which is merely on the road to Parliamentary Government—that is my own observation—

"because a conflict between the Chambers tends to destroy the harmony between legislation and administration, which appears to be the characteristic merit of this form of Government."

Then after further discussing the question, he says on page 471 :

"It appears to me, therefore, that a really co-ordinate second Chamber is an alien element in Parliamentary Government when fully developed."

Now my Honourable friend will perhaps seize this statement and say that it is an alien feature of Parliament Government when fully developed, but when Parliamentary Government is not fully developed, it may be a very legitimate feature of a constitution. But the question that I put is, if it would not be a legitimate feature or a workable feature of a system of Parliamentary Government, is it wise, is it expedient, to introduce such a feature now at the present stage and allow this to develop, and would it be possible, when our constitution is revised, to withdraw powers which have been conferred, which have been exercised, and in regard to which claims of vested rights may possibly be put forward ?

The Honourable Sir Malcolm Hailey : That is Mr. Samarth's proposition.

Sir P. S. Sivaswamy Aiyer : If there is to be a fully developed Parliamentary Government, it is far better to develop it from the beginning on right lines rather than go on the wrong tack first and afterwards change the course.

Then, Sir, it was observed that the second Chamber in England has a power of rejection and that if a Finance Bill were rejected by the second Chamber, they have means of solving a deadlock there, which are not open to us here, but there are means of solving the deadlock here provided by our constitution by means of joint sittings and by various other means, so that no practical difficulties can arise from the possible exercise of a power of rejection. The only issue before the House is this. Seeing that we have gone in for a bi-cameral system, is it or is it not expedient that the second Chamber should have a power of interference in money Bills ? If such a power of interference would not be tolerated in a fully developed constitution, is it wise to introduce such a feature at the present stage and create trouble for ourselves when the constitution has to be properly devised and when we shall be within reach of responsible self-Government. I am sorry, Sir, that for these reasons I have to differ from the Honourable the Home Member.

Mr. B. Venkatapatiraju (Ganjam *cum* Vizagapatam : Non-Muhammadan Rural) : Sir, I agree with the Honourable Sir Malcolm Hailey that the Government of India does not find a parallel in the world. I admit it is an anomalous institution bristling with all kinds of inconsistencies, but the question raised by Mr. Samarth is whether, even by amending the Government of India Act if necessary, we should not confine the power of originating, amending, considering and passing money Bills solely to the Legislative Assembly. Only yesterday, Sir, in the other House a Resolution was moved which was supported by all the non-official Members that whenever a dispute arises between the Government of India and the Home Government, regarding money matters, it should be referred to the Legislative Assembly. Even the Members of the other House did not ask that such disputes should be referred to them also. The basic principle on which Mr. Samarth requires that the power should be confined to this House is that taxation must not go without representation. It is presumed, and we expect it, that the lower House represents all interests in the country. If it does not so represent, it is not the fault of the Assembly, but it is the fault of a constitution which does not properly allow all interests to be represented. When once the Assembly represents all interests, the power should be left in its hands to grant supplies, to agree to taxation, or to allow any expenditure that may be required for the purpose of carrying on the administration. I do not understand, and I have not heard from the Honourable Sir Malcolm Hailey, why they have introduced in the Government of India Act a provision that the Budget should be discussed in the Legislative Assembly. Why should it be that the grant should be made by the Assembly? Why should they have made such a distinction? Of course, the Honourable Sir Malcolm Hailey might say that it does not deprive the other House of the power of amending the Bills, but it shows clearly that the idea is that the Legislative Assembly should have the power of either granting or rejecting money for carrying on the administration. It is true, Sir, that when for the first time the House of Lords attempts in the year 1667 to amend the Bills introduced by the House of Commons, the House of Commons immediately passed that historic Resolution in 1878 to the effect that the House of Lords should never interfere with or amend Money Bills, and they did not thereafter interfere or amend any Money Bills. Of course, their right of rejecting the Bill continued till 1911, though they never exercised it. In 1909 however they exercised it when Mr. Lloyd George brought in the budget. Then a general election came in and in 1911 we had the Parliamentary Act by which they have got the right of rejecting the Bill, but in spite of their rejection, over their heads, it can be passed with the Royal Assent. Now, Sir, so long as we agree that this House represents all interests, money Bills ought to be confined to this House, and taxation must go in with the consent of the peoples' representatives. Of course, in the anomalous administration of India, the certification theory might or might not come in. But leaving all other things aside for the moment, what is the object of asking the second Chamber to interfere in this? Is it to carry on the administration of this country smoothly? The Viceroy has the power of certification and even if there be an objection from one Chamber he will use

it. If he cannot do it, then it is enough to deal with one Chamber, because, if there should be a difference between the first Chamber and the second Chamber and if there should be a Joint Committee of both Chambers, naturally this House would predominate, and therefore, even if they differed, it would not at all affect the question. The final authority must rest with somebody. But what Mr. Samarth suggested is that the other Chamber can make any suggestions and we can cheerfully accept them if necessary, but if we cannot accept them, they ought not to have more value than the recommendations, contained in the Resolutions, just as our present Resolution is a recommendation to the Viceroy and Governor General in Council. Now, if you want to make this Assembly a popular Assembly and if you want the administration to be carried on with the good will of the country, I would request the Government not to oppose such a useful Resolution as this which was moved by Mr. Samarth.

Mr. J. A. Richey (Educational Commissioner) : Sir, as one of the few Members of this House who has had the privilege of also serving in the Council of State I have naturally listened to this debate with particular interest. I should have listened to it with even greater interest had it not confined itself entirely to the constitutional and legal principles involved in the Resolution. For, Sir, the passing of this Resolution may have other than constitutional and legal effects. After all, constitutions are dependent upon the men who work them. Such success as the reformed constitution has met with hitherto and such weight as this House undoubtedly carries in this country is due not so much to the merits of the constitution which is admittedly provisional, but, if, as a new-comer to this House, I may say so, to the men who have been sent here to work it. What is true of the Legislative Assembly is equally true of the Council of State. Sir, we should very much deprecate, we should strongly deprecate any lowering of the standard of membership of this Assembly. We should be equally jealous of the honour of the Council of State. And, Sir, for the purposes of my argument, I am assuming that the Honourable Mover—and I have his own authority to say so—does not suggest in his Resolution that the Second Chamber should not be continued. Well, Sir, has he and his supporters considered what the effect of the passing of this Resolution would be upon the membership of the Council of State? I do not refer to the present personnel of that body. They need no tribute from me. The Council of State contains men of eminence in law, in learning and, above all, in commerce. But it is not the present but the future composition of that body which would be affected by the passing of this Resolution. What type of men do we wish to serve in that body—the true Second Chamber, as it has been described? Sir, on that memorable occasion, when His Royal Highness the Duke of Connaught opened the new Legislatures at Delhi, he addressed the Council of State as a body of elder statesmen. There were some among us who, in spite of the venerable presence of Sir Dinshaw Wacha, Mr. Lalubhai Samaldas and Sir Hirnam Singh, felt perhaps some hesitation as to their right to this title, and some doubt as to their claim either to the adjective or to the substantive. But, on further consideration, Sir, I have come to the

[Mr. J. A. Richey.]

opinion that the title, the term, which the Duke of Connaught used in addressing the Council of State was both appropriate and, if I may say so, prophetic. We have heard of many functions of a Second Chamber. We have heard to-day much mention of the functions of the House of Lords. Now, Sir, there is one function of the House of Lords which is invaluable. It is to preserve for the benefit of the country the services of those statesmen who have made their mark in the House of Commons. Would not the Empire be the poorer if such men as Lord Morley, Lord Grey, and Lord Balfour, for example, had left the public life when they felt themselves no longer able to stand the strain of work in the House of Commons or to face the ordeal of a General Election? Now, Sir, we may be, as we by implication have been called, a body of younger statesmen: but some of us are not in our first youth. India has not yet faced the violence of a General Election, contested as elections are contested in England, but, if the newspapers are to be believed and in this who can doubt that they are right, we shall have to face such elections in the future. We should, I think, look forward to the time when the natural sequel to a distinguished career in this House will be a period of further service in the more tranquil atmosphere of the Council of State. But, Sir, if the objects desired by the Mover of this Resolution are attained, if the functions of that body are restricted, that hope will never be realised. Sir, the fears which I suggest are not groundless. Already the opportunities offered by the Council of State are limited. The Members of that body feel those limitations. If these opportunities are to be still further restricted, as is proposed by this Resolution, does this House expect—has this House any right to expect that men of weight and learning, that men of affairs, that men of independence and ability, that men who have made their mark in this country, either in this House or outside it, will come forward to fill the gaps in the ranks? (*An Honourable Member*: “Let them come here.”) Sir, I was referring to Elder Statesmen such as Sir Dinshaw Wacha who would probably feel the strain of work in this House, as it will be in future too severe. It is so in England; there is no reason to suppose it will be otherwise here; and the elections also, which I mentioned, the elections to the Council of State will always be naturally, I think, more placidly conducted than those for this Assembly. Well, Sir, remember that service in the Council of State offers none of the privileges which attach to membership in the House of Lords. After all, to be a Peer of the Realm is no small thing. Service in the Council of State is its own reward. This Resolution proposes to restrict that service. It even impugns the value of that service and I feel sure, whatever the ultimate effect of this Resolution will be, the more immediate effect of the passing of this Resolution, if it is passed, will be to deter men from coming forward to serve in that Council, men whom the country wants at this time, for, believe me, it is men and not measures that India needs at present.

Sir, I oppose this Resolution.

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa: Nominated Non-Official): Sir, I rise to add a few words in support of this Resolution.

It is claimed that, under the new constitution, some real powers have been given to this Assembly inasmuch as there is a non-official majority here and that this Assembly has got some control over the purse. But, when this power of dealing with finances and Money Bills is also vested in the other Chamber, which is differently constituted, it looks like giving this power with one hand and taking it away with the other. As for the representative character of the other Chamber, it is evident that if the other Chamber is representative at all, it is representative in a very limited sense. We represent here every one who is represented by them, whereas they do not represent most of those whom we represent here. Every voter of the Central Legislature is represented by this House, whereas only very few voters of the Central Legislature are represented by them. Reference has been made to the second Chamber of other countries. But the constitution of those countries is quite different from that of this country, and any reference to those countries cannot serve any useful purpose. It can be said that this power in the other Chamber to deal with Finance and Money Bills is necessary as a safeguard for it is just possible that this Assembly may not discharge its duties with a full sense of responsibility. But there are sufficient provisions in the Act itself for safeguarding this and there is no need for this additional safeguard.

Mr. L. Graham (Secretary, Legislative Department): Sir, like my Honourable friend, Sir Sivaswamy Aiyer, I had no intention of taking part in this debate till now, but like him, I am tempted to intervene in the debate. He did not come, and I have not come, prepared. Sir Sivaswamy Aiyer made a very learned speech and he even produced extracts from the works of Professor Henry Sidgwick. I do not think he habitually carries Professor Henry Sidgwick about in his pocket. But we welcome his speech. I only wish to make out this point that there is no pretence about me. I came here prepared. I did not wish to inflict a speech on the House because of a certain physical disability, temporary I am glad to say, from which I am now suffering. I should have retained my seat but that my Honourable friend Sir Malcolm Hailey entrusted to me the task of dealing with one point made by my Honourable friend Mr. Samarth, and that was in connection with certain constitutional cases from the Australian States—not from the Commonwealth, but from the States which have their own constitution. Now, Mr. Samarth as a lawyer has all the cunning of his kind. He has made it clear in the framing of his Resolution when he gave it to be understood that it was by accident that the Council of State enjoyed these equal powers in respect of Money Bills. He came to this conclusion, or rather he put it before the House in this way by taking a single sentence from the report of the Joint Parliamentary Committee. Now, my Honourable friend, Sir Malcolm Hailey, has disposed of that by reading out the whole passage. The sole object of the Joint Committee in constituting what they called a “true second Chamber” was to abolish that untrue second Chamber which was created by the original Bill, which was merely a Government machine for passing unpopular measures. The Joint Committee realised that to be a thoroughly bad kind of machine, and they said, “If you want to insist on measures which the representatives of the people do not like, you must take the

[Mr. L. Graham.]

responsibility upon yourself." They proposed to place the responsibility on the Governor General in Council, and eventually the responsibility was placed on the Governor General. When they said they were going to set up a "true Second Chamber" they meant a Second Chamber with an elected majority and nothing more.

Now, Sir, proceeding on the same course Mr. Samarth,—it was of course a slight suppression, shall we say—referred to three cases from the Australian States. First was a case from Queensland, the second from New Zealand, the third from Queensland again.

Mr. N. M. Samarth : I did not refer to three cases. I referred to two.

Mr. L. Graham : The Honourable Member left out the very first one, which was really very important. The first Queensland case was on precisely the same point. Reference was made to the Secretary of State for Colonies and his reply was that the claim of the Upper Chamber to amend Money Bills was not admissible—and why?—because the Upper House was not elected, and therefore, it should follow the practice of the House of Lords in these matters and not amend Money Bills. Now, what is the case from New Zealand? That case was referred to the Law Officers of the Crown. It was also disputed in that case as to whether the Bill was a Money Bill or not. What was the finding? My Honourable friend, Mr. Samarth, was careful not to quote it :

"We think the Bill is a Money Bill and such a Bill as the House of Commons in this country will not have allowed to be amended by the House of Lords."

That was in 1872 long before the Parliament Act was passed. My friend must remember that the position in the Colonies with regard to the two Chambers was the same as that with regard to the House of Lords and the House of Commons, and that the Upper House of New Zealand in those days was not an elected body. Mr. Samarth was very careful to quote the full text of the opinion in the third case because it gave no reasons at all. Their Lordships of the Privy Council answered the first question in the negative and the second question in the affirmative, but they gave no reasons at all. But that opinion was as far back as 1882, was it not?

Mr. N. M. Samarth : 1886.

Mr. L. Graham : That is, long before the passing of the Parliament Act, when the House of Lords was wholly hereditary or practically wholly hereditary and the opinion was given in respect of a Colony which had a nominated Upper House. These cases are all summed up by the learned Professor Keith under the heading "The Nominee Houses and Money Bills" on page 567.

Mr. N. M. Samarth : Page 555, *et seq.*

Mr. L. Graham : No. You are not using the latest edition. I think mine is the latest.

Now, Sir, what was the origin of this trouble in England? The House of Lords was not an elected body. What was the Resolution

which was passed—the first Resolution which really lead up to the Parliament Act? The Resolution which was passed in 1907 in Sir Henry Campbell-Bannerman's time was "That in order to give effect to the will of the people as expressed by their elected representatives it is necessary that the power of the Upper House to alter or reject Bills passed by this House should be so restricted by law, etc." That was the ground of attack on the House of Lords. It was an attack by a body which was wholly elected on a body which was not elected at all. What is the position here in India? I ask the Assembly not to forget its own constitution. My Honourable friend, Sir Deva Prasad Sarvadhikary said, "Sometimes we are told we are representative and sometimes not." I rather think I saw a letter to the same effect in the "Pioneer" yesterday from a distinguished Member of this House. I may say that you are not representative strictly speaking, because you are not all elected. Some of you represent certain constituencies very ably. In the first place, how many people sent you to this House? 909,603, and out of those how many voted? However, my point is this, that it is not a wholly elected House, and until you are a wholly elected House, you cannot claim the privileges and rights of a wholly elected House. Moreover, what is your claim? You have to consider the party against whom you are claiming. As I said, in England the House of Commons was claiming as the elected representatives of the people against a wholly non-elected House. Here you, with an elected majority, are claiming against a House also with an elected majority, and how are you any better than they? Suppose in the ordinary course of events, in the natural development of these two Houses eventually each will be wholly elected. Then you will have a position corresponding on the one hand to the Parliament of the Australian Commonwealth and on the other to the American House of Congress, and it will be for you then to make up your minds which model to follow. The American constitution has worn extremely well. You will possibly by that time be in a position to decide whether the Australian constitution has worn equally well. Australian politics I believe are an extremely unpleasant region. (Sir P. S. Siraswamy Aiyer : "British model".) But that is the point that I wish to put, that this is not the time to come to a conclusion. The whole of this agitation is based on the theory—on the maxim I might say, of no taxation without representation,—that is to say, taxation should only be settled by the elected representatives of the people. I noticed a somewhat curious fact that this motion is brought forward by a gentleman who is not himself an elected representative. Mr. Samarth is in this House, may I remind the House and not him.... (Mr. N. M. Samarth : "I am sorry to say that you refer to that fact here".) My point is simply this, that in this House, as at present constituted, this proposal is entirely premature. Whether it will be a right proposal when both this House and the other House are wholly elected is a question to be considered when that occasion arises.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I beg to support the Resolution that has been moved by my Honourable friend Mr. Samarth. I am at one with him not only on the main issue but on the side issue too. It has been said by the Honourable the Home Member that there is no room just now for further reforms, considering

[Mr. S. C. Shahani.]

the import of the Government of India Act ; and yet my Honourable friend Mr. Seshagiri Ayyar has aptly pointed out section 67A of the Government of India Act in which that class of expenditure is enumerated which is not to be referred to the vote or discussion of the Lower House. A statement of the estimated annual revenue and expenditure is to be presented to the two Houses ; but when it comes to enumerating the heads of expenditure which shall not be submitted to vote there is no mention, absolutely no mention, of the other House. What is the import of this omission ? Evidently it is contemplated by the Act that the statement of estimated revenue and expenditure is to be referred for discussion to both Houses but for vote only to one, namely, the Legislative Assembly. If so, is it not right that a reference should be made to the law officers of the Crown, to ascertain whether or not the interpretation that is being put upon this section, among others, is correct. I think Government should readily consent to making such a reference. They will not be right in summarily dismissing the proposal that is before the Assembly to-day.

If we come to the main issue, namely, whether or not the second Chamber should have the right of amending Money Bills, I feel that here it will be very necessary to bear in mind that the second Chamber is not to be an impediment in the way of the Assembly controlling the budget. It is objected that we elected Members of the Assembly are not representative. We are as representative as the constitution would permit us to be. We are as representative as the divergence of opinion between the extreme section and the moderate section of the people would permit us to be. I do not think it behoves the Government to raise doubts as to the representative character of this House. It is unfair, unfair in the extreme, for this reason that this House could be made easily more representative in its character. Only that circumstances of the Government creation do not permit it. The House, as it is, is certainly more representative than the Second Chamber. It has been further objected that in other parts of the British Commonwealth, it is not an uniformly constitutional practice to prevent the Second Chamber from amending money bills. At any rate it is admitted that in Australia and South Africa the Second Chamber is prevented from doing so. It is contended that there the Second Chamber has the right to reject money bills. The same right might be given to the Council of State if in the circumstances under which we are situated it is considered expedient to do so. But as a matter of fact, the Second Chamber in Australia or South Africa has no such real right. That is my information. The House of Lords too technically has the right to reject Money Bills. That right has not been taken away, but it is in disuse, it has never been exercised. British analogy, the Honourable the Home Member maintains, is to be excluded, tabooed. The British constitution has resulted from a long series of premises and traditions. It won't do for us, according to him, to base our claim upon English analogy. India has a long past, but necessarily peculiar to itself. If a long series of premises and traditions like that of England is to be the only justification for the progress of our constitution, I do not think we should be deemed entitled to having the Legislative Assembly that we have at present. This argument if accepted will prevent even those constitutional changes which

are admitted to be desirable in the case of India by both Liberals and Conservatives. You must go in for changes unquestionably calculated to do you good. You could not wait until circumstances are created such as will be considered parallel to the circumstances of England. Recently an occasion arose on account of which the Legislative Assembly, feels disposed to take steps to secure its own powers—powers which, as would seem theoretically, are intended for the Assembly. I use the word 'theoretically,' because I am prevented from making a stronger statement by the wording of section 63 of the Government of India Act. All Bills have to be passed by the two Houses together, though again without amendment or with such amendment only as may be agreed to by both. No doubt strictly speaking the language of one part of this section until modified or authoritatively interpreted should prevent the enforcement of that interpretation which is suggested by my Honourable friend Mr. Samarth. I am therefore referring to the intention of the Act clearly visible in sections 63 and 67A. The very constitution that has been formulated for this our transitional period does according to most of us contemplate the handling of the Money Bills by the Legislative Assembly and the Legislative Assembly alone. The House of Lords has no power to amend Money Bills, and most parts of the Empire have followed the principle and practice of the constitution of England. If that is so, there is no reason why we should not seek to clearly establish a change in our constitution which will be modelled on the constitution of Great Britain. It is admitted by the Honourable the Home Member that under the present constitution there is no necessity, even from the Government point of view, for the Second Chamber interfering, since Government have a perfect machinery provided for them for passing unpopular measures. So far as the future goes, it is, however, apprehended that the Legislative Assembly under the dominion of extremists may claim powers inconsistent with the 'harmonious development' of the country. Sidgwick has been quoted and rightly quoted in a different context by Sir Sivaswamy Aiyer ; but things have progressed since Sidgwick ; and I do not know that under the conditions under which we now exist it will long be competent to a wealthy minority, however cultured, to control the will of the Lower House. People have to be generally represented and correctly represented in the Lower House. As soon as the popular representation comes to be correct, it is impossible that the Lower House will allow the Upper House here or anywhere else in the world to interfere with its treatment of its estimated revenue and expenditure. It appears probably strange that I should make such an authoritative statement. But I must speak as I know. My own knowledge and experience does point to the correctness of the aforesaid speculation ; and I therefore repeat that I shall not wonder if in the near future the exercise of the power to interfere with Money Bills by the Second Chamber comes to be prevented even in those countries in which it is at present theoretically permitted. It has been very rightly urged by the Honourable Sir Sivaswamy Aiyer that we should set about the thing early, and bring about in time an improvement in our constitution that is so greatly needed. It is no use waiting until it becomes a question of mending or ending the Second Chamber. The 'fill the cup' policy ought not to be our goal. We ought to strive to do all that will be calculated to establish harmony between the two Chambers. The two Chambers should

[Mr. S. C. Shahani.]

not be antagonised. If the interpretation of sections such as 63 and 67A is not fixed or if the Act is not so amended as to make the control of the Lower Chamber supreme in the matter of Money Bills, the people will be diverting their energies to the settlement of their accounts with the Upper Chamber. With these remarks I support the Resolution that has been put forward before the House.

The Assembly then adjourned for Lunch till Thirty-Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President in the Chair.

MESSAGE FROM THE COUNCIL OF STATE.

THE SPECIAL MARRIAGE (AMENDMENT) BILL.

Mr. President : A Message has been received from the Secretary to the Council of State which the Secretary will now read.

Secretary of the Assembly : The Message runs as follows :

"I am directed to inform you that the Council of State have at their meeting of the 17th July 1923 agreed, without any amendments, to the Bill further to amend the Special Marriage Act, 1872, which was passed by the Legislative Assembly on the 22nd March 1923."

RESOLUTION *RE* FUNCTIONS AND POWERS OF THE COUNCIL OF STATE—*could*.

Mr. Pyari Lal (Meerut Division : Non-Muhammadan Rural) : I move that the question be now put.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I do not think I need take up much of the time of the House in replying to the points made by Mr. Graham and the Honourable the Leader of the House, but one or two points I can scarcely allow to go unchallenged. I made a point when I asked "is there any part of the British Commonwealth in which such a thing was conceivable, namely, an Upper House amending a Money Bill," and I was told that in Canada they could do so. Now I question with great deference the correctness of that statement. I have got Professor Keith's "Responsible Government", Volume I, in my hand. My edition is that of 1912. Now, at page 516 he says :

"It is provided by section 53 of the Great North America Act that Bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons. There is no other provision limiting the power of the Senate with regard either to finance or to general legislation."

These very words were the subject of the decision of the Privy Council and I quoted those words from the Constitution Act of 1867 of New Zealand. It is provided by section 2 of the Constitution Act of 1867 that "all Bills for appropriating any part of the public revenue or for imposing any new rate, tax or impost shall originate in the Legislative Assembly" and Professor Keith says :

"The exact force of this clause has formed the subject of a report to the Privy Council on reference from the two Houses in 1886," and it is on that clause that the Privy Council have decided that the Upper House has no power to amend a Money Bill.

Mr. Graham said that the Privy Council have given no reason. If he had only referred to the previous pages, he would have found that the whole application of the Legislative Council and of the Legislative Assembly is

set out, in which the reasons of both bodies are given in full, and the decision of the Privy Council is upon those reasons of both bodies and the issues raised. I do not wish to pursue this subject any further, because, after all, supposing my interpretation is not correct, then, as I said, I ask for the amendment of the Government of India Act, if necessary. The issue really, having regard to the speech of the Honourable the Leader of the House, is this. Is this House going to accept the view of Government, namely, that, in order that we may get responsible Government, the Council of State should have full powers and co-ordinate powers with this Legislative Assembly? My leader, Sir Sivaswamy Aiyer, has already dealt with that point effectively. Well, if this is to be the road to responsible Government, I, for myself, despair of responsible Government ever coming to us. Is it going to be responsible Government or irresponsible Government, when this House and the other House are to have full and co-ordinate powers in every respect, not only in regard to money Bills but in all other respects? Well, it is said that the other House is elected. Mr. Graham made a point that the decision which I quoted referred to Upper Houses which were nominated and not elected. I ask him to read further a page or two from Professor Keith in which he says :

"It should be noted that no difference has ever been made between nominee Houses capable of being swamped and Houses not so capable"

in regard to these decisions. Supposing that the Council of State is going to be elected, can any one say that in the House of Lords there are not peers, persons and personages who have no stake in the country and that the Money Bills passed by the House of Commons without reference to the House of Lords, that is to say, without the House of Lords having any power to amend them, that those Money Bills do not affect their properties? Can any one seriously say that that is a point which can be urged against my position? Sir, I trust that some day or other, this is bound to come, sooner, as I said, than later, and I appeal to the British instincts of every Britisher here, probably in vain, and I trust that in their heart of hearts they are in sympathy with my Resolution, and I trust the House will carry it.

The Honourable Sir Malcolm Hailey : I am well aware of the difficulties of urging my case in this Assembly. As I said before, in March 1921 this House showed only too clearly, and at my expense, that they were of opinion that the other House should have no part nor lot in dealing with Finance Bills; they shuddered at the thought that they might even seem to be agreeable that the Council of State could share with them in the consideration of the details of such measures. A house in such a temper of mind, exultant of its growing strength, jealous of its privileges and vowed to extend those privileges, would naturally be in favour of any measure which would tend to prevent intervention either from any other House or from the Executive, with the exhibition of its full authority. I start with a prejudice against me, as strong as it is inevitable. If so, I congratulate myself all the more that this debate, if it can be said to have had any one definite conclusion, has clearly demonstrated that there are no advocates for the principle that we should have no second Chamber at all. There is a consensus of opinion, beginning with Mr. Samarth himself, that for the present at all events, and may be for the future, we need a second Chamber. Sir Deva Prasad Sarvadhikary was the only Roundhead, if he will forgive the term, who

[Sir Malcolm Hailey.]

would have laid the axe to that very useful institution. You will remember the terms of that celebrated indictment of the House of Lords by the Long Parliament of 1649. When I heard Sir Deva Prasad speaking, I recalled the language of that uncompromising body. In round terms it declared :

“ That the Commons of England assembled in Parliament, finding by too long experience that the House of Lords is useless and dangerous to the people of England, have thought fit to ordain and enact that from henceforth the House of Lords in Parliament shall be and is hereby wholly abolished and taken away.”

But I remind him that eight years afterwards a collection of the citizens of London presented to the Protector what was called “ a Humble Petition and Advice ”, and begged that “ Your Highness will for the future be pleased to call Parliament consisting of two Houses ” and the Protector, a man whom nowadays we should describe as a person of a somewhat radical turn of mind, told them in reply that “ by the proceedings of this Parliament, you see that they stand in need of a check or balancing power.” That was our experience in England ; and that has been the experience of the greatest countries in the world. Twice has France attempted in a rapture of republicanism to carry on with a single Chamber, and twice they have returned to a system of two Chambers. Indeed so convinced have they been at intervals of the necessity of constitutional checks and balances that they have on occasion even devised three Chambers. Now I admit that the precedents I have quoted of the Long Parliament, and the experiments of France, and I may add the brief experiment of the United States, have all been in transitional periods. But there the fact remains. No great country of the world—indeed I may say, hardly any little country of the world—has ever succeeded in the attempt to confine its destinies to a single Chamber. It used at one time, in discussions on this subject, to be said that there was one country which had existed with a single Chamber, namely Greece. For 57 years, Greece did exist with a single Chamber but in 1911 it found itself under the painful necessity of instituting—what ? A Council of State ! The experience of history is the conclusion of Lecky :

“ Of all forms of Government among mankind, I do not know of any likely to be worse than the government by a single, omnipotent democratic chamber.”

I do not labour the question any further. I take it that it is generally agreed that the development of India does require a second Chamber, and the only point of difference between us is whether that second Chamber shall be possessed of full powers or not. Now take the arguments that we have heard this morning in favour of curtailing the powers of our Council of State. Take first the argument based on what has been called the intention of the Act. Now I am of course treading on what for me must always be delicate ground. When I have to meet the arguments of constitutional lawyers, I naturally, so far from entering into the controversy myself, prefer to entrust my case to those who are more expert in these matters than I could ever hope to be. The mere layman is frequently in the position of regarding lawyers with admiration ; but on occasions he is tempted to regard them with amusement ; there are occasions when he is compelled to regard them with amazement. And when I hear a lawyer speaking of the intention of an Act, and reciting a number of provisions which he

believes to reveal the hidden meaning of the framers of the Act, and when I hear him in conclusion saying that a radical change in the Act is necessary in order to give effect to that intention—then I pass from the stage of amusement to that of amazement. The argument of my Honourable friends here is that it is implied in the Act that the Council of State should have no power of amending or dealing with our Finance Bills.

Mr. N. M. Samarth : Amending.

The Honourable Sir Malcolm Hailey : Of amending our Finance Bills. They read us section 67 ; they read us its various sub-sections, and they say that since the Council of State can only discuss the Budget and not vote on it ; and since it cannot make any appropriations for the services of the administration, therefore by implication it was intended to be prevented from amending our Finance Bills. And then they proceed to argue that the purpose of the Act in that direction is so obvious that the Act needs amendment in order to carry that intention out. The argument meets itself. We are asked by Mr. Shahani why, in view of the doubts that have been cast upon this position, we do not refer the question to the Law Officers of the Crown. I will give the obvious answer. For two years we ourselves have followed a reading of the law which was supported by Mr. Seshagiri Ayyar and Sir Sivaswamy Aiyer ; on two separate occasions the Council of State has amended Finance Bills without doubt being cast on its capacity to do so. But I do not rest my case there. Like a prudent commander, I keep my heavy artillery in reserve. I have said that Mr. Seshagiri Ayyar and Sir Sivaswamy Aiyer gave us what we considered to be a correct reading of the Act of 1921. But I reserved my final and conclusive argument—it is unnecessary for us to carry this question to the Law Officers of the Crown, since we received identically the same reading of the Act from Dr. Nand Lal ! I have at various times and seasons studied with great care the proceedings of the Joint Parliamentary Committee. I have perused with equal care all the proceedings in Parliament which dealt with this Act on its introduction and its passing into law. Not a single word do I find there which would bear out the contention of my friends opposite that there was any intention whatever on the part of the framers of that Act to curtail the powers of our second Chamber. That being so, I can only assume that they took the reasonable position that this being a popularly elected Assembly it was correct that it should deal with the Budget and with appropriations, but that when we came to Finance Bills larger interests were concerned, the word of a popular House should not be final, and the terms of those Bills should be open to reconsideration and amendment by another House. I pass to Mr. Samarth's second argument, which he has again repeated, that it is unthinkable that there should exist anywhere in the British Commonwealth a second Chamber with power to amend Finance Bills. I had quoted to him the British North American Act. He denies that that Act can bear that interpretation. He supports his view by quotations from decisions which refer to the New Zealand Constitution.

Mr. N. M. Samarth : In identical terms.

The Honourable Sir Malcolm Hailey : In identical terms ; true, but I put it to him, that the New Zealand State is only one of the component States of a Commonwealth. I put it to him further that the interpretation which the Law Officers then gave referred entirely to nominee second

[Sir Malcolm Hailey.]

Chambers, I have here the actual words of the Act. He will agree with me that there is nothing in that Act itself which specifically prevents the Senate from amending the Finance Bill. If he is right, then he is right by virtue of interpretation only; the Act itself certainly does not forbid the Upper House to amend Finance Bills, and it has never been amended to prevent it taking such course with Finance Bills. But when we are told further that the existence of co-ordinate powers in this matter is in itself unjustifiable, it is only reasonable that I should appeal to constitutions beyond those of the British Commonwealth. I am entitled to refer to a constitution such as that of the United States, not an unsuccessful constitution in working, and one indeed which has been quoted by many political philosophers as having in many respects stood best the assaults of time. What then is the provision of the United States Act? I quote the Fundamental Law.

“All Bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills.”

It has full powers, therefore, in that respect. As a matter of principle and as a matter of political theory, it is certainly not correct to say that the existence of co-ordinate powers of this nature is either unparalleled or unjustifiable. It is suggested—and we owe the suggestion to Sir Sivaswamy Aiyer—that although for the present we may be able to justify the existence of these co-ordinate powers, yet in the fulness of time they would have to be swept away. My answer is, that we can certainly justify the existence of these co-ordinate powers at present. There is no doubt whatever that owing to the great diversity of interests in India the second Chamber should have equal powers in this respect with our Chamber. But if a time comes in the future when this Assembly does occupy the position of the House of Commons, when by tradition long compacted, and by proof of achievement fully admitted, it can prove itself capable of taking charge of all these various interests, then let that power be swept away; and that is the ordinary process. If you have, owing to the growth of democratic institutions, to reduce or restrict the powers of your Upper Chamber, then in that case you would only be following the example of other countries and pursuing natural development common to history.

Now for the third point. I attempted to justify the existence of full powers on the part of the Council of State on two grounds, first, that it would conduce to the possibility that the British Parliament would at an early date, divest itself of its powers of control in regard to India, if India in itself were in possession of a full-power second Chamber. On that point I was attacked; I maintain my position, but since it is a matter of anticipation, in which we must all be entitled to our own view, I will let it stand at that. But my opponents went further and attacked my second ground, that the development of India must be harmonious and that there must be full representation and power of control on the part of other interests than those which are now represented and are likely in the future to be represented in this Chamber. I was told that if land owners and rich men desired representation they could come here. That in itself is a return to the simple principle of a single Chamber. But I was putting my case on far other grounds than the necessity of a

Chamber consisting only of landowners and rich men. I made it clear that I did not contemplate that the Upper Chamber of the future would necessarily have the same composition as the Upper Chamber of the present. One of the most difficult questions that have faced those who have framed constitutions comprising a second Chamber, is to find proper differentia for that Chamber. Until these are found, the Chamber will never take its true position in the body of the constitution. It may be that the present composition of our second Chamber is best described as experimental. It is conceivable nay probable that we may have to have a different composition in the future. But what I had in my mind, and what some of my friends who spoke on my side clearly had in their minds also was not necessarily a Chamber merely of landowners and of rich men, nor did we conceive that our opponents should be able to arouse prejudice against our second Chamber, by assuming that its composition would be confined purely to representation of those classes. What we had in mind in the composition of the second Chamber was something far different. We had in mind that it should in its composition offer some of those advantages which Lord Bryce has described as peculiarly flowing from the existence of a second Chamber:

“A remedy,” he says, “may be found in the creation of a second Chamber into which men might be gathered who are eminent by their ability and the services they have rendered to the nation or to the district in which they reside, men who have gained experience in various forms of public work such as Local Government and the permanent civil service at Home or abroad, or who possess special knowledge of important branches of national life, as for instance, agriculture, commerce, manufacturing industry, finance, education and the like. Such a chamber might be made a kind of reservoir of special knowledge and ripened wisdom to be added to whatever knowledge and wisdom had already been gathered into the more popular house.”

That was our ideal of a second Chamber.

That then is our case. We believe that a full-power second Chamber is essential to the development of India. We deny that it is in itself without parallel or without justification; and I repeat again that though the predilection of this Assembly would undoubtedly and must undoubtedly be for a second Chamber curtailed of these important powers, yet the ultimate good of India lies in the retention of a Chamber with the full powers which are given to the Council of State by our present constitution.

The Assembly divided:

AYES—30.

Abdul Hamid Khan	Khudadad Khan,	Jejeebhoy, Sir Jamsetjee.
Mr.		Lakshmi Narayan Lal, Mr.
Ahmed, Mr. K.		Majumdar, Mr. J. N.
Aiyer, Sir P. S. Sivaswamy.		Man Singh, Bhai.
Asad Ali, Mr.		Mudaliar, Mr. S.
Asjad-ullah, Maulvi Miyan,		Mukherjee, Mr. J. N.
Ayyangar, Mr. K. S. R.		Mukherjee, Mr. T. P.
Ayyar, Mr. T. V. Seshagiri.		Nabi Hadi, Mr. S. M.
Barua, Mr. D. C.		Nag, Mr. G. C.
Basu, Mr. J. N.		Nand Lal, Dr.
Faiyaz Khan, Mr. M.		Neogy, Mr. K. C.
Gour, Dr. H. S.		Pyari Lal, Mr.
Gulab Singh, Sardar.		Samarth, Mr. N. M.
Hussanally, Mr. W. M.		Sarvadhikary, Sir Deva Prasad,
Ikrampullah Khan, Raja Mohd.		Shahani, Mr. S. C.
		Ujagar Singh, Baba Bedi.

NOES—35.

Abdul Qadir, Maulvi.
 Abdul Rahim Khan, Mr.
 Akram Hussain, Prince A. M. M.
 Anson, Mr. E. C.
 Ayyangar, Mr. R. Narasimha.
 Bardswell, Mr. H. R.
 Barnes, Mr. H. C.
 Blackett, Sir Basil.
 Bray, Mr. Denys.
 Bridge, Mr. G.
 Burdon, Mr. E.
 Butler, Mr. M. S. D.
 Calvert, Mr. H.
 Chatterji, Mr. P. C.
 Chatterjee, Mr. A. C.
 Clarke, Mr. G. R.
 Faridoonji, Mr. R.
 Gobbie, Mr. F. St. J.

The motion was negatived.

Gidney, Lieut.-Colonel H. A. J.
 Graham, Mr. L.
 Gwynne, Mr. C. W.
 Haigh, Mr. P. B.
 Hailey, the Honourable Sir Malcolm.
 Holme, Mr. H. E.
 Ibrahim Ali Khan, Colonel Nawab Mohd.
 Innes, the Honourable Mr. C. A.
 Mitter, Mr. K. N.
 Percival, Mr. P. E.
 Ramayya Pantulu, Mr. J.
 Richey, Mr. J. A.
 Sassoon, Captain E. V.
 Sim, Mr. G. G.
 Singh, Mr. S. N.
 Sinha, Beohar Raghubir.
 Stanyon, Colonel Sir Henry.

RESOLUTION RE ESTABLISHMENT OF CONVENTION OF NON-INTERFERENCE IN INDIAN AFFAIRS.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I rise to move the Resolution which stands against my name, and which reads thus :

"This Assembly recommends to the Governor General in Council that he will be pleased to move the Secretary of State to establish a convention as recommended by the Joint Select Committee and contemplated by section 19A of the Government of India Act, of non-interference, save under exceptional circumstances, in matters of purely Indian interest where the Government and the Indian Legislature are in agreement."

Sir, I entertain the hope that my task may prove to be a light one. My intentions in moving this Resolution are quite friendly to the Government, and I hope that they will receive it in the same spirit. The object of my Resolution really is to strengthen the hands of the Government and to secure due weight to the concurrent conclusions of the Government of India and the Indian Legislature. My Resolution practically follows the language of the recommendation of the Joint Select Committee. In their recommendation on clause 33 of the Government of India Bill, this is what they stated :

"The Committee have given most careful consideration to the relations of the Secretary of State with the Government of India and through it with the Provincial Governments. In the relations of the Secretary of State with the Governor General in Council, the Committee are not of opinion that any statutory change can be made so long as the Governor General remains responsible to Parliament. But in practice the conventions which now govern these relations may wisely be modified to meet fresh circumstances caused by the creation of a Legislative Assembly with a large elected majority. In the exercise of his responsibility to Parliament, which he cannot delegate to anyone else, the Secretary of State may reasonably consider that only in exceptional circumstances should he be called upon to intervene in matters of purely Indian interest, where the Government of India and the Legislature are agreed."

My Resolution simply reproduces the language of this recommendation and keeps in view the principle underlying section 19-A of the Government of India Act. The language of section 19-A is this :

"The Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council by this Act or otherwise in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919."

To give effect to my Resolution there will be no necessity to amend the Government of India Act. The powers vested in the Secretary of State in Council under section 19-A are sufficiently ample to enable him to establish this convention which I ask may be established hereafter.

The reasons in favour of the recommendation of the Joint Select Committee were discussed more at length by another Committee which was appointed earlier in the year. I refer to the report of the Crewe Committee which was appointed to report upon the relations of the Secretary of State for India with the Governor General in Council. I beg the leave of the House to refer to a few passages in the Report of the Crewe Committee. On page 6 of their Report, paragraph 13, this is what they observe :

"The features which typify the Reform Scheme are the transfer of some subjects of administration from officers of the Crown to representatives of the people in the provinces and the encouragement in the Indian Legislatures of an authoritative expression of popular opinion to which the Governments will become increasingly responsive."

Then again :

"The new constitution of the Indian Legislative Assembly which will give to the non-official Members a substantial majority is bound to make its weight felt with the Government of India. The problem with which we are immediately concerned is to secure that the opinion of the Assembly should carry corresponding weight with the authorities in whom is vested the power of controlling the Government of India. It appears to us that the conception of the Reform Scheme leads naturally to the acceptance of the principle which we here state in general terms that, where the Government of India find themselves in agreement with the conclusion of the Legislative Assembly, their joint decision should ordinarily prevail. We set out below what we conceive to be the application of the principle."

They first consider the application of the principle in the sphere of legislation and this is what they state. At the outset they think it desirable to secure that the authority of the Legislative Assembly will not be restricted by Government intervention through the Council of State, save in certain circumstances. That remark was made with reference to the then contemplated composition of the Council of State. Later on they say :

"In order, therefore, to give proper influence to the legislative authority in the Assembly we recommend that, whenever legislation has the support of the majority of the non-official Members of the Legislative Assembly, assent should be refused only in cases in which the Secretary of State feels that he is responsible to Parliament for the peace, order and good government of India or paramount considerations of imperial policy require him to secure reconsideration of the matter at issue by the Legislative Assembly."

Then, with regard to the budget and general administration, this is what they observe :

"In the examination of the budget and in the criticism of general administration, the Legislative Assembly can express its views only by means of Resolutions and this will continue to be advisory in character without legal sanction. The Government may accept a Resolution either because they agree with it from the outset or because they decide to defer to the opinion of the Assembly. Where, for any reason, reference to the Secretary of State is considered necessary, we recommend that a joint decision of the Government of India and the majority of the non-official Members of the Assembly, reached by discussion of the Resolution, should be given the same degree of authority as similar decisions for legislative proposals and the principle we have stated in paragraph 15 should apply in this case also."

Then they go on to deal with matters of pure administration and say :

"We think it unnecessary to say more on this head than that the degree of discretion allowed in matters of pure administration should be enhanced in general."

correspondence with the wider authority to be allowed in future in matters of legislation and finance."

Then, the conclusion is :

"We have stated our conclusion as to the extent to which the co-operative authority of the Government of India and the Legislative Assembly should be recognised, and the corresponding degree in which revision from home should by constitutional practice be limited."

In paragraph 20, they say :

"In approaching the main subject of our inquiry, we have necessarily dwelt on certain aspects of the Reform Scheme on the Indian side in order to throw into relief the changes in home administration to which they point. The conditions of reform obviously postulate a change of atmosphere in the conduct of the administration by the supreme executive, but it is in our view that to complete the structure at this end, the need for something more than a change of atmosphere is imperative."

The recommendations of the Crewe Committee are summed up on page 13. The second recommendation is :

"Where the Government of India are in agreement with the majority of the non-official Members of the Legislative Assembly, either in regard to legislation or in regard to Resolutions on the Budget or on matters of general administration, assent to their joint decision should only be withheld in cases in which the Secretary of State feels that his responsibility to Parliament for the peace, order and good government of India or paramount considerations of imperial policy require him to secure reconsideration of the matter at issue by the Legislative Assembly."

Sir, I do not think it is necessary to trouble the House with more extracts from this Committee's Report or with any further arguments in favour of the proposition which I move. In fact, I cannot conceive on what possible grounds the Government of India can oppose this Resolution. One possible argument I can imagine,—but not one coming from the Government of India itself,—namely, that the Government of India may grow a little too responsive to the wishes of the Assembly. If that consummation happens, we for our part should welcome it, but it is quite possible that there may be another angle of vision, especially in England. It is quite possible that they may think that the Government of India may, by political pressure or by reason of the habit of deference which they are likely to contract towards the Assembly, be a little too complaisant towards the Assembly and may perhaps agree with them in matters on which it is necessary in those interests which are meant to be safeguarded that they should not yield. I am only making a conjecture. I am not in a position to state what exactly may be the objection on the other side. The Crewe Committee, the members of which could not be accused of any ultra-radical tendencies with regard to Indian questions, and the Joint Select Committee, of which the same mentality may be predicated, were both in favour of establishing this Convention. It is a safe presumption from the concurrent recommendations of these two Committees that there cannot possibly be any harm in establishing such a convention. What exactly the attitude of the Home Government may be, I do not know, and what exactly the present attitude of the Government of India may be, I do not know. I do not know whether the Government of India perhaps feel in their heart of hearts that even in cases where they may find it embarrassing not to concur with the Assembly, they should be over-ruled by the autocrat of Whitehall. I am not in a position to speculate upon these things. But what I do

venture to submit is that in the interests of co-operation between the Legislature and the Government and in the interests of that harmonious development of which we heard so much in the morning, the Government of India ought to welcome this Resolution ; I trust that my Resolution may meet with a more favourable reception than the one which was moved in the morning and a more sympathetic treatment—sympathy not in the sense in which a prefatory expression of it precedes a refusal, but sympathy real and active. In the Resolution itself there are qualifying words under which the Secretary of State may find a loophole whenever he finds it convenient to break through the convention. You have the words "save in exceptional circumstances". You have the words "of purely Indian interest". It is open to him to say that a particular matter is not a matter of purely Indian interest. It is open to him to say that a particular case is one of exceptional circumstances. If the Home Government really cannot make up its mind to assent to this Resolution it must rather be because they do not know the stuff of which at any rate the English Members of the Government are made. We have stalwart champions of Imperial interests in the Executive Council, and I think the Government at Home may very well trust the Members of the Executive Council to look after Imperial interests and to take sufficient precautions in cases in which this convention may be undesirable. There is another safeguard, namely, the safeguard of previous consultation, a practice which from our point of view cannot be looked upon as one of unmixed advantage. They have got a hundred and one ways of giving effect to their own views wherever they really differ from us. It is only in those cases in which the Government of India and the Legislature are in perfect accord that we wish their concurrent opinions to be invested with due weight. It seems to me, Sir, to be unnecessary to labour this proposition any further and I hope that the House will accept it including the Treasury Bench.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I should designate this Resolution as a harmonising measure.* Here the Assembly does not advocate only the maintenance of its own privileges but also pleads for the Government of India. What does this Resolution contemplate ? What it contemplates is this, that when there is a concurrence of opinion of both the Government of India and the Indian Legislature, then the Secretary of State should not interfere unduly. The terms of this Resolution are very modest. They are :

"This Assembly recommends to the Governor General in Council that he will be pleased to move the Secretary of State to establish a convention as recommended by the Joint Select Committee and contemplated by section 19A. of the Government of India Act, of non-interference"

—now mark, Sir, the saving clause which is incorporated in this modest Resolution ; the words of that saving clause are :

"save under exceptional circumstances, in matters of purely Indian interest where the Government and the Indian Legislature are in agreement."

It could not be more modest. And, Sir, has it got any support ? It has the support of the greatest possible authority. I may invite your attention to pages 192 and 193 of "India in 1919." I shall not read the whole paragraph but I shall quote that portion which is indispensably necessary to substantiate my argument. It reads thus :

"It further recommends that with a view to removing the belief that India's fiscal policy was directed from Whitehall in the interests of the trade of Great Britain

[Dr. Nand Lal.]

a convention should be instituted by which the Secretary of State was to refrain from interfering with fiscal measures upon which the Indian Legislatures and the Executive were in agreement....."

Now, Sir, can there be a better authority than this in support of this Resolution? Then, again, the provisions of section 19-A of the Government of India Act, 1919, are quite eloquent and very explicit, so far as support for this Resolution is concerned. The words are :

"The Secretary of State in Council may notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control, vested in the Secretary of State and the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919."

So, it establishes to the hilt that there is a great harmony between the provisions of this section 19-A of the Government of India Act, 1919, and this Resolution. Therefore, Sir, it does not require great elaboration or flow of eloquence. The Resolution speaks for itself and I whole-heartedly support it.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, there is a strong feeling in the House that with your permission the House might now adjourn for such time as you may be pleased to fix—for about an hour or for the day—to enable Members to attend at the railway station to pay their respects to the remains—to speed him on his last journey—of our deceased colleague. The train will be leaving with his remains either for Allahabad or Benares in a short time and we are all anxious that this last respect should be paid. I therefore move that the House do now stand adjourned.

Mr. President : Does the Honourable Member wish to move an adjournment of the House for the whole of to-day until to-morrow, or an adjournment of the debate? I am prepared to take the sense of the House on either proposition. I quite appreciate the Honourable Member's object in making this proposal. It is a fitting occasion for an adjournment. I put the question that this debate be now adjourned.

The Honourable Sir Malcolm Hailey : My only difficulty in the case is that while fully appreciating the feeling expressed by Sir Deva Prasad Sarvadhikary and the object with which he desires to adjourn the House, I see that adjournment will affect the fate of the Resolutions which remain on to-day's paper. It might, I am afraid, result in their being abandoned. But as far as Government is concerned, we do not wish to oppose the adjournment of the House either for a time or for the day, in view of the object with which the adjournment is urged.

Mr. President : I hope the House fully understands that if it adopts the question that the debate be now adjourned I shall thereafter adjourn the House till to-morrow morning. The question is that this debate be now adjourned.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 18th July, 1923.

LEGISLATIVE ASSEMBLY.

Wednesday, 18th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

RESOLUTION *RE* UNDERTAKING BY FINANCE DEPARTMENT OF LIABILITY FOR LOSSES CONSEQUENT ON ALLIANCE BANK FAILURE.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : I rise to move the Resolution which stands against my name and which runs in the following terms :

"This Assembly recommends to the Governor General in Council that he will be pleased to express his disapproval of the action and policy of the Finance Department of the Government of India in undertaking a present or contingent liability to the Imperial Bank for losses consequent upon the failure of the Alliance Bank of Simla."

My object in moving this Resolution is to invite the House to examine the propriety of the action taken by the Government in the matter of the Alliance Bank of Simla and the policy which underlies that action. I have no intention of discussing the conduct of the Imperial Bank or the question whether the action of the Government is *ultra vires* under the Government of India Act. I will assume for the purpose of this discussion that it was legally competent to the Government to take the steps which they did. Let me also disclaim any intention of attributing any improper motive to the Government. I have no doubt that whether the action taken by the Government was right or wrong, they did not undertake such action with the knowledge that it was wrong. My desire and my purpose is to examine the action and policy of the Government without any bias or prejudice and in the dry light of reason with reference to principles of financial and administrative policy. In my view the fact that the Government of India had on no previous occasion gone to the rescue of banks which failed with heavy liabilities is of no great significance, except in so far as it affords grounds for a presumption in favour of a cautious policy. If on examination of the problem we come to the conclusion that it is the duty of the Government to undertake pecuniary liability in cases like the present, we should not be deterred from expressing our approval of the course adopted by the Government, merely because they failed to discharge such duty on similar occasions in the past.

Before discussing the principles applicable to the case, let me make a brief reference to the facts, as I have been able to gather them. The Alliance Bank had been known to be involved in difficulties for at least a year before its failure. It is said to have been common talk in the City of London. Sometime about August 1922, the Alliance Bank approached the Imperial Bank for help and the latter is believed to have made an

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investigation of the affairs of the Alliance Bank and agreed to lend on the security of its assets a sum of 2½ or 3½ crores. On certain dates in the month of August the Alliance Bank deposited the title deeds of all its immovable properties with the Imperial Bank as security for the advances promised. The financial help thus rendered or promised to be rendered by the Imperial Bank to the Alliance Bank was without the intervention of the Government. On the 26th of April 1923, the Government knew that the failure of the Alliance Bank was inevitable, and on the 27th April they authorised the Financial Secretary to write to the Imperial Bank to repay 50 per cent. of the amounts standing at credit of depositors in the Alliance Bank of Simla including current account and savings bank balances in the event of the liquidation of the said bank and provided that liquidation could be arranged subject to the supervision of the Imperial Bank. The letter also conveyed a guarantee by the Government of India to make good to the Imperial Bank of India any loss incurred by the bank in making such payments. The total amount of the liabilities to the depositors is believed to be about 8½ crores. The letter is not very clear or precise as to the legal nature of the transaction into which the Government of India were entering. Was it meant to be an authorisation to the Bank to pay the proportion of 50 per cent. of the deposits out of the funds of the Government in the hands of the Imperial Bank? Or was it intended to be a contract of guarantee undertaking a liability in the event of the Imperial Bank being unable to recoup themselves for the advance of 50 per cent. from the assets of the Alliance Bank under liquidation? That it was not intended that the Imperial Bank should in the first instance disburse the 50 per cent. out of the funds of the Government is perfectly clear. If such had been the intention, there was no necessity whatever for any guarantee. See also the proviso to clause (a) of part I of the Schedule to the Bank Act. There was no question as to the sufficiency of the Government funds in the hands of the Imperial Bank. It is equally clear that there was no intention on the part of the Government to borrow any moneys from the Imperial Bank, when there were enormous Government balances in the custody of the Imperial Bank. There is not the faintest suggestion of any loan to the Government in this letter and this view is borne out by the affidavit of Sir Robert Aitken filed in the Bombay High Court which makes it clear that the Government undertook to be liable only in the event of the Imperial Bank failing to recover the amounts of the payments from the liquidators. This view is further borne out by the fact that the Imperial Bank debited the advances in their accounts to the Alliance Bank, by the Financial Secretary's letter of the 1st of June 1923, to the Imperial Bank hypothecating the Government balances as security for the fulfilment of the guarantee and by the fact that in his answer of the 3rd of July the Honourable the Finance Minister stated that the Government guaranteed the Imperial Bank against any loss. Strangely enough in his answer of the 5th July to my specific question whether the transaction entered into by the Government was one of loan to the Government or guarantee by the Government, the Finance Minister stated that it was intended as a loan. This view is inconsistent with the one put forward earlier and in no way improves the position of

the Government. If the undertaking of a contingent liability under a contract of guarantee is open to objection, the undertaking of an immediate liability under a contract of borrowing is still more so. I am however quite willing to make a present of either alternative to the Government. The question then that the Assembly has to consider is whether as a matter of financial or administrative policy the Government is justified in undertaking this legal liability present or contingent, to be responsible for the losses arising out of the failure of the Alliance Bank. Let us now proceed to consider the main reasons which were given by the Honourable the Finance Member in his statement of the 3rd July in answer to Mr. Manmohandas Ramji. One reason was that it was necessary to minimise the hardship to the depositors and creditors of the Alliance Bank. Far be it from me to withhold my sympathy from those who have had the misfortune to suffer by the failure of the Alliance Bank. But such sympathy ought not to blind us to the ultimate consequences to the State of the adoption of a policy of relieving the distress of those who may innocently suffer from the failure of Banking, Commercial or Industrial concerns in which they may have invested their moneys. If such sympathy were to be a motive for relief by the State, no logical distinction could be drawn between one concern and another, either with reference to the magnitude or the character of the operations of the concern. The claims of the victims to our sympathy is exactly the same in any case. That the Government may on certain occasions afford charitable relief to its subjects in distress may be conceded. The Government of India are in the habit of affording relief in visitations of famine and the Government in England have adopted measures in relief of the poor, for the payment of old age pensions and for insurance against unemployment. In all these cases relief has been awarded on definite well-considered general principles. But there is no principle upon which you can help one insolvent Bank and refuse to help another. If the Government are justified in going to the rescue of the Alliance Bank, the failure of which is largely suspected to be due to gross mismanagement, it is difficult to conceive of any insolvent bank in whose case they can refuse to afford assistance. Once the principle is recognised, there can be no limit to its applicability and either an appeal to sympathy or political pressure will come into play on behalf of every insolvent Bank. A recognition of such a principle as a ground of action will soon exhaust the resources of the Government, and land it in bankruptcy. It may be said that I am putting extreme and fanciful cases, but I deny that they are extreme or fanciful. It is the best way of testing the soundness of a principle. The actions of Government should be guided by general principles and not by mere rules of thumb, purporting to have reference to the merits of individual cases only. It is well to remember that it is as true in the sphere of administration, as it is in the sphere of judicial administration that hard cases make bad law. That it is impossible to lay down any principles or conditions of general applicability has been admitted by Sir Basil Blackett. I may here refer to the view expressed by one of the ablest Indian Viceroy in connection with the Presidency Banks Bill of 1899. It was observed by Lord Curzon that the Government were under a peculiar responsibility for the Presidency Banks and were bound to enforce special regulations for the protection and security of the balances which the Government had provided.

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The Government could not afford to jeopardise them in the interests of general philanthropy. It may be urged by the Government that they are really running no risk of loss by this transaction of guarantee. If there were no risks at all in this matter, it is not easy to understand why any guarantee by the Government was considered necessary or should have been offered. If there were no risks, the Imperial Bank or the other Banks in India could have themselves gone to the rescue. Whether there is any likelihood of any risk or not in undertaking a liability of this sort is a matter upon which the Government have no machinery for arriving at any satisfactory judgment. But in my view the Government are not justified in exposing the funds in their hands to any present or future risk by the course taken in this particular case or by its possible extension to similar cases.

It has been stated that owing to the limitations on its powers the Imperial Bank is not able to discharge its legitimate functions as a Bankers' Bank or a Central Bank, and that the intervention of Government was therefore necessary, especially in the absence of a spirit of co-operation among the Banks in India. That a Central Bank has responsibilities to other banks and to the public in a time of financial crisis and that it is bound to come to their support, I am prepared to admit. If the existing limitations upon the powers of the Imperial Bank are unduly restrictive, I for one have no objection to the removal of these restrictions, subject however to necessary safeguards for the protection of Government balances. I do not understand why if it was necessary to get rid of the legal restrictions, the powers of the Governor General to make ordinances for emergencies were not utilized. During a crisis in 1899 the Imperial Bank of Russia was temporarily authorised to open credits and accord loans on the pledge of securities which were not guaranteed by the Government but which possessed reasonable safety. This included industrial and other securities which had not been before available for obtaining advances. I should have no objection even to a loan by the Government of its funds to the Imperial Bank to enable it to discharge this important duty, provided that the loan is made on such security as may be necessary to guard against any risk of loss. The transaction in the present case is not a loan by the Government to the Imperial Bank on proper security but a guarantee by the Government which undoubtedly contemplates a contingent liability for the losses of the Alliance Bank and possible appropriation of Government funds in discharge of such liability. The Honourable the Finance Member has told us that there have been cases in England of similar intervention. But as he is unable to give the House any details, we are not in a position to judge of the value of such precedents. He has relied upon the absence of a spirit of co-operation among the Banks in India as a justification for the intervention of the Government. I am not aware of any such want of co-operation, nor is it *prima facie* likely that the British Managers of British Banks in India who have imbibed the instincts and traditions of English Banks would refuse to co-operate in the way that English Banks do. It would be interesting to learn whether any attempts were made to secure the co-operation of the leading Banks in India and, if so, whether they refused to co-operate and for what reasons.

Another reason which was mentioned by the Honourable the Finance Member for the action taken by the Government was that it was necessary in the interests of the financial stability of the country that immediate steps should be taken to restore public confidence to save inconvenience and possible danger to other sound institutions and to avoid any disturbance of the favourable conditions for the flotation of Government loans in the money markets in London and in India. Even for the purposes mentioned, the course which has been actually taken by the Government was not the right course to adopt. But it is difficult to believe in the reality of the picture so luridly painted by Sir Basil Blackett. Apart from the failure of the Alliance Bank there is absolutely no evidence of any conditions even approaching to a financial crisis or likely to cause a financial crisis. I may refer to the dictum of a well known economist that the theory which attributes crises to conditions of credit and banking inverts cause and effect. It puts the cart before the horse. Crises are rather due to the violent disturbance of equilibrium between the demand and production of goods. In any event the failure of the Alliance Bank could not possibly have brought about a general or universal collapse of credit. Under modern conditions of credit a Commercial Bank which is conducted on sound principles is in little danger of failure through bad loans. As pointed out by the economist referred to above "excessive loans to a single individual or corporation or upon security which would be rejected by conservative Bankers have often resulted in the failure of single Banks, but never within the past half century have such failures destroyed confidence in the entire banking system and led to a general withdrawal of deposits." There was therefore no likelihood of the failure of the Alliance Bank affecting the credit of well-managed banks or any persons other than the unfortunate depositors in the Alliance Bank itself. It is also impossible to understand why the loss of confidence in a single Bank should affect the chances of successful flotation of the Government loans. The Honourable the Finance Member evidently thinks that he has saved the general financial situation by the action of the Government. Presumably 50 per cent. of the assets of the Alliance Bank are lost beyond hope of recovery and the depositors' claims are not going to be paid in their entirety. If the loss of 50 per cent. of the Alliance Bank deposits is not going to affect credit in the country, I hesitate to believe that the loss of the remaining 50 per cent. would have shattered public confidence and credit.

I regret to be obliged to come to the conclusion and I hope the House will agree with me that neither on the ground of philanthropy to the depositors, nor in the interests of the financial stability of the country can the action of the Government be justified in committing themselves to a pecuniary liability. It is a strange irony of fate that the minister who played the role of financial censor to the Assembly in March last, and who in the fervour of his orthodoxy described the financial policy of his predecessors as a rake's progress, should have himself embarked upon such an unsound and dangerous policy in the next month.

I must now refer to one episode in connection with the intervention of the Government. I have already referred the House to the Financial Secretary's letter of the 27th of April to the Imperial Bank. It was

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admitted by Sir Basil Blackett that the initiative as to the payment of 50 per cent. originated from the Government of India and was agreed to by the Imperial Bank. Now, mark the terms of Mr. McWatters' letter of the 22nd May to the Indian Merchants' Chamber, Bombay. He states that the action of the Imperial Bank *appears* to the Government of India to have been taken with the object of preventing unnecessary financial disturbance being caused by the failure of the Alliance Bank and to have been in the interests both of the creditors of that Bank and of the general financial stability of the country. It is *understood* that the responsible authorities of the Imperial Bank were satisfied that the available assets of the Alliance Bank of Simla were sufficient if the liquidation were properly conducted to yield a dividend of at least 50 per cent. to the creditors, and this being so, their action in assuming responsibility for the payment of this amount *appears* to have been a public-spirited one which is justified by the Imperial Bank's position as a Central Bank. I can understand the Financial Department keeping the Indian Merchants' Chamber at arms' length and declining to answer at all. But when they did choose to answer, the form of communication adopted was unfortunately devoid of any pretensions to ingenuousness. I cannot close my remarks without extending my most cordial sympathy to the Financial Secretary for the dire straits to which he was reduced by the exigencies of public service.

Mr. President : Resolution moved :

"This Assembly recommends to the Governor General in Council that he may be pleased to express his disapproval of the action and policy of the Finance Department of the Government of India in undertaking a present or contingent liability to the Imperial Bank for losses consequent upon the failure of the Alliance Bank of Simla."

Captain E. V. Sassoon (Bombay Millowner's Association : Indian Commerce) : Sir, I think that the debates of this session have shown that it needs no small moral courage to get up in this House and support an attack on the Government, with the unenviable possibility ever before one of seeing the Honourable the Home Member, by his formidable debating skill, tear to shreds and tatters the choicest examples and specimens from one's rhetorical armoury amidst the triumphant cheers of the Government Benches and discreet titters from those portions of this building which you, in your wisdom, Sir, have decreed to be officially invisible to our vision, lest in raising our eyes heavenwards in search of inspiration, we should be blinded by the dazzling glory of the gods and goddesses. But there are moments, Sir, when our faith in the justice of our cause and the sincerity of our convictions enable us to forget that bane of the inexperienced speaker, the slight tremble at the knee and the unaccountable dryness at the back of the throat, and gives us the courage to dash into the arena with the cry '*Ave Frederice morituri te salutant.*' I propose, Sir, in the first place to draw the attention of the House to the conduct of the Government in connection with this failure and the consequences which involve a very great departure from the accepted practice of the Government of India up to the present time. I shall further draw the attention of the House to what has taken place as the result of this conduct and ask the House, by their vote, to agree with my suggestions as to what immediate action should be taken by the Government in the matter. I do not propose

to discuss the question as to whether or not the Government had the necessary powers under the Constitution to take the action it did. The matter is *sub-judice*, and, like my Honourable friend, Sir Sivaswamy Aiyer, I am going to assume for the purposes of argument that the Government have got the necessary power in law. The question we have to consider is,—was the situation such as to warrant interference in a manner which created an important precedent, and was there no other method available which would have met the situation without the use of such extraordinary powers? The supporters of the Government maintain that the magnitude of the failure of the Alliance Bank removed it from the category of the ordinary commercial failure and rendered the question one of national interest; further, that only by Government action was a grave commercial crisis averted the consequences of which would have spread ruin in the country and crippled trade to an extent that could not be estimated, besides jeopardising the success of the proposed loan in London. That, I think, is a fair statement of the point of view of the Government. The method taken by the Government to avert this most undesirable state of affairs was to advance through the Imperial Bank the sum of about Rs. 4½ crores on security which, though not such as could be advanced on by the Bank under its charter, was, in the opinion of the authorities of the Bank ample cover for the amount involved. This information was, according to the statement of the Honourable the Finance Member in reply to a question, in the knowledge of the Bank and the Government for some period previous to the suspension of payment and was only acted on when certain negotiations which were taking place in England fell through. And yet it never seemed to occur to the Government that if the security was so ample, it might have been possible to arrange this finance through the usual commercial channels of the country. Remember it was not necessary to find 4½ crores in cash, but 4½ crores worth of security on which the Imperial Bank under its charter could have made the advance. I have not heard of any attempt having been made to approach the representatives of Banks and Financial Houses, other than one in Calcutta, whose articles do not debar them from making advances on the security possessed by the Alliance Bank. Nor have I heard of any of our rich Indian Princes who, it is well known, have large sums to invest every year, having been asked if they would help to finance this proposition. And yet Sir Basil Blackett admits to having been intimately conversant with the difficulties of the Bank even when he was in England, before he came out to India. The Government lacked foresight in not applying to sources of finance in this country with the exception referred to above, and when I make this statement I speak of what I know, at any rate as regards Bombay financial circles.

Failures unfortunately frequently take place, not only in this country but all over the civilized world, and creditors and depositors have generally to wait for their money for considerable periods, until the liquidator realises and distributes the assets, and during that period some of these creditors and depositors find themselves obliged to take temporary loans from their banks on which they have to pay interest. I wish to know what magic there is in the name of the Alliance Bank that their depositors and creditors should be more favoured. Why should the Government use

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its influence to remit this interest at the expense of the shareholders of a commercial concern who in the normal way of business would be entitled under their charter to use for their own profit surplus Government funds lying with them? And in this connection an interesting answer was elicited from the Honourable the Finance Member yesterday, for it is not probable that during the time of this liquidation, which is likely to last, some people say from a year to two years, that the Government will always be having 4½ crores lying idle and if the amount at the bank becomes less than 4½ crores, obviously as that is the bank security, the Government will have, as the Honourable the Finance Member said yesterday, to make up this amount either by borrowing from the bank on which it would have to pay interest or by selling treasury bills on which it would have to pay interest, so that even if there is no loss on the capital, there will be a charge on Government funds for interest. (*The Honourable Sir Basil Blackett* : "No.") If not, I must assume that the Government are in the habit of always keeping 4½ crores, on which they pay interest, lying idle, which, I think, is very bad business. It may be that Government felt sympathy for those Government servants who had deposited their savings with the Alliance Bank, Government servants ranging we are officially told from a Member of Council down to the more humble shorthand typist and clerk. Why then did not the Government come frankly forward and subject to the subsequent approval of the Legislature advance the required amounts directly out of Government funds? There is some kind of precedent, I believe, in the action of the British Government in regard to the failure of McGrigors Bank, though even then the confirming Act only relieved those officers who had sustained losses through the Government action of paying their remuneration through their bank. But what possible precedent is there for affording this relief to other creditors and depositors? The amount involved if we only take Government servants' deposits would not, I take it, reach a very considerable figure. The balance did amount to crores. Those, Sir, are my reasons for supporting the Resolution. I fully realise that circumstances may arise when Government must strain its prerogative as was the case in England after the outbreak of the war. But I do not see those circumstances in the case under review. I think the Government acted with good intentions no doubt, but with a deplorable lack of foresight. The precedent that has been created is one that I do not like; it is that Government funds may be used to help private concerns when and as the Government thinks fit. The fact that in this case Government servants were directly interested and might not be so in another case when help could not be given owing to the unsatisfactory nature of the assets makes the precedent even more undesirable. For the Government's own sake let it leave such matters to be dealt with by commercial methods. By all means put the Imperial Bank in a position to come to the help of such concerns by making their rules less stringent under certain conditions, but do not let the Government risk public funds.

Now, Sir, let me review the subsequent events. It has been at last admitted by Government that in this matter the Imperial Bank has been merely acting as its agents. So the Government is as responsible for the actions of the Bank in this connection as it would be of the actions of its

servants in any other connection, and the responsibility for such actions, whether good or bad, must rest with the Government; for, it will hardly be denied that the Government have the right of varying its instructions to its agents as might have been found necessary; and I take it from the date before the failure when those agents were appointed to the present time, the Government has been informed of all important events connected with the Alliance Bank as and when they occurred. Now, Sir, we have been told that the Government instructed its agents to carry out the liquidation of the assets of the bank and allow the creditors to appoint a liquidator of their choice as long as he was approved of by the agents of the bank. When the present liquidator was appointed, a considerable number of the creditors asked that an Indian of unchallenged reputation, one whom the agents of the Government publicly stated they approved of, might be associated with the European liquidator already appointed. One would have thought that the Government of India, always declaring as it does, its ardent desire to associate Indians as far as possible and wherever possible in every branch of its activities, would have welcomed this suggestion in view of the fact that Mr. S. B. Billimoria, the gentleman concerned, was one of the auditors of its agents, the Imperial Bank, and admittedly one of the most able accountants and liquidators in the country. I repeat that one would have thought that the Government would have jumped at this opportunity of satisfying Indian aspirations without in any way sacrificing efficiency. But what did its agents do? They began by saying that this was a matter purely for the creditors to decide, and could only be decided at a creditors meeting. I venture to suggest that if the Government agents had said that in view of the benefits they were affording depositors, they invited agreement to the association of this Indian gentleman there would not have been any opposition to the appointment. What actually happened is that the agents of the Government did everything they could to prevent the adoption of a joint liquidator. I am assured that not only was a list of creditors refused, but that the list in the possession of Government agents was used to canvas proxies against the appointment of Mr. Billimoria. The House will appreciate the likelihood of such a motion going through when the creditors are told that the Imperial Bank which is paying out the 50 per cent. of the deposits is opposed to it. Even then, out of 3,500 proxies, 2,000 were lodged in favour of the Government agents and 1,500 in favour of the appointment of Mr. Billimoria.

The Honourable Sir Basil Blackett (Finance Member) : What is the value of the votes?

Captain E. V. Sassoon : Proxies those were. What was the obvious result? The studied refusal to allow Indian participation in this liquidation, supported as it was by the Imperial Bank, engendered the suspicion that there was something to hide, and that the bank was endeavouring to hide it. Rumours were flying round that guilty parties were being shielded to uphold British prestige and it even began to be whispered that the Government was concerned in the matter and was endeavouring to get things hushed up because of the close personal connection there had been in the past between the Members of the Board of the Alliance Bank and Government servants in Simla. And this, I will remind the House, was

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before the announcement that the Government had any direct interest in the matter. I criticise the Government severely for not having instructed its agents to press for the appointment of an Indian liquidator directly it realised that there was considerable support in favour of such an appointment. Now, let me say, here and now, that I do not wish in any way to disparage the present liquidator : I am convinced that he and his firm will not only efficiently but conscientiously carry out their duties and that they will bring to the attention of the proper.....

Mr. President : I would ask the Honourable gentleman not to pursue that line. I am not satisfied that the appointment of the liquidator falls within the terms of the motion. If, as I understand, the appointment of the liquidator lies with shareholders of the Alliance Bank, then the Honourable gentleman is not in order.

Captain E. V. Sassoon : I submit, Sir, with great respect that the fact that the Government of India, through its agents, are large creditors, brings the matter under the power of the Government of India.

The Honourable Mr. A. C. Chatterjee (Industries Member) : Creditors of the Alliance Bank ?

Captain E. V. Sassoon : The Imperial Bank are large creditors of the Alliance Bank and are acting as agents of the Government of India in this matter.....

Mr. President : It is entirely a question of fact who appoints the liquidator. If the Honourable gentleman can satisfy me that the Governor General in Council plays any definite and official part in the appointment of a liquidator, then he is in order. I pulled him up because an amendment has been sent in which raises this question and as there appears to be some doubt as to the exact position in which the liquidator stands in relation to the Government of India, I have to consider whether it is in order. I am not concerned here with the Imperial Bank or the Alliance Bank, but with the *locus standi* of the Governor General in Council.

Captain E. V. Sassoon : My point is this, the liquidator is appointed by the majority of the creditors.

Sir Jamsetjee Jejeebhoy (Bombay City : Non-Muhammadan Urban) : No, no, shareholders also.

Captain E. V. Sassoon : I think creditors as well.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Shareholders appointed and creditors confirmed it.

Captain E. V. Sassoon : The Government of India, through their admitted agents the Imperial Bank, are not only the largest creditor, but will shortly be the only creditor, as most of the creditors' rights will have been assigned to them. In that way they are directly connected. They can call a meeting through their agents and by their votes.....

The Honourable Sir Malcolm Hailey (Home Member) : Is Government a shareholder ?

Captain E. V. Sassoon : I hope you will, at any rate, allow me to point out that, in whatever I have said, I am not casting any reflections on the present liquidator. I was going on to say that I am quite convinced that the present liquidator will bring to the attention of the proper authorities any delinquencies or discrepancies they can discover, and will not slur them over or ignore them so as to shield a guilty party ; but what should have been foreseen was that the refusal to allow an Indian liquidator to be associated with him was bound to cause widespread suspicion, however unjustified. (*The Honourable Mr. A. C. Chatterjee :* "Why?") Personally I cannot see what objection there was to the participation.....

Mr. President : Before I allow the Honourable gentleman to proceed further, I must be more satisfied that the Governor General in Council is primarily connected with this matter. The Honourable Member knows that Resolutions must be recommendations to the Governor General in Council, an amendment must be within the scope of the Resolution. I am not satisfied that the Governor General in Council is primarily concerned in the matter.

Captain E. V. Sassoon : Of course, as I said, my point is that the Governor General in Council can, through his Agent, as through his servants, give certain instructions in the same way as a private firm could, and to that extent he is concerned.....

The Honourable Sir Basil Blackett : I would point out that it is quite impossible for the Government or the Governor General in Council to give directions either to the creditors or the shareholders of the Alliance Bank with whom the appointment of a liquidator rests. I hope, however, that when the time comes, you will allow me to reply to some of the irrelevant arguments that have been used.

Mr. President : As long as the matter remains in doubt on this question of fact I cannot give a ruling on it. The Honourable Member will observe that I made my first statement on condition, and I am not satisfied yet on the question of fact.

Sir Jamsetjee Jejeebhoy : May I say no one had access to the list of creditors to get the proxies for or against Mr. Billimoria ?

Captain E. V. Sassoon : May I take it that you are giving me the benefit of the doubt ?

Mr. President : You had better wait and see.

Captain E. V. Sassoon : I have heard it said that the present firm of liquidators refuses to be associated with anybody else in this liquidation, whether European or Indian. Is that a reason why Government, being as it is, is the largest creditor ?

The Honourable Sir Malcolm Hailey : How is it a creditor ?

Captain E. V. Sassoon : Certain Members of this Assembly seem to doubt my statement when I say it is a creditor. Any depositor who has taken his 50 per cent. may remember the letter he wrote to the Imperial Bank by which he assigns all his rights to the Imperial Bank who are acting in this case as the Agents. Therefore I maintain that as everything

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was assigned to the Imperial Bank, and therefore assigned to the Government of India. Therefore the Government of India are the main, and will probably be the only creditor in the end.

Lieut.-Colonel H. A. J. Gidney (Nominated : Anglo-Indians) : Will you read that out for the information of the House ?

Captain E. V. Sassoon : I believe the Honourable Member himself has been a depositor. I regret he has not read the statement he signed ; I will read it :

" Dear Sirs, I have this day received from the Imperial Bank of India a sum of.....rupees. I hereby request and authorise you to pay to the Imperial Bank of India all dividends and moneys payable from time to time to me out of the assets of the Alliance Bank as and when they may become due up to the said amount, and until the same is repaid. I hereby declare that I have not assigned, charged, or otherwise dealt with any claim against the Alliance Bank of Simla to or in favour of any person."

The ordinary letter of assignment which the Bank has to take so as to have security. I say, Sir, that, if the Government, in the position of the main creditor, considers that there should be an Indian participation, should they fold their hands and give in because the liquidator objects ? Supposing the present liquidators refuse to recede from the position they have taken up and threaten to resign, is it suggested that this is the only firm in India which is capable of carrying out this liquidation, or is it maintained that a question of the dignity of a private individual or firm is to take precedence over the public interest ? But I repeat, I fully sympathise with the firm in question. I think through no fault of their own, they find themselves in a very awkward position. They have said, I understand from the beginning, that they would only carry out this liquidation single-handed. Instead of pointing out that a situation might arise when Indian participation might become necessary, the agents of the Government agreed to these terms. The result now is that if public opinion is to be appeased, the present liquidators will either have to resign, or withdraw the condition originally laid down. I hope they will see their way to do the latter. I think they would be doing a public spirited act in the true sense of the phrase if they could see their way to do so.

Now, Sir, let us turn to another aspect of the situation of which there will be no doubt.....

Mr. President : I must draw the Honourable Member's attention to the clock.

Captain E. V. Sassoon : During all these alarms and excursions one of the principal members of the drama was modestly hiding in the background. In every possible manner the Government endeavoured to divest itself of every connection with the matter, and the letter to the Indian Merchants' Chamber, which has been characterised by the acting Chief Justice of Bombay, as not easily reconcilable with the facts, helped to mislead the public. The Honourable the Finance Member, in reply to a question, defended that letter, pointing out that it only stated that the action of the Imperial Bank was public spirited and that he approved of that sentiment.....

The Honourable Sir Basil Blackett : Will the Honourable Member read my answer and not make a travesty of it ?

Captain E. V. Sassoon : " The letter in question did not describe the action of the Imperial Bank as spontaneous but as public-spirited, as I think it was." I take it, therefore, that the Honourable Member is agreed that it was public-spirited, which is all that I am saying. I would ask the Honourable the Finance Member whether, had he been a member of the public reading that telegram, he would have been wrong in assuming that the Imperial Bank had made the advance on its own risk and responsibility or whether he would have read the telegram as clearly indicating that the Imperial Bank was merely acting as the servants of the Government on their instructions and were relieved of all liability. I shall be interested to hear the answer of the Honourable Member to that question. Can it be wondered at that the faith of the country in the Government, which had already been very rudely shaken, has suffered an additional shock by this example of Government action ?

I take it that the Government thought it had some sort of justification in sending this grossly misleading letter and that some national advantage would ensue, but I cannot help being reminded of a remark that was made by Mr. Lloyd George when he referred to Mr. Bonar Law as being " honest to the verge of simplicity ". I have seen it stated in the press that the Conservative Party attribute their victory at the last general election to these six words. I would point out that the people of India are no less lovers of the truth than are the people of Great Britain and with the greatest respect I would suggest that the Government of India in its future announcements should keep that phrase in mind, and I venture to predict that it will then find in the faith and trust of the country something which will more than make up for any slight temporary advantage that it might have hoped to gain.

I trust, however, that I shall have the House unanimously with me when I state it as my whole-hearted conviction that there is no Member of the Government Benches who in the slightest degree desires to shield anyone concerned in the affairs of the Alliance Bank.

The House will remember that in an answer given to an Honourable Member, the Honourable the Finance Member stated that the Government would take action on any facts that might be brought to its notice by the liquidator or otherwise. And, after reading his reply, Sir Basil Blackett made a spontaneous remark to the effect that he hoped that such facts would be forthcoming. The remark was quite spontaneous, otherwise I feel sure he would have added the words " if any " after " facts."

And now, Sir, I ask your indulgence and the indulgence of the House to be allowed to digress from the actual business before the House for a moment so as to make a personal statement. That I should choose this occasion is because, doubtless due to an oversight which will be rectified at the revision of the constitution, the important constituency which I have the honour to represent will have no direct representation in the next Assembly. I shall, therefore, not be here and I desire to take advantage of the fact that I now have, probably for the last time, the ear of the House.

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The House has, I am sure, listened with great appreciation to the very frank and straightforward, if perhaps belated, statements that have been made by the Honourable the Finance Member during this session, as well as the most sympathetic speech he made on the occasion of Dr. Nand Lal's Resolution to restrict the powers of the Governor General. These statements have made me, at any rate, revise the opinion I formed during the Delhi session as to a certain lack of sympathy on the Honourable Member's part with the aspirations of the non-official Members of this House. The views of a humble back-bencher can, I know, afford but the slightest passing interest to the Olympians of the Treasury Benches and the occurrence has most probably long since slipped the Honourable Member's memory; but, as I made a reference to the matter in the course of debate, I feel I must, in justice not only to the Honourable Member, who I trust will not consider that I am wasting the time of the House on a matter which to him must appear of the most trivial importance, but also to my conscience, inform the House that I cannot reconcile the opinion I hold to-day of the Honourable Member's attitude with the one I held last March. There can only be two solutions to this riddle. One is that there has been a change in the Honourable Member's; the other, which is the solution I favour, is that I was entirely wrong in my judgment of the Honourable Member's attitude. Sir, I am one of those who, when they hold an opinion, hold it very strongly, perhaps even stubbornly, but there is an advantage in a weakness of that kind; and that is, that when we retract a statement, as I do now, it is not mere lip service but sincere conviction.

I thank the House for its indulgence in allowing me to interpellate this entirely personal matter. To resume....

Mr. President : I must ask the Honourable Member to bring his remarks to a close.

Captain E. V. Sassoon : Well, Sir, I have not got much more to say. I regret that I have trespassed on the patience of this House. I hope they will excuse it, because this is in the nature of being my swan-song.

I take it that the difference of opinion I have with the Government is that it proposes to wait till the facts, if any, justifying a prosecution are brought to its notice, whereas I hold that a more active part should be taken to elicit these facts. I, therefore, suggest that the Government, through its agents, are practically the only creditor, and that they should call for and press for the appointment of some acceptable Indian accountant who would have the right to follow in detail the course of the liquidation not with a view to interfering with the realisation and disposal of the assets but with the sole object of bringing to light any irregularity or misfeasance that might justify the prosecution of those at fault. If not, may I suggest that the Government will support, or ask its agents to support, any application to the court that might be made to wind up the affairs of the bank. If the Government will follow either of the suggested lines of action, which I have put forward, and thus take the lead instead of hanging back and waiting for facts to materialise, I think it will do much to dispel the cloud of suspicion which, like some noisome miasma, is spreading over this vast continent.

Sir Jamsetjee Jejeebhoy : Mr. President, I rise to oppose the Resolution which has been moved by my Honourable friend, Sir Sivaswamy Aiyer and I will touch upon some of the points which he has taken up.

He first of all questioned the advisability of the action taken by Government in guaranteeing the Imperial Bank in the payment of 50 per cent. to the depositors and creditors of the Bank. In this connection, Sir, I can do nothing better than quote from a paragraph which appeared in the *Times of India* dated the 5th July.

It runs as follows :

"If we presume that the Alliance Bank had closed its doors without being able to make any further announcement than that it had suspended business, almost certainly public confidence would have been shaken. Among commercial circles there were at the time unpleasant rumours about more than one bank alleged to be in difficulties. Even those banks which could present the white flower of a blameless life could not have escaped at least the backwash of the possible panic. Depositors would have made haste to withdraw their deposits. To meet these withdrawals banks might have had to call up uncalled capital and would certainly have had to call in, at short notice, all outstanding loans. In such cases the appetite grows with what it feeds on and the mania for withdrawing deposits would have developed beyond reason and the general atmosphere of distrust would have thickened. Commercial firms confronted with the necessity of repaying loans before they had been able to realise on their current transactions could have had no resource for raising the necessary money. If their own bank is recalling loans, they must go to another and, at a time of crisis when it is obligatory on all banks to keep their cash position strong, it is hardly likely that traders would be able to secure the necessary accommodation. Failures

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of firms would grow more common daily, and the process of a real and disastrous financial collapse could only be stopped by the intervention of Government. As Government could, in a matter like this, work only through its bankers, it follows that the Imperial Bank would have been called upon, in any case, to play a part and the part which it would in such circumstances play might involve the country in a certain amount of loss, since Government credit would have to be pledged in support of commercial and banking institutions. The picture we have given is not overdrawn nor is it fanciful. One has only to study the history of financial crises in the capitals of the West to see how easily rumour and one important failure induce panic and loss of that faith on which complex modern business is conducted, leading in turn to a whole series of crashes. It cannot be doubted that, confronted with the possibility of a crisis developing upon one failure, Government and the Imperial Bank took the right course in stepping in when they did and averting from the start all possibility of unpleasant consequences to the financial and business world."

Well, Sir, the Honourable Mover went further and said he had doubts in his mind whether if the action taken by the Government was not taken, there would have been disaster in the country. Let me assure him, Sir, that I know of at least 3 banks that have failed since the Alliance Bank shut its doors, namely—(*Sir Deva Prasad Saravdhikary :* "In spite of the action of the Government?")—the Amritsar National Bank, the Standard Bank of India and the Oudh Bank, Lucknow. (*Mr. S. C. Shahani :* "Have they been supported?") The Honourable Mover also said that no such action was taken at the time when other Indian Banks failed. The reason for that is very easy to find.

Sir P. S. Sivaswamy Aiyer : I did not say that.

Sir Jamsetjee Jejeebhoy : However, that is one of the arguments that have been brought forward and the reason why Government did not come to the rescue of the banks at the time of their failures in the Punjab in 1913 is very easy to find. It is because the amalgamation of

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these three Presidency Banks came into being in January 1921. Since then, Government have been in a position to have at its back enormous resources and knowing in this case that the Alliance Bank had some tangible assets to the amount of 50 per cent. at least of its liabilities, it took no risk at all in guaranteeing that payment. (A Voice : "Under what law ?")

Well, Sir, the question has been asked from the back Benches "Under what law ?" I think the Honourable Mover himself said that he would not refer to the law, and that he would take it for granted that the Government had the right and the Imperial Bank had the power to make the payments. (Mr. N. M. Samarth : "Because the matter is *sub judice* ?") (Dr. H. S. Gour : "Under what law has the Government got the right ?")

Then, Sir, little has been made of the difficulty which Government would have encountered in floating its loan. The loan was to have been kept open till the 24th July, but within a week or ten days, the whole of it was subscribed. That shows that the action taken by Government was a wise one and restored public confidence. (Voices : "No, no.")

Besides, Sir, I do not understand why Honourable Members should object in this Assembly to Government coming to the rescue of the commerce and industry at the time of financial crises or impending financial crises when it involves no loss at all to the tax-payer.

Captain Sassoon has made a point that Indian Princes and financial magnates ought to have been given an opportunity of guaranteeing this instead of the Government doing it. My experience of financial magnates at any rate is that they are not the unselfish body of men that sometimes they are made out to be, and they are always ready to pluck a pigeon whenever they find one close at hand.

Sir P. S. Sivaswamy Aiyer : That is also public spirited, I think.

Sir Jamsetjee Jejeebhoy : Certainly not. In conclusion, Sir, there is only one point and that is that I join with Captain Sassoon in asking Government to give an assurance to the public. It has been given once but in a matter of this kind, that is not quite enough. I think it ought to be given repeatedly that Government will not be a party to shielding any wrong-doer but will bring him to justice wherever they may find him.

Lieut.-Colonel H. A. J. Gidney : Regarding my amendment I assume, Sir, that you have made up your mind about the liquidator question being relevant to the Resolution ?

Mr. President : If the Honourable Member wishes to move his amendment, I must call the other Honourable Members first. His amendment is subsidiary.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, when I heard my friend Sir Jamsetjee Jejeebhoy expounding the law and enunciating its propriety, I was wondering to myself whether he was speaking on behalf of Government or his constituency, because I feel certain that if his constituency were here listening to him, they are not likely

to have seconded his thoughts. The whole country feels, and feels strongly, that Government on this occasion has done an act which to describe it in mild language is highly regrettable. Why, Sir? We fought tooth and nail against the Budget and wished to balance it by reducing expenditure. Over the head of this Assembly the Honourable the Finance Member advised the Governor General to certify the salt tax.

The Honourable Sir Basil Blackett : I protest against that statement.

Dr. H. S. Gour : Against the advice of this Assembly, I repeat, the salt tax was certified. Before the ink on the certificate was dry the Government pledges its credit to the extent of 4½ or it may be 5 crores of rupees to back a purely private concern and to stand security without scrutiny,....

The Honourable Sir Basil Blackett : No.

Dr. H. S. Gour : And further I venture to submit with the contingency which might involve the country in further taxation. I say, Sir, if the Alliance Bank are not able to meet their liabilities, the Government of India are bound to make good to the extent of 50 per cent. of the Bank's deposits which they have guaranteed. As Captain Sassoon has rightly pointed out, where is that money to come from? Have the Government got any store elsewhere except to tax the people of this country and raise the money necessary for financing the Alliance Bank through the Imperial Bank? That is the first point.

The second point is, the Government says, and Sir Jamsetjee Jejeebhoy repeats it on behalf of Government, that it is the duty of the Government to assist in commercial concerns. I submit a more dangerous statement than that is inconceivable.

Sir Jamsetjee Jejeebhoy : I did not say that.

The Honourable Sir Basil Blackett : It was not made.

Dr. H. S. Gour : The statement was that it is the duty of Government to assist commerce and industries. (Sir Jamsetjee Jejeebhoy : "At the time of financial crisis.") At the time of financial crisis. The statement is far more dangerous than I ever thought it would be. I shall explain it. If it is once promulgated that the guarantee of Government is at the back of commerce and industries in this country, I beg to ask what would be the limit of their liability and the extent of the taxpayer's liability towards the Government. What distinction can you make between the Alliance Bank and a purely commercial or industrial undertaking? There is no distinction in principle. There is no distinction on economic grounds. (The Honourable Sir Basil Blackett : "Only in fact.") Take for instance a highly speculative venture, such as the Madras firm which failed some years back and the history of which could not have been forgotten. Take for instance a large miscellaneous commercial firm dealing in coal, or jute, or managing properties of other people, which fails involving shareholders and depositors and debenture holders in large losses. Are Government prepared to finance these concerns on the principle they enunciate, that

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because the industries of the country, because the economic life of the people would greatly be disturbed, therefore they were entitled to use our money for the purpose of finding 50 per cent. of the money paid to the depositors? I ask, is this a principle which the Honourable the Finance Member prepared to enunciate? If he is, I should invite him with due respect to show me a single passage in any book on economics, to show me a single precedent, in support of his view. I submit the action of the Government of India on this occasion was unprecedented and let us hope that after this Resolution is carried no future Finance Member will emulate the example set by the present Finance Member.

Now, Sir, it has been said that 50 per cent. of the depositors' money in the Alliance Bank is secured, and that is a statement which has been made from the non-official benches by the apologist for Government, my friend, the Deputy President of this House. Now, Sir, I should like to know upon what data that statement is made. Was any inquiry made by the Government of India, were the securities examined, was any scrutiny made....

The Honourable Sir Basil Blackett : The answer to all those questions is in the affirmative.

Dr. H. S. Gour : The Honourable the Finance Member says, yes. He answers all those questions in the affirmative. I venture to ask him who made the inquiry, and is there any record of that inquiry which you can place at the disposal of this House?

The Honourable Sir Basil Blackett : I have just placed it at their disposal.

Dr. H. S. Gour : Is there any report of the inquiry made by the Government of India which heralded the orders passed by the Government of India in the Finance Department that it would stand guarantee to the extent of 50 per cent. if the Imperial Bank were to pay out the money? Now, Sir, that is a point upon which I should like the Honourable the Finance Member to enlighten this House. I have no doubt about his statement that an inquiry was made, but I should like to have a copy of the report of the inquiring officer for my own satisfaction. That, of course, will be regarded as confidential. Then, Sir, we pass on to the next point. That point is : I interpellated the Honourable the Finance Member and the House will remember my question and the answer that was given. I said that at the time when the Indian Merchants' Chamber and Bureau asked the Government of India whether they had not undertaken that liability to the extent of 50 per cent. and authorised the payment of that amount by the Imperial Bank, Mr. McWatters wrote to the Indian Merchants' Chamber and Bureau that it was an action entirely on the part of the Imperial Bank. The Chief Justice's remarks and the subsequent replies given by the Honourable the Finance Member make it now abundantly clear that the Imperial Bank was merely an instrument and they were acting entirely and solely on the responsibility of the Government of India. Now, in that view I asked the Honourable Member whether it was not a clear case of terminological inexactitude,

The Honourable Member said it was not. (*The Honourable Sir Basil Blackett :* "That was not his answer.") The answer was that it was terminologically exact. If that is the answer, if the meaning of the Honourable the Finance Member was not what I have interpreted him to mean, I should still like to know how he can reconcile the letter written by Mr. McWatters with the subsequently proved facts, because it reflects not only upon the credit of the Government of India but upon their morality, in hoodwinking the public into a belief that they were not responsible for this action taken by the Imperial Bank when we now know that the Imperial Bank was not responsible and was merely acting as the agent of the Central Government. On these grounds I support the Resolution.

The Honourable Sir Basil Blackett : I should like, first of all, to make a few remarks on the form of the Resolution :

"This Assembly recommends to the Governor General in Council that he will be pleased to express his disapproval of the action and policy of the Finance Department of the Government of India...."

I know not which to admire most, the ingenuity of the mover who gets over the difficulty of recommending to the Governor General in Council that he will be pleased to express his disapproval of the action and policy of the Governor General in Council, or the compliment that is paid to the Finance Department in suggesting that it and it alone is responsible for the benefit that has been secured to India by this action and policy. I need not perhaps assure the House that the Governor General in Council takes action and not the Finance Department in a matter of this sort, and much as I should like to claim full credit for what has been done I must share it with the Governor General in Council.

Dr. H. S. Gour : May I ask if the Honourable Member can assure this House that the Indian Members of the Executive Council were previously consulted?

The Honourable Sir Basil Blackett : I think the Honourable Member's question is entirely improper, and the Honourable Member knows that it is improper. An assurance of that sort is the last thing that ought to be asked and I think it is the last thing that Indian Members of the Executive Council would like to have asked. (*The Honourable Mr. A. C. Chatterjee :* "Hear, hear.")

However, I will proceed to defend the motion, but I really think that before it is carried it would be in the interests of ordinary correctness that an amendment should be moved to substitute the words "Governor General in Council" for the words "the Finance Department." (*An Honourable Member :* "Move it yourself.")

Now, Sir, this question has unfortunately become complicated by a cloud of suspicion.

I am glad to say that, with the exception of some rather vitriolic and poisonous remarks from a quarter from which I should not have expected them, that atmosphere of suspicion has not been introduced into the House to-day. The atmosphere of suspicion in which this whole question has been discussed in some parts of the press, coupled with the fact that certain questions are still *sub judice*, adds a little difficulty to the discussion. Some of the motives attributed and the allegations that are

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“allegated” against the Government in this matter would be worthy of the demon King Ravana. I think they can best be answered by a statement of the facts. What are the facts? They have been partly stated by Sir Sivaswamy Aiyer in moving this motion but I think it would be desirable that I should state them in little more fulness. The history leading up to this failure goes back over two years at least. A year ago or nearly a year ago it was hoped that that danger had been entirely averted by a rearrangement of the directorate of the Alliance Bank. At that time an arrangement was made between the Alliance Bank and the Imperial Bank (with which the Government had no concern) under which certain powers of borrowing were obtained by the Alliance Bank in order to deal with the withdrawal of deposits that was inevitable in the circumstances. For some time it looked as if that action had been successful but unfortunately the good name of the bank had been irretrievably blown upon and in the early months of 1923 the continual drain on deposits made it evident that the bank would not be able to maintain itself without help from elsewhere. Repeated efforts were made,—they had been made for some time, but they were made again at the beginning of this year—by the Alliance Bank to find shelter under the wing of some bigger brother, some bank at home or here, but they all failed: and they failed because nobody cared to take the risk of the difference that was suspected to exist on the wrong side between the assets of the bank and its liabilities. It was suggested that the Government should give a guarantee covering the possibility of loss owing to the assets proving eventually insufficient to meet the liabilities of the bank. On that condition the bank could have been taken over by some other bank and nursed round with a very good hope of eventual recovery. But the Government held that it was not their duty or not right that they should give a guarantee of that sort, although there was reason to believe or at any rate the hope that such action might have prevented the closing of the bank altogether and give it an opportunity to be nursed round into solvency. The Government however declined to do that. It was still hoped that the negotiations that were going on might succeed but they eventually failed and it became absolutely certain that the bank must close. Now, what was the position? In spite of the warnings, people were quite unprepared for the closing of the bank. The day before it closed the bank's shares were quoted and selling at 110 on the Calcutta Stock Exchange. There were something over 8 crores of deposits. What would have been the effect throughout India if the announcement of failure had been made and no announcement made as to the payment to depositors of any portion of their deposits? As it was, what did happen? I have got here some cuttings from various papers. The first is from *Swarajya* of Madras:

“Although this part of the country has remained almost wholly unaffected by the crash of the Alliance Bank, in Northern India particularly in Calcutta and other cities of importance it was followed by something in the nature of a panic. We are told there was a run on almost every bank, foreign and Indian, at Calcutta soon after the news of the failure reached the place and the Tata Industrial Bank to speak of only one had to meet demands for withdrawal to the extent of 25 lakhs in one particular day. That there was such wholesale lack of confidence exhibited by bank constituents in general is not difficult to account for.”

And then the article goes off into other matters. The same sort of reports came from everywhere. As a matter of fact for more than a week, it was extremely doubtful whether the panic would not become a serious one, not, I would point out, because there was any other important bank in the condition of the Alliance Bank, that is, whose assets were not amply sufficient to meet its liabilities but because if a panic starts those assets are not and cannot be liquid up to 100 per cent. of the liabilities. Now, the moment such a panic starts the extent to which it can spread is, in Dr. Gour's words, indiscriminate. It may spread right through India. Just let us think what that means. There are 250 crores of deposits including the post office savings banks in the banks of India. Does anybody suppose that there are 250 millions of liquid assets immediately available to pay every depositor at the same moment? Obviously banking is conducted to the great benefit of humanity on the assumption that every depositor will not want the whole of his deposits in cash at the same identical moment. But when a panic begins that is exactly what happens. Every depositor wants his deposits at the same identical moment. I do not think it really needs labouring. There were runs on banks everywhere and for a week or ten days it was very doubtful whether this panic had been averted. Can it be suggested that the action of the Government in arranging for the payment of 50 per cent. of their deposits to the Alliance Bank depositors forthwith was not material and indeed crucial in warding off all panic? Instead of being absolutely without ready money and without any knowledge as to whether any of their deposits with the Alliance Bank were ever going to be worth anything, the depositors of the Alliance Bank knew that they could get 50 per cent. and that they could get some of it forthwith if needed by going to another Bank on the strength of the promise of the Imperial Bank. They were not left without money and they were not left in doubt as to whether the whole of their assets had disappeared. Now, it is from the depositors of the Alliance Bank that the panic would naturally start. They were the ones who were first hit.

It was by relieving the fears of the people primarily concerned, the depositors of the Alliance Bank, that the action taken was effective in preventing the spreading of the panic. I saw a paragraph in a Madras paper the other day which said:

“When the Alliance Bank became insolvent, it is only the clientele of that Bank which should suffer the loss sustained thereby and not those who have no connection whatever with it.”

It went on to say that it is monstrous that the tax-payers' balances should be risked in helping depositors of the Alliance Bank. In the first place, the tax-payers' deposits were not really risked; I will come to that later; and they were not risked in order to help the depositors in the Alliance Bank; they were risked, if they were risked, to prevent the damage which had been retrievably suffered by the creditors of the Alliance Bank spreading right through India and damaging innocent people all over India, damaging Banks which were otherwise perfectly solvent, putting industry into great difficulties, and,—a very material point from the point of view of Government,—upsetting the whole of the bright hopes in regard to Government finance which had been recently

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considerably strengthened by the outturn of the Budget. The guarantee which the Government gave was not a gift of the tax-payers' money for the benefit of the creditors of a private concern; it was not even risking such a gift, though it had to take the form of promising that the assets of the Government were available in the event—very improbable and in fact almost certainly not likely to mature—of the assets of the Bank being insufficient to pay 50 per cent. The guarantee was given, as I say, not for the benefit of depositors or for the benefit of a private concern, but to prevent disastrous consequences to banking throughout India; and it was by allaying the panic of the Alliance Bank depositors that the panic in the minds of others was staved off. I have already in answer to questions stressed the importance from the point of view of the Government of India's interest, the interests of the tax-payers of India, of not upsetting the conditions of the money market at that moment. It is quite certain that if the Government had not intervened at the end of April, the consequences in India would have been such that it would have been quite impossible to issue the loan of 20 millions Sterling which was issued in May on favourable terms in London. We should have missed a very favourable opportunity for raising money which is absolutely essential for the railway programme, for the development of industries, transportation and other industrial interests of India. And we should have missed the opportunity of raising that money in May if the Alliance Bank failure had led to a severe panic. If we had missed that we should have missed a golden opportunity. We came in in London almost exactly at the best moment. Since that date the bank rate in London has gone up from 3 to 4 per cent. The price of gilt-edged securities generally has gone down; and even supposing we could have raised a loan of the same amount now, there would certainly have been a loss of at least a crore of rupees to the Indian tax-payer. As the result we should have had to issue that loan at considerably less than the figure of 90 at which it was issued. The amount raised by the loan by incurring the same amount of nominal indebtedness would have been considerably less, by a figure which I confidently state at not less than a crore. So much then for the interests of the Indian tax-payer.

I have spoken hitherto all through of the Government coming to the rescue of the situation. I now come to the manner of the Government's intervention. With the exception of Captain Sassoon who made an apology at the end for misreading my character for which I thank him and in view of which I will only say that his speech to-day has not improved the opinion which I had previously formed of his taste—with the exception of Captain Sassoon, no one I think has questioned the motives of the Government of India in taking this action. The mover of the Resolution definitely stated that he did not want to discuss the question whether or not this action was *intra vires* of the Government of India as that matter may be regarded as *sub-judice*. All I will say about it is that no one was more surprised than the Government of India when anybody questioned whether or not it was within their powers, and that they are advised that it is within their powers.

I come to the manner of the Government's intervention. Government believed, and I think they were right in believing, that it was in the general interests of Indian Banking that the Imperial Bank of India should come forward in this crisis. In most countries that is the natural duty of the Central Bank in consultation with other Banks. When a big failure threatening the stability of the banking system or the credit system of the country appears on the horizon, the Central Bank takes such action as it can to improve the situation, and it is only in very exceptional circumstances that action by the Government of the State is even suggested. The problem was, as I have said, to avert the feeling of panic which the failure of the Alliance Bank was in the opinion of the Government likely to create. Now the Government came to the conclusion that that panic would be very much more quickly and more surely averted if a banking institution announced its willingness to guarantee that 50 per cent. of the deposits would be paid out, than if it appeared that the Government like a *deus ex-machina* had come forward with the tax-payers' money to shower it as a gift upon the creditors of a particular private institution.

Obviously, action through the Central Bank has very much quicker and more certain results than a statement that the Government have rushed to the rescue of a dangerous situation. The whole of the case in regard to this question of the Government's intervention being concealed has been based on a letter written by the Secretary in the Finance Department to the Indian Merchants' Chamber and Bureau. It is asked, why did the Government write that letter? Now I am willing to admit that the action of the Government in writing that letter is, in my opinion, the weakest, in fact the only weak, part of the Government's case. (Hear, hear.) I believe it is the only weak part in the Government's case. I will ask you this question, however. What right had the Indian Merchants' Chamber and Bureau to send the telegram to which that was a reply? (*An Honourable Member*: "Why was a reply given at all?") A telegram was sent from the Indian Merchants' Chamber and Bureau and immediately published in the press asking questions the reply to which was known to some at least of the questioners, the questioners also knowing that the Government did not think that it was in the interests of India at that time that the full facts should be disclosed. I have already explained that the Government were of opinion that action would be better taken through the central Bank than overtly by the Government itself; and so long as there was still a risk of panic and so long as the matter had not been fully cleared up, the Government did not desire to disclose their full part in the matter. Government had every intention of doing so afterwards, but they did not see why their hands should be forced to disclose the facts prematurely. While I say that, I admit at once that that is the weakest, and the only weak, part in the Government's case. I am prepared to admit that there is this weakness. The Honourable Mover, however, did not base his objection to the action and policy of the Government on any particular incident in this matter. His objection is an objection of principle. I remember hearing the story of a man who had taken an oath that he would not have a bath for a year, and he saw a gentleman in dire straits in a river just about to drown, and he jumped in and saved him—and he

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was very severely punished by his Church for breaking his oath. Now, the principle that Sir Sivaswamy Aiyer puts forward is that, whatever the circumstances, however great the benefit that may be secured by the people of India as a whole, in no circumstances should the Government of India intervene to stop a banking panic. (*Sir P. S. Sivaswamy Aiyer* : "I pointed out alternatives.") I entirely agree with him that intervention by the Government is undesirable if avoidable, and ought to be limited as strictly as possible. It ought only to take place if there is no other alternative, and if the circumstances are such that the interests of the country as a whole justify the action of the Government in using the credit of the Government to guarantee the situation. I think that Sir Sivaswamy Aiyer went further and used the words 'risking the tax-payer's money.' I prefer to use the words 'using the credit of the Government'—because that is what has happened in this case. There is a very great difference between giving a guarantee where you know that there is a deficiency, and using your credit to enable a payment to be made in respect of assets which are amply sufficient. The time for claiming that the tax-payer's money has been wasted will perhaps be when a vote comes before this House to make good the loss which the Government has incurred in this matter. I would be prepared to make a good many prophecies as to the date after the Greek Kalends when that will arrive. What happened in this case was that the Government credit was used because somebody's credit was needed to save the situation. There was no real risk of the tax-payer's money. (*An Honourable Member* : "No loss of interest?") No loss of interest. (*Dr. H. S. Gour* : "What is it based on but the tax-payer's money?") The Government credit may be used without risking the tax-payer's money. (*Dr. H. S. Gour* : "It is based on the tax-payer's money.") It is asked whether we were certain—in this uncertain world, nobody can be certain of anything. It may be that Dr. Gour himself will introduce a vote, a demand for a grant in this matter some years hence. All sorts of uncertainties and possibilities exist ! But I am confident that no one who has had access to the facts and figures in this matter will doubt that the risk taken by the Government in giving this guarantee was so infinitesimal as not to be worthy of being taken into account at all. (*Mr. W. M. Hussanally* : "Then why were those facts kept secret?") The liquidator of the Alliance Bank will no doubt in due course produce the full facts—I do not know what facts are being kept secret. I agree with the principle that Government intervention should be limited to such cases as are absolutely essential, and I go further. I think that one of the lessons, as I have said, of this crisis is that the Imperial Bank ought to be in a position to come to the help of a situation of this sort. If the Imperial Bank had had the power, if its powers had not been limited to lending on a very strictly limited kind of security, it would have been able in this case to come forward and say, 'the security of the Alliance Bank is, we are convinced, so ample that we are justified in making an immediate advance—it is so ample that we feel justified in paying forthwith, advancing forthwith, 50 per cent. of the amounts standing to the credit of depositors and other creditors in order to prevent this situation from developing in a disastrous way for India.' It has not

got that power, and it is because it has not got that power that the Government's credit had to be pledged in order to give it that power. I hope that another advantage, indirect advantage, that may come out of this unfortunate failure will be an improvement in the general strength of the banking system of India and in its habits of co-operation. In this connection I should like to say that if the result of the amalgamation of the Central Bank and the Tata Industrial Bank, which is now under discussion, is to create a Bank, a new consolidated Bank, which is stronger and more able to help Indian industry and to take its part in Indian finance than the two Banks in separation, that will be at any rate some good that will have come out of evil.

I join issue therefore with the Mover in his attempt to lay down as an absolute principle that you should swear that you will never jump in to the river and save somebody. That is what the Government had to do in this case, and I think I have amply made it clear, first of all that the Government are running no risks, secondly that their intervention was fully justified by results and thirdly I am prepared to say that I think the Government would have been very deservedly criticised if they had not taken the action they did.

I must unfortunately refer again to the weapons of suspicion and the cross currents and the unjustified attributions of motive which not in this House but elsewhere have been flung indiscriminately against the Government. All sorts of motives seem to have been actuating the Government in the opinion of this and that writer in the less responsible press, none of which ever entered the Government's head. In the ordinary course this was a matter arising in the Bengal circle. A bank of Simla with its head-quarters at Calcutta ; it was a Bengal matter. The Imperial Bank was asked to undertake the supervision of the liquidation as part of the arrangement by which the Government secured that the pledging of the credit of the tax-payer should not cost the tax-payer money. As a matter of fact all but a very small proportion of the creditors or the clientele of the Alliance Bank is in Bengal or the Punjab. The Bombay interests are negligible. The bank in ordinary course appointed as the liquidator a firm—one of the two firms—whose turn it happened to be to undertake the Imperial Bank business, one of the two firms in Calcutta which normally do audit and liquidation work for the Imperial Bank. That was the perfectly normal course and it never occurred to anybody that any question could arise. But that firm happened to be a European firm. There is nothing against them. Captain Sassoon himself has said that there is nothing against them, though he thought it right to drag in suspicious of unworthy motives into this matter. There is nothing against this firm ; they are very eminent in their profession ; there is no reason to suppose that they will not do their work thoroughly well. They have been appointed by the people who are responsible for appointing them, namely, the shareholders with the approval of the creditors of the Alliance Bank and they are doing the work on terms which will be for the benefit of the creditors of the Alliance Bank. It is suggested just because they happen to be European and there is another very fine firm of auditors who have made a great name for themselves, Billimoria and Company, who are the Bombay auditors of the Imperial Bank and who would have taken this business in the ordinary

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course if it had arisen in Bombay, it is suggested that it was racial feeling that caused the Government (who have nothing to do with it) to get this firm appointed and that we ought immediately either to get them to resign and replace them by the firm of Billimoria and Company or join Messrs. Billimoria and Company with them or have the liquidation under the orders of Court. Well, now, the cost of liquidation under the orders of Court would be reckoned in lakhs, while liquidation by the present method will be reckoned in thousands of rupees. It would be at the expense of the creditors of the Alliance Bank, and although, as I have said, the margin is ample, if it was so expensive as to eat up that margin, it would eventually be at the expense of the tax-payer of this country because of the guarantee of the Government. Why should you have a very expensive liquidation when it is being done very well and cheaply in accordance with the wishes of the shareholders and creditors, except a small minority whose action is not taken in the interests of the creditors? Then, it is suggested why not join Messrs. Billimoria and Company with the Calcutta liquidators? I am not altogether in order, Sir, I believe because the Government's position is at most the position of a friendly adviser in regard to the appointment of a firm of liquidators. The objection to that is again that it is not in the interests of the creditors of the Alliance Bank that you should duplicate the liquidation at the expense of the Alliance Bank, and I do not think anyone can suggest that it is to their interest to make an arrangement by which two separate firms of liquidators not working in partnership—because they cannot work in partnership—they would have to be appointed jointly and severally—should be engaged in conducting the same liquidation. And what ground is there, except this entirely irrelevant suggestion of racial feeling, what ground is there for altering your auditor? Supposing this had been an Indian auditor, as it would have been in the case of a Bombay failure, what would have been said if anybody had come forward and said 'We cannot trust this Indian firm to do justice, we must appoint a European firm to work with them'? The thing is absolutely irrelevant and I should not have referred to it had it not been for the fact that it was unnecessarily drawn in by Captain Sassoon. That is not the only racial question that has been imported from outside into this matter. On the top of this racial question imported without rhyme or reason, comes in a suggestion that the Government intervened in this matter because the Bank was a European bank and would not have intervened if it had been an Indian bank. In that connection the facts and something more regarding the banking crisis of 1913 are referred to. Now, I am not competent to enter into the history of the banking crisis in 1913 in India. That crisis was very unfortunate and it put back the clock of Indian banking for some considerable time. One of the objects of the creation of the Imperial Bank was in order that there might be a bank which could intervene in a way that was not possible in 1913 when the presidency banks were separate. I have got quite a lot of material on this subject. I do not know how far the House wishes me to pursue it. In his evidence before the Chamberlain Commission on Indian Finance and Currency, Sir Bernard Hunter, now one of the Managing Governors of the Imperial Bank, pointed out that when the firm of

Arbuthnot and Company failed, in 1906 I think it was, the Bank of Madras could not help partly because they were precluded from borrowing from another presidency bank without specific security. The presidency banks did their best to quell incipient panic but their position was not strong enough. They were too scattered and they were separate.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : What about Government then?

The Honourable Sir Basil Blackett : The Government was in the same difficulty. It had not an agent through whom it could work.

The first that the Government heard of a failure in those cases was the fact that the Bank had closed its doors and the thing was over. The object of intervention, as in this case, was to prevent a panic by making an announcement of what could be done to relieve the situation simultaneously with the closing of the bank. As I say it is a thing that the Imperial Bank could have done without question if it had the legal power. The Presidency Banks could not do it because they could not take the risks. Their assets were too scattered; they were not big enough. It was one of the definite purposes of the establishment of the Imperial Bank of India, a matter referred to again and again in the discussions on the Bill for establishing the Imperial Bank of India, that if there was a panic, it would look into the affairs of each of these banks and advance money when they were in difficulties with the support of all the resources of Government at its back in case of necessity. Perhaps I may continue this point a little further. I came across the other day, in a book written in the beginning of 1913, before the bank failures to which I have referred by my friend Mr. Keynes, some rather interesting passages :

"At the present time," he writes : *this was in 1913*, "the arguments in favour of a State Bank in India are very strong, far stronger than they were in 1867 or 1898. The Government have taken over so many of the functions of a Central Bank that they cannot wisely neglect the rest. The absence of a Central Bank makes it difficult for the Government to use its cash balances to the best advantage. The absence of a Central Bank leads to a general lack of direction in the banking policy of the country. It is no one's business to look into the matter as a whole, to know the position of the markets or to enforce prudence when it is needed. There is a multiple reserve system in theory, but hardly an adequate one. And another danger exists that every one is reckoning in the crisis upon everybody else. The absence of the advice and the experience which the officers of a State Bank would possess is a source of weakness to the Government itself. The Government have taken over," *I repeat this phrase*, "so many of the functions of a Central Bank, that they cannot wisely neglect the rest."

That phrase applies exactly to-day.

An attempt has been made since that date to get over some of those difficulties by establishing the Imperial Bank of India, but as this crisis has shown, the powers of the Imperial Bank are insufficient and there was still a divorce in fact between the resources of the Government and the resources of the central bank. What really happened in this case was that the credit of the Government, based on its reserves, came to the support of the market as a whole and prevented the panic which would otherwise have occurred. Now there is one other accusation with which I must deal before I sit down. I have seen it actually in the press—I do not think it could really be believed, but it is an accusation that is made

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on the theory that any stick is good enough to beat Government with—(Sir Deva Prasad Sarvadhikary : “The Finance Department”)—the Finance Department in particular, as Sir Deva Prasad Sarvadhikary says. It is said that the action of the Government was taken in order to shield a particular European individual from justice. Does anybody here believe that accusation? (A Voice : “Many people believe it,” and others “No.”) The Government’s record, even in financial matters, is not so bad. In the Arbuthnot case I think some one was brought to justice. Mr. Church has recently been extradited in order to be brought before an Indian court because there is a case against him. The last thing in the world which any European in this country wants to do is to shield another European from justice. He is I think more likely to be anxious to bring him forward in order to avoid a blow to what is I think called his *izzat*. The Government, as they have been asked to do so, formally state that they have no desire whatsoever to shield any criminal or any criminals in this matter from justice. They are most anxious that all the facts on which any action against any individual could be based shall be brought to light as quickly as possible. They have every belief that those facts will be brought to light, if they exist, in the course of the liquidation as soon as the liquidators are left free to get to their work and look into the accounts of the Alliance Bank. I am not aware whether or not there is a case for prosecution of any individual, and until that is known, obviously it is not possible to take any action, but the Government will not hesitate, at the earliest possible moment, if there are any facts on which they can go, to take action with all the vigour in their power to bring to justice anybody who, in connection with this affair, may have incurred any criminal liability. On that particular matter I may perhaps just mention that there is a committee of inquiry appointed by the creditors, on which Mr. Billimoria sits, with access to all the facts. The Government is perfectly willing, the liquidators and the Imperial Bank are perfectly willing and anxious that anybody who really desires to go into the matter and who is concerned in this matter, shall have access to all documents that are relevant. That offer has been made to those who have been pressing for it, and there is no kind of justification for any suggestion that full access is not being given and will not be given to anybody who is concerned in order to secure that the full facts, if there are any, as regards criminal liability in this matter shall come to light.

Rao Bahadur T. Rangachariar : May I ask, are the Government themselves calling for an *ad interim* report on this matter?

The Honourable Sir Basil Blackett : The Government are in close touch with the Imperial Bank and with the liquidators who are engaged on this matter. The Government have not, to my knowledge, called for anything that might be called an *ad interim* report, but they will be informed the moment there are any facts to go on without calling for them.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : May I ask if Government have ascertained whether all the books of the Alliance Bank are intact with the liquidators, or whether any books are missing?

The Honourable Sir Basil Blackett : I am afraid I am not able to answer that question because it is the first time I have heard of the question as to whether the books are intact or not. That is a matter which the liquidators would at once bring to the notice of Government as a suspicious matter, if it was true. I am afraid that I have got a hostile House. (Cries of “No.”) I certainly had when I started.

The Government acted in this matter because it thought that it had to act in the interests of India and in the interests of its own finance. The Government knew it was going to be criticised. I admit that I was not quite prepared for all the fiery darts of Apollyon and all the suspicions and all the attributions of motives, but I was prepared for some of them. But the Government acted in this matter because it thought it was in the interests of India : not the interests of any particular bank, not to shield any particular individual from justice, not because, as it has been suggested,—I was very sorry to hear the suggestion—not because some of the depositors were Government servants. The Government acted because it thought that the interests of India required that some action of this sort should be taken. The Government saw no alternative method of action. I do not think that to have called in Captain Sassoon and to have asked him to do it on commission would have helped. And, obviously, this is not the sort of case that you can make public by calling people from Madras, Karachi, Bombay, Calcutta, to ask what you should do when a bank which you think is going to fail fails. Obviously, you have to act quietly and quickly. I entirely agree with the Mover that it is not desirable that the Government should have to intervene in such cases. I entirely disagree with him when he tries to lay down the principle that the Government should never intervene. But I think I have shown that in this case, first of all, it is almost inconceivable that there will be any loss but what the Government did was to bring the credit of the Government to bear to stabilise the situation and secondly that the action of the Government in intervening was justified and amply justified. The taxpayer is going to get full value in spite of the fact that he did not take any risk and I confidently appeal to the House, therefore, to see that this motion which amounts to a vote of censure on the Governor General in Council shall be negatived, and I hope that the House will declare that the action which the Government took was taken rightly for the good of India and for the benefit of the tax-payer of India. (Applause.)

Mr. S. K. Barodawalla (Bombay City : Muhammadan Urban) : Sir, on the face of the facts that we have heard from the Honourable the Finance Member and the assurance given by the Finance Member, I may say, Sir, that the Mover ought to withdraw his motion. I would suggest that the Honourable House on behalf of the people of India take the assurance from the Government that in case of any circumstances arising of the similar nature in regard to Indian Banks the Government will come to their rescue. I take it, Sir, from the speech that I have heard from the Honourable the Finance Member that Government will. (Mr. N. M. Samarth : “Oh, no.”) If they have done so in this case, why should they not come to the rescue of other banks of standing, which really support the industries and commerce of the country? I think, Sir, in my honest opinion, I am not here to shield the Government. I am one of those in Bombay who know something of commerce, industry and

[Mr. S. K. Barodawalla.]

finance. I think the Government have done well by interfering in the matter as they have saved many banking institutions from a great crisis. When I came first to the House, Sir, it was in my mind to support the motion. I wanted to speak against the Government, Sir. But what I have heard and the assurance that I have got have satisfied me that what we want has been done. And if only Government will state that they will come to the rescue of other banks under similar circumstances, I think the motion ought to be withdrawn. However, in view of the assurance of the Honourable the Finance Member that action would be taken against all those who would be found guilty in the Alliance Bank affair, that all shareholders and other interested parties would have access to and right of inspecting the documents and books relating to the Alliance Bank, and that the Government will not shield anybody, I think it is only fair that the Honourable the Mover should withdraw his Resolution, because if we find that Government are going back upon their assurance and are trying to shield anybody or camouflage the affair in any way, Honourable Members of this House will have ample opportunity to place all the facts again before this House. I therefore appeal to the House not to be hostile to the Honourable the Finance Member after what has fallen from him. Forgive and forget, Sir. What is done is done.

Sir Deva Prasad Sarvadhikary : Sir, he who begins with appreciation and acknowledgment of his own weakness gains in strength and the Honourable the Finance Member has already begun to reap as he has sown. Ravana, the demon king, whom I am glad to hear my friend is beginning to study, but against whose methods and ideals I would strongly warn him, did not cultivate this philosophy. He made many a righteous resolve but never carried them out for he knew not when he was weak. The Finance Member knows or says that at least in one point he is weak and by his admission he has already begun to score.

I shall try and make a small, a very small contribution to that victory of his and having done so, we shall part company. I believe, Sir, we at all events in Northern India, where the stakes were large, that whatever the feeling in Southern India and the Bombay side may be, —I believe, so far as Northern India is concerned where the Alliance Bank has many ramifications Government action, right or wrong, certainly contributed to the alleviation of panic, panic that might have grown large and led to untoward circumstances. The sigh of relief at the prospect of even half a loaf was notable but there is the question of the wrong way of doing what may be absolutely right. I have been looking forward to some answer in the course of Sir Basil Blackett's long speech—an answer to the point that was raised by Sir Sivaswamy Aiyer. If the Government really believed that there was no risk in what was being done and that the Imperial Bank of India would be prepared to do what it did, if the Act permitted it to do, what was there to prevent a small ordinance rectifying the defect for the time being, for which none from the north or the south, from Karachi or Madras or Bombay or Calcutta would have been needed to come to advise the Government.

The Honourable Sir Malcolm Hailey : The guarantee would only last for six months in that case.

Sir Deva Prasad Sarvadhikary : My friend has anticipated me. The thing would have been made public by then. The need of secrecy and even of matters being kept confidential would have passed within six months and regular legislative supplementary could have followed. Ordinances last no more than six months, answers the Government side ; that is the statutory period, and within it the Government of India could have achieved anything more that was needed. Ordinances have been passed against which people have protested and yet they have come and lasted their period six months and other legislative measures have been enacted for the purpose of continuing the work for which these Ordinances had been passed. That is the Government answer to the question, Sir, for which I was waiting with some anxiety. That is the only answer we have, as the result of visible consultation here and now between the Honourable the Leader of the House and the Law Officer of the Government of India and Sir Basil Blackett. I say that is no answer. All that has happened—at least most of what has happened in the way of rousing criticisms and creating suspicions would have been obviated by the straight and business like course of enabling the Imperial Bank by ordinance to take up the matter as a normal banking proposition.

Sir, I do not agree that, when a suitable occasion arises, the Government should not and shall not do all it can to stave off panic. You cannot lay down definite and fixed policies either about floods or famines or about financial breakdowns, particularly in regard to breakdowns that are engineered and brought about, of which there is strong suspicion in this case. It is however all a question of ways and means—of methods. That is what we are considering, at least as I read the Resolution. What about that ? I have not heard one word of assurance amongst the many assurances that the Government has given—and we welcome them—that steps will be taken with regard to the improvement in our Companies Act and banking institutions which will make such events as we deplore impossible. Such an assurance has been asked for in the course of questions that have been put, and I was looking forward to some assurance in that direction.

The Honourable Sir Basil Blackett : If I did not give one, Sir, it was only an oversight. I did not know that I was asked for such an assurance. But the House may rest assured that every effort will be made by the Government to learn the lessons of the weaknesses either of Company Law or of the law of banking in this country which this case may have to teach and to bring before the Assembly measures for improving these.

Sir Deva Prasad Sarvadhikary : I am glad to hear that, and if I have been able to get that assurance I am really glad. Sir, my friend pleads oversight. This has been a matter of discussion in the press, I believe, and on the shareholders' and creditors' platform and have been the subject of questions here.

The Honourable Sir Basil Blackett : I thought I had given an assurance.

Sir Deva Prasad Sarvadhikary : That assurance, I welcome.

Well, Sir, my friend has been reticent, and I believe discreet, in not referring at length to the troubles of 1913 when a very serious banking crisis arose. I do not want to go very much in detail into that. The complaint in the country was, and still is, that the action taken—I shall not

[Sir Deva Prasad Sarvadhikary.]

say by the Government, but by many high Government officers—was exactly and absolutely contrary to that which has now been taken, and if the helping hand from any direction had been extended to those who were struggling in that crisis, it would have been averted and the rebuilding of the People's Bank would have been possible. Sir, I am not quite sure that some of the unrest that has been going on in the Punjab did not begin to date from that date. The organiser and promoter of that admiral organisation found his way into gaol and was about to receive worse penalties. Now he is one of the Ministers of the Provincial Government.

The Honourable Sir Basil Blackett : He has got a better goal.

Sir Deva Prasad Sarvadhikary : And he deserved it—every inch of it. The liquidator was enabled to pay, not sixteen annas in the rupee, but strange to say, nineteen annas in the rupee, and there was a balance left over. Nineteen annas in the rupee is somewhat of a romance to the Government of India, which however can bring out Rs 4½ lakhs reserve unsued (A Voice : “Rs. 4½ crores”) I beg your pardon. Rs. 4½ crores. It was a slip of the tongue, for ordinarily we do not talk in crores. Well, Sir, that lesson should be in our mind when we have to deal with a repetition of these things. At the present moment, we have been told that the three small banks that came to grief on account of the breakdown of the Alliance Bank did not receive Government assistance because they were small. (A Voice : “Did they apply for it?”) What is the procedure for such application and what is the limitation about smallness? And where is the line to be drawn? I recognise the danger of direct Government action and intervention in these matters. Reference has been made by the Honourable Sir Basil Blackett to the amalgamation of banking interests in Western India, from which good results are expected. It is hoped that our banking institutions will be placed on a proper and sound footing, not only in the interests of people needing ordinary banking facility, but in the interests of trade, industry and commerce and of the Government itself. I cordially share those views and I hope that in the undertakings which I am sure will be forthcoming as a result of this breakdown, Government assistance will also be forthcoming. We need a range of good sound Banks for the people whose needs the Imperial Bank cannot, at least does not, supply. Let this range of Banks now come. I do not agree with Sir Sivaswamy Aiyer that all help should be withheld for all time and under all circumstances in critical times. But the *modus operandi* should be well understood and above criticism. We are only anxious that everything should be done straight and square and in the right way and I say it is possible for Government to do this if only enough pains be taken and forethought ensured. They had long to think about it. The Honourable Sir Basil Blackett has said that he knew all about it before he came out and the question has been under the consideration of the Government for some time and it must have formed the subject of correspondence with the Secretary of State and with the Law officers and financial advisers of the Government here and in England. Therefore, they could have easily taken the step that Sir Sivaswamy Aiyer has drawn attention to. I suggest,

they could have done this by authorising the Imperial Bank legally to do that for which it was brought into existence. We have had the statement that as a result largely of what happened in 1913 and as a result of the necessities of the commercial world, following it the Imperial Bank system came expressly to cope with a crisis, such as we are discussing. If the Imperial Bank is not able without direct Government guarantee and without Government unusual authority to do what it has done, I say that the Act is defective and the whole system is defective and the sooner that is put right, the better. The *Deus ex machina* of the Government of India should not have to be invoked wherever and whenever these crises arise and big and small troubles ought to be looked into by the Imperial Bank in a business way and as bare banking propositions. The big brother, as the Imperial Central Bank has been just described, ought not to distinguish and differentiate.

Sir, reference has been made by Sir Jamsetjee Jejeebhoy and others who ought to know what is in the Bombay atmosphere—I forget really who it was that made the reference; probably it was not Sir Jamsetjee; somebody referred to it—that the Princes of India who have unused hoardes had not been given opportunities of coming to the rescue of the bank.

Sir Jamsetjee Jejeebhoy : I did not say that.

Sir Deva Prasad Sarvadhikary : I beg my Honourable friend's pardon. (A Voice : “Captain Sassoon said that.”) Sir Basil Blackett has imported many a thing into the consideration of this question which he himself said were not quite orderly, but were disorderly. That disorderliness had however its value for he has contributed to orderliness by such disorderliness and given useful information to those who want to understand the rights of the question. I take this opportunity of referring to a phase of the question in connection with the Indian Princes mentioned in the course of the debate. As a matter of fact, we know that an Indian Prince did much to help this bank and the connected institutions, and what is he now getting in return? Abuse—suspicion that he it is that has been engineering the proceedings in Bombay against the Alliance Bank. I have very good reasons to believe, Sir, and I want to say that publicly, that this is as bad a defamation as has ever been uttered against an Indian Prince in regard to which the Indian Princes Protection Act has not given him any protection. Our Princes are now seeing the unwisdom of hoarding their wealth. They are coming to the assistance of business propositions and banking institutions, and when they do that, I think they require assistance and encouragement and protection. Judging by the way in which this particular Prince has been abused in all quarters, because he unfortunately happens to have incurred serious loss in the connected transactions, there will not be much encouragement for them to help in future.

Sir, I do not propose to take up the time of the House at length. I believe the feeling is very strong that drastic steps should be taken by which the methods that have been pursued by those responsible for the crisis should be prevented in the future. If this debate and this Resolution have achieved that purpose, a great purpose will have been served.

(Honourable Members : “Let the question be now put.”)

Mr. President : The question is that the question be now put.

Dr. Nand Lal : (West Punjab : Non-Muhammadan) : The Punjab is very much aggrieved and she has not had an opportunity of expressing her views in respect of the Resolution under debate now.

Mr. President : Order, order.

The motion was adopted.

Sir P. S. Sivaswamy Aiyer : Sir, I wish that my Honourable friends who followed me in this debate had striven to keep the issue clear of minor questions and a number of side issues. My object was to present one short simple issue to the House for decision and that was whether the action of the Government in intervening in the way in which they have done on this particular occasion were right and whether the policy which it implied was wise. Upon neither of these points am I satisfied with the explanation that has been offered by the Honourable the Finance Member.

The reasons given are these. He asked what would have been said if simultaneously with the announcement of the closing of the doors no announcement had been made of any chance of payment of the deposits. Now, the answer is simple. We in India have long been accustomed to bank doors being closed without any announcement of relief. (*The Honourable Sir Basil Blackett :* "Of this size?") It would have caused no unusual shock. (*A Voice :* "Question.") We have always been accustomed to hear of bank failures (*A Voice :* "No, no") without any announcement of any relief. (*The Honourable Sir Basil Blackett :* "9 crores of deposit?") Now, it is said that the action of the Government has saved the depositors from the fear of total loss. It has not saved them from the fear of losing 50 per cent. of their deposits. I do not know whether the probability of a partial loss has partially or to any extent affected the public credit which the Honourable the Finance Member flatters himself he has succeeded in maintaining. He said that credit in the London market would have suffered, and that with regard to the flotation of the Indian loan there might have been a loss of a crore. I can only see the assertion of the Honourable the Finance Member in support of it. Of course, assertions of men in high places carry great weight, but I am afraid that the assertion is no demonstration whatever of the fact that by the action they took they were able to maintain the credit of the Indian Government in the London market which would otherwise have suffered. Now, let us see how it could have suffered. What is the process? The Honourable the Finance Member has not condescended to explain to us the process by which the credit of either the Government or of people desirous of investing in the London Money Market would have been affected. I concede that the people who had deposited monies in the Alliance Bank would have been affected, but surely the London Money Market does not consist only of depositors in the Alliance Bank of India. Surely, there are thousands of people in the London Money Market who could have put in their monies into this Government loan and who would not have been affected in the least by the fact that the Alliance Bank has failed. Then, Sir, with regard to the particular form of action taken, the Honourable the Finance Member said that the object was to avert a panic and that the quickest mode of averting a panic was to take action through the Imperial Bank. Now, if it

was necessary to take action through the Imperial Bank, why could not Government have passed an Ordinance enabling the Imperial Bank, in the way that the Russian Bank was authorised, to deal in securities in which they could not have dealt owing to the limitations in the Act. The reply suggested is that an Ordinance would have effect only for six months. But within those six months considerable efforts could have been made and considerable progress could have been made with regard to the liquidation, and at the end of the period it would have been open to the Government to come to the Legislature if necessary to pass a law enabling the Imperial Bank to deal in securities in which it could not have dealt before. Now, Sir, I find that the Members of Government have very successfully cultivated the qualifications of good advocacy. That, at any rate, is one of the good results of the reforms. One of the qualifications of a successful advocate is to divert attention from the real issue by dwelling upon unessentials. Now, there were two questions, definite questions, which I put to the Government. One was with regard to this mode of empowering the Imperial Bank by an Ordinance. To that, at first no answer was vouchsafed, but subsequently an answer has been put forward that an Ordinance would last only for six months. The other question was whether the Government made any attempt at all to invite the co-operation of the leading banks in India. No answer has been vouchsafed to that question either. Then, it was said that the Government did not wish to disclose their hand before the panic had been fully averted. I think the panic would have been still more successfully averted, if there was any danger of a panic at all, if Government had come before the curtain and appeared on the stage from the very beginning. (*The Honourable Sir Basil Blackett :* "Question.")

With regard to the reasons with which the Honourable the Finance Member summed up his reply—first, that there was no risk, second, that the action was justified by the results, and thirdly, that if they had not taken action, they would have been criticised,—I venture to submit to the House that none of these answers can be taken to have been fully established. It is said that there is no risk. That remains to be seen. The principle for which I am contending is that the interests of the finances of India are far too serious to be trifled or played with by any action of this sort. My Honourable friend agrees with me that it is undesirable that the Government should intervene and that the occasions for such intervention should be limited. The point of difference between us is whether the Government is at all justified—I would not say, in intervening, but intervening by pledging its own liability, by pledging the public funds. I submit that the Government are not justified and whether there is any risk or not of loss is a matter which will have to be decided only after the liquidation is closed. But the fact that they do run a risk, that they do contemplate liability for loss is, I submit, sufficient to justify us in disapproving of the action of Government. Then, it is said it is justified by the results. As to that, all that can be said is that it is the old fallacy of *post hoc ergo propter hoc*. Government took certain action. It does not follow in the least that the results which are said to have followed are due to that action, or that there would have been a general panic which could not have been otherwise averted, or that the

[Sir P. S. Sivaswamy Aiyer.]

successful floatation of the loan, whether in the London market or in India, was due to the steps that the Government took. Well, Sir, it is said that the Government would have been criticised very severely. I am not aware that the Government has been criticised in the past before and I do not know that the Government would have been criticised on this occasion. (*A Voice* : "1913.") Whether it would have been criticised or not, the real question for us to consider is whether the Government was pursuing a right policy in undertaking this liability, a liability of an undefined extent which may possibly go into crores or may possibly not materialise at all. It may be a matter of some crores, it may be a matter of nothing, but what I say is, it is a most perilous policy and one which ought not to have been embarked upon by Government. (*A Voice* : "Question.")

One other result which is likely to be incurred by this policy of Government, by this offer of readiness and willingness to help on similar occasions in the future is one with regard to which we have already had some proof in the speeches that have been made. The Government have been invited to come forward on similar occasions with regard to other banking concerns and I do not know why they should stop short of giving relief only to banking concerns. There are commercial concerns and industrial concerns of great magnitude in the country which may, for aught we know, come to grief, not on account of avoidable misfortune, as is supposed to have happened in the present case, but otherwise. If any action of the Government can offer a premium to bad management of banks, I think this offer of help is sure to set a premium on bad or improvident management, because whether the failure of the bank is due to bad management or not, the persons who suffer by the policy of the banks are entitled to sympathy all the same. In fact the man who suffers through the fraudulent management of a bank is perhaps even more entitled to sympathy than the man who suffers from the failure of a bank which has come to grief without any fraud. It is a policy which, as I have said, is fraught with danger and it is only upon that ground of principle that I have ventured to bring forward this proposition and to criticise the action of the Government. I hope the House will support the Resolution.

The Honourable Sir Basil Blackett : The House has already listened to me far longer than it desired and I have addressed it longer than I like. So I do not propose to offer any very lengthy reply to the last speaker's last speech. As far as I could see, he added nothing to the points which he had raised before. He re-asserted some of the assertions that he made before and he denied some of my assertions. Well, Sir, if you are going to have a panic and you do not know how big it is going to be, you can, if you like, decide that you are not going to avert it, until you know how big it is going to be. You will then certainly know how big it is, but the knowledge may be unpleasant. But if you are going to have a panic and you take action to prevent it, you do not know how big it would have been, had you not taken action to avert it. I do not think that the bare statement that because you do not know how big the panic is going to be, therefore you should not intervene to prevent the panic is one that can hold water. Obviously

if you successfully intervene to prevent a disaster your critics can say the disaster would not have happened if you had not intervened and unfortunately for yourself you cannot come back and see how your critics would have liked the disaster. I have already answered Captain Sassoon's suggestion of a different method of intervention. Sir Sivaswamy Aiyer has suggested that we should have intervened with a Government Ordinance. I am free to confess that I never heard any such suggestion till to-day : but it would not have served our purpose. For one thing, it would have meant direct Government intervention in the first instance. Now, I have already said that I do not think that was desirable. Secondly, I do not think that in the time at our disposal we should have been able to make sure about drawing up an Ordinance which would have given us exactly the powers that we required, and thirdly, it would not have made any difference, because Sir Sivaswamy's point is that we ought not to have done it at all. Sir Sivaswamy has just appealed to the House and his whole point was that we should not have intervened and that it is dangerous and that the action of the Government is wrong in principle.

Sir P. S. Sivaswamy Aiyer : In pledging their resources.

The Honourable Sir Basil Blackett : In pledging the resources of the tax payer. Well, I can only say that I disagree with him on the ground I have already set forth. I do not think that you should take a vow to avoid getting into water, which will bind you not to save a man from drowning. I would just like to quote a passage to which my attention has been drawn in the proceedings in regard to the Imperial Bank Bill. The Honourable Pandit Malaviya was speaking. Referring to the 1913 troubles, he said :

"I think it is due to these banks that asked for assistance to inform the Council that every single one of these banks has paid fully 16 annas in the rupee of the deposits which they had at the time they closed their business and I am certain that it has now been demonstrated beyond dispute that if there was a Government bank which could look into the affairs of each of these banks and advance money to those who were in a sound condition, a great calamity which overtook many of those who had their shares in these banks could have been and would have been averted."

This is what has been done in this Alliance Bank case. A great financial panic has been averted by putting the Imperial Bank into a position without risking the tax-payers' money to save the situation. The situation has been saved and I do again appeal to the House to vote against this motion and not vote that whenever in future, which God forbid, there is a danger or the Government shall not intervene, if necessary.

Mr. President : Resolution moved :

"This Assembly recommends to the Governor General in Council that he will be pleased to express his disapproval of the action and policy of the Finance Department of the Government of India in undertaking a present or contingent liability to the Imperial Bank for losses consequent upon the failure of the Alliance Bank of Simla."

[Mr. President.]

The question is that that Resolution be adopted.
The Assembly divided.

AYES—48.

Abdul Majid, Sheikh.
Abdul Quadir, Maulvi.
Abdul Rahman, Munshi.
Abdulla, Mr. S. M.
Abul Kasem, Maulvi.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahsan Khan, Mr. M.
Aiyer, Sir P. S. Sivaswamy.
Akram Hussain, Prince A. M. M.
Asad Ali, Mir.
Asjad-ul-lah, Maulvi Miyan.
Ayyangar, Mr. K. S. R.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Das, Babu B. S.
Faiyaz Khan, Mr. M.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.
Ibrahim Ali Khan, Colonel Nawab Mohd.

Vishindas, Mr. H.

NOES—39.

Abdul Hamid Khan Khudadad Khan,
Mr.
Abdul Rahim Khan, Mr.
Ahmed, Mr. K.
Amjad Ali, Maulvi.
Ansorge, Mr. E. C.
Ayyangar, Mr. R. Narasimha.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Barodawalla, Mr. S. K.
Barua, Mr. D. C.
Blackett, Sir Basil.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatarji, Mr. P. C.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.

The motion was adopted.

The Assembly then adjourned for Lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock,
Mr. President in the Chair.

THE CANTONMENTS BILL.

Mr. E. Burdon (Army Secretary) : Sir, I lay on the table the Report of the Select Committee on the Bill to consolidate and amend the law relating to the administration of cantonments.

RESOLUTION RE THE CONFERMENT OF FURTHER REFORMS.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I beg to move the following Resolution :

"With reference to the Secretary of State's Despatch on the subject of further Reforms, this Assembly recommends to the Governor General in Council to be so pleased as to move the Secretary of State to carry out his suggestion contained in his Despatch on the subject of further Reforms possible under the existing constitution."

Honourable Members will see that when Mr. Montagu came out to this country, after hearing all the evidence the two learned authors of the Montagu-Chelmsford Report concurred in formulating their views the outstanding features of which, so far as my Resolution is concerned, were set out in two paragraphs of their Report from which I read the following extracts. Relating to the Secretary of State's control the authors of the Report say in paragraph 260 :

"Our idea is that as the popular element of the Government acquires experience and learns to discharge its duties efficiently, further powers should be entrusted to it. The process in fact will be one of adding to the transferred subjects and of taking from the reserved ones, until such time as with the entire disappearance of the reserved subjects the need for an official element in the Government or for procedure by grand committee vanishes, and thus the goal of complete responsibility is attained in the provinces. What we have to do is at once to encourage and to regulate this process." That is the reference to the transferred subjects. Then with reference to the relaxation of the control of the Secretary of State over the Government of India, in paragraph 268, we find them writing the following words :

"Granting, therefore, that Parliament's understanding of the larger Indian questions and its responsibility for policy ought to be increased, there is no real inconsistency in saying that we should ask it simultaneously to agree to relax the Secretary of State's control in details. We consider that the Secretary of State's previous sanction to decisions taken in India should be required in fewer cases than in the past, and that in some matters it will suffice in future if he asserts his control by means of a veto if necessary."

Now these are the two outstanding features to which I wish to invite the attention of the House,—the relaxation of the control of the Secretary of State over the Government of India, and the framing of rules for the transfer of subjects from the reserved to the ministers' department. Now when this Report was published it was given out that the Government of India were in full accord with the recommendations of that Report, and the subsequent debate in the House of Commons will show that so far as regards these two subjects, we find a specific provision inserted in the Government of India Act. I invite the attention of the House to three sections : sections 19A, 96B (2) and 45A (d) of the Government of India Act. Honourable Members will find that section 19A lays down—it was clause 33 in the draft Bill—that "the Secretary of State may, notwithstanding anything in that Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control, vested in the Secretary of State and the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919."

Then, we have section 96B (2) :

"The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct. Such rules may, to such

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extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor General in Council or to Local Governments, or authorise the Indian legislature or local legislatures to make laws regulating the public services."

So far as these sections are concerned, section 19A empowers the Secretary of State to relax his power of superintendence, direction and control over the Government of India in the manner therein provided. And the next section which I have read, section 96B (2), enables the Secretary of State to empower the Governor General in Council to make rules regulating the public services. Then, we have a third section, section 45A (a), which lays down that provision may be made by rules under this Act for various things, amongst them :

"For the transfer from among the provincial subjects of subjects (in this Act referred to as 'transferred subjects') to the administration of the governor acting with ministers appointed under this Act."

These are the three matters upon which the Secretary of State and the Government of India are empowered to make rules. It is laid down in the supplementary provisions to this Act that wherever rules are to be made (section 129A), the rules may be made by the Governor General with the sanction of the Secretary of State in Council and the Secretary of State may also direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament. Now, these are, therefore, the provisions of the Government of India Act that have not yet been exploited. We asked the Honourable the Home Member the other day a question as to why it was not so, why they did not exploit the Act, and the reply of the Honourable the Home Member to my question is as follows :

"I have been unable to trace in the despatch the reference to further reforms stated to be possible to which the Honourable Member alludes. It is possible under the section quoted to make rules under the Act for the transfer of subjects but no change in the original rules has been made. The Honourable Member's attention is invited to the recommendation of the Joint Committee that no change of substance in the constitution including the lists of reserved and transferred subjects should be made in the ten years preceding the appointment of the statutory commission."

I take it, Sir, that that will be the line of reply of the Honourable the Home Member. He takes his stand upon this statutory commission. Now, upon this statutory commission, there has been a good deal of misunderstanding. I should like to clear it. I do not know whether I shall succeed, but I shall make an attempt. It has often been said in the press and from the platform that the statutory commission contemplated by the Government of India Act could not be formed before the expiration of ten years. That is exactly the question that was agitated in the House of Commons where Mr. Montagu was asked "Are you going to wait for ten years before any further step in reforms would be thought of?" And Mr. Montagu replied from his place as the Secretary of State in the following words : He said that the ten years was the maximum and on the expiration of ten years the Secretary of State was bound to issue a commission, but it did not prevent the issue of a commission within a shorter time and he pointed out that there might be circumstances in which a commission might be issued in a shorter time. Now, Honourable Members will remember that in September of 1921 my friend Mr. Majumdar brought forward a Resolu-

tion in this House to the effect that the time had come when the Government of India should move the Secretary of State to grant further reforms to this country. I shall not now advert to the controversial question as to whether the Resolution ultimately adopted by this House was the Resolution of Rai Bahadur Jadu Nath Majumdar or that proposed and drafted by the Government. Suffice it to say that a Resolution approving in substance Mr. Majumdar's contention was unanimously accepted by this House, and that Resolution was forwarded to the Secretary of State. After about a year, the Secretary of State penned his reply to the Resolution of this House ; and I should like Honourable Members to remember that the Resolution which was accepted by this House unanimously was for the appointment of the statutory commission before the expiration of ten years, the object being (A Voice : "No") the re-examination of the whole question before ten years. This was the Resolution that was accepted by this House. In other words, the Resolution referred to the grant of further reforms by a re-examination of the whole question as contemplated in section 84A of the Government of India Act. The Right Honourable the Secretary of State in his reply to the Resolution of this House, communicated to this House by the Honourable the Home Member, gave two reasons for not being able to accede to the request of this Assembly. The first reason was that sufficient time had not expired and Parliament would not be in a mood to amend the Government of India Act. The second reason and the more important reason—in fact it is the first reason—given in paragraphs 2 and 3 of the Secretary of State's Despatch was that "you have not exploited the Act, the provisions of which are elastic and which afford room for further expansion within the existing constitution".

Let me quote to the Honourable Members the exact words of the Right Honourable the Secretary of State's despatch. He said :

"No such attempt was made, and the arguments used in support of the motion consequently lose some of their cogencies in my view for these reasons. In the first place, they assume 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. 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."

Now, Sir, I stand here to ask the Government of India to do what is suggested in this paragraph, namely, to establish liberal conventions, and make use of the rule-making power which exists within the structure of the constitution for the purpose of developing the Legislature and to establish for themselves a position in conformity with the spirit of the Act. (*The Honourable Sir Malcolm Hailey* : "Themselves?") Now, Sir, if you will turn to the Government of India Act, you will find that the contention of the Secretary of State is perfectly sound. He says, you have only worked the outer shell of it, you have not reached the core. Explore it, exploit it, and you will find that the constitution that has been provided is elastic and expansive. When you have developed that constitution and utilised it, and if you afterwards come to Parliament, we shall then ask the House of Commons to amend the Government of India Act.

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That is his argument. Well, Sir, I should have expected that a much more reasonable course to adopt would have been for the Secretary of State to say, 'I am not prepared now to advise Government to amend the Government of India Act, but at the same time I accede to the request of the Assembly so far as I am able to without amendment of the Government of India Act. I can make rules; the Act enables me.' (I have given the Honourable Members the section.) 'And I therefore propose to use my rule-making powers for the purpose of relaxing my own supervision, direction and control over the Government of India, and I will direct the Government of India to transfer to the charge of the Ministers subjects which are now managed by the reserved departments.' He has not done so. It was I think out of sheer forgetfulness, and it is for this House to remind the Secretary of State that he has suggested the course which is possible under the Government of India Act and we ask him to adopt it. Now, Sir, I do not think that my Resolution is of a controversial character. I have pointed out that in the Montagu-Chelmsford Report the elastic constitution to which I have referred was very clearly set out. The distinguished authors of this Report made it abundantly clear that during the period which must elapse between the inauguration of the Reforms and the examination by the Statutory Commission some further progress can only be made in the manner stated in the three sections to which I have referred. During the debates in the House of Commons when the Reform Act was under discussion Mr. Montagu was asked as to why these rules were not framed and appended to the Bill. It was suggested that these rules might be framed so as to make a whole job of it. The reply given was that it would delay the passage of the Bill; that Mr. Montagu had, in consultation with the authorities, already drafted some rules; that they could be subsequently added, but that if they were added then and there, or placed alongside of the Act as an integral part thereof, it would delay the passage of the Bill. For these reasons the rules which appear to have been framed, or at any rate were in contemplation, were not appended to the Bill. Now we ask if the Secretary of State should frame rules, as is suggested in the Montagu-Chelmsford Report, and as was suggested in the House of Commons during the passage of the Reform Bill, and as indeed has been suggested in reply to Mr. Majumdar's Resolution by the present incumbent of that high office, what objection, indeed, could there be to the framing of these rules? The Honourable the Home Member, in reply to my question, says that it was contemplated by the Act that the whole question should be examined after the expiration of 10 years. I think I have made it abundantly clear to the Honourable Members that that certainly was not the intention of the Act; and the fallacy of my Honourable friend's argument will be combated when I refer to the following facts. Mr. Montagu and Sir Malcolm Hailey here and the other occupants of the Government Bench have repeated times out of number that this is a transitory Act. On one occasion Mr. Montagu said: "I cannot reiterate too often that the basis of this whole policy is of a transitional nature. You want to get on to something else at the earliest possible moment." Now, Sir, that the whole of this Government of India Act, 1919, is a transitory Act, intended to last and having the life of ten years, admits of no doubt. Now, Sir, I say that provision is made in this transi-

tory Act, the life of which is fixed at 10 years, for the making of rules and for the expansion of the constitution. I ask any member of the Bar, my learned friends here, what was the intention, what was the spirit of the Act, if it was not that during the interval these powers were to be exercised and these rules framed. If that was not the intention of the Act, are we to assume these provisions as to the making of rules and the delegation of powers were to remain a dead letter and for ten years, until the whole Act is scrapped and a new Act is enacted, these powers, which were given to the Government of India and the Secretary of State, were never to be exercised? I submit that the fact that we find provision in this Act for the exercise of these powers shows clearly and conclusively that they were to be exercised during this time and therefore to say that after the Statutory Commission an experience of ten years was necessary before further progress in Indian reforms should be possible, is no answer to the question that I have raised—is no answer to the suggestion, the recommendation made in the Montagu-Chelmsford Report, to the pledge given in the House of Commons and to the assurance conveyed in Lord Peel's despatch from which I have quoted. My friend, the Honourable the Home Member, sees no suggestion in the Secretary of State's despatch. Well, Sir, I join issue with him. If that passage is not a suggestion that further expansion is possible under the existing constitution—a statement of truism, which could only have been made if he was prepared to expand the constitution within the terms of the existing Government of India Act, then, I submit, what was his object in saying: I cannot ask the Government to change the Act because you can get something more than you have got under the present Act—look at your Act and you will find there something very much to your advantage there. That is what the Secretary of State tells us in that despatch. Well, Sir, I don't stake my case either upon the statement contained in the Montagu-Chelmsford Report or upon the debate in the House of Commons or upon the despatch of the Secretary of State. I am not asking anybody to fulfil his pledge or promise. I take my stand upon the Parliamentary Statute which lays down that rules shall be framed....

The Honourable Sir Malcolm Hailey (Home Member): "Shall be framed"?

Dr. H. S. Gour: That rules may be framed.....

Rai J. N. Majumdar Bahadur (Presidency Division: Non-Muhammadan Rural): "May" sometimes means "shall."

The Honourable Sir Malcolm Hailey: Not where I am concerned.

Dr. H. S. Gour: That rules may be framed under sections 19A, 96-B (2) and 45-A of the Government of India Act.

Now, Sir, I ask what reason is there for not framing these rules? The Government of India were a party to the Resolution accepted by this House by its unanimous vote. They did not dissent from it. They did not protest against it. They forwarded it to the Secretary of State for his consideration. The Secretary of State's reply has been quoted to you.

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I think it was up to the Government of India to immediately remind the Secretary of State and say to him,—what is the good of your saying expansion is possible : try it, make the rules and send them on to us, and give these people as much as you can give under the existing Government of India Act. I submit that was the plain duty of the Government of India. They have forgotten to do it, and I think my Resolution should act as a reminder to them that these powers which the Act contemplates and which will become nugatory after ten years when the Act is repealed and which were intended to be exercised now within the period of probation must be exercised and put into execution. Now, Sir, having said this, I might have sat down, but I wish to point out one more thing. In asking this House to support my Resolution I am helping the Government of India against themselves. It has been repeatedly pointed out and it is a fact which any casual observer will see that upon matters of minutiae and minute details, the Government of India have to refer to the Secretary of State for final orders. Mr. Montagu points out in his Report and it is a fact which has been admitted in the House of Commons, that, after the Reforms Act, the Secretary of State should only interfere upon matters of broad and general policy, but, that in all other matters the Government of India should be supreme and be able to decide for itself questions of policy and administration, subject, of course, to the right of veto by the Secretary of State. In asking, Sir, for the framing of rules contemplated by the Government of India Act, I am therefore installing the Government of India in a position of greater independence than they enjoy at present. And we feel that, if the Government of India are more independent, we shall be able to influence the Government of India much more than we are able to do at the present moment. As regards the provinces, I think it is now admitted that, so far as the transferred subjects are concerned, the Ministers have worked admirably and to the satisfaction of the heads of provinces. The reforms contemplated that more subjects should be transferred to the Ministers as times progress. Surely, Sir, after three years of reform, it should be necessary for the Governor General in Council to transfer some more subjects to the Ministers in the provinces and generally to frame rules on the lines I have indicated. I submit, Sir, I am liberalising the constitution not merely for the benefit of the Members of this House or of the provinces, but I feel, Sir, that I am advocating the cause of the Government of India. Therefore, I hope Members of the Government of India will support this Resolution—a Resolution which, as I have said, is moved alike in the interests of the Members of this House as of the supreme executive Government. Sir, I move it.

Rai J. N. Majumdar Bahadur : Sir, it has been well said that the child that cries most gets the most milk. Sir, in this House we have not cried most nor cried loudly. We only cried about two or three years ago once, but we have not been crying since then. Had we continued to cry for further advance, we would have got more milk than we have got. It has been laid down in the Bible :

“ Knock and it shall be opened unto thee. Seek and thou shalt find.”

Real and hard knocking is wanted in order to open the door. Therefore, I am glad that my friend, the Honourable Dr. Gour, has brought this subject up again to the forefront. Of course, his motion is on a lower level than mine was. He does not want to amend the Act. He only wishes to liberalise it, and to frame rules under the Act, within its four corners in order to give further powers to the Legislative Councils as well as to this House. Let us take, Sir, the provincial Councils. In the provincial Councils, we have certain transferred subjects. What are they ? Education, sanitation, public works and so on ; i.e., the Departments which they call “ nation-building Departments.” But these Departments, “ nation-building Departments” have got no money wherewith to save the nation or to strengthen it. Every time they require money, either for education or for sanitation, they go with their begging bowl to the Finance Minister. “ Sir, let us have money.” “ No money. I require it for law and order, for safety and tranquillity, for police, and all such subjects. Therefore there is no money. If you want more money, you must raise more taxes.” The Minister will say, Sir, “ But that will be very unpopular.” “ Well, then, your Department must be retrenched.” In Bengal, the Retrenchment Committee that was formed has no control over “ untouchable ” subjects. They have no control over the Civil Services, no control over the Police. But they can control Education and Sanitation. And many officers, poor schoolmasters, are going to be abolished—poor professors and schoolmasters ! That is the result of the Reforms.

The constitution as it stands at present provides in every province for at least two Indian Members, who are in charge not of “ transferred ” subjects but of “ reserved ” subjects. So, you may consider that even Indians are capable of taking charge of reserved subjects. There is the Maharaja of Burdwan ; there is my friend, Sir Abdur Rahim in Bengal and so on in other provinces. There are thus Indian Members who are in charge of departments which have not been “ transferred ” but which are considered “ reserved.” What is the object of this Resolution ? It is to transfer more subjects from the list of what is called reserved subjects to transferred subjects. There is no question of inefficiency. There is no question that there are not men capable of taking charge of these departments. They are already doing these duties of administering the reserved subjects. These duties were already being discharged very satisfactorily, even before the Reforms Act came into operation, by Indian Members of the Executive Council. Where is the difficulty of transferring the subjects ? My Honourable friend the Home Member is taking note of everything that I am saying with the object of rising hereafter and crushing me.

The Honourable Sir Malcolm Hailey : No, Sir. Of educating myself.

Rai J. N. Majumdar Bahadur : What I submit is that on this question at least I expect a very sympathetic response from my Honourable friend. Why ? Because not only in the interests of India but in the interests of England, in the interests of the British Empire, you cannot go on as you are going. You have already left your old moorings. You are going to the opposite bank, and you cannot go on in this slow way lest some storm, some unforeseen event, may overturn your boat in the middle of the river. So, please hasten this transitional period as early as you can, because you

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do not know what may happen. Many things may happen in these days. Sir, I am one of those who have been a great admirer of British character and of British constitution, and I have always lent my support for the last 45 years of my public life to what is truly British in character, and I say with the greatest earnestness that I am capable of that, you cannot rest where you are. You must advance, and if you do not advance, Heaven knows what troubles you may have in store for you, I do not know. I am not holding out any threat. But I say with the greatest respect to the Government and with the greatest diffidence at the same time that the constitution as it is cannot rest where it is. It must make progress, or you will have a retrograde motion. Take, for instance, the difficulty of allocation of revenues now between "transferred" subjects and what is called "reserved" subjects. There is a great difficulty. There is no peace; there can be no peace between a Minister and a Member when a Minister does not get any money for his subjects and the entire money is taken for the reserved subjects. The place of the Minister is not a very happy one. We have got one instance at least in which two Ministers of a certain Provincial Council found themselves compelled to resign. What does that mean? (A Voice: "U. P.") I know that. There is no need of labouring it. Don't you think that I am as ignorant as that. That shows that the present constitution is not working all right. There is a provision which the Governor adopts when it suits him that he should act in consultation with the Ministers. But the Ministers have no voice. Where is the harm in taking the Ministers into the confidence just as much as the Executive Council Members are taken into confidence? There are Indian Members. They have not acted in violation of the constitution, nor have they betrayed the trust that has been reposed in them. Similarly, where is the harm of increasing four more Ministers in the Provincial Councils and giving them the same powers which the present Members possess? There is no difficulty. But there is one difficulty. If election is resorted, then there will be two less European Members. That is the difficulty. I say it is a real difficulty, because, as they say, "Possession is nine points in law." They will say: "we are already there, and we do not wish to go away. We must sit here as long as we can." That is human nature. I do not object to it. Sometimes we commit the great mistake of thinking that all these Europeans are angels, just as Pope Gregory once said that the Angles were angels. At other times, we commit the greatest mistake of calling them so many devils. But they are neither angels nor devils. They are human beings like ourselves, some of them very good, some of them indifferent, some of them very bad, some of them better than ourselves.

Mr. N. M. Samarth (Bombay : Nominated Non-official) : Better than bad.

Rai J. N. Majumdar Bahadur : Better than ourselves. Perhaps, if we had got an Empire like what the British people have got here in India, we might have behaved worse than they have been. That is human nature. They must obey the good old rule, the simple plan, "let him keep who can." But I tell them in their own self-interest that if they lose something by giving up these two posts, they will gain infinitely more in other directions. When we go to pay our respects to a big Prince or Raja

or Nawab—it is an old custom—we make a little present, *nazar*, and in return for that, we get many presents of cloth, etc., infinitely more valuable. On one occasion I presented one gold Mohur to the Maharaja of Nepal in 1885, and many times that gold Mohur was returned to me as a present. By giving these two posts, I think the confidence that will be created, the love that will be created in the minds of the people of India, will pay you infinitely more than that, and make the connection of the British and the Indian permanent, or if not permanent, at least it will make it last for ages to come. But at this time you can all feel that the atmosphere is not very congenial. There is distrust in the minds of the Englishmen that if these Indians are given more power, if the army is reduced, they will at once send them (Englishmen) off bag and baggage. (Laughter.) That is the lurking suspicion in their minds. Laugh you may, but I have spoken the whole truth and nothing but the truth. There is this lurking suspicion. And why should they not have this? They have taken this land. They have spent millions of money here. They have sunk millions of money in tea plantations, coffee plantations, in mining concerns, in import and export business in shipbuilding and hundreds of other concerns. Why should they give up all this all of a sudden? Who will do it? If we had got an European country in our possession, we would not have done it. Therefore, one thing that is necessary for us is to create confidence in the minds of the British public and convince them that we do not mean to sever our connection with them, that we shall continue to be very faithful friends and allies—we gave ample testimony of our loyalty and attachment and friendliness during the great European war—and we should convince them that we shall be prepared to do the same in future. I cannot conceive, and I consider it impossible that Great Britain can continue to be as prosperous as it is if India is able to sever her connection with her. Fancy, Sir, the condition of Spain and Portugal, how great they were at one time, and how with the loss of South American possessions, which made them a great Power, they became a second class, third class, and even a fourth class Power in Europe. Can you conceive of a prosperous and great Great Britain without India attached to her? I cannot. Again, I cannot conceive that India with her numerous races and creeds can ever get what is called independence or autonomy without the help of the British Power, not to speak with the British Power arrayed against her. Therefore, it is in the self-interest of both the countries that they should unite together and work for the common good, not only for their own but for the common good of the whole world, because England, the greatest modern civilised country in the world, joined with India, the oldest civilised country, can really do some service to the whole world. I might say—Great Britain, but by naming England alone I do not mean any dishonour either to the Welshmen, or to the Scotsmen or even to the Irishmen that may be here, I bring them all under one name, Englishman. Scotsmen and Welshmen, if there are any here, are proud of being their colleagues, and they have like ourselves identified themselves with the English. Of course, the Scotsmen have lost their liberty, and so have the Welshmen. (A Voice: "Question.") I say they have no national language, no national literature and no national creed, and they have merged themselves into what is called the British nation and they are proud of being in the British nation. We are also proud of being British citizens. *Civis Romanus sum*, that word

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used to be carried wherever a Roman citizen went. In my young days when I was a radical politician (*A Voice* : "What are you now ?") (*Mr. N. M. Samarth* : "Firebrand")—a firebrand I was in my young days—I was told by one of my English friends occupying a high position—I may say without any breach of confidence now, Sir Charles Aitchison—may his spirit rest in peace—formerly Lieutenant Governor of the Punjab—he said, "Well, you should be proud of being a British citizen." I say, I am still proud of being a British citizen, but as soon as I start from my house and go across the seas to any country, it may be Uganda, it may be Kenya, or it may be the Fiji Islands, I feel myself a helot and not a British subject, and I forget that I am a British subject. And naturally so. Why should it not be so ? Because those people of other countries, our colonial friends—I hope there are not any colonials here—our colonial friends cannot be expected to respect us, when we are not respected in our own homes even. One colonial gentleman, years ago, paid a visit to my humble cottage in the town of Jessore. He had been touring all over India for twelve months, and then at the end of 12 months it struck him that he had not seen any Indian gentleman and therefore before he left the shores of India he must see some Indian gentlemen. He had a friend in a local Missionary gentleman who also came from Australia, and that friend took him and introduced him to me as an Australian gentleman who had come to cultivate the acquaintance of an Indian. I said, "Many thanks for your coming here." "Why should you thank me ?" I said, "You who do not allow us to tread your soil, have condescended to-day to pay a visit to an Indian. I must thank you for that." His face grew short. He told me, "Don't you think that it is our doing. It is not our legislation. It is the Labour Legislation. We are never a party to it." Now, just consider. Why should Colonials think too much of us ? Have we got any real power ? Our ancestors have lived here for millions and millions of years, and we are here. You are here by accident. You came here as traders and you are now our rulers. Well, I do not wish to quarrel with you. Give us some of the privileges that you enjoy, and we are quite satisfied. Keep some for yourselves, because I say that is human nature. I do not ask you to be altogether disinterested. Keep some of the best posts reserved for yourselves, but at the same time, show us by your conduct that you have some consideration for us also. We Indians also have got flesh, muscle, nerve and everything and feel like you. On one occasion Sir Edward Norman Baker sent for me at Darjeeling when there was that great *golmal* in Bengal and asked my advice as to what to do to meet the situation then. The situation was one of bomb firing and assassinating Englishmen. I said, "Sir, you are an intelligent man. Don't you understand what is the reason of all this ?" He said, "I know, but I wish to have your opinion." I said, "Suppose a few Indians went as traders and merchants to England and then taking advantage of the mutual dissensions of the country made themselves rulers of the land and then made a rule that no Englishman would be able to enter the civil service of his country without coming to Calcutta and passing a stiff examination in Sanskrit or Bengali and so on, will you take it lying down ?" "No, certainly not. We shall be up in arms." "Sir, human nature is always the same everywhere." "Then", he asked me, "why don't you join

them ?" I said, "My hairs are grey. I have some brain, these people have not. I find that I cannot cope with you. You are organised, you are united, you possess a large army and good arms, whereas we do not. We are disorganised. We are Hindus and Mussalmans first, and then among Hindus where are hundreds of sects, we have so many languages, so many provinces mutually jealous of each other, and if you found in united you would have either gone away long ago from here or lived in peace with us." Therefore, I say to my countrymen as well as Englishmen that it ought to be the aim of every Indian and every Englishman to cultivate mutual toleration and mutual love. Human nature always yields to what is called kindness. As Lord Buddha has said, hatred is never killed by hatred. It is love that kills hatred. If you love me you shall have my love in return. If you hate me I shall be nowhere with you, non-co-operation is the inevitable result. They speak of non-co-operation with disgust. I sometimes wonder why there should be non-co-operation at all in this country. Are not our rulers responsible for that non-co-operation ? Much is expected of him to whom much is given. You are our leaders, you are our elder brothers, as I should say, and you ought to teach us ; teach us self-sacrifice, mutual concession and mutual toleration. Why should Mahatma Gandhi, who served as a menial, as a stretcher bearer in the Transvaal and Zulu wars, why should such a loyal man, all of a sudden, turn a non-co-operator and a deadly enemy of the present system of British Government ? Is there any reason ? You may find fault with Mahatma Gandhi. I do not agree with him, and I do not worship at the same shrine with him. At the same time, I ask you most pertinently—I ask you to consider how it is that you have turned this loyal man into a disloyal citizen and sedition preacher. Should that be your policy ? No. Your constitution therefore requires some amendments, some changes with the progress of time. The other day my Honourable friend the Foreign Secretary was speaking about Mahendra Pratap Singh. He was a zamindar, loyal himself and the son of a loyal man and he turned a rebel. My friend Lala Girdharilal Agarwala gave him a good certificate. He said that he had many good impulses, that he was fond of education and was a charitable man and all that. I certainly condemn his action as severely as any one here in having turned against His Majesty. But I ask in all seriousness, why should this loyal zamindar's son turn a rebel at a great sacrifice ? If a Bolshevik asked me to turn disloyal, I shall not listen to him unless my interest lies therein. Therefore when the educated people of this country find that they cannot get anything out of you, when they return empty handed after going to you with begging bowls, they get disaffected. In our Hindu households, there is a custom that we should give something to those who come begging and that they should never return empty handed. I would advise you to adopt that Hindu practice. When we come with begging bowls, give us something, if you cannot fill our bowls, at least give something, *mushiti bhika* as we call it,—a handful of rice. And this handful of rice, when given every day, every month, will in time grow into something tangible, something which will give us nourishment. I submit this Resolution by my friend Dr. Gour is a very modest one. My Honourable friend the Home Member is always in sympathy with us but owing to the official crust about him he cannot always show his sympathy. He has however got a good heart. I have not been able to be a regular attendant

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of this Assembly owing to my illness, but whenever I have come into contact with him I have known him to say something while he means something else. Sir, that is the greatest qualification for diplomacy, as they say, in England. Nobody will be able to fill those high posts unless he can conceal his thoughts. But it is necessary that the people should be outspoken. The despatch of Lord Peel which has been quoted just now does not surprise me at all. I feel that we have not been able to create confidence in the minds of the British people,—confidence such as will persuade them to part with power, because as I said before they are always suspicious that the weapons may be turned against themselves.

Colonel Sir Henry Stanyon (United Provinces : European) : Is it only on one side ?

Rai J. N. Majumdar Bahadur : There is also distrust of Englishmen in us. We feel, personally I have perfect faith in British word and character, many of us feel that the English are not true to their words. I was reading the other day the speech of Lord Courtney in the House of Lords during the Minto-Morley Reforms. He considered that many Indians still thought Englishmen untouchable and so on. Many people in this country do not believe that the English people have got a bright side to their character, that they always yield to pressure, that they make compromises when they find that the circumstances are against them, and then only they behave like good boys. They point to the treaties of Versailles, Lausanne, Mudiana and Iraq. So, I say create mutual confidence. At the same time let us set our house in order. Let the Hindus and Mussalmans be united. Let the Hindus be united among themselves. Enter the Territorial Force in larger numbers and train yourselves in arms in order to defend your country. Let there be two sorts of weapons in your armoury. Unless you are backed by physical force, nobody will listen to you. That is the history of the world from the earliest time up to this. Nobody gets anything for the mere asking of it. The Vedas have declared in a loud voice—one strong man makes a hundred wise men tremble. Let there be several hundreds of Rishis, Munis, philosophers and sages saying their prayers, chanting Vedic mantras and discussing philosophical questions on the banks of the Ganges. One strong man comes with a sword in his hand and all these hundreds of men are nowhere. The sword prevails. Therefore you must have physical strength. Not only physical strength but also moral strength, the strength that comes from character, from education and unity. All these must be acquired. The Englishman must know first that you are his friend and that you are united and that you have also physical force behind you. Then they will yield lest there be separation. Self-interest requires that the two countries should pull together, should live, move and have their being in the British Commonwealth. If that is the desire, the consummation to be devoutly wished for, then create confidence in our rulers. I have confidence in Sir Malcolm Hailey and I am sure to-day he will respond to what I have said. These rules were made not to be applied after ten years but in the course of the ten years. Otherwise these rules have no justification at all. They would not have found a place in the Statute Book, if they were meant to be applied at the expiration of ten years. I say, these rules are there, take advantage

of the rules if you are really sympathetic. If you really want to give us anything, then frame rules, which you can without amending the Act,—within the four corners of the Act. Send them to the Secretary of State in Council. Let the Secretary of State put them to the Houses of Parliament who are the ultimate arbiters of our destiny. They will surely decide in our favour, if a strong recommendation goes from the Governor General in Council and I know that all the members of the Executive Council, together with their Secretaries, are in sympathy with our aspirations for early autonomy as far as possible.

Mr. S. C. Shahani : Sir, have you dispensed with a time-limit ?

Mr. President : Dr. Nand Lal.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, with due deference to the ability and experience of my learned friend Rai Bahadur Jadu Nath Majumdar, I am afraid he has gone a little bit off the track. We have to discuss only with reference to the interpretation of certain provisions in this Act, and my reading of those provisions induces me to come to this conclusion that the Government of India Act, 1919, is an elastic one ; and I must admire the Imperial Parliament, namely, the framers of these provisions, that they anticipated the legitimate political aspirations of Indians. They contemplated that the Indians, able, learned, capable as they are, are sure to raise their voice that they may be given further reforms sooner than the apparent period which the Government of India Act, 1919, provides. Now, Sir, I must say that our Government of India is very modest. They know that there is a clear provision, and in consequence and in pursuance of that clear and definite provision, they can frame the rules and submit them for the consideration of the mother of Parliaments, I mean to say, the Imperial Parliament of England. To support my argument, I shall simply invite your attention, Sir, to the very provision which substantiates my contention ; I mean to say section 96B (2) :

“ The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor General in Council or to local governments or authorise the Indian legislature or local legislatures to make laws regulating the public services.”

Sir, am I wrong when I say that our Government of India is a little modest ? They are competent to frame the rules for further reforms and to submit them for the consideration of the Imperial Parliament. It is, as we know, open to the Secretary of State to authorise the Indian Legislature or a local legislature to make laws regulating the public services. Now, Sir, what does this Resolution contemplate ? This Resolution, if my reading of it is correct, is a gentle reminder to the Government of England and to the Secretary of State purporting to submit that it is not necessary ; there is no need for amending the Act ; the very provision of the Act gives full competency to the Secretary of State as well as to the Governor General in Council to frame rules which may give us further reforms. Now, Sir, there is another provision which is very clear in its terms, so far as the transfer of subjects is concerned. I may refer to section 45A (1) clause (d) of the same Act. The provision runs :

“ For the transfer from among the provincial subjects of subjects (in this Act referred to as ‘ transferred subjects ’) to the administration of the governor acting

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with ministers appointed under this Act and for the allocation of revenues or moneys for the purpose of such administration."

Could there be better testimony than this provision, Sir? Does it not give full power? It gives full power, and the former part of the section, namely 45A (1), is clearer than this. It runs thus:

"Provision may be made by rules under this Act."

Therefore, the only deduction which we can make and the inference which we can draw from these provisions is this; that further reforms could be given earlier and in addition to those already given. At this juncture I may submit that I remember that in the debate which was raised on the occasion of passing this Government of India Act, 1919, one of the Honourable Members in the House of Commons meant to say that "we cannot make hard and fast rules; it is not only possible but very probable that Indians, on account of their political aspirations may demand earlier further reforms."

From that debate also we stand fortified and our contention seems to be very well substantiated, when we raise this point before this Assembly that further reforms could be given without making an amendment in the Government of India Act. Then, Sir, you remember the other day we were discussing the provisions of section 19A. Now that section speaks for itself and gives a clear clue to this that the Secretary of State may withhold his interference in certain affairs and matters incorporated in that section. It reads thus, Sir:

"The Secretary of State in Council may notwithstanding anything in this Act by rule regulate and restrict the exercise of the powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council by this Act or otherwise in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919."

Now what are those purposes? The purposes are those which have been embodied in the sections to which I alluded a few minutes back.

Therefore, Sir, it is concluded and I think it is an unanswerable argument that within the four corners of this Government of India Act of 1919, namely, within the contemplation of the Act, we are fully competent and justified to say that further reforms were meant to be and may be given to us earlier, and the fear of the Secretary of State or the Government of India that this Government of India Act of 1919, the period of which is fixed at 10 years, cannot be amended, I may very respectfully submit, is beside the mark. The very provisions speak in unmistakable terms that further reforms could be given earlier, namely, rules could be framed and submitted for the consideration of the Imperial Parliament. With these few remarks, I whole-heartedly support this Resolution which has been very ably moved. I do not think it is necessary for me to make references to the various relevant quotations and to the Despatch of the Secretary of State; they have already been referred to by the Honourable Mover of this Resolution. With these few remarks, I repeat that I support this Resolution whole-heartedly.

Mr. President: Resolution moved:

"With reference to the Secretary of State's Despatch on the subject of further Reforms this Assembly recommends to the Governor General in Council to be so pleased

as to move the Secretary of State to carry out his suggestion contained in his Despatch on the subject of further Reforms possible under the existing constitution."

The question is that that Resolution be adopted. As many as are of that opinion, will say "Aye." (Voices: "Aye.")

(The Honourable Sir Malcolm Hailey rose to speak.)

Dr. Nand Lal: I rise to a point of order. Has the Honourable the Home Member right to say anything in connection with the Resolution when the question has been put to the House?

Mr. President: Sir Malcolm Hailey.

The Honourable Sir Malcolm Hailey: I am sorry that Dr. Nand Lal who has not himself, I think, been neglectful of his opportunities of addressing the House, should imagine that the House can suitably vote on a Resolution of this nature without listening to what Government Benches have to say on the subject. My difficulty in considering the Resolution may be best explained by reference to a conversation which I had with Dr. Gour this morning and which I know he will not mind my repeating. He asked me if I was going to oppose his Resolution. I said that my first effort was to understand it. For you will note that his Resolution proposes that we should recommend to the Secretary of State to take the action contemplated in his Despatch; for my part, I was unable to see that that Despatch referred to any action that was to be taken by the Secretary of State. I need not read the words of the Despatch again. Lord Peel definitely denies the proposition that progress can only be achieved by further amendment of the Government of India Act, and proceeds to say that India has now been provided with a progressive constitution 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. Is then the action which is contemplated to be that of the Legislature or is it to be taken by the Secretary of State? On the face of it, it appeared to me that the Resolution called upon the Secretary of State to comply with an undertaking that he had never made. Dr. Gour has spoken of the assurance contained in the Despatch; I myself have been unable to see any such assurance contained in it. He has asked the Government of India to do what was contemplated in the Despatch; but was it not the clear intention of the Secretary of State in this despatch that the Legislatures and not the Government of India should proceed to make good the position due to them under the constitution? But the subsequent debate has enlightened us further on the intentions of the Mover. He refers us to three sections of the Act, and contends that progress can be made by utilisation of these sections. Indeed, he goes further, and claims that the Act would be nullified if these sections were not utilized. His argument on this point is somewhat curious. He says that Mr. Montagu has on more than one occasion declared that the Act is transitory. Now, if the Act itself is to last only 10 years, and will be exhausted at the end of that period, and if we do not utilise these particular provisions within the ten years, then we are obviously defeating the intentions of the framers of the Act. Their use is not optional but obligatory. That argument, Sir, is based in my opinion on a false premise, and I cannot admit its implication. The

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premise was that the Act is transitory ; if I am right, that is in itself a misquotation. What Mr. Montagu has always said is that the constitution is transitory ; as far as I know, he has not said that the Act itself is transitory and that it must necessarily be replaced and its provisions exhausted at the end of ten years ; so that any implication that the Act itself obliges the Secretary of State to use these provisions within ten years, naturally falls to the ground.

But, let me take the three provisions to which he referred, and I hope that in this instance I shall not come under the accusation which Mr. Majumdar levied against me, of saying something and meaning something else. However valuable the power to say one thing and mean another may be as a qualification for diplomacy, I should prefer that on this occasion not to be misunderstood, for apparently what we have said on this subject in the past has been subjected to a good deal of misunderstanding—I mean our attitude on the subject of Mr. Majumdar's own Resolution.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : There is no misunderstanding.

The Honourable Sir Malcolm Hailey : I knew that if I threw that bait a fish would rise to take it. The House must not think that I am going into that subject again. I will only point out that it is not correct to say that the House unanimously agreed that the constitution should be modified within ten years ; I will not at the moment question the unanimity of the House on that occasion, but must remind the House that the amendment to the Resolution merely stated a conviction that the whole subject should be re-examined with a view to its revision, a somewhat different matter.....

Mr. N. M. Samarth : Within ten years.

The Honourable Sir Malcolm Hailey : Yes, within ten years ; but its re-examination with a view to revision.

Rai J. N. Majumdar Bahadur : Let us have that only.

The Honourable Sir Malcolm Hailey : I will not say it is impossible ; but that will be something quite different from what Dr. Gour claimed the Assembly had voted. Now for the three sections. Section 19A provides that the Secretary of State in Council may make rules for regulating and restricting the exercise of his powers of superintendence and control. Now, I have frequently been asked questions why no such rules have been made, other than the existing rules which restrict his control in respect of transferred subjects, and it may be well that I should supply a more definite answer than I can give in reply to a question. What is the process of making rules under 19A ? There are two processes by which advance can be achieved in the direction of waiving control. First of all there is the process of convention, to which Sir Sivaswamy Aiyer referred yesterday. Secondly, there is the process which can be achieved by the making of rules under 19A and the like. But mark the constitutional implications of these two processes. While under a convention of non-interference,

the statutory control of the Secretary of State, and therefore of Parliament, still remains (though it may be in abeyance), the effect of making rules under 19A differs in this, that it is a statutory divestment of control. What is the theory of our constitution, or indeed of any constitution ? The theory of every constitution which is not explicitly autocratic, is that the executive must remain under the control of some legislature. Now whatever some of our critics may say about us and about the character of our administration, however autocratic it may be in intention and in spirit, in point of constitutional form it has not that character, for the reason that our executive is under the control of the British Parliament. In other words, it is under the control of a Legislature. Under what circumstances then can Parliament divest itself of that control ? Obviously only in circumstances under which the executive would come under the control of some other Legislature. Therefore, if Parliament is to be asked to divest itself of control over any particular subject, it seems to me that it can only do so when we have responsible Government within the Central Government, that is, when certain subjects are transferred to the control of the Indian Legislature. We should then have a process exactly parallel to that which has been followed in Provincial Governments. There you have certain subjects transferred ; that is, they are under the control of the Legislature, in so far that their administration is in the hands of Ministers who are responsible to the Legislature. It was in recognition of this fact that Parliament was able to divest itself of control over those particular subjects.

Dr. Nand Lal : I think this is begging the question. What the Honourable Member is saying is a vicious circle.

The Honourable Sir Malcolm Hailey : A vicious circle may be extraordinarily undesirable ; I was not aware that it was also a point of order. Then, if I may continue my point, the proper time for the Secretary of State to divest himself of statutory control over any particular subject in the Central Administration is when that subject is itself transferred to the control of the Indian Legislature. I maintain therefore that, if we are to be correct in the maintenance of constitutional form, the Secretary of State should not divest himself of authority under section 19A until we have made that change in our constitution as a consequence of which certain subjects can be handed over to the control of the Indian Legislature ; in other words until they are administered by Ministers.....

Mr. N. M. Samarth : I am sorry to disturb the Honourable the Leader of the House, but may I point to the wording of section 19A, which says that the rules are to be made ' as may appear to be necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919.' And the next clause says : Before any rules are made in this connection relating to subjects other than transferred subjects, the rules proposed to be made shall be laid in draft before Parliament. Therefore there are two classes of rules, which refer to transferred subjects, and these other rules referred to in this section which are to be made only with a view to divest the Secretary of State of the powers of direction, control and supervision which he exercises over the Government of India. (*Dr. H. S. Gour* : " Under the Government of India Act.")

The Honourable Sir Malcolm Hailey : That does not in any way alter my point. His question refers to the process under which these rules will be referred to Parliament. I cannot see how my point is affected, because I do not see that the Act itself does any more than to refer to the conditions under which certain rules are made.

Mr. N. M. Samarth : My point is not answered.

The Honourable Sir Malcolm Hailey : I am sorry if the Honourable Member considers that my interpretation of the Act is incorrect.

Mr. N. M. Samarth : With due deference, I think so.

The Honourable Sir Malcolm Hailey : He will not, I think, deny that the constitutional position that I have put in this particular respect is correct, namely, that if any Legislature, and of course the Secretary of State is only the agent of a Legislature, is to divest itself of control, then in correct constitutional theory it should only divest itself of such control when the executive is placed under the control of another Legislature. Otherwise we should have a constitutional anomaly. Then we have section 96-B, the power to make rules regulating the public services. But even if rules were made under 96-B, that would not necessarily amount to any substantial increase of the powers of the Legislature.

“He may delegate the power of making rules to the Governor General in Council or to Local Governments, or authorise the Indian Legislature or local legislatures to make rules regulating the public services.”

Now, desirable as it may be that such rules should be made, clearly the Act gives the Secretary of State power to authorise the Governor General in Council himself to make such rules, or Local Governments, and that is not in itself necessarily therefore an extension of the powers of the Legislature. (*Mr. N. M. Samarth :* “Or the Indian Legislature”.) Or the Indian Legislature ; but the matter is optional. Since it is optional, I think I am correct in saying that it is not necessarily an expansion of the power.....

Sir Deva Prasad Sarvadikary : We are asking that the option should be exercised.

Rai J. N. Majumdar Bahadur : That the rules should be made authorising the Indian Legislature.

The Honourable Sir Malcolm Hailey : My point is that it is not essential that they should increase the power of the Indian Legislature. Then we have section 45 by which existing transfers of Provincial subjects can be extended. Dr. Gour rightly anticipated that I should rely on the report of the Joint Parliamentary Committee, in so far as it suggested that no increase in the number of transferred subjects should take place within the statutory period. I myself have seen nothing which would convince me that more subjects are now ready for transfer, especially if they are to be transferred on the somewhat peculiar grounds put forward

y Mr. Majumdar. He was under the impression that the only objection to transfer was that the process would provide for more Indian Ministers and thereby reduce the number of Members of the Executive Council. But the process of transfer goes far beyond the change in the identity of persons who administer these subjects. It involves handing them over to the control of the Legislature itself, and, if it is true, as Dr. Gour says, that after the experience of three years, you can effect that change, than I say we have not as yet seen anything which would convince us of the truth of his assertion.

But of what was the Secretary of State undoubtedly thinking of when he made that reference in his despatch ? He was undoubtedly thinking of the growth of power of the Legislature itself. That power can be increased either in the face of the Imperial Government at Home or it can be increased in the face of your own executive here ; finally it can be increased in perhaps the most substantial way of all, by establishing its influence and power in this country. As regards the Legislature at Home, you have already one acknowledged convention in regard to your fiscal relations. You have again, as is shown not only by the issue of the rules under 19-A but by Lord Lytton's statement in the House of Lords on the debate arising out of what is known as the Speaker's decision in the Commons, an acknowledged understanding that there is to be no interference with provincial Legislatures in regard to their transferred subjects. In regard to your own executive, you have already made advances which perhaps are more apparent to us than they are to the Legislature itself. For it is perhaps the defender of a position who is in the best position to recognize the progress of the invader ; tenacious as he must be of every point, conscious that every inch yielded weakens his power to protect the remainder, he is far more keenly alive to the position. The invader, impatient of delay, with his eyes fixed only on the extent of the territory still to be conquered, is slow to appreciate the full measure of his success. It is perhaps not the moment or the occasion when I should enter at length on this aspect of the question, for it would involve a review of all that we have been through together in the last three years. But, speaking as a Member of an Executive Government, I can give my testimony, though in the very briefest form. Take the effect of the Committees appointed by this Legislature ; I doubt if it is realized here how much the Standing Finance Committee has affected the work of every branch of the central administration : nor is it realized how much influence will shortly come to be wielded by the Public Accounts Committee. Nearly every department has now its Standing Advisory Committee ; perhaps the most conspicuous and influential is the Railway Advisory Committee. Then again, I do not think that our critics fully estimate the extent to which the Executive has been affected by the fact that on every important question in which we contemplate legislative action, Members of the Legislature form part of the Committees which consider these questions. I need perhaps only refer to such Committees as the Fiscal Committee, the Racial Distinctions Committee, the Arms Committee, the Frontier Committee, the Repressive Laws Committee ; indeed, so numerous during the last three years have been important

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Committees of that nature, that for the moment I find myself in a difficulty in enumerating them.

Rai J. N. Majumdar Bahadur : We are glad of that.

Mr. N. M. Samarth : The Railway Finance Committee.

The Honourable Sir Malcolm Hailey : I see the House acknowledges my point and is prepared itself to supplement it. That is in the legislative sphere. But there has been an equal influence of this Legislature in the administrative sphere. Now, I hardly think that the Legislature has yet seen what is the effect on an Executive which has hitherto always conducted its own work in its own way, responsible, if I may so put it, mainly to its own conscience, and certainly not obliged at every turn to reveal its workings and its intentions to the public, of coming under the obligation to expose its inner consciousness continually to the public gaze. Every Member of the administration will bear me out in this, that the influence of the Legislature tends to colour every view we hold on administrative matters. I will not elaborate this, for I promised to be brief; but I must remind you that I premised that there was yet a third line of advance which was obviously in the mind of the Secretary of State: that is, that the Legislature should consolidate its position in the country by actual legislative achievement—and that perhaps forms the most solid basis of advance of all. There again, this is not the occasion for me to review the whole of the achievements of this Assembly. But I say without fear of contradiction that, whatever subject you approach, whether the interests of labour, whether the interests of commerce, or the interests of law and justice, this Legislature has already standing to its credit achievements which will go down in history as sound, solid, and substantial. That, in my opinion, is what the Secretary of State had in mind when he spoke of advancement. In my opinion, he did not contemplate in this despatch any formal divestment of authority on the part of the Secretary of State. On that question we must hold to the position, that we are not yet prepared for definite changes in the constitution. Holding to that position, I do not accept what Dr. Gour has said. I do not say that we, any more than you, are content to remain indefinitely where we are, but my point is that we are not standing still, that we are advancing within the constitution and that there is no case for the present of any formal divestment of powers on the part of the Secretary of State.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, it will not do for me on an important occasion like this to take the compliments so generously bestowed on this Assembly by the Honourable the Home Member on the solid achievements of this Assembly. We refuse to take those compliments, Sir. It is true we have striven our best on our part to give responsive co-operation to the Executive Government in carrying out the reforms in the spirit in which we understood they were intended. But, Sir, it is a response which did not provoke a response on the other side. We idly believed that the Executive Government were willing to respond to our co-operation. Sir, that belief has been belied in more respects than one. It is true

we have succeeded in making some changes here and there, but when matters of substance really came up, the Executive Government faced us, no doubt in happy words, with a stern negative. Complimentary epithets have been snowed upon us and like fools we felt flattered by those compliments. We have been befooled in this matter. Matters of substance have been really ignored, and therefore, Sir, I read the Honourable the Home Member's speech to-day as another attempt on his part to mislead us from the straight path of our duty.

(At this stage Sir Jamsetjee Jejeebhoy took the Chair.)

What, Sir, to put it in plain words, is the meaning of the Honourable the Home Member's speech? Sir, it has been a lawyer's quibble on his part to construe this section and that section and say, "Could it have meant this? Could it have meant that?" He referred to section 19-A and said "Could it have been meant that without transferring the power to the Imperial Legislature, the Act contemplated delegating the powers of the Secretary of State to the Government of India." I say it was deliberately intended that the powers of this distant Secretary of State should be transferred to the Government of India, although the Government of India may not be responsible to the Indian Legislature on the spot. For, the Government here are alive to the feelings of the people here, they come in daily contact with the real life of the people here, whereas their responsibility to a distant Parliament seven thousand miles away, composed of Members who do not contribute a pie to the taxation of this country—what is the meaning of that responsibility? Their ignorance is colossal; their interest in the affairs of this country is negligible, and that responsibility is no responsibility at all. Whereas, here, the Government of India at least could be controlled by questions, by interpellations, by Resolutions, by vote on the Budget and in various other ways, and we can bring them to their senses. But we cannot bring Parliament to their senses. They are unapproachable to us. The Secretary of State—is he really in touch with the feelings of the people of this country? Look at the way in which he depicted the situation in this country in regard to the enhancement of the salt duty. Did he really grasp the situation? Was he right in supposing that the people of this country were not feeling the imposition of this burden on them? Was he right in saying that it was an agitation engineered by the legislators here? What they want is revolution. They do not believe in this agitation of us moderates. We moderates are no good at agitation. It does not appeal to the Englishman. What appeals to the Englishman is noise, breaking up of windows, and breaking perhaps of heads. Then only he will awaken to the situation. That is the lesson, I am afraid, we are learning by our 3 years' experience. Moderate proposals are made that within the Act itself certain rules are contemplated which would expand the powers of the Government of India, which would expand the powers of the local Legislature, which would expand the powers of the Local Government. Now, what is the objection to embarking upon an investigation and passing all these rules under the three sections referred to already? The plain meaning of the Honourable the Home Member's speech is "Well, we are not going to do anything. The law may have clothed us with this power; we may be able to do it within

[Rao Bahadur T. Rangachariar.]

the ten years ; but we are not going to do it." That is how I read the Honourable the Home Member's speech. What is the good of these empty compliments to us ? If we really are so good as you say, we are, have we not justified ourselves in asking you to make this advance under the existing constitution ? Why don't you do it ? You say, " No, I am not going to do it." I don't know whether it is the views of the Government of India which are expressed to-day or whether they are views which are dictated from London. Whatever the truth may be, Sir, the dissatisfaction and the discontent already we have under the existing Act are bound to grow worse and worse. Let the Government take warning that even those of us who believed in the Act, who believed in responsive co-operation, are gradually losing faith in the Government, and I therefore, Sir, ask the House in all seriousness to approve of this Resolution.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I join my voice to the voice that has been so ably raised by my Honourable friend Mr. Rangachariar. He has returned after a long time to the Assembly. We have been missing his voice. I am so glad that he has supported the Resolution that has been proposed by Dr. Gour. It has been very interesting to me to listen to the speech of the Honourable the Home Member. It was no small pleasure to watch his struggle to put an interpretation upon the Despatch of the Secretary of State which might suit the attitude that he has throughout assumed in the matter of further reforms in the Assembly. According to him, we should not have further reforms of any kind without the amendment of the Act after ten years ; and he wants on that account to belittle the suggestion that has been made to us by the Secretary of State in his despatch. Any one who has read the despatch can come to the conclusion—and only one conclusion—that some further advance is possible under the Act. It is, I suppose, the Home Member alone who can interpret the Despatch in the manner in which he has done. It is, I think, distinctly advisable on the part of Government to change their attitude. It is true that we are not sufficiently strong just at present. It is true, that just at this time, we may safely be not heeded. But I could assure you that this attitude of the Government will leave a very bad impression upon the mind of the people of India. It is true that in the Central Government we cannot have any transferred subjects until the Act is amended. We might wait for that. But several other changes might be made, for instance, the change that when the Government of India is in substantial agreement with the Legislature the Secretary of State should be prevented from interfering. Then in the provincial Governments more subjects may be transferred to the Ministers, and the Executive Councilors may make room for Ministers responsible to the voice of the people. Now, these reforms, it is implied by the Secretary of State in his Despatch, could be made under the Act under which the present Government of the country is carried on. And yet, it is denied, and in explicit terms, by the Honourable the Home Member that this power will ever be permissible under the Act. I would make once again a formal request to the Honourable the Home Member to change his attitude in the matter of

reforms and to give different advice to those who are presiding over the Executive Government at this time. This attitude on the part of the Government will impress the people badly, and as has been rightly remarked by my Honourable friend Mr. Rangachariar, may lead to bad results.

(Several Honourable Members : " Let the question be put.")

Mr. Deputy President : The question is that the question be now put.

The motion was adopted.

Dr. H. S. Gour : I shall be very brief in replying to the Honourable the Home Member, particularly in view of the fact that I cannot bring myself to believe that the Honourable the Home Member was giving vent to his true thoughts. I cannot believe that he could have so misread the plain provisions of section 19-A as to suggest, as indeed he has suggested, that the exercise of any rule-making power under that section is contingent upon the transfer of responsibility to the Legislative Assembly. Surely, when this Act was passed—this Reform Act of 1919—it contained, as the Honourable Member will see, only 47 sections, and it provides a transitory constitution. The fact that it finds a place in the larger Government of India Act does not take away from the fact that the provisions of this Reform Act are transitory and those sections relating to rules exist in this transitory Act. The whole of this Act will be repealed after ten years. The larger Act dealing with the powers of the Government of India and the rest is not a part of the Reform Act, though the Reform Act has been worked into the larger Act laying down the constitution of the Government of India generally. Therefore, I submit, it is a faulty argument. When you find these rule-making sections inserted in the transitory provision, they were not intended to be a dead letter, and consequently, I submit that no argument that we have listened to, no argument that the Honourable the Home Member has addressed to this House, can for a moment take away from the effect of the argument used by Members on this side of the House that you are bound to use the authority that has been given to you for the purpose of making rules under these sections, and we invite you to do so. What is the reply of the Honourable the Home Member ? As Mr. Rangachariar has bluntly pointed out, the reply is, we won't. I submit it is now for this House to decide whether they will accept the " we won't " of the Government of India or force their hands by a vote which must be recorded in favour of the Resolution. I hope that every vote in this House will be in the emphatic term that we demand of the Government of India to exercise the power conferred upon them by the Act and which would be to the mutual advantage of the Government of India and the Members of this House. Sir, I feel confident that this Resolution will receive the support which it deserves.

Mr. Deputy President : The question is :

" With reference to the Secretary of State's Despatch on the subject of further Reforms this Assembly recommends to the Governor General in Council to be so pleased as to move the Secretary of State to carry out his suggestion contained in his Despatch on the subject of further Reforms possible under the existing constitution."

The Assembly divided :

AYES—43.

Abdul Hamid Khan Khudadad Khan,
Mr.
Abdul Majid, Sheikh.
Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahsan Khan, Mr. M.
Aiyer, Sir P. S. Sivaswamy.
Asad Ali, Mir.
Asjad-ul-lah, Maulvi Miyan.
Ayyangar, Mr. K. S. R.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Barodawalla, Mr. S. K.
Barua, Mr. D. C.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Jatkar, Mr. B. H. B.
Joshi, Mr. N. M.

Lakshmi Narayan Lal, Mr.
Latthe, Mr. A. B.
Majumdar, Mr. J. N.
Man Singh, Bhai.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Mukherjee, Mr. T. P.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Ramayya Pantulu, Mr. J.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Sarvadikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Sinha, Babu L. P.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.

NOES—30.

Abdul Quadir, Maulvi.
Akram Hussain, Prince A. M. M.
Ansorge, Mr. E. C.
Ayyangar, Mr. R. Narasimha.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Blackett, Sir Basil.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatterji, Mr. P. C.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.

Faridoonji, Mr. R.
Gebbie, Mr. F. St. J.
Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Innes, the Honourable Mr. C. A.
Mitter, Mr. K. N.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Richey, Mr. J. A.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanyon, Colonel Sir Henry.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 19th July, 1923.

LEGISLATIVE ASSEMBLY.

Thursday, 19th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

INCOME-TAX AT DERA ISMAIL KHAN.

274. *Dr. Nand Lal : 1. Is Government of India aware that the citizens of Dera Ismail Khan (North-West Frontier Province) called a public meeting at which it was complained that the Income-tax Department was raising taxes indiscriminately and exorbitantly and assuming awfully high profits percentage ?

2. Has Government of India received any resolution or complaint by telegraph or otherwise relating to the grievances alluded to in Question No. 1 ?

3. If the answer be in affirmative, will Government of India be pleased to state as to what action they have taken to redress the grievances of the citizens of Dera Ismail Khan in connection with their complaint against the Income-tax Department ?

The Honourable Sir Basil Blackett : The Government of India are aware that a public meeting was held ; but they have received no communication on the subject.

INCOME-TAX AND APPEALS AGAINST AT AMRITSAR.

275. *Dr. Nand Lal : Will the Government of India be pleased to lay on the table a statement showing the number of such income-tax and super-tax cases (a) in which the income-tax assessed, at Amritsar, amounted to more than rupees ten thousand in each case, in years 1920-21 and 1921-22 ; (b) giving the total number of appeals preferred in such cases ; (c) giving total number of appeals accepted in such cases ?

The Honourable Sir Basil Blackett : The information is being obtained and will be supplied to the Honourable Member in due course.

INCOME AND SUPER-TAX.

276. *Dr. Nand Lal : 1. Is it a fact that the years 1920-21 and 1921-22 were bad ones so far as the trade in general and piece-goods in particular are concerned ?

2. Is it a fact that before 1920-21 the amount of the income-tax and super-tax received by the Government did not exceed two lacs ?

3. Is it a fact that the amount of income-tax and super-tax, for the year 1920-21 approximately amounted to 13 lacs ?

4. Will the Government of India be pleased to state the total amount of the income-tax and super-tax (a) assessed (b) realized by the Government in the following years separately :

- (1) 1919-20.
- (2) 1920-21.
- (3) 1921-22.

5. Will Government of India be pleased to enlighten this Assembly as to what are the causes of the increase in the last two years ?

The Honourable Sir Basil Blackett : (1) I am informed that on the whole the years in question were not good ones for trade generally or for the piece-goods trade in particular.

(2), (3) and (4). The information is being obtained and will be supplied to the Honourable Member in due course.

(5) The explanation is previous under assessment.

Dr. Nand Lal : Will the Honourable the Finance Member be kind enough to enlighten this Assembly as to why there is an increase in the aggregate total of the income-tax realized in the teeth of the fact that there is stagnation in trade and the people of Amritsar, so far as their business goes, seem to be thrown out ?

The Honourable Sir Basil Blackett : I think the House was enlightened by my last answer, which I hope will now enlighten the Honourable Member. The explanation is previous under assessment.

DISCONTENT AMONG INCOME-TAX ASSESSEES AT AMRITSAR.

277. ***Dr. Nand Lal :** 1. Is the Government of India aware of the great discontent prevailing amongst the income-tax assesseees at Amritsar ?

2. If the answer to this question be in affirmative then will Government of India be pleased to state as to what steps they have taken to remove that discontent ?

The Honourable Sir Basil Blackett : Some discontent was manifest in the earlier part of 1922 but appears now to have disappeared.

CASUALTIES, CONVICTIONS, ETC., AMONG MOPLAHS.

278. ***Khan Bahadur Sarfaraz Husain Khan :** Will the Government be pleased to state :

- (a) Total number of Moplah casualties during Martial Law in Malabar ?
- (b) Total number of Moplahs convicted during Rebellion Period and thereafter in connection with Malabar Rising ?
- (c) Total number of Moplahs who were awarded *Capital* punishments for participation in Malabar Rebellion, the number of them who have been hanged, and the number of those whose *Capital* punishments have been transmuted to various terms of imprisonments ?
- (d) The exact period for which Martial Law lasted in Malabar ?
- (e) Total number of Moplahs wounded during Malabar disturbances in various encounters with the Military and the Police ?

The Honourable Sir Malcolm Hailey : (a) and (c). Killed 2,339, wounded 1,652. In addition 5,955 were captured ; and 39,348 surrendered to the military or to the police voluntarily.

(b) and (c). The information has been called for and will be supplied when available.

(d). Six months.

REVENUE FROM UNIFIED STAMPS ON PROMISSORY NOTES.

279. ***Rao Bahadur C. S. Subrahmanayam :** (1) Will the Government be pleased to state whether any account is kept of the revenue derived from the use of unified stamps on promissory notes and receipts ? If so, what is the amount realized from these sources in 1920-21, 1921-22 and 1922-23 ?

(2) If not, has the Government been able to estimate the amount of unified stamps used annually on promissory notes and receipts ?

(3) Will the Government be pleased to state to which head of receipts is the value of stamps used on promissory notes and receipts credited ? Is it credited to Posts and Telegraphs ?

The Honourable Sir Basil Blackett : (1) and (2). No.

(3) The sale proceeds of unified postage and revenue stamps are credited to the head " Posts and Telegraphs ", but a fixed amount based upon the net profit from the sales of unified stamps used for revenue purposes over a period of years is transferred annually from this head to the credit of each province.

Mr. N. M. Joshi : May I ask when the new Stamp Act is passed whether there will be separate stamps or postal stamps used for that purpose ?

The Honourable Sir Basil Blackett : I understand it is proposed to continue using the unified stamps.

Sir Deva Prasad Sarvadhikary : Would the Government please state what the basis of the division among the provinces is ?

The Honourable Sir Basil Blackett : For the purpose of estimating the amounts to be paid by the Post Office on account of unified stamps used for revenue purposes returns of sale proceeds of one anna receipt stamps for the 20 years 1885—1905 were split up into groups of 5 years and the average taken of each group. The percentage of the increase of these average sales over the average sales of the preceding period was calculated and the mean taken of these percentages. The amount to be transferred was estimated at the average sales of the last five-yearly period increased by this mean percentage. This calculation was made separately for each province.

Sir Deva Prasad Sarvadhikary : And are the provinces satisfied with the results of such calculation, or does Government propose to take into consideration their demands and make a more liberal division ?

The Honourable Sir Basil Blackett : As soon as the new Act becomes law it will be necessary and it is the intention of the Government to recalculate the percentages in order to give the provinces the benefit of the increased duty.

SALARIES OF MILITARY ASSISTANT SURGEONS.

280. ***Lieutenant-Colonel H. A. J. Gidney :** Will the Government of India be pleased to refer to the answer given to Question No. 585 asked

by Rai Bahadur S. P. Bajpai on the 22nd September 1921, and state (a) Whether the proposals for increase of salary have been put into operation for all Military Assistant Surgeons in Civil Medical Employ in the various Provinces ? (b) If the answer is in the negative, will the Government be pleased to state what Provinces have not put these into effect ?

PAY OF MILITARY ASSISTANT SURGEONS, UNITED PROVINCES.

281. * **Lieut.-Colonel H. A. J. Gidney** : (1) Is the Government aware of the fact that increments of pay to Military Assistant Surgeons of the I.M.D. have not been sanctioned by the United Provinces Government, in the same terms as have been granted by other Provincial Governments ?

(2) Will the Government be pleased to state if it is a fact that, it was on its recommendation after being consulted by the United Provinces Government that this distinction has been made between Military Assistant Surgeons now employed by the United Provinces Government, and those employed by other Local Governments ?

Mr. M. S. D. Butler : With your permission, Sir, I will answer questions 280 and 281 together. When the answer referred to by the Honourable Member in his question No. 280 was given it had not been realised that under the reformed constitution it rested with Local Governments to decide whether they would employ military assistant surgeons in their civil medical department and what salaries should be paid to them if they were so employed. The Government of the United Provinces claimed their rights in this matter. As a result of correspondence the position now reached there is that civil assistant surgeons holding the post of civil surgeons are paid at the rate of Rs. 600—50—900 with a selection grade of Rs. 1,000 ; whereas military assistant surgeons holding the same posts will, subject to the vote of the local Legislative Council, be paid as follows provided they possess registrable qualifications :

	Rs.
(a) When they had reached the 1st grade of military assistant surgeons before appointment as civil surgeons	600—50—1,000
(b) When they had reached the 2nd grade of military assistant surgeons when they were appointed civil surgeons	500—25—600—50—1,000
(c) When they had reached the 3rd grade of military assistant surgeons when appointed civil surgeons	400—25—600—50—1,000

Somewhat lower rates will be fixed for officers not possessing registrable qualifications who may be appointed civil surgeons. Such officers will be restricted to a maximum salary of Rs. 800.

It will thus be seen that, subject to the vote of the Legislative Council, military assistant surgeons who possess registrable qualifications

will stand practically on the same footing as civil assistant surgeons. For the rest the matter concerns the Local Government and I would refer the Honourable Member to the proceedings in the Legislative Council of the United Provinces of the 15th of March 1923 for a statement of the position.

Lieut.-Colonel H. A. J. Gidney : Will the Honourable Member in charge, Sir, kindly tell me why, with two classes of Service doing the same kind of work, a difference in pay should be made ?

Mr. M. S. D. Butler : The one class of officer has registrable qualifications, and the other has not ; and the Local Government, in pursuance of their rights, have decided to pay them differently.

Lieut.-Colonel H. A. J. Gidney : If the Honourable Member's answer is to be accepted, and I do so, Sir, is there any reason which Government can assign for paying less for the market value of the degree of the Department ?

Mr. M. S. D. Butler : If that is a fact, the Honourable Member would do well to have the point pursued in the local Legislative Council.

Mr. W. M. Hussanally : Is it a fact that the qualifications of Military Assistant Surgeons are lower than those of Civil Assistant Surgeons ?

Mr. M. S. D. Butler : Those who possess registrable qualifications are on the same footing, and those who do not possess them naturally have lower qualifications.

PROTECTION BY CENTRAL GOVERNMENT OF I.M.D.

282. * **Lieut.-Colonel H. A. J. Gidney** : Is the Government aware of the fact that the I.M.D. as a service, is an all-India Service, and that its future prospects depend largely on the protection afforded it by the Central Government ?

Mr. M. S. D. Butler : The Indian Medical Department is not an all-India Service as defined by the rules under section 96-B (2) of the Government of India Act. Members of the Indian Medical Department, when transferred for service under a Local Government, form part of the provincial medical services and are under the control of the Local Government.

Lieut.-Colonel H. A. J. Gidney : A supplementary question : Is it a fact that the pay of this Department is subject to the approval and the sanctioning authority of the Secretary of State ? If the answer is in the affirmative, I maintain, with all respect to the Honourable Member, that this is an all-India Service ?

Mr. M. S. D. Butler : An all-India Service is a Service defined as such under the rules which I have quoted, and I am afraid the Honourable Member's opinion to the contrary cannot get over that fact.

Lieut.-Colonel H. A. J. Gidney : Is it a fact that the orders of the Secretary of State which directed an increase of pay on equal terms to the Indian Medical Department and Provincial Civil Assistant Surgeons from the 1st April 1920 were so put into effect by the United Provinces

Government, that Provincial Civil Assistant Surgeons of 6 years' standing and over have benefited to the extent of Rs. 12,000 each, during the three years 1920—1923, while Indian Medical Department Civil Assistant Surgeons (who have British registrable qualifications and who do exactly the same work) of 10-18 years' service, have received nothing whatever for the same period?

Mr. M. S. D. Butler : Sir, the Honourable Member is trying to put as a supplementary question, a question which has been disallowed by you.

Lieut.-Colonel H. A. J. Gidney : I have not put in a question? If you will kindly answer.....

Mr. M. S. D. Butler : The Honourable Member has not taken in the reply which I gave to his first question. A member of the Indian Medical Department who, for his own benefit, takes service under a Local Government, thereby becomes subject to the control of that Government, and it is that Government which fixes his salary so long as he is in civil employ. If he remains on the military side of the department, then he remains under the Government of India.

Lieut.-Colonel H. A. J. Gidney : I think, Sir, with your permission I will ask a supplementary question again.—It is not a duplication of the one before.—Is it a fact, can the Honourable Member tell me, that this is accepted—and I claim no racial advantages but only equality of fitness, equality of treatment—that during the ensuing four years, 1923—27 provincial Civil Assistant Surgeons will receive Rs. 19,200 each, whereas the Indian Medical Department Civil Assistant Surgeons will only receive Rs. 3,900 each? The provincial Civil Assistant Surgeons will therefore in seven years 1920—27 be benefited by Rs. 31,200 each, and the Indian Medical Department Civil Assistant Surgeons by Rs. 3,900 each? Can the Honourable Member, if he cannot answer that question, kindly assure me that he will inquire into it?

Mr. M. S. D. Butler : My contention is that this question of pay is a matter for the Local Government and not for the Government of India.

Lieut.-Colonel H. A. J. Gidney : May I ask another supplementary question—that during the period 1920—1923 several I. M. D. men in civil employ will draw less than their military grade pay—will the Honourable Member inquire into the matter from the Military Department, because this affects the pay of an all-India Service?

Mr. M. S. D. Butler : If the Honourable Member wishes his calculations with regard to any particular officer checked I will be very glad to have this done; but this decision as to the salary to be paid does not rest with the Government of India.

Lieut.-Colonel H. A. J. Gidney : Will the Government of India kindly give the matter their sympathetic attention?

DIPLOMAS OF MILITARY ASSISTANT SURGEONS.

283. * **Lieut.-Colonel H. A. J. Gidney :** (a) Will the Government be pleased to state whether Diplomas which are issued to Military Assistant Surgeons, are registrable qualifications or not?

(b) Is the Government aware of the fact that Military Assistant Surgeons, holding these Diplomas, are often placed in independent charge of British units, when they carry out all the duties performed by R.A.M.C. Officers?

(c) If the answer is in the affirmative, can the Government assign any reason, why Military Assistant Surgeons, in Civil employ, who possess these diplomas, are considered to possess inferior Medical qualifications to Civil Assistant Surgeons?

Mr. M. S. D. Butler : (a) The Diplomas usually obtained by Military Assistant Surgeons are qualifications registrable in India.

(b) The occasions on which Military Assistant Surgeons are placed in medical and sub-medical charge of British units are few and in the main occur when small bodies of troops are moving by road or rail or are temporarily detached and a Royal Army Medical Corps officer is not available. Attention is invited to the replies given by Sir Godfrey Fell on 21st March 1921, to the Honourable Member's questions Nos. 516 and 517. A Military Assistant Surgeon has not the power to carry out all the duties performed by a Royal Army Medical Corps officer.

(c) The medical qualifications held by Civil Assistant Surgeons are in a majority of cases registrable in the United Kingdom, whereas in the case of Military Assistant Surgeons, the medical qualifications are registrable in India only.

Lieut.-Colonel H. A. J. Gidney : With all respect to the Honourable Member, may I ask whether he will be good enough to institute inquiries from the department and give me a subsequent answer on this, because I am afraid the reply given to (b) is not tenable, Sir, as far as the facts are concerned?

Sir Deva Prasad Sarvadhikary : Is not the question of registrable qualifications a provincial question?

Mr. M. S. D. Butler : What does the Honourable Member mean by a provincial question?

Sir Deva Prasad Sarvadhikary : Do not the provinces deal with the question of qualifications for registration under their own Act so far as local registration is concerned?

Mr. M. S. D. Butler : The registrable qualification in dispute in this case is a qualification registrable in the United Kingdom.

Sir Deva Prasad Sarvadhikary : Not in India?

Mr. M. S. D. Butler : There are two kinds of qualifications. One is registrable in India. The diplomas which I have referred to are such. They are not registrable necessarily in the United Kingdom. The other qualification is registrable in the United Kingdom.

Sir P. S. Sivaswamy Aiyer : May I know whether Government will consider the *raison d'être* of the I.M.D. as a separate service?

Mr. M. S. D. Butler : I think the Honourable Member should give notice of that question.

I.M.D. IN CIVIL EMPLOY IN THE UNITED PROVINCES.

284. *Lieut.-Colonel H. A. J. Gidney : Will the Government of India be pleased to state what steps they propose to take to remedy the present position of the I.M.D. in Civil employ in the United Provinces ?

Mr. M. S. D. Butler : The Government of India, as already explained, have taken such action as was deemed necessary to protect the interests of officers of the Indian Medical Department actually in civil employ in the United Provinces and are satisfied that their pecuniary interests will not suffer if the rates of salary proposed by the United Provinces Government are voted by the Legislative Council. For the rest, as already explained, the matter is within the competence of the Local Government.

Lieut.-Colonel H. A. J. Gidney : Will the Honourable Member, in view of the facts that I have placed before him to-day, kindly make further inquiries in the matter ?

Mr. M. S. D. Butler : I have already stated that the Government of India have taken such action as was deemed necessary.

Lieut.-Colonel H. A. J. Gidney : I mean further action on the facts.

Mr. M. S. D. Butler : The matter now rests with the Local Government.

UNIVERSITY FOR RAJPUTANA.

285. *Sir Deva Prasad Sarvadhikary : Would the Government be pleased to state in what stage the question of an University for Rajputana now is and whether the Government proposes to take early steps for assisting in the formation of an University ?

Mr. Denys Bray : Official proposals on the subject have not yet been received by the Government of India. The question has been under consideration locally. It is understood that the proposals of those locally interested are likely to take more definite shape in August. The foundation of a University in Rajputana must depend largely on the support lent to the scheme by the Indian States.

Mr. Harchandrai Vishindas : Will Ajmer-Merwara be included in this Rajputana University if it is established ?

Mr. Denys Bray : It is a hypothetical question to me. I am rather chary of giving a definite answer. As the Honourable Member probably knows I am merely acting as the Political Secretary's spokesman in the matter.

USE OF STATE PLANT AND MACHINERY.

286. *Sir D. P. Sarvadhikary : Will the Government be pleased to state :

- (i) Whether any decision has been arrived at in connection with the recommendations of the Incheape Retrenchment Committee that plants and machineries of the Government for which there is no immediate Government use, partially or fully,

should not be allowed to be used by the outside public for private purposes and that a nucleus staff should be maintained for looking after the State plants and machineries while they are not fully or partially in Government use ?

- (ii) Whether the Government propose to allow user of such plants and machineries for private purposes, and if not, would the Government be pleased to state the objections in support of such non-user ?

Mr. E. Burdon : (a) and (b). I lay on the table a copy of a letter recently addressed by the Government of India to the Secretary, Associated Chambers of Commerce of India and Ceylon, Bombay, which explains fully the policy and intentions of Government in this matter.

Copy of a letter from the Secretary to the Government of India, Department of Industries and Labour, to the Secretary, The Associated Chambers of Commerce of India and Ceylon, Graham's Buildings, Bombay, No. S-368, dated Simla, the 12th July 1923.

SUBJECT.—Government competition with private enterprise.

I am directed to refer to the correspondence resting with your letter No. 565-A.G., dated the 17th May 1923, on the above noted subject, and to request you to convey to the Associated Chambers of Commerce the following observations of the Government of India on the subject of the Resolution passed at their meeting held on the 9th January 1923, dealing with certain transactions of the Ichapore Rifle Factory.

2. The Resolution states that the Association views with misgivings the action of the Ichapore Rifle Factory in making sales to the public, and asks the Government of India to declare its policy and to assure the Association that it is contrary to the policy of Government to compete with private enterprise. I am in the first instance to refer to the latter portion of the Resolution and to explain briefly the policy followed by Government in the matter of manufacture in ordnance factories. It is doubtless, unnecessary to explain at length the reasons which render it necessary to maintain ordnance factories in India. These factories have been instituted and maintained with the sole object of enabling munitions of war to be produced in India, and in order to make them fully effective it is necessary that their output should be capable, not only of supplying the peace-time requirements of the Army in India, but also of rapid expansion to meet an emergency consequent upon the occurrence of a state of war. The plant installed in these factories and the strength of the staff employed in them are regulated solely by this criterion. Starting from this basis it is incumbent upon Government in the interests of economy to ensure, as far as possible, that the plant and the nucleus staff are kept fully employed. It follows as a corollary that in time of peace, if the requirements of the Army do not suffice to keep the plant and staff fully employed, the ordnance factories should be allowed to execute orders for other consumers.

3. The policy of the Government of India has, therefore, mainly to be determined by the proposition explained in the preceding paragraph. At the same time they have always recognised the principle that the transactions of Government factories and workshops must be conducted in such a way as to interfere as little as possible with private enterprise. With this object in view the orders governing the transactions of the ordnance factories prescribe that the surplus output of the factories must be utilized as far as possible in supplying other Departments of Government and that supply to private consumers should be a last resort. Further the production by ordnance factories of articles required either by Government Departments or by private consumers is confined so far as possible to articles which are not manufactured by private enterprise in India. Finally, in order to guard against unfair competition, the maintenance of proper costing accounts and the fixation of fair prices for stores produced are also prescribed. I am to say in this connection that the costing accounts of the factories as now maintained have been certified to be on a correct basis by a firm of accountants of acknowledged reputation, namely, Messrs. Price, Waterhouse and Company.

4. Turning now to the particular case which gave rise to the Resolution referred to above, the Government of India doubt whether the facts were correctly placed before the Association. They observe that in the opening speech of the mover of the Resolution (Mr. N. F. Paton) the following statement occurs :

"The indictment that has been laid before our Chamber is that the Ichapore Factory is now being utilized almost exclusively for the manufacture of brass sheeting for *lotas* working to the order of a prominent merchant and on a scale to keep the Factory's rolling mills fully engaged for about five years."

This indictment is based on inaccurate information. The brass melting and rolling mills in the Ichapore Factory constitute only a part of the Factory and that part has to manufacture all the brass cartridge cases, gun and rifle, for the Army.

Mr. Paton further stated that according to the information given to the Bengal Chamber of Commerce, Government were believed to be buying brass scrap in England for the purpose of the order in question. This information was also incorrect. The brass which the Factory is rolling consists of brass cartridge cases which the firm concerned purchased from the Government of India and from surplus stock in India belonging to the British Government.

Mr. Paton also mentioned the manufacture in the Factory of shovels, electric fans and railway signalling material. Certain orders for these classes of stores have been taken from the Public Works Department, the Military Works Services and railways in accordance with the principle which has already been explained.

5. Finally, the Government of India consider that it would not be out of place to allude to another aspect of the question, since the discussion at the meeting of your Association appears to have seemed that manufacture in Government workshops is necessarily inimical to private enterprise. In the first place, many private manufacturing firms come to the Ordnance factories for assistance in the manufacture of articles necessary for their own purposes, and it is believed that such firms, some at least of which are doubtless constituents of the Chambers of Commerce, would themselves acknowledge the advantage which they have derived from the establishment by Government of factories which are still the only institutions capable of turning out certain classes of material. Secondly, it is perhaps, unnecessary to remind the Association that the industrial policy of the Government of India is mainly directed towards the establishment in India of manufacturing industries which will, so far as is possible render the country self-supporting. Such a policy demands in some cases, as was clearly recognised by the Indian Industrial Commission, the establishment by Government of pioneer and demonstration factories. Several instances, of which the manufacture of cordite and machine-beltting are two, can be cited to illustrate the value of work performed in the Ordnance factories in demonstrating the possibility of manufacture in India. Indeed, it was remarked by Mr. Paton himself in his speech that the only mills in India for rolling brass sheets are those belonging to Government. The statement made by him, to the effect that the Government undertaking was to the obvious detriment of industrial progress appears to the Government of India to ignore the aspect of the question to which allusion is made at the beginning of this paragraph. The Government of India consider, on the other hand, that they may fairly claim to have shown the way to private enterprise in the matter of training the Indian workmen and of establishing manufacture in important branches of metal working.

Copy forwarded to the Chief Controller of Stores, Indian Stores Department, for information.

STATUS OF ADVOCATE GENERAL BENGAL.

287. *Mr. Harchandrai Vishindas : (a) Will the Government be pleased to state whether the Advocate General of Bengal is an official or holds office in the service of the Crown in India within the meaning of section 63-E or 80-B of the Government of India Act ?

(b) If the answer is in the negative will the Government be pleased to state the reasons ?

(c) If the answer is in the affirmative how is it that the Advocate General of Bengal is an *elected* member of the Bengal Legislative Council ?

The Honourable Sir Malcolm Hailey : The Advocate General, Bengal, is not a whole time servant of Government and therefore is not an official within the meaning of rule 2 of the Non-Official (Definition) Rules framed under section 134 of the Government of India Act. He is therefore not debarred under section 80B from standing for election to a legislative body.

LIABILITIES OF THE IMPERIAL BANK ON THE FAILURE OF THE ALLIANCE BANK.

The Honourable Sir Malcolm Hailey (Home Member) : Sir, with your permission I desire to make a statement to the House arising from certain misconceptions which have been brought to my notice in regard to yesterday's debate on the Alliance Bank. Those misconceptions are due to the fact that no other Member of the Executive Government supported the Honourable the Finance Member in opposing the Resolution before the House and since that Resolution was in terms directed against the Finance Department it has been suggested that other Members of Government had some hesitation in supporting the action of the Finance Department. I do not think that this impression was felt in the House itself, but since I have heard it voiced outside I have craved your permission to make this statement. The facts are that both the Honourable Mr. Chatterjee and myself, the only other Members of the Executive Government in this Assembly, had come prepared to support the Government case against this Resolution, and the only reason why we did not rise to do so was that a number of non-official Members put forward the closure. I, on behalf of Government, did not oppose that motion, because I believed from what I had seen and heard round about me that the House at large was prepared to accept the able statement of the case that had been put forward by Sir Basil Blackett and did not desire to support the Resolution. In that calculation events showed that I was incorrect. But that was the only reason why we did not rise to prolong the discussion, and if the discussion had been prolonged, we should have supported the Honourable the Finance Member to the best of our ability. That is my statement of fact. I wish to add a declaration on behalf of Government. The action taken in regard to the Alliance Bank was not, as the Resolution would seem to suggest, the action of the Finance Department itself. The action taken had been under the full notice of the Governor General from the very first and had his full approval, and the final decision in the matter was the final decision of the Governor General in Council.

THE ADOPTION (REGISTRATION) BILL.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadian) : Sir, I beg to move :

"That the Bill to prescribe a registered instrument as necessary for a valid adoption be referred to a Select Committee consisting of the Honourable the Home Member, Mr. T. V. Seshagiri Ayyar, Mr. K. C. Neogy, Mr. N. M. Samarth, Mr. N. M. Jushi, Colonel Sir Henry Stanyon and myself."

[Dr. H. S. Gour.]

Honourable Members will see that when I introduced this Bill some months back the House was sharply divided upon its utility. The opinions of the provinces and the High Court Judges since collected very clearly show a sharp conflict of opinion on the subject of my Bill. I hope, therefore, the House will extend its indulgence to me when I explain to it the position I now wish to take up in regard to this measure. If the collected opinions are examined, it will be seen that those who oppose the measure do so upon purely religious grounds and those who support it do so on the ground of broad public utility. Take, for instance, the Madras High Court. Twelve learned judges were consulted. Eight of them are strongly in favour of the Bill while four learned judges oppose it on the ground which I shall briefly state to the Honourable House by reading the opinion of Mr. Justice Kumaraswami Sastri, which is typical of the other dissentient judges of that Honourable Court.

Mr. Justice Kumar Shastri says :

"I am entirely opposed to the Bill. The Hindu notion as to the spiritual benefits conferred by a son, either natural or adopted, makes an adoption a religious and not merely a secular duty. Adoptions are often made by persons under circumstances which would not leave much room for doubt as to the fact. Ceremonies are required to constitute a valid adoption and subsequent conduct often leaves little difficulty in determining the factum. It is the determination of the legality of an adoption that gives more trouble. There are no doubt cases where the factum is disputed, as there are cases where the factum of a marriage is disputed. Cases have arisen where there is a difficulty owing to the absence of a written contract and it has been wished that there was one. I do not think one would suggest that all marriages or contract should be evidenced by registered documents."

I have said this opinion is typical of the many opinions recorded on my Bill, and if you analyse the opinions, you will find that there is a good deal of truth in the criticism that adoption being a religious ceremony, my Bill should not affect the personal status of the adoptee. At the same time it is conceded in that opinion, and it cannot be denied, that there are cases in which the factum of adoption is denied and considerable expense is incurred in proving it. The Honourable Judge of the Madras High Court says that if adoptions are to be compulsorily registrable, there is no reason why contracts should not be equally compulsorily registrable. Well, Sir, coming as it does from a learned Judge of the Madras High Court, I should, *prima facie*, bow to him ; but I beg with due respect to point out that all important contracts dealing with immovable property are compulsorily registrable, and they are not only registrable, but there is such a thing as the Transfer of Property Act, which makes them absolutely void unless they are registered by registered instrument as therein provided. (Mr. N. M. Samarth : "Not all.") I am therefore surprised to read a statement made by a gentleman learned in the law that the contracts do not require compulsory registration. (Honourable Members : "What about movable property ? What about contracts of a value below Rs. 100 ? What about wills ? What about marriages ?") An Honourable Member interjects. What about movable property ? What about contracts of a value below Rs. 100 ? And another Honourable Member interjects. What about wills ? Still another Honourable Member ejaculates. What about marriages ? Well, Sir, I have still to learn that marriage is property. I have still to learn that a will is property. (Dr.

Nand Lal : "With due deference, adoption is not property." If Honourable Members will only take notes of the objections they have to my Bill, they will very soon find that, before I resume my seat, I shall have quelled all their reasonable doubts. I do not propose to deal with unreasonable arguments. I am not here in the midst of religious fanatics, but I am here, Sir, to convince people who keep their reason and who are prepared to listen to the voice of reason.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I rise to a point of order. The point of order is, that Dr. Gour's Bill, in September 1922, after it had been introduced and a motion had been made to refer it to a Select Committee, was withdrawn by leave of this House, and his promise at the time was that he would redraft the Bill and present a new Bill to this House. Now, the old Bill having been withdrawn completely, I submit, under no Standing Order and under no circumstances can it be considered to be a pending Bill, that is to say, it cannot be treated as a Bill which remains in the House as a Bill already introduced. Therefore my submission to the House is that he cannot now treat it as a pending Bill, much less as one which has reached the stage of second reading and therefore can be asked to be referred to a Select Committee. My submission is that the mover can introduce a new Bill ; but he cannot proceed with his old Bill which has been withdrawn. Whether he redrafts his old Bill or not, is his own look out. That was, however, his promise and that was the condition upon which his old Bill was allowed to be withdrawn. The whole thing, therefore, is out of order, and there is no Bill before the House, at all now. The House cannot consider an abandoned Bill as one now at its present stage. The Bill now before the House is the same old Bill, which was withdrawn. The Statement of Objects and Reasons is the same as was attached to the Bill, long ago and completely withdrawn. If the present procedure is allowed, we shall have no peace, but we shall be confronted with attempts to renew abandoned Bills over and over again for no rhyme or reason. Is the time of the House to be wasted in this way ? The House will see that the Bill now before it bears date 8th April 1921, below the Statement of Objects and Reasons. There cannot be any doubt therefore that this is the very Bill which was wholly withdrawn, and which was promised to be redrafted, and if permitted presented to the House as a new Bill. I therefore submit, Sir, that the motion is out of order.

Mr. President : The Honourable Member has raised two points, one which concerns the Chair and one which does not. I shall take the point that does not concern the Chair first. No doubt it is true that Dr. Gour, in the debate on the 12th September last year, did propose to redraft the Bill ; and if he has not done so to the Honourable Member's satisfaction that is a good reason for voting against the Bill now, but it is not a point of order.

The point I am concerned with is whether Dr. Gour is in order in moving this motion. I hold he is. The Bill was never withdrawn ; the motion to refer it to a Select Committee was withdrawn ; and therefore Dr. Gour's motion does not come under Standing Order 31 which says :

"A motion must not raise a question substantially identical with one on which the Assembly has given a decision in the same session."

[Mr. President.]

The motion having been withdrawn, the Assembly gave no decision on the subject.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : On a point of order, could a similar motion be made at the same session in which it was withdrawn ? This motion was withdrawn in September 1922 and this session being in continuation of that session the present motion cannot be made and could only be made in the new session.

Mr. President : This is still the same session that began in September 1922. But as I have just pointed out to the House, Dr. Gour's action does not come under Standing Order 31 because on that occasion the House gave no decision. The motion to refer the Bill to Select Committee was withdrawn with the permission of the House. That was not a decision on the merits of the question.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Is not leave to withdraw a motion a decision on the point ?

Mr. President : No, it is a refusal to take a decision.

Dr. H. S. Gour : I am very glad my friend Mr. Mukherjee has reminded me that the Bill requires to be redrafted. I hope my friend will assist me to redraft it in Select Committee.

I shall be very glad indeed to add his name to the Members of the Select Committee and to obtain his valuable co-operation in redrafting it there. If that is all that my Honourable friend has to urge against my motion, I welcome his intervention.

Now, Sir, I resume my argument. The opinion of the learned Judge of the Madras High Court is, as I have already pointed out, distinctly based upon a misconception of fact and of law. Another typical opinion is that of the Advocate General of Madras. I shall read it and point out to the House that, while he professes to be against my Bill, he gives every reason in favour of it. He says :

"I have perused this Bill to prescribe a registered instrument as a prerequisite for a valid adoption. I agree that the absence of registered instruments often tends to perjury and the fabrication of evidence, and there are no *prima facie* reasons why a registered instrument should not be insisted upon ; but there are certain difficulties with regard to the Bill as at present framed. In the first place, a person may have properties in an Indian State or he may be a permanent resident of Nepal or some other independent State. An adoption made in that State may not require registration, but, if the person concerned has properties in British India, then the Bill, if passed into law, will create an anomaly that the adoption will be perfectly valid and may give rise to all the rights and obligations from the religious point of view that devolves upon the adopted son and may further vest in him properties in the Indian State in question, but the adoption will be invalid in regard to properties in British India. There would be the further complication that, if by any means moveable properties in British India were taken away into the Indian State, the adopted son would acquire absolute right to such property, whereas he would not establish his title to the property so long as it is in British India."

Now, Sir, I welcome such reasoned criticism of my Bill. I appreciate the difficulty which the learned Advocate General of Madras has pointed out. He says the Bill is necessary but needs certain safeguards to

over-come the difficulties which he has pointed out. It is for that purpose that I want to go into Select Committee so that the numerous difficulties that have been pointed out in the several criticisms on my Bill may be considered by the Members and duly disposed of. There is a consensus of opinion on the part of all, whether favourable or unfavourable critics of my Bill, that, so far as it is directed against the suppression of fraud and affords facility of evidence to prove *bona fide* adoptions, there is a good deal to be said in its favour. As the Advocate General of Madras has pointed out, it is necessary and a *prima facie* case has been made out for a Bill of the character I have drafted. Other opinions also converge upon these two points. These points are that adoption is a religious act and it should not affect the personal status of the adoptee. I recognise the force of that objection and I shall ask the Select Committee to make an exemption in favour of the view that, nothing contained in this Bill shall affect the personal status of the person adopted. I am also prepared to concede that there is a good deal of strength in the criticism to which I have listened just now in the numerous interruptions about moveable property or about small property. I quite concede, Sir, that in the case of small properties and in the case of moveable properties an exemption is possible. I am also prepared to concede that in the case of death bed adoptions an exemption might be introduced that nothing herein contained shall affect an adoption made within a month of the death of the adoptor. (*Dr. Nand Lal* : "The life will be out of your Bill.") These, I submit, are reasonable objections to which I am prepared to accede ; but there are those who say, they imply if they do not say so—my friend Mr. Mukherjee is an example of such protagonists—though they profess to be enamoured of the Bill, but say that this Bill is inopportune, the safeguards cannot be made in the Select Committee, the safeguards are insufficient and various constitutional objections will be trotted out to circumvent the Bill. To them I say that, if you are anxious that your adoptions should be above reproach, if you are anxious that fraud and perjury should be suppressed, and if you are anxious equally to further the ends of justice, the rule of evidence which I provide in this Bill should not be objected to. I do not, Sir, in this Bill attack any religious rite or ceremony ; I do not ask or prescribe that certain ceremonies shall be gone into before a valid adoption is recognised by the courts ; I do not ask that any formalities which have already been undergone shall be ignored by the courts. All I ask is that a registered instrument shall be the sole evidence to prove an adoption ; but a thing may exist and yet it may be incapable of proof in a court of law. (*A Voice* : "What is the use then ?") We know that there are a very large number of technical rules which shut out evidence though it is evidence of fact outside the court. The mere fact, therefore, that I require the execution of a registered instrument to prove an adoption in a court of law does not disprove the fact of adoption elsewhere and it does not destroy the status of the adoptee. If there be any doubts about it, the Select Committee will, I have no doubt, make that point perfectly clear. I therefore submit that, in the midst of divergence of views, there is singular unanimity in favour of the principle of my Bill. Not a single opinion that has been recorded, not a single voice that has been heard here, has objected to the main principle of my Bill which provides a rule of evidence for the purpose

[Dr. H. S. Gour.]

of facilitating the proof of adoption. Does anybody deny the necessity or the utility of such a wholesome rule? Nobody denies it. What then is at the back of the opposition? (*A Voice*: "Orthodoxy.") My friend says "Orthodoxy" is at the back of this opposition. I cannot bring myself to believe that orthodoxy has anything whatever to do with this plain and simple provision of this Bill which deals with the rule of evidence. I therefore submit that the only reasons that can be given against my Bill are the reasons which I have summarised. And I have given an assurance to this House that so far as lies in my power I shall ask the Select Committee to introduce those safeguards and if the House further desires that after those safeguards are inserted in the Bill, the Bill should once more go out to the country for eliciting further opinion, that it be republished so that we may be able to educate and elicit public opinion, I should not be averse to the adoption of such a course. I submit, Sir, that is a more reasonable attitude to take with regard to this motion and I ask the House to support the motion which I bring before it, because I think that they will be advancing the cause of justice in going into the question as to whether the rule of evidence which I have formulated should not be adopted with or without modification. Sir, I move my motion.

The Honourable Sir Malcolm Hailey (Home Member): It may be as well that I should at once declare the attitude of Government on this measure, without pretending to discuss it at any great length. When the motion to refer to a Select Committee came up in September, 1922, Government, speaking through Sir Tej Bahadur Sapru, pointed out the many difficulties in this Bill, but ended with the conclusion that the only legitimate position for Government was an attitude of neutrality. In the course of the subsequent discussion on that motion, we heard many objections voiced against the principle and the details of the Bill. It was withdrawn at the time on the promise that it would be redrafted. It has not been redrafted, and we have consequently reconsidered our position. We have decided that our position should no longer be one of neutrality. I am not sure whether Dr. Gour will consider that I am helping him or injuring him when I say that we are prepared to give the measure the benefit of the opposition of Government. I have not brought down my serried battalions with me to vote on this occasion, but I shall ask such of my friends as are here to vote against the measure. It is one which we have now considered with care, and in view of the opinions recorded both by members of the legal profession and by those engaged in the administration of the law as to the dangers and implications of the Bill, we have decided that it is not one which we can any longer view with neutrality.

Rai J. N. Majumdar Bahadur (Presidency Division: Non-Muhammadan Rural): Sir, I rise to oppose this Bill of Dr. Gour's. Our Honourable friend has already got the credit of having introduced and passed many Bills, and I think he should refrain from further trespassing on Hindu Law. Registration I do not think will be a remedy for what my Honourable friend thinks is a defect at present in the matter of adoption. The evidence of a deed having been registered does not make it genuine, for it is only one of the proofs....

Dr. H. S. Gour: Sir, I think it will shorten discussion if in view of the announced hostility of Government, I announce my intention to withdraw the Bill if you will give me leave.

Mr. Harchandrai Vishindas (Sind: Non-Muhammadan Rural): Might I inquire whether Dr. Gour has asked leave to withdraw his Bill for want of any kind of support?

Mr. President: Did the Honourable Member ask leave to withdraw the motion?

Dr. H. S. Gour: And the Bill.

Mr. President: Is it the pleasure of the House that the motion be withdrawn?

The motion was, by leave of the Assembly, withdrawn.

THE LEGAL PRACTITIONERS BILL.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I beg to ask for leave:

"To introduce a Bill to consolidate and amend the law relating to Legal Practitioners in India."

Honourable Members will remember that at the very first meeting of this Assembly in Delhi our friend Munshi Iswar Saran—who I am sorry to see is not in his place to-day—brought forward a motion in these terms:

"The Assembly recommends to the Governor General in Council that the Government do undertake legislation with a view to creating an Indian Bar so as to remove all distinctions now enforced by Statute or practice between Barristers and Vakils."

That motion was amended in the Assembly and carried in this form without any opposition. We had a sympathetic speech from the Honourable the then Law Member and also from my esteemed friend Mr. Eardly Norton who gave his support to the motion. The motion as finally carried ran thus:

"The Assembly recommends to the Governor General in Council that the Government do undertake legislation for creating an Indian Bar. Government should take the opinions of Local Governments, High Courts and other legal authorities as also different branches of the professions of barristers, vakils and solicitors and of the public as to the desirability of removing the distinctions enforced by Statute or practice between barristers and vakils."

The motion was adopted, as I have already stated. Since then the Government of India, as I know as a member of the Madras Vakils' Association, circularised the various High Courts and various public bodies and have collected a large mass of opinion which contains valuable information on the subject. The subject is so complicated that the Government have not thought fit yet to introduce their own piece of legislation, and I was waiting to see whether the Government was going to introduce their own measure; but as I find they have not done so as yet, I have taken the liberty of introducing a Bill throwing out tentative suggestions as to the lines on which legislation may proceed on this most important complicated and somewhat ticklish question of an Indian Bar for India. We are

[Rao Bahadur T. Rangachariar.]

all aiming at autonomy in several directions and in this most vital matter, where legal opinion is almost unanimous in its demand for the creation of an Indian Bar, it is but right that we this Legislature should give the start to a discussion of this question. I know several people who have examined this question felt the difficulty of offering an opinion on the six points raised in the memorandum circulated by the Government of India for the want of concrete proposals on which they should base their criticisms. In fact, some of the Honourable Judges in Madras felt the difficulty, and they would have welcomed concrete proposals in the shape of a Bill, so that they might offer constructive suggestions on the proposals. I have to the best of my ability given some consideration to the question and shaped my views in the various sections which are embodied in the draft Bill before the House. The first question which will have to be considered will be whether there should be legislation on the subject at all ; and from what I have been able to gather from discussions both with judges and with practitioners, the opinion is almost unanimous that legislation should interfere in this matter, and the matter should not be left entirely to rules to be framed by the various High Courts under the Letters Patent. For it is an all-India question. The second question which has to be considered is this. It is a very important question and after consideration I have come to one line of thought, and that is whether an all-India bar is at all feasible in this country, whether in view of the proposed federation of the several states from the various provinces, it is not more advisable that we should have bar councils or provincial bars in the various provinces, leaving it to them to make their own rules for common consultation on matters affecting the profession generally throughout the country. I have in my Bill chosen the line of providing provincial bar councils to be composed of Judges and of practitioners who will hereafter have jurisdiction over all matters relating to the profession, including calling to the Indian Bar persons who are qualified according to the rules which they have to make, in order to be enabled to be called to the Indian Bar. That is the line I have adopted, although some people seem to be of opinion that an all-India bar is perhaps preferable. But the majority of opinion is in favour of creating a bar council in each province rather than an all-India Bar Council. That is one line which I have adopted in my Bill.

Another important question which will have to be considered is the question of in whom should the disciplinary jurisdiction over the bar be placed, whether it should be, as it now is, in the hands of the various High Courts, or should it be in the hands of the bar council. I have adopted in this Bill both the suggestions ; I leave to the bar councils the duty and the privilege of deciding all questions of discipline in regard to the members of the bar. At the same time in order that we may move slowly in this matter I have provided that the jurisdiction of the High Court which now exists should not be interfered with by this piece of legislation. Let us see how the new proposals work before we remove entirely the jurisdiction of the High Courts in this matter. Therefore, I have provided that in matters of discipline the High Courts should continue to have jurisdiction ; but in the matter of calling to the bar I have entirely removed the

jurisdiction of the High Courts, and conferred that jurisdiction on the Bar Council ; the Bar Council also will consist of judges of the High Court. Therefore I want an Indian Bar, an autonomous Bar, an independent Bar, and we ought not to depend upon other countries for recruiting to the Bar of this country. While I am aiming at it, at the same time I am not unmindful of the great services done to this country both by English and Indian barristers, who have had their training in England. Nowadays people are not called to the Bar so easily in England as they used to be some years ago. The educational qualifications now imposed ensure proper men being called to the Bar in England ; and the spirit of independence which they acquire there, the training they got, the experience they have and the people with whom they come in contact, all that vast experience and knowledge will be of great use to this country also, and therefore I provide in my Bill that persons who have been called to the English Bar shall be entitled to be admitted to the Indian Bar. There was some apprehension which was felt whether the creation of an Indian Bar would not exclude the English Bar altogether from this country ; in order to avoid any such apprehension I have provided that they shall continue to be entitled to be called to the Indian Bar. But at the same time I provide that they should first become members of the Indian Bar before they become entitled to practise in this country. That is necessary. We want our own Bar ; at the same time there is another troublesome question, which would have to be faced ; the conditions vary from province to province and therefore I have not attempted to introduce legislative provision in this Bill as to whether persons shall be entitled to act and plead or plead alone or act alone. That is a matter which will have to be decided according to local conditions and therefore I have left such matters to be decided by the bar council of each province who will be familiar with the conditions and the necessities of the case ; and without all-India legislation providing a uniform method here, I think it is advisable that legislation should proceed cautiously in that matter.

I have made these tentative proposals ; these are the main features of the Bill. The object of the Bill is to create an Indian bar, about which there is a large volume of opinion in favour ; I may say that Indian opinion is almost unanimously in favour in that matter, and as regards these galling restrictions between the various branches of the profession which are felt much more largely in Calcutta and I believe to a lesser extent in Bombay than in other provinces these are matters again which I do not think the central legislature ought to embark upon settling. These questions must be left to the local bar council, where I am sure they will come to some common agreement. I see Honourable Members belonging to the profession in Calcutta, leaders of the profession there including Sir B. C. Mitter, are in favour of creating an Indian Bar and are in favour of abolishing these distinctions. But they have got certain suggestions to make which I am sure will be available to us when this Bill comes back to us after being circulated for opinion, which I propose to ask this Assembly to allow me to do at the next meeting if they give permission to introduce this Bill to-day ; and again it will have to be considered carefully by an expert Select Committee of both the Houses where eminent lawyers present here and in the Council of State will have an opportunity of examining the provisions of the Bill. At this stage it is unnecessary for me to enter into

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more detail. The subject has been long engaging the attention of the Indian public and especially persons belonging to the legal profession, and therefore the time is now ripe when we should have some measure of this sort for consideration so that the legislature might provide some legislation in this most important matter. I therefore, Sir, ask leave to introduce this Bill.

The Honourable Sir Malcolm Hailey (Home Member) : I do not formally rise to oppose this motion for introduction, and though I should properly be entitled to make a speech on the subject only if I were proposing to oppose it, yet nevertheless I ask your permission to make a short statement on the subject. It must be of the shortest for I realise that I am precluded from any criticism of the Bill or any arguments on the subject. If we thought that this Bill could proceed further in this session we should have opposed it in its present form for there are many portions of it to which we are bound to take exception. But the whole question is one which has been engaging the anxious consideration of the Governor General in Council for some time. The opinions on this difficult subject vary widely in different parts of India ; the interests engaged are diverse ; and any change which would involve an infringement of the long standing rights and jurisdiction of the High Courts, would be so momentous and could only be taken with the greatest hesitation. We are in consequence unwilling to proceed to legislation of any kind on the material now before us. We believe that the only solution is to appoint an authoritative committee of the best representatives we can find of the High Courts and of the various branches of the profession to examine the whole subject. We have before this Legislature, not only this Bill, but two others dealing with different aspects of this question—not aspects in themselves perhaps of the highest importance, but still intimately concerned with the main question. I say at once that it is our desire to get the whole of that legislation put on one side until we have received the Report of the Committee to which I refer, which will, we hope, deal in a comprehensive manner with the whole question, and if legislation is to be undertaken at all, will enable it to be framed in a more satisfactory form and spirit than now appears possible.

The motion was adopted.

Rao Bahadur T. Rangachariar : Sir, I introduce the Bill.

Mr. President : This House now stands adjourned till Monday morning, July the 23rd, at 11 o'clock, provided that Honourable Members may receive a communication from the Secretary of this Chamber informing them that a meeting will be held on Saturday. Failing such a communication the House now stands adjourned till Monday morning.

The Assembly then adjourned provisionally till Eleven of the Clock, on Monday, the 23rd July, 1923.

LEGISLATIVE ASSEMBLY.

Saturday, 21st July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

MEMBERS SWORN :

Mr. James Wylde Ebdon, M.L.A., (Financial Adviser, Post and Telegraphs) ; Mr. Surendra Chandra Roy Choudhury, M.L.A. (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural).

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, a Message has been received from the Secretary of the Council of State. It runs as follows :

" I am directed to inform you that the Council of State at their meeting held on the 19th July, 1923, have agreed without any amendments to the following Bills which have been passed by the Legislative Assembly :

- A Bill to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891 ;
- A Bill further to amend the Code of Civil Procedure, 1908, for certain purposes ;
- A Bill further to amend the Indian Income-tax Act, 1922, for certain purposes ;
- A Bill to repeal the Acts which provide for the levy of a cess on indigo exported from British India ;
- A Bill further to amend the Indian Paper Currency Act, 1923 ;
- A Bill further to amend the Code of Civil Procedure, 1908. "

SECOND REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I lay on the table the second report of the Public Accounts Committee.

Second report of the Public Accounts Committee.

Since writing our interim report, we have examined the more important audit reports that were not gone into by the Committee that was appointed for 1922-23, and have taken evidence on the points raised in them. By reason, however, of the shortness of the time at our disposal and in view of the desirability of placing before the Assembly our complete proceedings with the evidence taken as early as possible, we have decided not to write a formal report embodying the results of our examination. Our interim report covers the most important part of our work, viz., our examination of the appropriation accounts for 1921-22. For the rest, the minutes of the meetings held by this and the preceding Committee which are printed as an appendix to this report, and the evidence taken will, we trust, adequately take the place of a more formal report.

BASIL P. BLACKETT.
K. AHMED.
K. G. BAGDE.
SYED NABI HADI.
P. V. SRINIVASA RAO.
N. M. JOSHI.
P. B. HAIG.
K. C. NEOGY.
BRAJA SUNDAR DAS.

RESOLUTION *RE* CLAIMS OF INDIANS IN KENYA.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, before I move the Resolution which stands in my name, may I, with your permission, ask the Honourable the Leader of the House one question. There has been a telegram stating that the Duke of Devonshire has informed the Indian Deputation that on a few matters he cannot agree with them. Have Government received any confirmation of that report, and has the Cabinet considered the recommendations of the Duke of Devonshire ?

The Honourable Sir Malcolm Hailey (Home Member) : I will give to the House all the information at our disposal. As far as we are aware, the case regarding Kenya has been prepared for presentation to the Cabinet ; that is to say, that the Colonial Office have stated its case, and the India Office has stated its case. As far as we are aware—and I am speaking on information received by us up to late last night, I have no further information this morning—the case regarding Kenya has not yet been presented to the Cabinet. Nor are we aware, if it has been presented to the Cabinet, whether any decision has been arrived at. That is the exact state of our information on the subject ; but we ourselves believe that no decision has yet been arrived at on the Kenya question.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I, Sir, inquire as to the nature of the recommendations made by the Colonial Office of which Reuter has sent out a summary ?

The Honourable Sir Malcolm Hailey : I am afraid I can give no information to the Honourable Member regarding the recommendations made by the Colonial Office to the Cabinet. Obviously, we are not in a position to give to the public any information regarding the recommendations made to the Cabinet by a Department of the Home Government.

Dr. H. S. Gour : May I take it, therefore, Sir, that the Government are not in a position to contradict the telegram sent out by Reuter giving a summary of the Colonial Office recommendations ?

The Honourable Sir Malcolm Hailey : No, Sir ; we are not in a position either to confirm or to contradict it.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : If the Colonial Office and the India Office have come to an agreement with regard to the proposed settlement to be presented to the Cabinet, are the Government of India in possession of the recommendations both of the Colonial Office as well as of the India Office ?

The Honourable Sir Malcolm Hailey : We can only say that before arriving at a decision the Cabinet will be in full possession of the views of the India Office as well as of the Colonial Office. Whether the views of the India Office and of the Colonial Office coincide is naturally a question which I could not answer even if we were in full possession of the details.

Rai J. N. Majumdar Bahadur (Presidency Division : Non-Muhammadan Rural) : May I inquire of the nature of the recommendation of the Governor General in Council as regards this Kenya question ?

The Honourable Sir Malcolm Hailey : The Honourable Member may inquire, but he is perfectly well aware that the ordinary custom in these matters forbids my answering this question. The matter is still under discussion before the Cabinet, and I could not in the circumstances undertake to state the detailed recommendations of the Government of India on the question.

Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) : May I inquire whether the final decision rests with the British Parliament or with the Cabinet and when the question is likely to be finally settled ?

The Honourable Sir Malcolm Hailey : The decision will be arrived at by the Cabinet, but it will come under discussion in the course of the Colonial vote on the 25th of this month. If Parliament does not approve of the decision of the Cabinet, it will no doubt show disapproval in such form as will cause the Cabinet to take the usual constitutional action following on such disapproval.

Rai J. N. Majumdar Bahadur : May I inquire whether the Governor General in Council is prepared to take a firm stand in this matter, or whether the Governor General in Council is prepared to resign if their recommendations are not accepted.

Mr. President : The Honourable Member is trying to forestall the debate which is now going to take place.

Mr. T. V. Seshagiri Ayyar : Sir, the Resolution of which I gave notice is in these terms :

“ This Assembly, being in full sympathy with the claims advanced by the Indian residents in Kenya in respect of franchise, immigration, segregation, and similar matters, recommends to the Governor General in Council that he be pleased to move the Government to concede those claims. ”

Sir, before I speak on the Resolution, I request you to permit me to add, between the words “ segregation ” and “ and similar matters ” the words “ the Uplands ”. Sir, in the belief you would allow me to make this amendment, I now proceed to speak on the Resolution. Sir, at the outset I want to make it clear that I shall not say a single word against the Government of India in dealing with this matter. Ever since I had the privilege of heading a deputation in Madras when Lord Hardinge was there, and ever since I heard the memorable, outspoken words of that great statesman regarding the position of Indians overseas, I have been impressed by the fact that the Government of India is in entire sympathy with the people of India on this question ; and the successors of Lord Hardinge have taken as deep an interest in Indian claims as Lord Hardinge himself. Sir, under these circumstances, I do not intend to say anything against the action of the Government of India. My only grievance is that the Government of India do not see eye to eye with the people of India in other matters than those connected with Indians overseas.

Sir, before proceeding further, I should like to refer to the population of the Kenya Colony. At present there are 22,731 Indians, 9,025 white settlers, and 24,83,000 Kenya natives—I mean the indigenous population. That being the position, it is clear that the interests of

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the people of Kenya, the indigenous people of Kenya, should be given paramount importance as against the interests of the settlers there. I make a reference to this matter as it has been suggested that a particular form of Government should be adopted to enable the European settlers and Indians certain specific rights. But in settling the form of Government, the principal matter to be taken into account is not to subordinate the interests of the sons of the soil to the interests of the immigrant population. That can be achieved only by continuing the Colony as a Crown Colony; at least for the present the form of administration in that part of the Empire must be in the nature of a Crown Colony, as it would secure for the sons of the soil the rights which they are entitled to and which they must be given in preference to the rights which are claimed by European settlers and by Indian settlers.

Now as regards the position of Indians, it has been pointed out that Indians have been there at least since the 16th century. They have had trade relations with the people of Kenya for nearly six centuries now. When it was thought advisable to make Kenya a Protectorate Indians were there. A very high authority has stated that it was because of the presence of Indians that the British Government resolved to occupy the territory and make it a Protectorate. That has been stated by an Englishman, whose testimony cannot be disputed. There is no doubt, Sir, that Indians have helped in the development of trade in that country, and they have contributed largely by their labour to finish the Uganda Railway as quickly as possible. Not only that; during the late war, when there was the possibility of disturbances in that part of the Empire, Indian troops were requisitioned to go there. I am mentioning these facts for the purpose of showing that the work which has been done by Indians in Kenya has been very conspicuous and has greatly helped to develop that country. Consequently, it is only fair that their claims should be considered very seriously before a decision is arrived at. It is true, that the capital for the Uganda Railway came from the white settlers, but the position of labour is no less important than the position of those who furnish capital. Therefore, in arriving at a decision upon any question between the white settlers and the Indians, the part played by Indians in developing trade, in helping to finish the railway and in otherwise improving the country, should be carefully weighed.

Now, Sir, as regards the origin of the trouble with which we are faced, I believe I am right in saying that until the Uplands or Highlands were discovered and until it was found that they had a bracing climate wherein Europeans can safely settle, there was no hitch between the Indians and Europeans. Everything went on well. Each community pursued its vocation without interfering with the other. It was only on the discovery of the Uplands that troubles arose. If I remember aright, provocation first came when Lord Elgin, who was Secretary of State for the Colonies in 1907, suggested that the Uplands should be reserved completely for the European settlers and that Indians should have no place there. This move on his part was not approved by the Land Commissioner of the place, and as a result the conclusion

that was reached was that no grant should be made to Indians in the Uplands. That was the first step in favour of race superiority. Sir, that did not leave Indians without resources. The question of purchase was still open to them; although there could be no grant to Indians, they were in a position by offering large sums of money to purchase the lands granted to Europeans, and this went on for some time; and whereupon in 1915 a local Ordinance was passed in Kenya which gave power to the Governor to veto any purchase that may be made by Indians. That, I believe, was protested against by the India Government. Then, in 1919 another step was taken which made the position of Indians worse than before. In that year adult franchise was given to the white settlers and no franchise whatsoever to the Indian settlers. This caused widespread dissatisfaction among Indians. Thereupon began the agitation for securing for the Indians the rights which was their due. A move was made by Lord Milner to reach a compromise between the parties. There can be no doubt that Lord Milner regarded Kenya Colony as though it were a white man's land in which the Indians could only go by sufferance and his proposals were based on that assumption. The Indians did not and could not accept Lord Milner's proposals. The next step was that during the Imperial Conference of 1921, some tentative proposals were drafted which went by the name of the Wood-Winterton agreement. The Wood-Winterton agreement proceeded on the basis that the services rendered by Indians were so important and so valuable that their rights should be respected, and that they should not be regarded as trespassers. Even that agreement to a certain extent regarded that the Europeans must have some preferential advantages. But the Indians were prepared to accept the proposals contained in that (Wood-Winterton) agreement, but the Europeans would not have anything to do with it. That led to an impasse. That has been, Sir, the history of the agitation in regard to this matter and that has led to the present negotiations between the two parties, in which the Cabinet at Home is to play the part of a judge.

Sir, now I shall take up seriatim the points mentioned in my Resolution. The first remark that I make is, that this House is in full accord with the claims of Indians in respect of their claim for franchise. We are not asking for adult suffrage. What we say is this. If you once settle the qualifications, such qualifications as would ensure the franchise being exercised with advantage to themselves and with advantage to the Colony, if once the qualifications are settled, there should be nothing like communal representation. Communal representation would accentuate the differences between community and community, would keep apart the two races from each other and would not conduce to the good government of the Colony itself. If I may say so, Sir, I am inclined to think that communal representation is the invention of Satan. It has been the source of endless troubles in India. If communal representation had not been agreed to in this country, I am quite sure the Members of this House and the people outside would be living more happily together than they are to-day. (A voice: "Question.") I know that some of my friends would question that, because they have been bringing forward propositions in regard to communal rights in this House. If there had been no communal representation, we would all have been engaged

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in considering the rights of the whole of India, instead of flitting away our energies in considering what could be best to a particular community, what would suit the Muhammadans, what would suit the Non-Brahmins and so on. It is because the Government has chosen to give us communal representation that endless troubles have arisen; that has been the cause of riots and disturbances all over the country. I am sure the country would endorse what I have said just now. I believe Government will also endorse this view; they know in their heart of hearts that they have not acted rightly in giving communal representation. Sir, that however is not the point now. I only referred to it incidentally. Whatever may have been the position in India, I repeat, it would be a grave blunder, one of the gravest blunders which could be perpetrated, if you are going to grant communal representation in Kenya Colony. It would lead to serious disturbances there; it would keep one part of the population from another, and there would be no possibility of their working together. Therefore on this question of their being a common roll, a common ballot, there can be no question of giving way; and we insist on that matter being considered carefully by the Cabinet at Home.

The second point mentioned in my Resolution relates to emigration. Sir, the historical outline I gave will have convinced the House that this is not a white man's land. It is a place belonging to the indigenous people of Kenya. There are lands which these people do not require. There is a great deal more property there than could be enjoyed by the population there. Therefore, subject to the rights which the Kenya people have, everybody should have free access to this place. There should be no restriction upon the numbers of people or the class of people that should go to this Colony. White settlers and Indians should have free access to the place, subject only to the rights of the Kenya people. If the Kenya people are likely to be crowded out, then we have no place there; but if they have got more than they want, then the place ought to be open for all of us to go in and develop and gain advantage for ourselves. Therefore on this question of emigration also the Indians feel very keenly, and I believe we will not be satisfied if any compromise takes away our rights in that matter.

Then there is the question of segregation. As to that, nobody objects to segregation if it is based on medical grounds, but if segregation is based on the ground that the white settlers should live in a particular part of the town and the Indians in another part of the town, it would accentuate the differences between the two races very acutely and lead to misery and unhappiness. Sir, I remember some years ago, in one part of Madras known as the Luz, Europeans were in the habit of living, and for a long time it was their preserve. Though it was not their property, they were paying rents and living there. Then one or two Indians began to occupy the bungalows there, and the Europeans raised an outcry. They did not like to have Indians amongst them because they wanted to live separately amongst themselves. But I believe that feeling has died out and there is a feeling of mutual regard and good will, and Europeans and Indians are now feeling that, by

living together, both communities have gained a great deal. It is that gain I want to be secured for the people living in Kenya. That is, the white settlers and the Indians should be living together so that they may understand each other's points and appreciate each other's views—(Mr. K. Ahmed : " And dine together also ? ") Dining together will come by living together.

Another point relates to the position of the Uplands. I have already said that the origin of all the trouble was the attempt made by Lord Elgin in 1907 to reserve the Uplands for the white settlers. Upon this matter there can be no question of compromise. It would be a disastrous solution if the Cabinet said that the Uplands would be entirely reserved for the Europeans and that Indians should clear out of them. I think I am right in saying that at present there is no law that Indians shall not go there, but I also believe the Governor has got the right of vetoing any purchases that may be made from persons who have property there. What we want is that this power of veto should be taken away from the Governor, so that there may be freedom of contract in regard to the sale and purchase of immovable property. Sir, these are the points to which I have referred in my Resolution.

Now I shall make a few general observations before sitting down. In making these general observations, as I said at the outset, I am not going to say anything against the Government. I shall take care not to say anything against the white settlers. I know negotiations are going on at present, and anything said may lead to mischief and will do no good. Therefore I am not going to indulge in recriminations against the white settlers. We, Sir, in this country have been for ages taught that to return abuse by abuse debases the abuser; I am a true son of India and I shall follow this principle of my forefathers, and shall utter no word of abuse against the white settlers, although they have used violent language against Indians. I shall say one word, however, and that is this. I want the white settlers to remember that both the Indians and the Europeans have common enemies and common interests, and there is necessity for the Indian and the European often to work together against common enemies. By using threatening language, by being truculent, our white friends may endanger the solidarity of the Empire. There is an interest higher than the interest of the community, and that interest is the interest of the Empire, and I appeal to the white settlers not to say or do anything which would endanger the relation between the Indian and the European, because very often, it may be to-morrow, it may be the day after, we shall have to work together for the common good of the Empire, and that should not be endangered by anything said either by the Indians or the whites.

Sir, the position of the Cabinet at Home is one of the greatest sanctity. They are going to arbitrate; they are going to sit as judges. They are to hear the two parties, the Indians and the white settlers, and it is the function of a judge that they are going to take upon themselves; I warn them that it would be a breach of all the well-known canons of justice if any whisper goes abroad that it is not upon the merits they have given their decision; it is not upon matters which are

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relevant to the issue that they have given their verdict, but they have given their verdict on the principle that "blood is thicker than water." If that suspicion gains credence, I am quite sure the reputation of England would seriously suffer. The Government should remember that the whole civilized world is looking on. Angora is looking on; Russia is looking on; America is looking on, and every other civilized country is looking on. If it is known that British statesmen have not decided this case on the merits, but have yielded to the clamour of persons who are of their own race, and have thereby not given attention to the real question at issue, their names will go down to history as having hopelessly failed in rising equal to the occasion.

Sir, on a very famous occasion Lord Palmerston in the House of Commons stated that the boast of the Roman, *Civis Romanus Sum*, is equally applicable to the British subject, and I believe acting on that principle on many an occasion, the British Government have compelled nations who have been violating the rights of individual citizens to respect those rights. If that is the true position of the British Government, I ask two questions. Is that protection, is that privilege to be given only to the persons who are resident within Great Britain and to their descendants, or is it to be extended to all persons who owe allegiance to our common Sovereign? We are supposed to be partners in the Empire. If this protection is withheld from the Indian, it would be regarded that the principle enunciated by Lord Palmerston has not been honestly and seriously applied to everybody who owes allegiance to the King. Another question which I ask is this. Is this protection and privilege to be exercised only when there is an infringement of right by a foreigner, and is not this right to be extended to a weak subject who is being oppressed by a strong subject of the same Sovereign? If one subject of the Sovereign oppresses another subject of the Sovereign, should not the same privilege be extended? I believe there can be no two answers to these questions. I ask the Cabinet at Home to remember these two principles before they arrive at a decision on the issue which is laid before them.

Sir, only one word more. We are told we are members of a Commonwealth of Nations; we have been signatories to treaties; we are in the League of Nations. These, if I may say so, are empty formalities; if the question which is confronting the British Cabinet is not decided properly, these empty privileges which have been given to us will not be regarded as of any moment in this country. The people of this country would consider that these rights were never intended seriously to be enforced, and that it was never the intention of Great Britain, in granting these so called privileges, to keep to their word. True, in this country, even though the decision may go against us, there may be no disturbances and no rioting; we are a quiet people and are not likely to do anything which would endanger law and order. But, Sir, I want the Cabinet at Home to remember that, if they decide any point against us, they will have before them a people wholly discontented, sullen and disaffected. The strongest Government in the world will not be able to rule successfully 300 millions of people who are in that unfortunate frame of mind.

Upon the questions I have mentioned there is no difference of opinion in India. Caste does not stand in the way; religion does not stand in the way; communities are not separated from each other in this matter. All of us are agreed upon this question and, if the decision goes against us, the India Government will be the greatest sufferers. They will find that the people as a whole are discontented and disaffected, and I appeal to the British Parliament not to bring about such a catastrophe. In conclusion, I ask the British Cabinet to remember that they will be doing justice to themselves, that they will be strengthening their position in the civilised world by coming to the succour of the weak and helpless and by not taking sides with those who are strong and resourceful and who have got powerful influences at Home to back them.

I move my Resolution.

Khan Bahadur Mir Asad Ali (South Madras : Muhammadan) : Sir, I rise to say a few words on behalf of my constituency in particular, and on behalf of Muhammadan Members generally, in regard to this Resolution of all-India importance. There is no doubt that we are all interested in our brethren settled in Kenya and we can heartily support the Resolution so ably moved by Mr. Seshagiri Ayyar. It puts the whole case for the Kenya Indians admirably and will, I hope, strengthen the hands of His Excellency the Viceroy in pressing the case for the Indians domiciled in Kenya. As we are all aware, many Viceroys have tried hard to improve the position of Indians settled in South Africa and other parts of the world, including Kenya. But it is for a strong and tactful Viceroy like Lord Reading of wide-world diplomatic fame to give a successful and finishing touch to the question.

A word more and I have done. While I and many other Members are in entire accord with the Resolution, we cannot support the amendments on the agenda paper, which advocate retaliation. Sir, retaliation cannot be successful when we are competing with unequal powers, and it will simply make the position of the Kenya Indians worse. No friend of Indians in Kenya should therefore support the amendments, and I would urge the authors of the amendments to exercise some forbearance and to readily withdraw them.

With these few words, I support the Resolution.

The Honourable Sir Narasimha Sarma (Education, Health and Lands Member) : I rise at this early stage of the debate for the purpose of explaining the position of Government with regard to this Resolution. I may congratulate Mr. Seshagiri Ayyar upon the moderate tone which he has adopted in discussing this Resolution. I can assure him that he was not wrong in hoping that he could identify the Government of India with the people of India in supporting and advocating the claims of the Indians settled down in Kenya. The Honourable the Mover has addressed a few questions, and he has been followed by other Members, and the Leader of the House, in response to the invitation, has to a certain extent explained the position of the Government already, and to that extent I am relieved of any further detailed explanation on the subject. The Secretary of State for India has informed the Government of the provisional proposals of the Colonial

[Sir Narasimha Sarma.]

Office with regard to this Kenya controversy. The Government of India considered the question carefully and cabled their views in reply.

This question is no new question. It has been discussed on the floor of this House and of the Council of State more than once. Public feeling on this matter has been adequately given expression to both here and elsewhere, and the Government of India have now and always been pressing upon the Home authorities the necessity of paying due regard to the wishes of the people of India. This subject, as I have said, has been discussed more than once here, and Honourable Members are aware of the attitude which the Government has taken up towards the problem.

If the Government are not in a position now to take full part in the debate it is because of the negotiations that are proceeding between them and the Secretary of State. The correspondence must necessarily be of a confidential character and the House will respect such negotiations being kept secret until the final result is known. I am not therefore in a position to go categorically into the issues that have been raised in this Resolution but I may assure the House that the Government of India are doing their level best to secure justice for the Indian claim. The question was raised in the Council of State, and possibly may be put here, as to what have been the proposals of the Colonial Office, as to whether the statements made by certain prominent Indians in the United Kingdom which have been cabled out here are not accurate. I am not in a position to give complete information on this subject for the reasons that I have already given, but I may assure the House that the Indian cause cannot be said to have been lost. There is a certain amount of inaccuracy—how far it is inaccurate I am not in a position to state for the reasons I have given, because I shall be indirectly disclosing the information that has been given to us. But this much is clear from the information we possess, that His Majesty's Government are not laying down any principles to which any one of us can reasonably object. The authorities in England are fully aware of the strength of public feeling on the subject. They are in full possession of the views of this House as well as the Council of State. They are in full possession of the views of the Government of India, which, as I have said, has always advocated the just and legitimate aspirations of Indians in this respect; and we hope and trust that the decision that may be come to by His Majesty's Government will be one that may be acceptable to the vast majority of the Indian population. It may be that we shall not win on all points. I do not wish to mislead the House into any belief that when I stated in the Council of State that the telegrams that have been received here are inaccurate I should be considered to have stated that there is not some ground for apprehension that on some points the Colonial Office is taking a view somewhat opposed to the view that is held in India. But there is no reason for us to suppose at the present moment that the Cabinet, having before them the views of the Government of India, the Colonial Office and the India Office on the subject, would do anything

other than what is best in the interests of the Empire. The Government therefore, in view of the difficulty and delicacy of their position in view of these negotiations going on, are not able fully to participate in the discussion; but I may assure the House that they will cable Home immediately such Resolutions as we may pass here to the Secretary of State for information and request him to give full, adequate and sympathetic consideration to the views that may be expressed here. The views of the House will then I am sure be placed by the Secretary of State before the Cabinet for their consideration, and we shall request the Secretary of State to do so. I do not wish to take up the time of the House any more. I shall only repeat what I said in the beginning—that so far as the Government of India are concerned, the trust that has been placed in them by this House has not hitherto been to any the slightest extent wrongly placed, and I may assure the House that when it is in a position to know what has taken place they will have no reason to regret the attitude of the Government of India.

Maulvi Abul Kasem (Dacca Division : Muhammadan Rural) : Sir, the Resolution that has been moved by my distinguished friend the leader of the Democratic Party will I am sure receive the unanimous support of his House—the support of non-official Members and the support of official Members as well. The Resolution, as I understand from the speech of my learned friend, is not intended to impress upon the Government of India our point of view, because the Government of India are already in full sympathy with Indian aspirations and feelings in this matter. It is intended for a different people altogether.

Sir, the Honourable Member in speaking on behalf of Government congratulated Mr. Seshagiri Ayyar on his moderation. I admired—I was going to say, I wondered at his excessive moderation in this respect. I believe that this Resolution has been framed in the language that it has deliberately, because we have been told again and again that we ought to do nothing which would irritate our opponents. We have been guided by that advice so far in our discussions on this subject, and my friend the Mover of this Resolution has been guided by that advice in framing it as he has done. But, Sir, this is a question in which I am afraid moderation cannot be practised much longer. We are being dragged beyond the limits of moderation. It has been remarked by a great statesman that good measures rob the agitator of his work and bad measures drag peaceful citizens into the ranks of the agitator. The British Cabinet and the Colonial Office will take note of this great truth and not drag peaceful citizens—people who are averse to agitation—into the ranks of violent agitation. Many years back a memorandum was submitted to the Imperial Conference in which not the question of the Crown Colonies but of the British Dominions was discussed and their dealings with Indians. In that memorandum it was remarked that the great efforts of the British people and the British Government to create a feeling of citizenship in India were to a great extent hampered by the conduct of the Dominions in their treatment of the Indian settlers. If that is so, what should be the attitude of people in the Crown Colonies? They were never expected to be, if I may say so, impertinently irritating to the people of India. Sir, we are told that we are members of a very great Empire, of a Commonwealth, the greatest that the world has ever seen. We feel it, we rejoice

[Maulvi Abul Kasem.]

in it—that we are an integral part of a great people, subjects of a great Sovereign ; but in order that our feelings and our pride in this respect should be genuine, sincere and honest, we must be made to feel that we have not only the responsibilities and the duties to discharge of a citizen of the Empire, but also that we have the rights and the privileges of a subject of that Empire, and unless we get the rights and the privileges, we submit, Sir, that we will refuse to discharge our responsibility and our duty to the Empire, because we do not feel that we are an integral part of that Empire. Mr. Seshagiri Ayyar, in very mild language, has told us that a time may come when our services may be wanted ; it may be to-morrow, it may be the day after. Sir, in this connection I am reminded of a parable. Four or five men were working on a fine morning in a lonely street ; one of them who was the leading man found a big lump of gold in front of him ; he picked it up and said “ Look here, my friends, I am so fortunate as to find a fortune here.” The others shouted out “ You should say *we* are fortunate, because we are all in the same company ; you have got it and we share it ; it is our property and not yours alone.” There was a discussion going on and in the meantime a policeman ran after them and caught hold of the leading man who had the gold in his hand and arrested him for stealing or having received stolen property. Then this man cried out “ Gentlemen, we are in great danger.” The others immediately replied “ Not *we* ; but *you* are in great danger ; you had the gold, not *we*.” Similarly, when a danger has to be faced we are told that we are members of a great Empire, but when the booty is to be divided we are told that we belong to an inferior race. Sir, the feeling of superiority that is shown by certain people against others is a relic of an ancient, if I may be permitted to say so, barbarism ; and in these days of civilisation there should be no feeling of superiority of birth or nationality, caste or creed. Sir, to speak on this Resolution to this House is practically pleading before a convinced jury, and I should not take up the time of the House for this purpose. I would only desire to express, and I think in this I echo the opinion and the feelings of my non-official friends, that while the Government of India communicate to the Government at Home our feelings as they have been doing in the past in this respect, we also say that if the decision goes against us there is every possibility or apprehension of a feeling of retaliation on the part of this country against the Europeans ; whether they are in Kenya or in the Dominions we do not care.

But, Sir, before I sit down, with due deference to my learned friend, Mr. Seshagiri Ayyar, I must refer to a point in his speech. In the discussion of this question the people of all India and the Government of India are united. While discussing this question I regret very much that he should have inadvertently referred to the matter of communal representation in this country. I am sorry, though it is irrelevant to the discussion, I cannot allow his remarks to go unchallenged. I admit, Sir, that communal representation is an evil ; but at the present moment I submit it is a necessary evil, which must exist and will continue to exist as long as our friends, the great opponents of the communal representation, do not mend their own manners. It rests with them to do away with the communal representation. If they are charitable, if they are liberal and

cosmopolitan, and if they do not arrogate to themselves a superiority which does not exist, we on our part would only be too glad and willing to give up communal representation.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, we have had an illustration this minute as to how seemingly united India, united so far as its people and Government are concerned, in a matter like that before the House is apt to go upon wrong tracks in other matter and come to grief. I think we should be well-advised for the moment to leave alone those side issues that may be all important in another plane and on another occasion having regard to peculiar Indian problems. We should now concentrate our efforts and attention on the vital issues at stake. Sir, my friend to my left has been speaking of a convinced jury here ; but what about the jury elsewhere, a jury which, according to the replies that we had this morning, has just retired with the full statement of the colonial case and also the India Office case, a jury the verdict of which will ultimately have to go before the final and supreme arbiter, the British Parliament ? At such a moment I think, and I appeal to the House as Mr. Seshagiri Ayyar appealed, whatever our feelings and sentiments may be, not one word should escape us which will hamper the peaceable and possibly righteous solution of the question. Above all we should in no way embarrass the Government here. That has been our attitude in this matter throughout ; that was our attitude, Sir, only the other day when I brought up the question of the Indian grievances in the mandatories ; that was our attitude when the question of emigration to Mauritius, to Ceylon and to the Straits Settlements and Malaya came up. The House rightly responded to the appeal of Sir Narasimha Sarma that not a word should escape, not a sentiment should be uttered that would make the very difficult work of the Government in England more difficult. Sir, here the Government of India and the Members of the Legislature in the two Houses and the people of India are all at one, and so is the Secretary of State. There could not be a greater unification of Indian and Government sentiments that prevails on the present occasion ; and yet what has been the gain so far and what are likely to be the chances ? As it happens in spite of what my honourable friend opposite has assured this House, our apprehensions and forebodings are that though in his own words the Indian case may not have been altogether lost, the Indian case is not likely to thrive and prosper in anything like the way in which we want to see it solved. Therefore while there is time before the last word is said it behoves us as representatives of the people through the Government to tell the authorities in England that nothing short of absolute justice will satisfy India, and it further behoves us to raise our voice not in threat nor even in warning, but in clear expression of anxious apprehension that, unless what we urge is achieved, the results are likely to be very serious indeed, if not dire. Sir, the apprehensions that we are trying to voice to-day are not entirely our own. The Government of India in recent times have certainly been of the same mind as the Indian people with regard to this question. If I am not much mistaken, not very many years ago, the Government of India, in addressing the Secretary of State on the subject of the policy towards Indian emigration to British colonies, stated that there was no guarantee that the attitude of South Africa may not one

[Sir Deva Prasad Sarvadhikary.]

day be the attitude of the white community in a Crown Colony. The suggested solution in the way of Crown Colonies has been rudely brushed aside in connection with the Kenya problem. Even if that solution found favour, the apprehension that was expressed with regard to what was likely to happen to Indians, in the Crown Colonies as much as in the Dominions, has not lost its force. Sir, what is the position of Indians in Kenya? As has been very forcibly pointed out in an admirable publication which the Imperial Indian Citizenship Association has brought out, "It has been repeatedly pointed out that the Indians do not claim domination in Kenya; that they are perfectly willing to respect and promote the rights of East Africa Natives; and that all that they claim is equality, not merely in name but in substance." Then they go on to refer to the Conference of 1921 to which a detailed reference is unnecessary. They however significantly add "With the British settlers too, their relations were of the most cordial character right up to the intrusion of the South African contingent whose wild ambition of having a 'White Africa' has practically revolutionised the original peaceful outlook of the European community and has necessarily worked a corresponding change in the mentality of the Indian settlement." Therefore, Sir, what is troubling us now is more a made-up thing—made up from the point of view of those who are interested in what they call the white problem, and they have been taking steps not only in Africa and in England, but they have been sending deputations to Australia and elsewhere to prepare white settlers' minds everywhere against the Indian. And evidence of that, as I reminded the House the other day, was strongly visible in England in connection with the Indian student problem. Ever since the colonial influx of students there, the troubles of Indian students in the British Universities and other seats of learning has been most acute, and the Government of India and the Secretary of State have been obliged to take up the question from that point of view amongst other things to see whether steps cannot be taken to relieve the Indian students of their unevitable lot. Now, what is the moral of the matter? Everywhere outside India, and I am glad and proud to add England, the Indian is not wanted, and all kinds of artificial obstacles that can be raised are being thought of and put forward with vigour and tenaciousness. The problem is not confined to twenty thousand Indians in Kenya but relates to two millions of Indians all over the world. India cannot therefore sit quiet under those disabilities. We have been repeatedly reminded of the Great Empire of which we are component partners and responsible parts with all kinds of responsibility. We do not want to disown those responsibilities. We want to fully live up to them and to act so that we may be worthy of greater responsibilities here in our country and abroad and be able to discharge our duties to the Empire. But, Sir, if at every turn we are to be reminded that this is more or less an unreality, of which doings outside India will give an impression, the results cannot be what the Imperial Government would like to see achieved. Those who like us, in spite of abuse and contumely, have taken it upon themselves to represent what we consider to be public

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opinion are not able to go out to the country and urge that Indian claims are receiving better treatment abroad than they have at the hands of the final authorities. They cannot hold out hopes that soon all the prevailing unrighteousness may be hoped to be put an end to. The position of those who have to represent the people before the Government is most unenviable and they themselves need support. All these considerations make it obligatory upon us to voice the opinion of the people as strongly and yet as moderately as we can, that if the solution of this question does not meet with Indian approval—and in that I include the Government of India,—the consequences will be very serious indeed. In another House, there has been no opportunity for expression of such an opinion. I believe by means of representation through a deputation received by His Excellency the Viceroy the other House bring home to the Government of India this point of view and the Government of India as we have been assured are doing all that is possible to bring this to the notice of the authorities. If all this is done the result cannot be what we want it to be, there will be reason for more than anger and despair. That, I think, is a message that should go forth from this House to-day, but we should not go into details which are apt to raise controversial questions. All the materials that can be placed before the Cabinet are there, and after our further representation made here to-day will come the Parliamentary stage. Sir, India at the present moment does not seem to be enjoying exceedingly bright prospects in Parliament. We have had recent demonstrations to which I need not refer. Only the other day it was seriously put forward that if India was going to profit by the existing favourable conditions of the British money market, they are to spend 75 per cent. of the loan, at all events what they spend outside India on the purchases, spent in England.

The Honourable Sir Basil Blackett (Finance Member) : That was negatived without a Division.

Sir Deva Prasad Sarvadhikary : I was going to add that when the Honourable Sir Basil Blackett needlessly rose. That is a proposition that did not find favour with Parliament. There is no reason, however, entirely to despair if the Government in England will properly, strongly and forcibly put forward our point of view before the British Parliament. Right may yet be done.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, I may begin my remarks by saying that, in view of the circumstances under which this day has been allotted to this most grave and important question, I do not propose to move the amendment which stands in my name. I gave notice of that amendment in a spirit of despair and despondency, but the remarks made by the Honourable Member in charge of the subject this morning have encouraged me a bit that there is still hope left, and we may yet see justice done to the people of this country.

Sir, the Honourable Member told us this morning that he will take care to wire to His Majesty's Cabinet the views of this House. Sir, I may assure him that if this Resolution alone is cabled, or even if the amendment of my Honourable friend Dr. Gour is cabled, Government will do but little justice to the real feelings of the people of this country on this

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question. They grossly underrate, they grossly under-estimate the real extent of the feeling of the people in this country on this question. Sir, the War brought wealth to this country as elsewhere ; it brought wealth to persons ; it brought wealth to individuals and to bodies ; and it brought wealth to this country in politics. Sir, it was in the year 1917 that the famous pronouncement of August 1917 gave us the first promise of a partnership in the great Empire to which we are proud to belong. That word ' partnership ' sounded so true and good and so encouraging, that those of us who were clamouring for reforms and had never dreamt of that partnership, began to rally round the banner. So it came to us at a very welcome moment and at that time war loans were in the air and immediately after the announcement came, I took part in a public meeting in Madras. The late Sir William Meyer, a great friend of India, had come down and asked us to take part in these various war loans and I used that promise in my speech to conjure the crowd there. Here we are going to becoming partners in the Great Empire who are struggling to bring right and justice to the people of the world, and this is our opportunity, this is the time for us to show our good faith, to show our loyalty, to show that we are true friends of this Great Empire. Sir, India behaved magnificently on that occasion and in response to that co-operation in that great struggle which the British Empire entered upon, India itself acquired war wealth, and part of that war wealth is this partnership in the Great Empire. Now, Sir, war wealth with reference to individuals has behaved like butterflies. We know that, but we hope and trust that this war wealth to the nation, to this country, is not going to be a butterfly. But, Sir, there are indications, very strong indications indeed, after the year 1921, that this partnership is going to be a sham and not a reality. This question of Kenya was considered, as Lord Delamere said, as the acid test, not only in regard to the question as it affects Kenya but as it affects the truth of this partnership in this Empire. Is this going to be a real partnership in the Empire for Indians, or is it going to be a mere sham, mere idle words uttered for the time being but not meant to be kept when the time comes. That is the question which the Cabinet has to decide, that is the momentous issue which the Cabinet will have to decide. How they decide the question, whether the Indians in Kenya are satisfied or not, we of this country look forward to this decision as a decision which will be a test of the sincerity of this promise of partnership, of equal partnership in this Great Empire. Now, Sir, the Imperial Conference of 1917-18, the Imperial Conference of 1921, both affirmed the rights which ensure to us, which ensure to other partners in the Empire—rights which it is necessary should be respected by both of us—reciprocity and equality. Equality we have not got by any legal rights. Equality depends upon the way in which the great partner in this mighty partnership is going to behave. It is the great partner alone that can secure this equality to all the inferior partners in this Great Empire. When the question arises between various partners, it is the dominant partner who has to put his foot down and see that justice is done between partner and partner. Sir, Lord Delamere said, when he went to Europe on this great mission on which he has gone, that he was not going to sell the pass. I hope the British Cabinet are not

going to sell the pass so far as we are concerned. It will be a selling of the pass if real justice is not done, if equality is not secured. Sir, what is it that Indians are suffering from ? Nearly two millions of Indians are outside the country. Although there are only 20,000 and odd in Kenya, the question will have to be decided not only with reference to these 20 thousand and odd in Kenya but the two millions in the self-governing dominions and in the Crown colonies. Now, I am sure that the decision on this question is being watched with great interest by other colonies, especially by South Africa, where in the last two years you find the tendency to segregate the Indians, to deprive them even of what little they have got, not to speak of the removal of the disabilities from which they suffer already. We expected, after the Conference of 1921, in which all the dominions took part, barring of course the dominion of South Africa, that the disabilities under which the Indians labour, either by Statute or by practice, would have disappeared by this time. But on the other hand, we find the tendency in the other direction, and South Africa, I am sorry to say,—and I hope all people are ashamed of the attitude of South Africa in this matter—is setting a very bad example in this respect. Ordinance after Ordinance has been introduced. I think three of them have already come into operation and some are only awaiting sanction. It tends to show that Indians are being segregated. They have got a Public Health Committee. They have got a Licensing Board. They have got also township laws. Under the provisions of these various Ordinances, Indians are threatened to be segregated, to be prevented from following innocent vocations and various disabilities are sought to be imposed. I know that the India Government have protested against these Ordinances. The India Government like the Indian people are weak. The Indian people—although they are many—are not strong. It is that want of strength, I am afraid, which is taken advantage of by people abroad and at home and adverse decisions are come to in these matters of vital importance. Firmness counts. Lord Hardinge was firm. He succeeded in carrying his point. And I am sure Lord Reading's Government is equally firm. I have no reason to believe the contrary. He was firm with our people—he gave himself that good certificate by certification. He is a man who can rise equal to the occasion and be true to his own convictions. If he can defy the views of 300 millions of Indians, has he not the strength, has he not the will power to defy the views of about 9,000 white settlers ? I am willing to concede, therefore, that it is a firm ruler we have got. Let that firmness not be applied to one race inhabiting India but let that firmness be also displayed to the people across the sea. Let Government show that firmness and we in this country will back up the Government in this matter. That is the view, Sir, which I wished to express in the amendment which I had tabled. But, as I have been advised by my friends that this is not the time to use such language in the Resolution, I have refrained from moving that amendment. But, Sir, it will be an idle affectation on my part if I say that the people will be content merely with any settlement of this question short of absolute equality between all subjects of His Majesty. Sir, if this cannot be secured to us in a Crown Colony, how can we expect the self-governing dominions to give us that equality ? Will it not be setting a bad example ? Will it not be setting a bad precedent ? Will not the self-governing Dominions, who are

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already affected by race prejudices and pride, throw this in our teeth and say "Your own Government, your own Parliaments, your own Sovereign under whom you live has only treated you in this inferior sort of way; why do you expect us, Self-Governing Dominions, to surrender our privileges which we have enjoyed so long? That will be the question that will be put to us, and we, subjects of His Majesty, subjects of Lord Reading as Viceroy, will have to hang our heads down in shame. No need for Sastri to go to these Colonies and hold his head aloft and plead the cause of India with the eloquence, bravery, tact and consummate skill with which he has pleaded India's cause. Any decision on Kenya will be a vital decision. It will involve very large issues. It will be the question of questions. Therefore, I appeal to the Government of India, I appeal to my Honourable friend Sir B. N. Sarma, who belonged to the same platform as myself when both of us were doing political work, he as President and I as Secretary of the Madras Mahajana Sabha,—I appeal to him to influence his colleagues, to throw the full weight of his influence, and as an Indian to see that justice is secured to this country. It is not sympathy, Sir, with Indians abroad. The Resolution talks of sympathy. It is not a question of sympathy with others. It is our question. It is not anybody else's question. We view it as our question. It is not a question affecting anybody outside India. It is our question, because it is open to us as free subjects of His Majesty to go there tomorrow. These disabilities must be removed and any settlement short of equality will be resented, I hope not only by Indians in this country but by all subjects of His Majesty in this country from Lord Reading downwards. Sir, while I am not enamoured of the wording of this Resolution, in order to secure unanimity, in order to emphasise our views, in order that it may go forth to the world that united India demands the securing of equality, I support the Resolution.

Dr. H. S. Gour : Sir, in the state of bewildering perplexity which Members of this House must naturally feel and the dearth of information from the Official Benches, they would very much like to know the exact state of the negotiations now proceeding in England. For that purpose I shall read to the Members of the House the latest telegram on the subject received from our delegates Messrs. Sastri, Jamnadas, Kamat and Polak. They say :

"India Government being consulted Kenya Settlement. Proposals believed adverse regarding Highlands franchise questions. Public opinion must press Government maintain firmly original attitude both questions. Cabinet decision shortly expected once given difficult to modify. Let Highlands decision stand over some years. Communal franchise demanded and granted for racial supremacy extremely detrimental Indian position and become stereotyped throughout Empire creating two classes citizenship. Witness Fiji. Proposed settlement constitutes material derogation Wood-Winterton agreement under white pressure."

And Renier, in a message which reads as follows, confirms this telegram :

"Indian Kenya deputation met Duke of Devonshire yesterday but interview was purely to understand that he had come to certain conclusions, and submitted them to Cabinet. They would be submitted to Parliament, but until then, no official announcement would be made. It is, however, believed that on questions of Highlands and franchise decision of Government supports contentions of White settlers, namely, that position in Highlands should not be altered and franchise should be on communal

basis. Authoritative circles expect, that with regard to immigration, declaration of policy will be made that any British subject will be free to circulate within British Empire, subject only to any limitations required in interests of indigenous population. It is also asserted that Imperial Government has declined to agree to suggestion for segregation of Indians."

Sir, these two messages have inspired me to table my amendment and I shall very briefly explain to the House why it should support the deputation that the Legislature has sent out to England who want the support of this House on the specific points I have raised in my amendment, and I shall further explain why my amendment should receive the acceptance of this House. Honourable Members will find that my friend Rao Bahadur T. Rangachariar has already pointed out that my friend Mr. Seshagiri Ayyar must have penned his Resolution under some misapprehension, for I cannot understand how in a case in which we are the parties directly concerned, we could extend our full sympathy to ourselves. It is as Indians that we claim equality of treatment and the rights for which we stand. I therefore suggest, Sir, that the House should accept my amendment which reads as follows :

"That for the original Resolution the following be substituted :

"This Assembly recommends to the Governor General in Council to be so placed as to convey to His Majesty's Government its view that no settlement of the Kenya question will satisfy the sentiments of the people of India which does not place their fellow countrymen on an assured footing of equality with the British settlers in that country; and it trusts that the Governor General in Council will be no party to a settlement which reserves the Highlands exclusively for Europeans and introduces the element of communal franchise against Indians."

Sir, it is upon these points, that our delegates want our support, and I have no doubt the House will give it. Honourable Members will see that the Colonial Office, judging from the telegrams, are prepared to concede two out of the four points in favour of India. One concerns segregation and the other concerns immigration. But they are not prepared to concede the two other points which our delegates and the Kenya Indian delegates have been pressing home upon the Colonial Office, namely, the reservation of the Highlands exclusively for Europeans and the establishment of franchise upon a communal basis. A cablegram received recently explains the position of the Colonial Office as submitted to the Cabinet. That telegram may or may not be right, but I give you the purport of it so far as I am able to do. Before doing so, Honourable Members will observe that the question of Highlands in Kenya had been agitating the Kenya settlers for a long time past and I hold in my hand a valuable booklet written by Sir George Buchanan, who went down to Kenya to examine the whole question and on his return he has given his impression of this colony, from which it will be abundantly clear that so far as the Highlands of Kenya are concerned we have an indisputable claim. Speaking of the Highlands he says that out of the 50,000 square miles only 8,500 square miles have been so far allotted to European settlers. And what is the position of European settlers? Let me quote to the Honourable Members the words of Sir George Buchanan himself. He says :

"It is not a white man's country, that is to say, that the white man cannot, as in Australia, New Zealand, or Canada, work in the fields, and unless the farmer can hire labour he sees ruin staring him in the face."

[Dr. H. S. Gour.]

In another place, he writes :

"The European farmers are as a class, to quote the Director-General of Agriculture, mostly amateurs with little experience in agriculture or stock raising, and the country suffers accordingly. Everything has been tried in turn, and each individual settler has experimented on his own initiative."

Speaking, then, of the settlement, he says :

"One of the most regrettable schemes inaugurated in East Africa was that known as 'the soldier settlement scheme,' which has been a dismal failure in that it has involved many splendid men in financial loss, and cast a serious permanent responsibility upon the Colony."

The Honourable Member of the Resolution quite incidentally mentioned that the Uganda Railway was built out of the capital found by the white settlers in Kenya. Sir George Buchanan here points out that it was constructed at a cost of 6 1-5 million £ by the Imperial Government and was presented as a free gift to the people of Kenya. The white settlers did not spend a pice. As a matter of fact, from the inquiry made on the spot Sir George Buchanan says that it is a place where the white man will find no permanent home for the very simple reason that the climate is unsuited to him. Then he goes on to plead the cause of Indians in the following words :

"The coloured races, Indians as well as natives, are not always going to be ruled by an oligarchy of Europeans, the country is unsuitable for permanent white settlement on Colonial lines, and all in good time a population of coloured producers will add in no small degree to the Imperial wealth, and will also be capable of taking part in administration, and will insist in so doing, while the European planters, by the instinct and genius of their race, will, it may be confidently hoped, play a part of great Imperial importance not without prosperity to themselves."

That, Sir, is the verdict of an impartial observer who points out that this whole of the Kenya problem has come to the forefront on account of the fictitious agitation set up by a few interested individuals. So far as the colony is concerned, he points out that it is ill adapted for European settlement and eminently suited for Indian immigration. That should be our standpoint as regards the claims of the Indians settled in all parts of Kenya. References have been made to vested interests. Sir George Buchanan points out that with the exception of 8,500 square miles the rest of the Highlands of Kenya is still unappropriated. Consequently, there is no room for the cry of vested interests, and I think that this House will, therefore, be well justified in asking the Government of India to take a firm attitude both on the subject of the Highlands and on the question of franchise.

Now, what is the question of franchise? It has been suggested by the white Deputation to the Colonial Office that while they are prepared to agree to franchise, they desire that out of a total of 12, 8 should be white men and 4 should be Indians. Now, that is what the Indian delegates in England and the Kenya Indian delegates there object to. What they want is a franchise not upon a communal but upon a common basis, and I have no doubt that if this is conceded, a *modus vivendi* is possible between the white and other settlers. I submit, therefore, that we have an unanswerable case on the four points upon which we and the Kenya Europeans are at issue. On the question of emigration we take our stand upon the firm ground that we were the pioneers of that colony and the white settlers, small in number, came in afterwards.

Reference was made on the last occasion to the statement made by Mr. Winston Churchill in which he pointed out that the Indians were the pioneers of Kenya. Sir George Buchanan in his book points out that without Indians the Kenyans cannot thrive, and this is an admission made not by Sir George Buchanan on his own authority but upon the report of the Economic (but anti-Indian) Commission in which, however, the following fact was admitted :

"It may be admitted that the Indian has played, and still plays, a useful part in opening up trade, stimulating the wants of the natives and inducing them to part with their products for purposes of export. For this service he is entitled to credit, but the essential point is that the same service might, with due encouragement, have been performed by the native peoples."

That is the report of the Economic Commission. I, therefore, submit that the Government of India should stand firm to their guns. They should conjointly address the British Cabinet that so far as they are concerned they are not going to recede one jot from the position that there shall be no segregation, there shall be no restriction upon immigration and no reservation of the Highlands to Europeans. As our Deputation suggests, let this last question be deferred for a sufficient number of years, but let it not be decided against the Indians. And as regards franchise, our delegates claim, and we support them, that there should be a common franchise and that franchise should be as suggested by our delegates in England, namely, that communal franchise would segregate them for electoral purposes which in its turn would lead to a bifurcation of the white and the brown settlers, introducing and perpetuating galling distinctions which are likely to be aggravated in the near future. But I ask, Sir, even assuming for the sake of argument that in the negotiations that are now proceeding the Cabinet was to grant us all the points that we claim, what guarantee is there that to-morrow, if they decide on the establishment of self-government in the Colony, the same distinctions which the Colonials claim would not be placed upon the Statute book? It is for that purpose that I have asked in my amendment that our fellow countrymen should be placed upon a footing of assured equality. We want a permanent settlement of this question and that settlement, I submit, is only possible if Kenya is retained as a Crown Colony. If it once gets Dominion status it will pass out of the hands of the British Cabinet; so far as the local questions are concerned our fellow countrymen will begin to suffer from the disabilities from which they suffer in the other parts of South Africa. We therefore, Sir, wish not merely for a settlement but for a permanent settlement, and for that purpose we want that the Cabinet should see that no disabilities are placed upon Indians in any constitutional changes that take place in the near or distant future. Otherwise, I submit, the cure would be temporary and the disease will recur; the grievances we suffer from will come back to us and make our position not only in Kenya but in the whole of South Africa intolerable. Lord Delamere said, 'let Kenya be the acid test.' Well, Sir, let it be so. My friend Mr. Rangachariar has rightly pointed out that all eyes in this country are now turned to the British Cabinet. The British Cabinet is now faced with a situation in which the interests of a few Colonial settlers have to be reconciled with those of a larger number of Indian settlers and immigrants from this country. I hope, Sir, the British Cabinet will take a long view of the matter and that they will not introduce questions based

[Dr. H. S. Gour.]

upon narrow considerations of race and colour but decide them in the interests of the British Empire, to which, as Member after Member has said, we are proud to belong.

Sir, I move my amendment.

Mr. President : The Honourable Member's amendment falls into two parts. The first five lines of it cannot be moved as they raise a question identical in substance and almost identical in phrase with the Resolution moved and carried on February 27th in this Session.

The last three lines seem to me to be practically covered by the Resolution ; but they are actually in order and could be moved, in a slightly different form.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I beg to associate myself with the claim made by India for the equal treatment of her fellow countrymen in Kenya, and I do so because that claim has been put forward in a spirit of good-will and firmly but nevertheless with a desire for the amicable settlement of a difficult problem. I cannot profess to be in a position to form any judgment on the merits of that problem because I am not possessed of all the facts necessary for the formation of such a judgment. But I have these facts. The Imperial Parliament have decided and enacted that Indian and European shall have equality of treatment in India. The Government of India are now honestly striving and many non-official Europeans are honestly co-operating to give effect to the decree of the Imperial Parliament. From these facts the question arises, if Indian and Britisher are to have equality of rights in India, can that equality be denied in any Colony forming a part of the British Empire? I cannot dispute the proposition and I do not dispute it that there are two sides to that question, the point of view of India and the point of view of the colony concerned. We are here to-day to represent the Indian point of view. To be consistent in my humble opinion we must say and we do say that as Parliament has decided that Indian and European shall be equal in India, there is *prima facie* no reason why such equality should not be insisted on by the same Parliament in every other part of the Empire subject to its control and influence. If it be said that the Colony of Kenya has a right to decide what is best for itself according to its history and local circumstances without dictation from India, I should reply, first, that such a contention would not be in accordance with the basic principle of a Commonwealth, and secondly, that such a contention would show a very short memory on the part of the Colony in forgetting how much it, and others like it, owe, perhaps their very existence, to the part played in Africa by the Indian Army at a time when the United Kingdom may have been very hard put to it to look after these distant settlers ; if there had been no gallant Indian Army, the members of which have shed their life-blood to maintain and protect those very settlers, perhaps, who are to-day being asked to recognize Indians as equal with themselves in subjection to His Imperial Majesty. These same European settlers might otherwise have been overwhelmed

by the black hordes of Germany. But while I associate myself with a temperate and clear statement of the Indian claim, I firmly and unhesitatingly dissociate myself from any policy either of threats of reprisals against the Colonies or of threats of disaffection against the British Government or the Government of India, which at least is doing its best, and if it fails will be one with us in that failure. I and the community that I represent will fight the cause of India to the bitter end,—and I hope, we shall succeed. We may not succeed all at once. Advantages, especially political advantages, are seldom obtained *en bloc* ; one has to fight for them and obtain them gradually. But we will not—and by the word 'we' I mean the community that I have the honour to represent and myself—we will not take part in, and we will oppose, whatever may be petulant and merely revengeful and unjust against those of our fellow subjects who, for the time being, may not be in agreement with us. If we do not succeed in getting all we want on this occasion, we shall certainly be discontented ; but to be discontented is an entirely different thing from being disaffected. Discontent will merely spur us on to further constitutional effort ; and we hope, in that further constitutional effort, to carry with us the Government of India while we remain loyal to it ; we shall certainly not carry them with us if we are disaffected. On these grounds, and after making my position perfectly clear, I thoroughly associate myself with this claim which is put forward in an extremely reasonable manner by the mover of the Resolution.

(Several Honourable Members : " I move that the question be now put ".)

Mr. W. M. Hussanally : Sir, I will not detain the House by a lengthy speech in this matter, in which I find that the non-official as well as the official Benches are almost unanimous in regard to the proposition as put forward by my friend, Mr. Seshagiri Ayyar ; and I heartily congratulate my friend Mr. Rangachariar for having withdrawn the amendment of which he had given notice, because I should have found very great difficulty in voting for that amendment, particularly the word 'retaliation' was ringing in my head, and I did not know what it meant ; I thought it went a little further than what we intended to do in this matter. Coming, Sir, to the point of the amendment of my friend Dr. Gour, and also some portion of the speech of the Honourable mover of this proposition, I find that my friend, Mr. Abul Kasem, has so clearly and in such a fine way put forward the views of the Muhammadan community with regard to communal representation that it is very difficult for us as a body to go with them so far as communal representation in the Kenya Colony is concerned, and therefore I would beg of the Honourable mover of this Resolution to amend the proposition as put forward by him so as to make it easy for us to go whole-heartedly with him in this matter. My friend Mr. Seshagiri Ayyar knows that at the present moment there is any amount of agitation going on in Lahore itself ; both Hindus and Muhammadans are fighting for communal representation, and the discontent produced in the local municipality of Lahore is so great that it has produced an widespread attitude of bitterness, and I may even go so far as to say 'animosity', between the two communities of the Punjab over this important question. Then, again, Sir, there is one more point to which I would draw the attention of the House. I find that the

[Mr. W. M. Hussanally.]

Resolution as brought forward goes a little further than what the Kenya people themselves want.

The Indians as well as the natives of Kenya wish that the solution of the question of Highlands or Uplands may be postponed for a time and not decided at the present moment, whereas the Resolution put forward says that that question should be settled immediately in favour of the Indians as well as the natives. That, I think, is going a bit too far than what the people of Kenya themselves want. However, so far as that matter is concerned, I certainly go whole-heartedly with my friends here, and nothing will please me more than to see that the question is decided once for all; and if the British Cabinet and the British Parliament decide it in favour of the Indians, no one will be more pleased than myself. But I must say that the Resolution as it is put forward goes a little beyond what the Kenya people themselves want. With these remarks, Sir, I wish the Honourable Mr. Seshagiri Ayyar will amend his proposition so as to enable us to go with him whole-heartedly and vote for his proposition.

Sir Jamsetjee Jejeebhoy (Bombay City : Non-Muhammadan Urban) : Sir, if I rise at this stage to take part in this debate, it is solely with the desire that I wish to associate myself with the previous speakers. The question has been agitating the mind of the average Indian to an extent which, at this stage, almost borders on exasperation. He feels that his claims, just and reasonable, as they have always been, will be sacrificed at the altar of political expediency. He feels that justice will be denied to him in spite of the strong and powerful advocacy of his cause by the Government of India. The noisy agitation of the European settlers may prevail with the Colonial Office. If this should unfortunately come to pass, I should be failing in my duty if I did not point out that India will once again be in the throes of a political agitation, the like of which this country has not witnessed in the past. The white settlers have added insult to injury by the threats of armed rebellion by Brigadier General Stone and Lord Delamere, but the mentality of my compatriots, I believe, is such that they will snap their fingers even at this proposed cold blooded massacre. Another aspect of the question to which I should like to refer is the question of the measures to be taken in the event of a decision hostile to the interests of Indian settlers being reached within the course of the next few days. I have no doubt that the Government of India will support all reasonable measures of retaliation which may appear necessary in the interests of the vindication of their legitimate rights and the preservation of their self-respect. Lastly, Sir, this is one of those questions in which we can legitimately claim the sympathy and support of our British fellow-citizens. It will not only strengthen our just cause but also bring about a better understanding between the two races.

Baba Ujagar Singh Bedi (Punjab : Landholders) : Sir, I support the original Resolution with great alacrity. The holy exhortation of my ancestor, Baba Nanak, whose direct descendant I am proud to be, further prompts me to support the Resolution, which is of a very noble and cosmopolitan character. I am reminded here, Sir, of a great episode

when the Great Nanak was touring and was sanctifying the world with his holy teachings. When a Muhammadan Saint named Kasi Rukundin inquired from him which were better, whether Hindus or Muhammadans, the holy Guru Nanak replied in the following words :

“ Awwal Allah nūr upāya qūdrat ke sab bande,
Ek nūr te sab jag upjiya kaun bhale kaun mande.”

“ From one God ensued supreme power ; Hindus and Muhammadans, Christians and Buddhists, Europeans and Indians, all are moulded and inspired by that one Divinity. Now, Kashi Sahib, you yourself can best judge if they all proceed from one Divinity who is superior and who inferior.”

Sir, I am animated when I support this Resolution, when I find that Europeans and Indians, Americans and others all originate from one Divinity ; their birth system, their death system is one ; there is no difference, whether he be an Indian or a European the machinery in them is but one. On this ground, Sir, I find that the claims of Indian settlers in Kenya is quite justified. Sir, my friend opposite, Sir Henry Stanyon, was so courteous as to fight the cause of India, and I will ask Europeans, Japanese, Colonials here and outside of India, whether they have got the same rights of citizenship here as the Indians have and whether or not they have been given the franchise here. Do not then equity and justice demand that we Indians should claim the same reciprocal rights as we extend to others in our own country. With these few words I give my whole-hearted support to this Resolution.

(An Honourable Member : “ I move that the question be now put.”)

Mr. President : The question is that the question be now put.

The motion was adopted.

Mr. T. V. Seshagiri Ayyar : Sir, I must say that I have to a certain extent been misunderstood by my Muhammadan friends on the question of communal representation. I was not voicing the opinions of the House when I spoke against communal representation in India. I want to assure my friends, when I spoke of communal representation, I was simply giving expression to my own feelings which do not in any way affect this problem. So far as Kenya is concerned, every one of the members of the deputation and the Government of India are agreed that there should be no communal representation. As Government and we are agreed on this matter, I want my friends to concentrate their attention on it and not upon the remarks I made. As everybody is agreed on the subject of my Resolution, it is not necessary for me to reply at great length. I will request your permission, Sir, to make a verbal amendment. The Resolution reads : “ This Assembly, being in full sympathy with the claims,” etc. For the word “ sympathy ” in the first line of the Resolution, I ask your permission to substitute the word “ agreement ”. (*Dr. H. S. Gour* : “ Why not ‘ accord ’ ? ”) There is not much difference between the two words, and I have no objection to the word “ accord ”. The Resolution would then read :

“ This Assembly, being in full accord with the claims advanced by the Indian residents in Kenya in respect of franchise, immigration, segregation, the Uplands and similar matters, recommends to the Governor General in Council.....”
and so on.

[Mr. T. V. Seshagiri Ayyar.]

Sir, I am glad to have had an assurance from the Honourable Member in charge that the matter has not been decided and that the Cabinet is keeping an open mind. It is opportune, therefore, that we should at this meeting come to a conclusion and strengthen the hands of the Government and make it possible for the Cabinet at Home to come to a just decision on this matter.

Mr. President : Amendment moved :

“ That the word ‘ accord ’ be substituted for the word ‘ sympathy ’ in the first line of the Resolution. ”

The question I have to put is that that amendment be made.

The motion was adopted.

The Honourable Sir Narasimha Sarma : Let me congratulate the Assembly upon the extremely temperate and moderate manner in which this very difficult subject has been dealt with on the floor of this House. Honourable Members have argued the question at full length and I do not think that the cause has lost to any extent by reason of the moderation or the temperateness of their tone. The question has been put as to whether the partnership is to be a real partnership or only a nominal partnership. There can be no two answers to that question. The Government of India can assure Honourable Members here on behalf of His Majesty's Government that it has always been meant to be a true partnership and not merely a nominal one. According as the communities inhabiting India, or the people of India, become more and more united, more and more literate, more and more wealthy, and sink their differences and become strong and powerful, so will the people become more powerful, so will the Government of India become more powerful. But there cannot be the slightest doubt that those who have used that phrase meant it in right and real earnest as an expression of their desire for mutual comradeship, mutual co-operation and for a continuance of the British Commonwealth as long as, to use a Sanscrit saying, the sun and the moon endure.

The Honourable Mr. Rangachariar made a personal appeal to me and asked me to use my best endeavours to secure justice for the Indian cause and to induce my Honourable Colleagues to work hard on behalf of the people of India in this matter. I rather regretted the suggestion that there could be any difference of opinion on a matter like this between me and my Honourable Colleagues, and, if I may, though perhaps wrongly, let the House into a secret of our Council, I may be permitted to state that we are all absolutely unanimous on this question. Some Honourable Members alluded to the manner in which Lord Hardinge appealed to the hearts of the people of India by the courageous stand which he took in Madras when people were exercised in their minds over the South African question. I happened to be present at that gathering in the banquetting hall in Madras when Lord Hardinge made his famous speech. I remember the thrill that went through the hearts of the people from one corner of India to the other. But I may assure this House, if I may say so without impertinence, that His Excellency Lord Reading is no less zealous, no

less ardent, in pleading the cause of India than His Excellency Lord Hardinge. We note, Sir, that this House appreciates the difficulties about the Highlands question, but are very particular, and rightly so if I may say so, upon the rights and privileges of the Indian community in the Highlands being secured although the fulfilment of their hopes may have to be postponed, if they are to be postponed at all, for some time to come. I have already explained at the outset the attitude of the Government of India towards the Resolution. We regret, for the causes that we have mentioned, that we are not in a position to accept formally the Resolution before the House. We have always expressed our full agreement and sympathy with the underlying principle and I shall not weary the House by reiterating what I have stated, that the Government are doing their utmost to secure justice for the fulfilment of the Indian claims ; I have said that I will wire on behalf of the Government if India the Resolution which may be accepted by this House when it is put to them. A request was made that a summary of the proceedings also may be telegraphed and I promise to do so.

Mr. President : The question is :

“ That this Assembly being in full accord with the claims advanced by the Indian residents in Kenya in respect of franchise, immigration, segregation, the Uplands and similar matters, recommends to the Governor General in Council that he be pleased to move the Home Government to concede those claims. ”

The motion was adopted *nem con*.

Dr. H. S. Gour : In view of the fact that the Resolution has been unanimously carried, I hope that will be placed on record in the proceedings.

Mr. President : That shall be done.

The Assembly then adjourned till Eleven of the Clock on Monday, the 23rd July, 1923

LEGISLATIVE ASSEMBLY.

Monday, 23rd July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock,
Mr. President in the Chair.

MEMBERS SWORN :

Babu Devaki Prasad Sinha, M.L.A. (Chota Nagpur Division : Non-Muhammadan) ; Pandit Devi Prasad Shukla, M.L.A. (Allahabad and Jhansi Divisions : Non-Muhammadan Rural).

QUESTIONS AND ANSWERS.

MILITARY FORCE FOR QUELLING DISORDERS.

288. ***Mr. B. N. Misra** : Will the Government be pleased to state the strength of the Military force maintained for quelling internal disorders in India ?

Mr. E. Burdon : The attention of the Honourable Member is invited to the reply given on the 15th January 1923 to the question asked on the same subject by Mr. Ginwala, No. 4.

INTERNAL DISORDERS QUELLED BY MILITARY.

289. ***Mr. B. N. Misra** : Will the Government be pleased to state on how many occasions Military was employed to quell internal disorders during (a) 1912 to 1917, (b) 1917 to 1922 and the number employed and expenditure incurred in each year during the above mentioned period ?

Mr. E. Burdon : The only information available in regard to the first part of the Honourable Member's question is for the period 1st January 1921 to the 31st December 1922. During this period, the aid of the military was resorted to on approximately 170 occasions and the total number of troops that were employed was 9 cavalry regiments, 36 infantry battalions and 7 sections of armoured cars. These figures, I may mention, are exclusive of the troops used in connexion with the Malabar rebellion.

The information desired in respect of the earlier periods mentioned by the Honourable Member is, I regret to say, not available.

As regards the second part of the question, for the reason given in reply to similar questions asked by Mr. Bagde and Sir Montagu Webb on the 11th February and the 23rd March 1922, respectively, I regret I am unable to furnish the information required.

DISCONTENT IN INDIAN CIVIL SERVICE.

290. *Mr. B. N. Misra : Is the Government aware of the discontent amongst Europeans in the Civil Service of India owing to their pay and prospects not being prosperous ?

The Honourable Sir Malcolm Hailey : The answer is in the affirmative.

RAILWAY TO BHUBANESWAR.

291. *Mr. B. N. Misra : (1) Is the Government aware that Bhubaneswar is a place of pilgrimage ; not only Hindus from different parts of India but non-Hindus also visit the Temples from Archaeological and Architectural point of view ?

(2) Is the Government aware that the Railway Station, although it goes by the name of Bhubaneswar, is located at Budheswar, about 3 miles from the Temples, and the road being infested with wild animals becomes dangerous and inconvenient for passengers to travel from the present Station to the Town ?

(3) Is the Government aware of the repeated demand by the public to remove the present Railway Station from Budheswar and to locate it within Bhubaneswar at a place on the same line which is half a mile from the main Temple ?

(4) If the answer is in the affirmative, are the Government prepared to advise the Railway Board to locate even a Flag Station in the vicinity of the Temples within the ambit of the Bhubaneswar Town ?

The Honourable Mr. C. A. Innes : (1) Yes.

(2) Some inconvenience is admitted but Government has no information regarding the depredations of wild animals.

(3) Yes.

(4) Government do not propose to issue orders for the removal of the station to a new site as it is not considered that the expenditure would be justified. The present station contains adequate facilities for pilgrim traffic and the provision of a new station at the proposed site would involve costly regarding of the line.

BOOKING OFFICE AT BADADANDA, PURI.

292. *Mr. B. N. Misra : (1) Is the Government aware of the demand of public to start a Third Class Booking Office at Badadanda in the Town of Puri (Jagannath) ?

(2) Is the Government prepared to advise the Railway Board or the Traffic Manager, Bengal-Nagpur Railway, to open a Third Class Booking Office immediately in the Badadanda, Puri ?

The Honourable Mr. C. A. Innes : (1) Yes.

(2) The Railway Authorities have given the suggestion careful consideration and are of opinion that in view of the adequate arrangements which exist at Puri station there is no need for a branch booking office at Badadanda.

In the circumstances Government do not propose taking any action in the matter.

IRREGULARITIES IN MILITARY ACCOUNTS DEPARTMENT.

293. *Rai Bahadur Lachmi Prasad Sinha : (1) Has the attention of the Government been drawn to the articles headed "Irregularities in the Military Accounts Department" published in the "Tribune", dated the 1st July 1923 ?

(2) (a) Will the Government be pleased to state whether it is a fact that the pay of the Accountants has been raised from Rs. 100 or Rs. 200 to Rs. 500 ?

(b) If so, will the Government be pleased to state the number of Accountants whose pay was so raised ?

(3) Will the Government be pleased to state whether the reorganisation of the pay of the Military Accountants was sanctioned before the appointment of the Retrenchment Committee or after ?

The Honourable Sir Basil Blackett : (1) The Government of India have seen the article referred to.

(2) (a) It is a fact that the pay of some accountants of the Military Accounts Department who were in receipt of various rates of pay ranging from Rs. 190 to Rs. 475 was raised to Rs. 500.

(b) The number of accountants whose pay was so raised was 168.

(3) The revision of pay of the subordinate staff of the Military Accounts Department was sanctioned before the appointment of the Retrenchment Committee.

PURCHASE OF CONIFEROUS SLEEPERS BY NORTH-WESTERN RAILWAY.

294. *Mr. K. C. Neogy : Is it a fact that the North-Western Railway is the sole agency for purchasing coniferous sleepers required by the Indian Railways, and that during the past several years it has been always purchasing them from a dozen or more competing firms ?

The Honourable Mr. C. A. Innes : Since 1920 the North-Western Railway has been the purchasing agency for broad gauge sleepers from the Punjab forests for the North-Western, the Bombay, Baroda and Central India, the East Indian, the Great Indian Peninsula and the Oudh and Rohilkhand Railways and of metre gauge sleepers for the Bombay, Baroda and Central India and the Jodhpur-Bikaner Railways. In 1921-22 there were 6 contractors and in 1922-23, 17 contractors.

Dr. Nand Lal : May I ask, why this contract was placed this time with one contractor ?

The Honourable Mr. C. A. Innes : There are numerous other questions on that subject which will be answered in due course.

NORTH-WESTERN RAILWAY TENDERS FOR SLEEPERS.

295. *Mr. K. C. Neogy : (1) Is it a fact that in September last, the North-Western Railway issued a call for tenders for the supply of 50 lakhs of coniferous sleepers during the next 5 years and departed from its policy of distributing orders amongst several competent firms by notifying that no firm could tender for less than the full quantity of 50 lacs of sleepers, and is it a fact that this condition was subsequently modified by the Railway after strong protest from certain quarters ?

(2) Is it a fact that contrary to the old practice of giving about one month's previous notice even in cases where tenders called were for much smaller quantities, the North-Western Railway gave originally only one week's time to the intending tenderers to submit their tenders for a contract the value of which was roughly 2½ crores of rupees?

(3) Is it a fact that out of the fifty lacs of sleepers required by the Railway, 15 lacs were to be treated sleepers?

(4) Is it a fact that there are several methods of treating sleepers and the cost of treating differs according to the method employed?

(5) Is it a fact that the North-Western Railway originally left the intending tenderers in the dark as to the method of treatment which they wished to be employed, and that in the absence of such information no quotations could be framed by any firm?

The Honourable Mr. C. A. Innes : (1) Yes.

(2) In previous years it was customary to give one month's previous notice where tenders were called for. The original notice issued on the 4th September 1922 called for tenders by the 20th September but a revised notice extended the time to the 20th of October.

(3) Yes. 15 lakhs spread over 5 years.

(4) Yes.

(5) Yes. The original tender notice was defective in this respect, but the defect was remedied in the revised tender notice and in the end no treated sleepers were purchased.

Dr. Nand Lal : Is Government aware that the various methods of treating these sleepers have various different rates?

The Honourable Mr. C. A. Innes : I am aware of that fact and I have already said that the original tender notice was defective in that respect and that the defect was remedied in the subsequent tender notice.

Dr. Nand Lal : Is the Government of India aware that the successful firm with which the contract has been placed is also the sole agent of a certain system of treating?

The Honourable Mr. C. A. Innes : No treated sleepers are being purchased. I am not aware that the firm has the monopoly of any particular form of treating.

NORTH-WESTERN RAILWAY CONTRACT FOR SLEEPERS.

296. ***Mr. K. C. Neogy :** (1) Are Government aware that the firm to which the recent contract for the entire supply has now been given by the North-Western Railway does not command the full supply of sleepers from forest under its control, and that for more than half the supply it would have to purchase sleepers from the very same firms and Departments whose tenders, though lower than the former's, were rejected by the Railways?

(2) Are Government aware that this firm has recently obtained a commission of about Rs. 1-8-0 per B. G. Deodar sleeper, and Rs. 1-2-0 per B. G. Chil sleeper to be delivered to the Railway through its agency? If so, will the Government state why a middleman has been employed to obtain sleepers from the producers who were willing

to supply same at a price cheaper than that which has been settled with the middleman?

(3) What steps do Government intend to take in keeping healthy competition alive in regard to the sleeper business?

The Honourable Mr. C. A. Innes : (1) At the time the contract was given it was understood that Messrs. Spedding and Dinga Singh who had previously supplied from 3 to 5 lakhs Deodar sleepers annually had embarked on extensive new leases and expected to find the bulk of the supply from their own forests. Statements have since been made by other contractors that Messrs. Spedding and Company and Dinga Singh are purchasing this year about 30 per cent. of the supply outside their own forests, but the Government have no authoritative information on the subject.

(2) The Government do not understand what is meant by the term "Commission." The contractors are not employed by the North-Western Railway to buy sleepers on a commission basis. If the Honourable Member means that the contractors are buying sleepers from other firms and delivering them to the Railway at a profit of Rs. 1-5 per Deodar sleeper and Rs. 1-4 per Chir sleeper, the Government have no information on the subject. But it has come to their knowledge that the firm has recently signed a contract with the Punjab Government for 1½ lakhs of broad gauge Deodar sleepers per annum at Rs. 6-8 per sleeper and for 70,000 Chir sleepers per annum at Rs. 3-3-6 per sleeper. Nothing approaching this rate was offered to the North-Western Railway in October 1922. Indeed the only Government Department which tendered quoted Rs. 8 for two years and Rs. 8-8 for the remaining period for broad gauge Deodar sleepers. The Punjab contract was entered into some months later and was made without reference to, or the cognizance of, the North-Western Railway.

(3) Up to 1917 the North-Western Railway had obtained practically the whole of their requirements from Messrs. Spedding and Company. The price of Deodar sleepers up to that period had ranged from Rs. 3-8 to Rs. 5 a sleeper. During the period 1917-1921 when tenders were called for and when the contract was split up between a number of competing firms, not only was the price forced up against the Railway to as high as Rs. 10 per sleeper, but the supply became very precarious. Messrs. Spedding and Company in fact were the only contractors who satisfactorily carried out their contracts. Other contractors defaulted in their supplies of sleepers and consequently the North-Western Railway decided that the interest of the Railway would best be safeguarded by reverting to the system of giving the whole contract to a firm of proved reliability and that this was the best way of stabilising prices and ensuring regular supply.

Mr. N. M. Samarth : Have Government attempted to ascertain whether they would not be able to obtain sleepers at cheaper rates from Kanara?

The Honourable Mr. C. A. Innes : We have imported in sleepers from Canada. But I have always felt that there was great resentment against that practice in India, and, moreover, going on my present information, I am not at all satisfied that we should get cheaper sleepers from Canada.

Dr. Nand Lal : Has the Government now come to know how many forests the successful firm has got ?

The Honourable Mr. C. A. Innes : I understand that they have large forest leases in Kashmir.

Dr. Nand Lal : May I ask how many leases ?

The Honourable Mr. C. A. Innes : I don't know.

Dr. Nand Lal : Did the Government make inquiry whether the successful firm had leases of forests on the day and at the time when the contract was brought about ?

The Honourable Mr. C. A. Innes : I am afraid the Honourable Member has not listened to my answer to the first part of his question.

Dr. Nand Lal : I have listened to the answer given. I am asking if the Government made any inquiry whether the statement which was made was correct or not.

Dr. H. S. Gour : May I, Sir, ask if the tender accepted for the supply of the sleepers was the lowest tender offered ?

The Honourable Mr. C. A. Innes : I am placing on the table in reply to a later question a complete list of all the tenders offered. It was not the lowest tender but, in the opinion of the Agent of the North-Western Railway, it was the lowest satisfactory tender.

Mr. P. B. Haigh : Sir, shall I be in order in asking if Mr. Samarth's question referred to Canada or Kanara ?

Mr. N. M. Samarth : Kanara.

Mr. P. B. Haigh : The Honourable Member replied with reference to Canada.

The Honourable Mr. C. A. Innes : In any case, I can reply to that at once. I cannot imagine that it would pay the North-Western Railway to buy sleepers as far south as Kanara.

GUARDS ON NORTH-WESTERN RAILWAY.

297. ***Mr. W. M. Hussanally :** (1) (a) How many guards are there on North-Western Railway in classes A, B and C respectively ?

(b) How many of each class are Indians, Europeans and Anglo-Indians respectively ?

(2) What are the rules regarding promotion from one class to another ?

(3) (a) Is it a fact that while Europeans and Anglo-Indians with comparatively short service are promoted to class C, Indians with 10 or 20 years' service and experience are not so promoted ?

(b) If so, what are the reasons why Indians are thus passed over ?

(4) (a) How many Europeans and Anglo-Indians have been promoted to class C with 5 years of their service ?

(b) How many Indians with longer service have not been so promoted ?

(5) How many Indian guards have passed the Station Masters' and other examinations and still not promoted to class C ?

(6) (a) Is it a fact that between 1919 and 1922 several European and Anglo-Indian guards have been directly taken in class C on a starting salary of Rs. 125 ? If so, how many ?

(b) Was this because there was no Indians in class B fit to be promoted to class C ?

(7) Do Government propose to liberalise the rule and practice about promotion in railway service generally with a view to equalise the number of every class of His Majesty's subjects in all grades of service with due regard to efficiency and do away with all colour bar ?

The Honourable Mr. C. A. Innes : (1) (a) There are :

537 in Class A.

317 in Class B.

290 in Class C.

(b) The distribution by communities is as follows :

Class.		Europeans and Anglo-Indians.	Indians.
A	.. ..	5	532
B	.. ..	98	219
C	.. ..	213	77

(2) Promotions are made by selection from amongst the senior men of each class. For promotion from B to C, a guard must pass as an Assistant Station Master, and must sign a certificate that he is prepared to work as an Assistant Station Master when so required.

(3) (a) It is sometimes the case that Europeans and Anglo-Indians of comparatively short service but with the necessary qualifications are promoted to Class C in preference to Indians of longer service.

(b) Promotions are made by selection, having due regard to efficiency.

(4) (a) There are 36 European and Anglo-Indian guards who were promoted to Class C in the first 5 years of their service.

(b) It has not been found possible to obtain this information in the limited time available.

(5) 15.

(6) (a) Yes, 76.

(b) The custom on the North-Western Railway has ordinarily been to appoint Europeans and Anglo-Indians Assistant Station Masters in large stations.

(7) The whole question of recruitment for the Subordinate Traffic Service is now under consideration.

Mr. Harchandrai Vishindas : Why should only Europeans and Anglo-Indians be appointed in large stations and not Indians ?

The Honourable Mr. C. A. Innes : I have already said that this has apparently been the custom up-to-date on the North-Western Railway. It is a question of the method of recruitment and the whole question of the method of recruitment is now under examination.

Dr. H. S. Gour : Will the Honourable Member supplement his reply to question (4) (b) by obtaining the information and incorporating it in this reply later on ?

The Honourable Mr. C. A. Innes : I will certainly endeavour to do so.

Dr. Nand Lal : Will the Honourable Member be good enough to enlighten this Assembly as to what is the difference between the pay of an Indian Guard and a European Guard belonging to the same class ?

The Honourable Mr. C. A. Innes : I am afraid I cannot answer that question without notice.

RESERVED INTERMEDIATE CLASS.

298. *Mr. W. M. Hussanally : (a) With reference to the undertaking given by the Honourable Mr. Innes on 10th March 1923, printed at page 3183 of the Assembly proceedings, to do away with Inter Class reserved compartments for Europeans and Anglo-Indians on Indian Railways, will Government please state what action has been taken by Government in the matter ?

(b) Upon what Railways have such reserved compartments been done away with so far ?

The Honourable Mr. C. A. Innes : (a) and (b). Railway Administrations were asked to consider whether there was any necessity to continue the distinction in respect of inter class accommodation and report what action they were taking in this matter. The reports have now been received and they shew that except on the East Indian, the Oudh and Rohilkhand and the North-Western Railways, inter class compartments are not reserved for Europeans and Anglo-Indians. The reservation on the East Indian Railway is restricted to one small compartment on the Mail and Express trains only, on the Oudh and Rohilkhand Railway to one compartment on the Punjab and Dehra Dun Mails only and on the North-Western Railway to one compartment on 1 Up and 2 Down Mail trains between Lahore and Saharanpur only.

FALLOW LANDS NEAR RAILWAYS.

299. *Munshi Mahadeo Prasad : (1) Has the attention of the Government been drawn to the fact that large extents of land are lying vacant and fallow on both sides of railway lines in certain places, e.g., between Jhusi and Benares Cantonment Railway stations, Bengal and North-Western Railway, and that the said lands can be beneficially let for agricultural purpose or disposed of by sale ?

(2) Are the Government prepared to order collection of figures on the above points and to see what amount could be available to pay a portion of the loan incurred for capital expenditure on Railways ?

The Honourable Mr. C. A. Innes : The Government's attention has not previously been drawn to the subject. The leasing of lands, for short periods, for purposes of grazing, etc., is within the discretion of the Railway Administration, whose attention will be invited to the matter.

Sir Deva Prasad Sarvadhikary : Would not the allowing of grazing within the railway fencing be apt to lead to destruction of cattle in the same way as unfenced lines are apt to be ?

The Honourable Mr. C. A. Innes : I imagine the practice is rather a dangerous one.

COST OF SUPERVISION, ETC., OF GOVERNMENT PRESSES.

300. *Dr. H. S. Gour : (a) Will the Government be pleased to state the cost of supervising, clerical and menial staff of the Calcutta and Delhi Presses, the Simla Monotype Press and the Simla Press, for 1921-22 and 1922-23 ?

(b) Is it a fact that the cost of supervising, clerical and menial staff for 1920-21 was as follows :—

	Rs.
Calcutta and Delhi Presses	2,33,646
Simla Press	73,048
Simla Monotype Press	34,075

The Honourable Mr. A. C. Chatterjee : (a) The cost of the supervising, clerical and menial staff in the year 1921-22 was as follows ; the figures include the total cost of the accounts offices of the presses :

	Rs.
Calcutta, Delhi	2,73,145
Simla	80,065
Simla Monotype	41,147

Figures for 1922-23 are not yet available.

(b) Yes.

COST OF OFFICE OF CONTROLLER OF PRINTING.

301. *Dr. H. S. Gour : What is the cost of the administrative office of the Controller of Printing ?

The Honourable Mr. A. C. Chatterjee : The total cost of the Office of the Controller of Printing, Stationery and Stamps, including the stationery store, amounted to Rs. 3,27,945 in 1921-22 ; the greater part of this is recovered from Local Governments ; of the balance only a fractional part is debitable to printing.

PRESS MACHINERY.

302. *Dr. H. S. Gour : What amount has the Government decided to invest in the purchase of machinery for printing presses ?

The Honourable Mr. A. C. Chatterjee : It is proposed to spend Rs. 5 lakhs on the purchase of new machinery for the Government of India presses during the current year. The Government of India have not yet decided on the amount to be invested for the purpose in future.

Dr. H. S. Gour : A supplementary question, Sir. Will it include any provision for the printing of stamps in the country—postage stamps and non-judicial stamps hitherto printed by firms overseas ?

The Honourable Mr. A. C. Chatterjee : So far as I am aware, it will not.

Dr. H. S. Gour : May I inquire, Sir, if in the cost that is to be incurred, any provision is made at all for the printing of postage and other stamps ?

The Honourable Mr. A. C. Chatterjee : That matter is under separate consideration.

COST OF GOVERNMENT PRINTING.

303. *Dr. H. S. Gour : Is the Government aware that the average cost of Government printing is about two and a half times in excess of the work done by private printers ?

The Honourable Mr. A. C. Chatterjee : The Government are not aware of the fact stated and have grounds for belief that the statement is incorrect.

Rao Bahadur C. S. Subrahmanayam : With reference to the statement made by the Honourable Mr. Chatterjee some time ago, has any action been taken upon the question of 'costing' ?

The Honourable Mr. A. C. Chatterjee : That is being done, Sir.

Rao Bahadur C. S. Subrahmanayam : When will that inquiry be finished ?

The Honourable Mr. A. C. Chatterjee : I hope to be able to give further facts about it in January next.

Dr. Nand Lal : Is Government aware that if this printing is carried on by private agency, it will be comparatively cheaper ?

The Honourable Mr. A. C. Chatterjee : That is not a fact.

Mr. N. M. Joshi : Is Government aware that some private presses are sending canvassing letters amongst Members of this Assembly ?

The Honourable Mr. A. C. Chatterjee : I believe so, Sir.

COMPTOMETERS.

304. *Dr. H. S. Gour : (a) When were comptometers purchased and what was their object and cost ?

(b) If it was intended to reduce the number of clerks otherwise required in the Press, has any reduction been made on this account ?

(c) Was it intended to improve the efficiency of the accounts section ? If so, is it a fact that the Government has paid twice over the bills of a Government printer ?

The Honourable Mr. A. C. Chatterjee : The necessary information is being collected and will be supplied to the Honourable Member when it is ready.

PAY OF GOVERNMENT COMPOSITORS.

305. *Dr. H. S. Gour : Is it a fact that Government compositors are paid higher wages than private printers and their outturn is considerably less ?

The Honourable Mr. A. C. Chatterjee : In private presses compositors ordinarily receive a fixed wage *plus* overtime ; in Government presses they do not receive a fixed wage, but are paid by the piece ; the first part of the question accordingly does not arise. Government are satisfied that the outturn of compositors in their presses is greater than that achieved in private presses.

DEVELOPMENT OF PRINTING INDUSTRY.

306. *Dr. H. S. Gour : Will the Government be pleased to state what means it is employing to assist the development of the printing industry in India ?

The Honourable Mr. A. C. Chatterjee : Printing is an old established trade in India and Government do not believe that it requires any direct assistance ; under the existing constitution such assistance, if necessary, must be given by Local Governments. The Government of India believe that existing facilities for printing are equal to the demand. Since the year 1881 the Government of India have entrusted a considerable amount of their printing work to private firms with the specific object of encouraging the industry ; the results have not always been satisfactory. A system of apprenticeship training has recently been inaugurated in the Government of India presses, while training on a more extensive scale is given in some of the jails in India.

Dr. H. S. Gour : Is the Honourable Member aware that the House of Commons have recently appointed a Committee to go into the question how far the Government presses in England compete with private enterprise, and will the Honourable Member take a similar step in this country for the purpose of ensuring that the Government do not hamper the progress of private printing in the country ?

The Honourable Mr. A. C. Chatterjee : I think the solicitude which the Government in India displays towards private industries is greater than that in England and I do not think we need follow the example of England in this particular matter.

ARMY CANTEN BOARD.

307. *Mr. W. M. Hussanally : With reference to answer to Question 81, dated 28th September 1921, of Mr. J. Chaudhari, will the Government please state if the Army Canteen Board is a private company or an official body ?

Mr. E. Burdon : The Honourable Member's attention is invited to the reply given to Question No. 253 asked by Mr. Chaudhri on the 8th September 1922. The Army Canteen Board (India) is a public company incorporated under the Indian Companies Act of 1913.

ADVANCE TO ARMY CANTEN BOARD.

308. *Mr. W. M. Hussanally : (a) How much money has been advanced to Army Canteen Board by the Imperial Bank and for what period ?

(b) Does that loan bear interest ? If so, how much ?

(c) If the Army Canteen Board is a private body, under what law has the Government guaranteed to the Imperial Bank the amount lent by them to that company ?

Mr. E. Burdon : (a) and (b). The Honourable Member's attention is again invited to the reply given to Mr. Chaudhri's Question No. 253 on the 8th September 1922. The Government of India have no official access to the accounts of the Army Canteen Board, and have no information regarding the details of its financial arrangements, apart from that

which is available to the general public. The Honourable Member must therefore be referred to the Canteen Board's audited balance sheet.

(c) As the Army Canteen Board has for its object, the welfare and health of the Army, the guarantee is *intra vires* of the Government's powers under the Government of India Act.

OPERATIONS OF ARMY CANTEEN BOARD.

309. *Mr. W. M. Hussanally : (1) When did Army Canteen Board start their operations and at what places ?

(2) What net profits, if any, has the Army Canteen Board made during the time it has been in existence ?

(3) How have those profits been utilized ?

(4) Has the Army Canteen Board liquidated any portion of the loan from the Imperial Bank ? If so, how much ?

Mr. E. Burdon : (1) The Army Canteen Board commenced its operations in October 1921 at Rawal Pindi on a small scale. It has since extended its operations in the Rawal Pindi District and has also commenced operations in the Peshawar, Baluchistan and Waziristan Districts.

(2), (3) and (4). The Honourable Member is referred to the reply which I have just given to parts (a) and (b) of his Question No. 308.

WORKING OF ARMY CANTEEN BOARD.

310. *Mr. W. M. Hussanally : Have the Government's anticipations as to the success of the Army Canteen Board, as foreshadowed in answer to Question 62 (c), dated 26th September 1921, of Rai Bahadur Bakshi Sohan Lal been realized ?

Mr. E. Burdon : The Government of India have ascertained that the Army Canteen Board have commenced to make a profit ; and they have no reason to anticipate that the venture is not likely to achieve the success which was hoped for.

SERVICES OF ARMY CANTEEN BOARD COMPARED WITH ARMY CONTRACTORS.

311. *Mr. W. M. Hussanally : (a) Have the Government called for any report from Commanding Officers of regiments served by Army Canteen Board or received any such reports on the working thereof ?

(b) If so, will Government lay the same on the table or state the purport thereof ?

(c) If none have been received, do Government propose to call for such reports to ascertain whether the Army Canteen Board has been successful in giving better service than Army Contractors ?

Mr. E. Burdon : (a) No.

(b) Does not arise.

(c) The Government of India do not propose to call for reports of the kind suggested : so far as they are aware there is no occasion for doing so.

EXAMINATION OF FOOD SUPPLIED TO ARMY.

312. *Mr. W. M. Hussanally : (1) Is it a fact that the Inspectors who got samples of food supplied by Army Contractors (before Army Canteen

Board commenced operations) that were submitted for analysis to food laboratory, were servants employed by Army Canteen Board ?

(2) (a) Will Government be pleased to state whether any samples obtained from the Army Canteen Board, of beer and other food stuffs have been sent to any brewery and food laboratory for examination ?

(b) If so, will they lay on the table or state the result of such analysis or examination ?

Mr. E. Burdon : (1) The Inspectors mentioned were employed under the authority of Government.

(2) (a) and (b). For the reason which has been explained in replies to previous questions, the Government of India have no official access to the details of the Internal administration of the Army Canteen Board (India). On the other hand, the Military Food Laboratory at Kasauli is authorised to examine and report upon samples of supplies made by the Canteen Board, and such samples are, as a matter of fact, sent up by the military authorities. The reports made by the Laboratory are not communicated to the Government of India.

UNEMPLOYMENT OF DOMICILED COMMUNITY.

313. *Lieutenant-Colonel H. A. J. Gidney : 1. Has the attention of Government been drawn to a letter written by me and published in the town issue of the "Statesman" and "Englishman" of the 30th June on the appalling present day condition of unemployment, in the Domiciled Community in India, especially in the capital towns ?

2. Has the attention of Government been drawn to the two Editorials published on the matter in the town issues of the "Statesman" of June and July 1st ?

3. Is the Government of India aware of the fact that this unparalleled economic upheaval is mainly due to (a) demobilisation from the Army of men and lads, who gave up careers to serve their King and country, and (b) as a direct sequel to Indianisation of the Railways, chiefly, and partly of other Government Departments ?

The Honourable Mr. A. C. Chatterjee : (1) and (2). Yes.

(3) Government do not consider that the inference contained in the question is well-founded.

NON-EMPLOYMENT OF EUROPEANS AND DOMICILED EUROPEANS ON RAILWAYS.

314. *Lieutenant-Colonel H. A. J. Gidney : (a) Will Government be good enough to state how many Europeans and how many Anglo-Indians have been deprived of employment from each of the Railways :

(1) During the past 3 years, i.e., since the introduction of the Reforms Scheme, and

(2) Since the President of the Railway Board made his memorable pronouncement in March 1922, when the demands for grants for Railways was discussed in the Legislative Assembly ?

(b) Will Government be good enough to state :

- (1) How many Europeans and how many Anglo-Indians have been employed during these 2 periods, on each of the various Railways ?
- (2) How many Indians have been employed during these two same periods ?

The Honourable Mr. C. A. Innes : (a) and (b). Government regret they have not the information asked for. It has been ascertained, however, from the principal Railway Administrations that there have been no wholesale dismissals of Europeans and Anglo-Indians to make room for Indians and all the Railway Administrations consulted categorically deny the statement that any unemployment which may exist is due to such dismissals.

INDIANISATION ON RAILWAYS.

315. *Lieutenant-Colonel H. A. J. Gidney : (1) Is Government aware of the fact that Company Railways are interpreting the term Indianisation of the Railways to mean the replacement of Anglo-Indians by Indians, as evidenced by the facts that (a) Europeans and Anglo-Indians are being dismissed on certain Railways, *e.g.*, Bengal-Nagpur Railway, and on some of these discharge certificates is written, "reason for dismissal." "We have decided to put Indians in these posts." (b) That Mr. Fenton, the Chief Transportation Officer of the Great Indian Peninsula Railway, wrote me a letter with words to the effect that his Railway must cease employing Anglo-Indians and employ cheaper Indian labour ?

(2) Will Government be pleased to state whether Members of the Domiciled Community are included in the term "Indianisation of the Services" and if they are, will Government be good enough to explain this contrary conduct on the part of certain Indian Railways ?

The Honourable Mr. C. A. Innes : (1) The Honourable Member is referred to the answer just given him from which it will be seen that there have been no wholesale dismissals of Anglo-Indians to make room for Indians.

(2) The Honourable Member is referred to the replies given in this Assembly to Mr. K. C. Neogy's and Mr. K. Ahmed's questions Nos. 184 and 201 on 7th September 1922.

ORDERS RE INDIANISATION ON RAILWAYS.

316. *Lieutenant-Colonel H. A. J. Gidney : Will Government be pleased to place on the table a copy or copies, of the order, or orders, issued by the Government of India and the Railway Board, to the various Railways, relevant to Indianisation of the Railways and the employment of Indians on Railways ?

The Honourable Mr. C. A. Innes : The Government have had certain demi-official correspondence with Agents on the subject but are not prepared to lay it on the table.

DEMobilISATION FROM ARMY OF DOMICILED COMMUNITY.

317. *Lieutenant-Colonel H. A. J. Gidney : Is the Government of India in possession of statistics of the total number of unemployed in the

Domiciled Community, the result of demobilisation from the various branches of the army, temporary as well as permanent service ? If not, will it kindly obtain this information ?

Mr. E. Burdon : The Government of India have no statistics of the kind indicated and have no sure and ready means of obtaining them. They will, however, be glad to examine and consider any statistics of the kind which the Honourable Member can furnish to them.

POVERTY OF DOMICILED COMMUNITY.

318. *Lieutenant-Colonel H. A. J. Gidney : (1) Is the Government of India aware of the fact that hundreds of demobilised army men, of the Domiciled Community, are, to-day, tramping the streets of India, begging for food, clamouring for wages, even at Indian rates, and living like animals with their families and, as a result, are to-day swelling the population of the jails and becoming a positive danger ?

(2) Will the Government of India state what steps it has, hitherto, taken to come to the rescue of these demobilised army men who gave up their all to serve their King and country and are, in consequence, to-day, starving and inhabiting the slums ?

Mr. E. Burdon : (1) The Government of India have no information to the effect that acute unemployment exists amongst members of the domiciled community who were demobilised from the Army in India and that such unemployment is due to members of the domiciled community having been employed in army service and subsequently demobilised. Under the existing constitution of the army in India, members of the domiciled community are not employed, as a class, in army services except in the Indian Medical Department and there has been no measure of demobilisation in the recent past which, so far as Government are aware, could affect large numbers of the domiciled community.

(2) For the reason indicated in the reply to the preceding part of this question, the Government of India have taken no specific steps to provide for members of the domiciled community demobilised from the army.

PREFERENTIAL TREATMENT TO INDIAN SOLDIERS.

319. *Lieutenant-Colonel H. A. J. Gidney : (1) Has the Government of India granted (quite deservedly granted) (a) gifts of lands as rewards, (b) opened out Technical Schools, and (c) given preferential treatment, in various ways, to demobilised Indian soldiers ?

(2) Have similar rewards and opportunities been offered to demobilised army men of the domiciled community ? If not, why not ?

Mr. E. Burdon : (1) Yes.

(2) The Honourable Member's attention is invited to the terms of the Resolutions issued by the Government of India in the Home Department, dated the 8th August 1919 and the 15th September 1921, in which it was laid down that certain concessions in the matter of securing civil appointments should be granted to those persons who had rendered service in connection with the great war. These orders applied to all classes of the community. No land grants or other facilities of the kind mentioned by the Honourable Member have been sanctioned specifically for demobilised Anglo-Indians but the Government of India would be prepared to go

into the matter if, as I have already suggested in my reply to his question No. 317, the Honourable Member is able to produce statistics of deserving cases in which military service during the Great War has directly led to present distress.

PREFERENTIAL TREATMENT TO SEPOYS.

320. *Lieutenant-Colonel H. A. J. Gidney : (1) Is the Government of India aware of a recent communiqué issued by the Punjab Government ordering preferential treatment to be given, in all Departments, to demobilised soldiers (meaning sepoys) ?

(2) Is the Government of India itself prepared, as also prepared to advise all Provincial Governments, to offer similar treatment to unemployed demobilised army members of the Domiciled Community ?

Mr. E. Burdon : (1) Yes.

(2) The reply which I have given to part (2) of the preceding question covers this question also.

HELP FOR DOMICILED COMMUNITY.

321. *Lieutenant-Colonel H. A. J. Gidney : Is Government prepared to offer land, assist in establishing land settlements and to financially help unemployed and demobilised Army members of the Domiciled Community and, so relieve the present day acute distress amongst these men ?

Mr. E. Burdon : The question of establishing land settlements is one primarily for provincial Governments. But if the Honourable Member will report to the Government of India any specially deserving cases of the kind to which he refers, the Government are prepared to examine them and to consider whether any special measure of relief is called for.

DOMICILED COMMUNITY DEBARRED FROM ARMY.

322. *Lieutenant-Colonel H. A. J. Gidney : (1) Is Government aware of the fact that members of the Domiciled Community are to-day debarred from (a) entering the ranks of the British and Indian Armies (entrance into the former being dependent on the colour of the applicants), (b) from participating in the formation of the 8 experimental Indian Army units ?

(2) Do Government propose to remove these restrictions ?

Mr. E. Burdon : (1) (a) Members of the domiciled community, so far as Government are aware, are not admitted to the British Army. Recruitment for the British Army is carried out by His Majesty's Government in the United Kingdom. Members of the domiciled community are eligible to hold the King's Commission in the Indian Army ; but they cannot enter the ranks of the Indian Army, in respect of which a specific class composition is laid down.

(b) The Indianization of the 8 selected Indian Army units merely consists in replacing the establishment of British Officers by an establishment of Indian Officers holding the King's Commission ; and as already stated, members of the domiciled community are already eligible to hold the King's Commission in the Indian Army.

(2) The Government of India are not concerned with the recruitment of soldiers for the British Army ; and as regards the Indian Army, they do

not propose to make members of the domiciled community eligible, as Indians, for admission to Indian Army units.

Sir Deva Prasad Sarvadhikary : Is the Government in a position to state the number of Anglo-Indians that have joined either the Territorial or the Auxiliary Forces according as they view themselves as Indians or as Europeans ?

Mr. E. Burdon : Not without notice.

MILITARY EMPLOYMENT OF ANGLO-INDIANS.

323. *Lieutenant-Colonel H. A. J. Gidney : Has the attention of the Government of India been drawn to an editorial, on the military employment of Anglo-Indians, which appeared in the town issue of the "Statesman," the leading English newspaper in the East, dated July 7th, and what action does it propose to take on the issues raised ?

Mr. L. Graham : The Government of India do not propose to take any action in the direction of forming Anglo-Indian units of the Indian Army. If they were to do so, it would be necessary to disband a corresponding number of Indian units ; and after the retrenchments recently decided upon, the Government of India are not prepared to make any further change in the strength or organisation of the Indian Army.

TERRITORIAL FORCE.

324. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to state :

(a) Whether they have fixed or intend to fix any limit to the strength of the Indian Territorial Force which is being organised ?

(b) What is the annual addition intended to be made to the Territorial Force ?

Mr. L. Graham : (a) The maximum strength of the Indian Territorial Force has for the present been fixed at 20,000. The authorised establishment of the units so far constituted is in the neighbourhood of 19,000, and the actual number of persons so far enrolled is approximately 14,000.

(b) No annual addition has been or can be fixed at present.

AUXILIARY FORCE.

325. *Sir P. S. Sivaswamy Aiyer : Will the Government be pleased to state :

(a) The reasons and necessity for organising and maintaining an Auxiliary Force as distinct from the Territorial Force, and

(b) Whether there are any, and if so, what objections apart from statutory difficulties to the formation of India Units of the Indian Auxiliary Force ?

Mr. L. Graham : (a) The Auxiliary Force exists for the purpose of supplementing the regular forces in support of the civil power and also to meet any kind of emergency arising within the military area in which the unit concerned is located. The Indian Territorial Force,

though it may be used in support of the civil power, is primarily a second line to the regular army. The two forces are intended to serve somewhat different but equally necessary military purposes.

(b) There would be no objection of military principle to the formation of Indian units with obligations limited to those of the Auxiliary Force; but it is considered unnecessary to do this. The more efficient and convenient arrangement is that already laid down, by which the Territorial Force is available both for internal security and as a second line to the regular army.

COST OF MILITARY COLLEGE AND UNITS.

326. ***Sir P. S. Sivaswamy Aiyer** : Will the Government be pleased to state the probable cost, initial and recurring, of maintaining—

- (a) A Military College like Sandhurst in India,
- (b) An Indian Unit of Artillery,
- (c) An Indian Unit of Air Force,
- (d) An Indian Unit of the Royal Engineers,
- (e) An Indian Unit of the Armoured Car Company?

Mr. L. Graham : It is impossible to give an answer which would be of any practical value to the Honourable Member as in any calculation which could be made the data would have to be largely hypothetical. It is presumed that the Honourable Member has in mind units in which both officers and rank and file would be Indians. In that case the cost of the officer establishment would be the same as it is at present if the units were to be Indianised on the same lines as those on which the Indianisation of the 8 selected Infantry and Cavalry units is now proceeding, that is to say, merely by the substitution, on the same rates of pay, of Indian officers holding the King's Commission for British officers holding the King's Commission. But so far as the rank and file are concerned, the rates of pay which it would be necessary to give Indians possessing the technical qualifications required would be a matter of pure conjecture. Again, we have in the Army in India no such thing as a unit of Royal Engineers.

It is similarly impossible to say what the cost would be of establishing a military Sandhurst in present Indian conditions. The net annual cost to His Majesty's Government of maintaining Sandhurst is shown in the Home Army Estimates as about £2,00,000. The initial cost of Sandhurst is not known to the Government of India.

ESTABLISHMENT OF WIRELESS TELEGRAPH.

327. ***Mr. N. M. Samarth** : (1) Will Government be pleased to state the grounds on which the Legislative Department of the Government of India has based its legal opinion to the effect that, under the Indian Telegraph Act, as at present worded, the Governor General has the power to permit any person, by means of a license, to establish, maintain or work a wireless telegraph within any part of British India?

(2) (a) Have Government obtained the legal opinion of the Law Officers of the Crown on the point?

(b) If so, will they lay it on the table of the House?

Mr. L. Graham : (1) It would not be in accordance with practice to state the grounds of an opinion expressed by the Legislative Department.

(2) (a) No. It is not the practice to consult the Law Officers of the Crown regarding the interpretation of Acts of the Indian Legislature.

(b) Does not arise.

LICENSE FOR WIRELESS BROADCASTING.

328. ***Mr. N. M. Samarth** : (1) (a) Will Government be pleased to state if any license for wireless broad-casting in any part of British India has been given by them to any person or persons or to any Company?

(b) If so, will Government be pleased to state the name or names of the person or persons or of the Company and the terms and conditions of the license given?

(2) If no such license has been given, will Government be pleased—

(a) to state if the terms and conditions of the wireless broad-casting license have been drawn up by them?

(b) if so, to lay on the table of the House, a copy of the said license?

Mr. G. R. Clarke : (1) (a) No.

(b) Does not arise.

(2) (a) No.

(b) Does not arise.

Mr. N. M. Samarth : Was there not a meeting last March in Delhi between Government and the representatives of the Press and manufacturers regarding broadcasting? If so, what was decided at that meeting?

Mr. G. R. Clarke : There was a meeting in March last held by Mr. Sams, first with the members of the press and secondly with the manufacturers of wireless apparatus regarding the question of broadcasting. The press were generally opposed to broadcasting. At any rate they were not enthusiastic about it and the matter is still under consideration. I went into this question of broadcasting in England and at present there is a committee sitting in England known as the Sykes Committee dealing with the whole question of broadcasting, which presents very much greater difficulties in England than it is likely to present in India and I think it is desirable that Government should wait for the conclusion of this committee before they bind themselves to any definite policy.

Mr. N. M. Samarth : How many wireless licenses have been given already and how many have been given to private persons?

Mr. G. R. Clarke : In India we have given up-to-date 32 non-commercial licenses and three limited commercial licenses. Non-commercial licenses are generally given to educational institutions for experimental purposes and a certain number is being given to private experimentors. Only three limited commercial licenses have been given, two to a Petroleum Company in the Punjab and one to the Marconi Representatives in Bombay for dealing with their apparatus on board ships.

Sir Deva Prasad Sarvadhikary : Was the press opposed to broadcasting in India on the same grounds as existed in the case of organisers of entertainments in England?

Mr. G. R. Clarke : I cannot say, Sir.

CLOSING DOWN OF WIRELESS STATIONS.

329. ***Mr. N. M. Samarth :** (1) Will Government be pleased to say if the recommendations of the Incheape Committee, in regard to the closing down of certain Government wireless stations in British India, have been given effect to ?

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

(a) which of the wireless stations have been closed down ?

(b) the dates on which they have been closed down ?

(c) the manner in which the plant and equipment of the said stations have been disposed of ?

(d) the respective economies that have been thereby effected ?

Mr. G. R. Clarke : (1) Yes, and further reductions are under consideration.

(2) (a) One station, Patna, has been dismantled, one, Maymyo, laid up and nine, namely, Allahabad, Delhi, Mhow, Nagpur, Quetta, Secunderabad, Lahore, Poona and Diamond Island, have been placed under a care and maintenance party.

(b) 15th January 1923.

(c) In cases where the plant and equipment has been removed it has been returned to store.

(d) A reduction in working expenses of 4.63 lakhs in 1923-24 over the budget estimate for 1922-23, with a corresponding saving in the remaining months of 1922-23 after 15th January.

Mr. N. M. Samarth : What does a care and maintenance party consist of and why is such a party necessary ?

Mr. G. R. Clarke : A care and maintenance party in a wireless station consists of a supervisor and an engine room hand merely to keep the battery and the generating plant in order. If these men were not there, the most expensive and important part of the apparatus, namely, the battery and the generating plant, would seriously deteriorate.

Mr. N. M. Samarth : Is this party maintained even in the case of dismantled stations.

Mr. G. R. Clarke : In the case of dismantled stations, the station is completely removed and no care and maintenance party is kept.

COST AND REVENUE OF WIRELESS STATIONS.

330. ***Mr. N. M. Samarth :** Will the Government be pleased to state—

(a) if the wireless branch of the Indian Telegraph Department keeps the figures of capital expenditure, operating costs and annual revenue for each of the Government wireless stations ;

(b) if so, which of the wireless stations are being worked at a profit and which not ?

Mr. G. R. Clarke : (1) Yes, but the annual revenue from traffic is only kept in coast stations.

(2) The coast stations except Madras and Rangoon earn a revenue above their cost. Madras and Rangoon maintain in addition the only

telegraph communication with Port Blair and Victoria Point, which does not pay. Most of the remaining stations in India are now not operating for reasons of economy.

Mr. N. M. Samarth : Are no inland stations doing any commercial traffic ?

Mr. G. R. Clarke : There are no inland stations doing commercial traffic, except Peshawar and Jutogh. In the case of Peshawar we do not account for any separate revenue as the station is used as part of the ordinary telegraph communication of the country. In Jutogh we get about 400 words a day from Leafield in England. The traffic is known as Addressed Press and for this traffic India gets four annas a word.

Mr. N. M. Samarth : Is the one at Peshawar used for military purposes ?

Mr. G. R. Clarke : It is used for ordinary traffic with Kabul.

REVENUE OF WIRELESS BRANCH.

331. ***Mr. N. M. Samarth :** (1) Will Government be pleased to state what system, if any, is in operation for crediting to the wireless branch such portion of the revenue of the Indian Telegraph Department as is assignable to the wireless branch in respect of telegrams that are transmitted and received by Government wireless stations ?

(2) If no such system is in operation, do Government propose to take steps to initiate such a system at an early date ?

Mr. G. R. Clarke : (1) With respect to the revenue from coast stations, this is shown in the accounts of the Department as a separate item. With respect to traffic carried by the Inland stations, the charges are collected at the ordinary telegraph offices and the revenue is credited to the general telegraph revenue since the Inland wireless stations form part of the Inland telegraph system of the country.

(2) Government do not propose to alter the existing system for the present.

DEPUTATION TO ENGLAND OF DR. RUSHBROOK-WILLIAMS.

332. ***Mr. N. M. Samarth :** (1) Has the attention of the Government been drawn to an article in the 'Hindu' of Madras, dated the 4th July 1923, on India's representation at the Imperial Conference by Sir Tej Bahadur Sapru ?

(2) Will Government be pleased to state under what circumstances Dr. Rushbrook-Williams was appointed his Private Secretary ?

(3) Is there any truth in the statement that in addition to his duties as Private Secretary to Sir Tej Bahadur Sapru, Dr. Rushbrook-Williams has been commissioned by the Government of India to place himself in touch with the Labour Members in Parliament.

The Honourable Sir Malcolm Hailey : (1) Yes.

(2) Sir Tej Bahadur Sapru particularly requested that Mr. Rushbrook-Williams should act as his Secretary. Mr. Rushbrook-Williams was in any case going to England on 4 months' leave, and the arrangement suggested by Sir Tej Bahadur Sapru was therefore readily accepted.

(3) There is no truth whatever in this statement.

SENTENCE OF LALA LAJPAT RAI.

333. *Dr. Nand Lal : (1) Is Government of India aware that according to section 401, sub-section 1, of the Criminal Procedure Code, the Governor General in Council is empowered to remit unexpired portion of sentence ?

(2) Will Government of India state as to whether Governor General in Council is prepared under Section 401 (1), Criminal Procedure Code, to remit the unexpired portion of Lala Lajpat Rai's sentence ?

The Honourable Sir Malcolm Hailey : (1) Yes.

(2) No.

Dr. Nand Lal : Is the Honourable the Home Member aware of the statement recently made by Dr. Maharaj Kishen, the family doctor of Lala Lajpat Rai, who was permitted to attend on him in jail ? The contents of his statement are these—that Lala Lajpat Rai is developing tuberculosis of the lungs and this statement is incorporated in the " Tribune " dated the 21st instant. Is the Honourable the Home Member aware of this ?

The Honourable Sir Malcolm Hailey : The Honourable Member has just handed me a copy of the issue to which he refers. As regards any implication which he desires to draw from that fact, now published, I only desire to say that I have no doubt whatever that the Punjab Government will take steps to ascertain whether the diagnosis of the other medical men who are attending Lala Lajpat Rai coincides with that of Dr. Maharaj Kishen. I have explained before that the Punjab Government is watching this case with the greatest care. Lala Lajpat Rai has the best medical advice, and I have not the slightest doubt that the Punjab Government will take the necessary action on any diagnosis that is finally decided on by the doctors.

Dr. Nand Lal : Will the Honourable Member be kind enough to offer a suggestion to the Local Government in this behalf ?

The Honourable Sir Malcolm Hailey : In a matter like that no suggestion is necessary for the Local Government.

INDIAN STORES DEPARTMENT.

334. *Sir Deva Prasad Sarvadhikary : Will the Government be pleased to state (a) whether in view of the expansion of the Indian Stores Department indicated in the answers given by the Honourable Mr. Chatterjee in reply to my starred question No. 14 on the 2nd of July 1923, steps have been taken or are proposed to be taken to reduce the activities of the Indian Stores Department in England ?

(b) Are the Government prepared in this connection to consider the desirability of calling for tenders in India, in Indian currency, for articles which are not manufactured in India ?

The Honourable Mr. A. C. Chatterjee : (a) I would refer the Honourable Member to the reply which I gave to starred questions Nos. 229 and 230 on the 16th July.

(b) Government have carefully considered the question of calling for tenders in India in Indian currency for imported stores required by the central departments. They recognise the advantages of this procedure,

and have in fact already adopted it to some extent in conformity with the provisions of the rules for supply of stores for the public services. The adoption of the procedure as a general rule presupposes that goods obtainable through agents, etc., in India of foreign manufacturers can be purchased as cheaply as those obtainable, for example, from manufacturers themselves in the United Kingdom by a Government agency established in that country. This, however, is a proposition which has not yet been established. In any case, if the arrangement referred to is to prove a success, it will necessitate the establishment of an experienced expert and properly staffed purchasing and inspection agency in India. The Indian Stores Department furnishes the nucleus of the kind of agency which would be required for carrying out this work, but, even assuming that firms established in India are as cheap a source of supply as is obtainable, it would not be practicable to entrust the Department with this duty in respect of all the requirements of the central departments until the financial position permitted a considerable expansion of the staff of the Department, and until the staff had been given an opportunity of acquiring more experience of the very technical work involved. The Government will keep this matter prominently in mind.

PURCHASE OF TEXTILES BY STORES DEPARTMENT.

335. *Sir Deva Prasad Sarvadhikary : Will the Government be pleased to state whether it is a fact that the Indian Stores Department is not making purchases for the State Railways as regards textiles ? And if so, why ?

The Honourable Mr. A. C. Chatterjee : It is not the case that the Indian Stores Department is not purchasing textiles goods on behalf of the State Railways. At present, however, the purchases effected by this Department represent only a comparatively small proportion of the State Railways' requirements in respect of such goods. The reason for this is that, owing to the financial stringency, it has not been found possible up to the present to provide the Department with the necessary staff to undertake the inspection of this class of stores. As soon as the financial situation permits, action will be taken in this direction and the Department will then be entrusted with the purchase of all textiles goods required by State Railways which can be purchased in India under the provisions of the Stores Purchase Rules.

Sir Deva Prasad Sarvadhikary : Is it suggested that the purchase of the other kind indicated in the Honourable Member's reply is without inspection ?

The Honourable Mr. A. C. Chatterjee : No, that was not the implication at all.

Sir Deva Prasad Sarvadhikary : If so, what would be the difficulty of the Government Department organizing inspection and making the purchases in the way suggested ?

The Honourable Mr. A. C. Chatterjee : I have already mentioned, Sir, that the difficulty is a financial one.

FUNCTIONS OF CONTROLLER OF CONTRACTS.

336. *Sir Deva Prasad Sarvadhikary : Will the Government be pleased to state what are the functions of the Controller of Contracts ?

Mr. E. Burdon : The attention of the Honourable Member is invited to the reply given on the 9th February 1922 to part (a) of question No. 255 (unstarred).

METHODS OF PURCHASE.

337. * **Sir Deva Prasad Sarvadhikary :** Is it a fact that (a) purchases are made not direct from the growers or the manufacturers of articles but through the agency of a middleman ?

(b) If so, why ?

(c) Are the Government prepared to consider the desirability of changing this system ?

Mr. E. Burdon : (a) to (c). In the great majority of cases it is impracticable and would be contrary to business principles to attempt to eliminate the middle-man in the operations of the Controller of Contracts. I may explain that the system of purchase followed by the Controller of Contracts is in close conformity with the principles laid down by the eminent business man who was appointed, during the war, as the first Controller of Contracts and organized the work of the Department.

POSTAL CERTIFICATES AND FINANCIAL RESULTS.

338. * **Sir Deva Prasad Sarvadhikary :** With reference to the recent communiqué regarding introduction of a denomination of Rs. 1,000 postal certificates will the Government be pleased to state its likely financial results in comparison to the results of the various Government loans in existence or floatation ?

The Honourable Sir Basil Blackett : As explained in the communiqué the 1,000 rupee denomination has been introduced for the convenience of the public and to reduce clerical work in post offices and to avoid the unnecessary expense of printing and dealing with a large number of documents. No change has been made in the maximum of Rs. 10,000 for holdings of cash certificates at any time by any one person. The introduction of the new denomination cannot by itself have any appreciable effect on the sales of these certificates.

EXPERIMENTAL PRESS FOR PRINTING G. C. NOTES.

339. * **Sir Deva Prasad Sarvadhikary :** (a) Is it a fact that the Government proposes to establish an experimental press for printing of G. C. notes and stamps at Delhi at an estimated cost of 2½ lakhs or thereabouts ?

(b) If the answer be in the affirmative, are the Government prepared to consider the desirability of establishing such a Press at Bombay or Calcutta in preference to Delhi ?

(c) In view of extensive note forgeries does not the Government consider it necessary to take extra precautions in regard to the proposed experimental Press ?

(d) Is it not a fact that such precautions could be better taken in Bombay or Calcutta than at Delhi ?

The Honourable Sir Basil Blackett : (a) The answer is in the affirmative.

(b) The proposal to establish the experimental press at Delhi is based on grounds of economy and convenience. There is already sufficient

accommodation available for the purpose in the building occupied by the existing press at that place. It will also be possible to utilise existing machines and the electric equipment already installed there without incurring unnecessary expense at the preliminary stage. The ultimate location of the Security Printing Press has not yet been decided, but it is improbable that Delhi will be selected.

(c) Government are fully alive to the necessity of taking precautions.

(d) Government consider that adequate precautions could be taken at any of the places mentioned.

Dr. H. S. Gour : May I inquire from the Finance Member where the new ten-rupee notes were printed and why they do not name the place where they were printed or even the date ?

The Honourable Sir Basil Blackett : I should like notice of that.

TRIAL OF FORGERS OF CURRENCY NOTES.

340. * **Sir Deva Prasad Sarvadhikary :** (a) Is there any truth in the statement made in the Press that Government has under consideration the appointment of a special magistrate with jurisdiction all over India to try cases arising out of the recent capture of forged currency notes and that the headquarters of this officer will be at Lahore ?

(b) If the answer be in the affirmative, will the Government be pleased to state as to how one special magistrate will be able to exercise jurisdiction all over India and how appeals and revisions provisions are proposed to be worked ?

(c) Would the Government be pleased to state what special reasons exist for selecting Lahore as headquarters of the proposed officer ?

The Honourable Sir Basil Blackett : The answer to (a) being in the negative, (b) and (c) do not arise.

CONSUMPTION OF BEEF IN THE ARMY.

341. * **Rai Bahadur Bakshi Sohan Lal :** 1. Is it not a fact that the British Army in India is fed on the beef of prime cows thereby contributing towards the deficiency of live-stock ?

2. Are the Government prepared to consider the desirability of introducing Australian beef for the army in order to save prime cows, to generate more cattle to cultivate more land, to produce sufficient milk, to lessen the heavy infant mortality in India even at a higher cost ?

Mr. L. Graham : 1. The answer is in the negative. The attention of the Honourable Member is invited to the reply given on the 15th February 1921 to part (b) of Question No. 68.

2. For the reasons stated in the reply given to part (c) of the question which I have just referred to, Government are unable to adopt the suggestion of the Honourable Member.

Rai Bahadur Bakshi Sohan Lal : Have Government issued any instructions to the Army Department not to kill prime cows for the feeding of the British Army ?

Mr. E. Burdon : No such instructions have been issued. No prime cows are ever tendered.

Rai Bahadur Bakshi Sohan Lal : Has the Government tried to import beef from countries outside India for the use of the British Army ?

Mr. E. Burdon : The possibility of doing so has been very fully explored on more than one occasion.

Baba Ujagar Singh Bedi : Sir, is Government aware that the number of prime cows is diminishing every day, and, if so, what the reason for it is ?

Mr. President : The Army Department is not responsible for that.

Mr. K. Ahmed : Are the Government aware that many people are drinking too much milk on account of which the calves of the prime cows are deprived of their moral and natural right ?

POSTAL SAVINGS BANKS TRANSACTIONS.

342. ***Sir Deva Prasad Sarvadhikary :** Would the Government be pleased to state year by year for the last ten years the amount of—

- (a) deposits in the Postal Savings Bank ;
- (b) withdrawals from the Postal Savings Bank ;
- (c) balance after withdrawal at the end of the year ;
- (d) amount of interest or profits derived by the Government from user of the deposits ;
- (e) amount of working charges ;
- (f) amount of interest paid to the depositors ;
- (g) amount of net profit made by the Government ?

The Honourable Sir Basil Blackett : (a), (b), (c), (e) and (f). A statement showing the figures required is laid on the table.

In regard to parts (d) and (g), as the Savings Bank balances form part of the general Government balance, a separate calculation of the gross or net profit on Savings Bank transactions is not possible.

Statement showing the business of Post Office Savings Bank during the last ten years.

Year.	Deposits. A.	Withdrawals. B.	Balance at the end of the year. C.	Amount of working charges E.	Amount of interest paid to the depositors. F.
	Rs.	Rs.	Rs.	Rs.	Rs.
1912-13 ...	11,34,71,065	10,09,62,482	20,61,14,502	4,90,000	56,22,479
1913-14 ...	13,17,94,109	11,24,24,105	23,16,75,467	9,10,000	61,90,960
1914-15 ...	11,62,03,231	20,43,45,882	14,89,76,923	8,58,000	52,93,666
1915-16 ...	9,45,29,261	9,45,63,279	15,32,12,517	5,33,150	43,20,211
1916-17 ...	11,10,23,999	10,28,30,434	16,59,53,401	5,78,300	45,47,318
1917-18 ...	12,08,26,897	12,53,74,146	16,58,46,469	5,49,600	44,40,317
1918-19 ...	15,42,35,551	13,65,24,874	18,82,41,748	5,86,911	46,87,601
1919-20 ...	20,37,91,534	18,41,98,260	21,34,84,628	13,51,600	56,46,213
1920-21 ...	21,65,35,644	20,76,18,295	22,86,31,716	17,30,000	62,19,739
1921-22 ...	20,78,98,248	22,00,59,150	23,26,24,824	18,30,700	61,51,764

Sir Deva Prasad Sarvadhikary : Having regard to the large and steady credit balances shown in the statement, would the Government be prepared to consider the question of raising the interest payable on postal Savings Bank deposits ?

The Honourable Sir Basil Blackett : That question has been examined on several occasions. I should like to say that I am quite sure the present moment is not the proper time to re-examine it.

REPORT OF DECK PASSENGERS COMMITTEE.

343. ***Mr. Harchandrai Vishindas :** (1) Will Government be pleased to state the cause for the delay in publishing the report of the Deck Passengers Committee appointed two years ago ?

- (2) (a) Have the reports of the Local Governments been received ?
- (b) If so, why has there been any delay in giving effect to the recommendations made by them ?
- (c) If not, will the Government be pleased to expedite such reports ?

The Honourable Mr. C. A. Innes : 1. The Report was published more than a year ago.

2 (a). Yes.

(b) The last reply was received towards the end of the Delhi session and the matter is now under consideration.

(c) Does not arise.

HARDSHIPS OF DECK PASSENGERS.

344. ***Mr. Harchandrai Vishindas :** (a) Are Government aware of the various hardships suffered by the deck passengers, such as insufficiency of accommodation, inadequate number of privies, overcrowding, lack of sufficient drinking water, regarding which hardships complaints have been made from time to time ?

(b) If so, will the Government be pleased to state what action they propose taking to remove these hardships ?

The Honourable Mr. C. A. Innes : One of the purposes for which the Deck Passenger Committee was appointed was to examine the conditions under which deck passengers are carried.

(b) The opinions of Maritime Local Governments on the recommendations of the Committee have been received and are now being considered.

AMENDED CRIMINAL PROCEDURE CODE.

345. ***Mr. Harchandrai Vishindas :** Will Government be pleased to state when they will publish the notification in the Gazette bringing into force the amended Criminal Procedure Code ?

The Honourable Sir Malcolm Hailey : Government propose to bring Acts XII and XVIII of 1923 into force with effect from some date in September 1923.

PURCHASE OF SLEEPERS BY NORTH-WESTERN RAILWAY.

346. ***Mr. N. M. Samarth :** Will Government be pleased to state :

- (a) If it is a fact that the North-Western Railway is the sole Agency for purchasing coniferous sleepers required by the Indian Railways ?

- (b) If it is a fact that in the past the North-Western Railway has been purchasing coniferous sleepers required by itself and other Railways in its group from a dozen or more competing firms?
- (c) If it is a fact that in September 1922 the North-Western Railway issued a call for tenders for the supply of 50 lacs of coniferous sleepers to be supplied during the next five years?
- (d) If it is a fact that out of the 10 lacs sleepers required annually 4 lacs were to be Deodar, 1½ lacs treated Fir, 1½ lacs untreated Fir and 1½ lacs treated Chil and 1½ lacs untreated Chil?
- (e) If it is a fact that the call for tenders was issued on the 8th of September 1922 and that the 20th September 1922 was fixed as the latest date for the receipt of tenders?
- (f) If it is a fact that originally tenders for the supply were called for and it was published that no tender for part supply would be considered?
- (g) If it is a fact that the North-Western Railway has never before called for tenders for the whole quantity and has always been considering tenders for part supply?
- (h) If the Government is aware that there is not a single firm in Northern India that can supply 10 lacs of coniferous sleepers annually from its own stock?

The Honourable Mr. C. A. Innes : (a) to (g). The Honourable Member is referred to the replies given to-day to similar questions by Mr. Neogi on the same subject.

(h) It is believed that this is a fact.

TENDERS FOR SLEEPERS ON NORTH-WESTERN RAILWAY.

317. * **Mr. N. M. Samarth :** (1) Are Government aware that it is generally believed that the calling of tenders for sleepers was a mere formality and that the North-Western Railway had made their arrangements beforehand and that it was to discourage tenderers that they purposely gave a short notice?

(2) Will Government be pleased to state if it is a fact that the North-Western Railway received several tenders but rejected them all in favour of one particular tender which was higher than almost all the tenders received?

(3) Will Government call for and lay on the table a statement showing the rates offered in the different tenders?

The Honourable Mr. C. A. Innes : (1) The reply is in the negative. The North-Western Railway had received an offer for the whole supply, but prior to considering this offer, called for tenders in order to test the market and to give the former suppliers an opportunity of quoting.

(2) The majority of the tenders received were higher than the tender accepted. In the cases where a tender was lower, the difference in price was so small that it was advantageous to accept the offer of a firm of proved reliability.

(3) A Statement is laid on the table.

List of Tenders for B. G. Sleepers for 5 years from 1st April 1923.

Identification letter.	Deodar.	Rail.	Chir.	Fir.
A	1,00,000 in 5 years = 20,000 a year @ Rs. 8-0-0.	50,000 in 5 years = 10,000 a year @ Rs. 5-4-0.	50,000 in 5 years = 10,000 a year @ Rs. 4-0-0.	1,00,000 in 5 years = 20,000 a year @ Rs. 4-0-0.
B	50,000 yearly @ Rs. 8-0-0.	1,00,000 yearly, viz.,	1 lakh fir, 1 lakh Rs. 3-15-0.	Kail and Chir @
C	25,000 yearly @ Rs. 8-0-0 for 5 years.	50,000 yearly @ Rs. 4-15-0.	1,00,000 yearly @ Rs. 3-15-0.	50,000 yearly @ Rs. 3-14-0.
D	1,00,000 yearly @ Rs. 8-0-0 for 2 years, @ Rs. 8-8-0 for 3 years = Rs. 8-4-0 for 5 years.	.....	1,50,000 yearly @ Rs. 4-0-0 for 2 years, @ Rs. 4-1-0 for 3 years, 1,00,000 @ Rs. 3-12-0 for 2 years, @ Rs. 4-0-0 for 3 years.	50,000 yearly @ Rs. 3-12-0 for 2 years, @ Rs. 4-0-0 for 3 years.
E	4,00,000 in 5 years @ Rs. 9-0-0.	6,00,000 treated in 5 years @ Rs. 6-8-0.		
F	4,00,000 yearly @ Rs. 7-14-0.	6,00,000		
G	4,00,000 yearly @ Rs. 7-14-0.	@ Rs. 5-15-0. ... 1 @ Rs. 4-0-0. ... 1,50,000 yearly @ Rs. 4-0-0.	@ Rs. 3-14-0. ... 1,50,000 yearly @ Rs. 3-12-0.	
H	4,00,000 yearly @ Rs. 7-14-0 for 2 years, @ Rs. 8-0-0 for 3 years = Rs. 7-15-2-4 for 5 years; for part contract 1,50,000 yearly @ Rs. 7-12-0 for 2 years, @ Rs. 7-14-0 for 3 years = Rs. 7-13-2-4 for 5 years.	3,00,000 yearly @ Rs. 4-12-0 ... @ Rs. 4-0-0 ... 1,50,000 yearly @ Rs. 4-10-0 ... @ Rs. 4-0-0 ...	3,00,000 yearly @ Rs. 3-10-0.	
J	1,00,000 yearly @ Rs. 7-10-0 for 2 years, @ Rs. 7-13-0 for 3 years = Rs. 7-11-10 for 5 years.	50,000 yearly @ Rs. 4-10-0 ... @ Rs. 3-15-0 ...	1,00,000 yearly @ Rs. 3-6-0 for 2 years, @ Rs. 3-8-0 for 3 years = Rs. 3-7-2 for 5 years.	
K	2,00,000 yearly @ Rs. 8-0-0.	50,000 yearly @ Rs. 5-8-0.	25,000 yearly @ Rs. 4-12-0.	25,000 yearly @ Rs. 4-0-0.
L	.....	.....	.....	.....
M	25,000 yearly @ Rs. 8-8-0.	.....	25,000 yearly @ Rs. 4-6-0.	25,000 yearly @ Rs. 4-5-9.
N	4,00,000 @ Rs. 7-12-0 one year only.	3,00,000 @	Rs. 4-12-0.	1,50,000 @ Rs. 4-4-0.
O	1,50,000 yearly @ Rs. 7-11-0 for 2 years, @ Rs. 7-13-0 for 3 years = Rs. 7-12-2-4 for 5 years.	1,00,000 yearly @ Rs. 4-11-0 ... @ Rs. 3-14-0 ...	1,00,000 yearly @ Rs. 3-10-0.	
P	.....	30,000 yearly @ Rs. 4-8-0.	20,000 yearly @ Rs. 3-13-0.	.....

Identification letter.	Deodar.	Kail.	Chir.	Fir.
Q	30,000 1st year, 50,000 2nd year, 40,000 3rd year @ Rs. 7-14-0.	...	30,000 1st year, 30,000 2nd year @ Rs. 3-14-0.	...
R	50,000 for 1923 only @ Rs. 7-8-0.	...	...	...
S	.....	25,000 yearly @ Rs. 5-12-6.	1,00,000 yearly @ Rs. 3-12-6.	50,000 for 1923, 50,000 for 1924, 1,00,000 for 3 years @ Rs. 3-11-6.
T	.....	...	...	...
U	4,00,000 yearly @ Rs. 7-15-0.	1,50,000 @ Rs. 4-6-0.	1,50,000 @ Rs. 3-12-0.	1,50,000 @ Rs. 3-12-0.
		@ Rs. 4-0-0 if taken together equally.		
W	.....	.....	.....	.....
X	2,00,000 yearly @ Rs. 7-15-0. Rs. 8-4-0.*	75,000 yearly @ Rs. 5. Rs. 5-4-0.*	75,000 yearly @ Rs. 3-15-0. Rs. 4-4-0.*	1,50,000 yearly @ Rs. 3-12-0. Rs. 4-4-0.*
Y	.....	.....	1,00,000 yearly @ Rs. 3-15-0.	.....
Z	Rs. 10	Rs. 7	Rs. 5	Rs. 4
AA	.....	.....	1,50,000 yearly @ Rs. 3-15-0.	.....

* If individual inspection.

NORTH-WESTERN RAILWAY CONTRACT FOR SLEEPERS.

348. *Mr. N. M. Samarth : (1) Will Government be pleased to state if it is a fact that subsequent to the receipt of tenders for sleepers, the North-Western Railway changed the following conditions in favour of the firm in whose hands the contract has been placed :

A.—Instead of delivery on trucks, delivery in Railway premises was agreed to, thus saving the loss of loading into trucks to their contractors ?

B.—Originally only first class sleepers were to be taken but subsequently it was agreed that in case 85 per cent. of the sleepers were first class, 15 per cent. of miscellaneous sleepers would also be paid for as first class.

(2) Will Government be pleased to ascertain and state, if it is a fact that these concessions mean payment of about 2½ lacs annually to the said firm in addition to the rates accepted ?

(3) Are Government aware that the firm with whom the contract has been placed does not command the full quantity of sleepers it has contracted to supply from forests under its own control ?

(4) Are Government aware that the said firm is now sub-letting contracts for supply of sleepers at a profit of Re. 1-4-0 to Re. 1-8-0 per sleeper ?

(5) Will Government be pleased to state if it is not a fact—

(a) That this firm can command from its own forests only about one lac of Deodar sleepers, and 1½ lacs of Fir sleepers, against 4 lacs of Deodar, 1½ lacs of Fir and 1½ lacs of Chil sleepers which it has contracted to supply ?

(b) That the contract was given to the firm because it made the Railway authorities understand that it had all the supply available from its own forests ?

The Honourable Mr. C. A. Innes : (1) A. The form in which tenders were submitted was an old one and the heading of column 6 required the rates to be given "at which materials were to be supplied free on rail." It had, however, always been the custom for the Railway itself to do the loading and this was known to all contractors. Article 6 of the tender form itself provided that "if the above modes of delivery (that is, the delivery from ship or on rail) are not provided for in the tender, all sleepers shall be stacked or placed by the contractor in such position as may be pointed out to him by the Chief Engineer." Messrs. Spedding and Dinga Singh did not tender for free on rail.

(1) B. Yes. The form of tender gave a specification with regard to Indian sleepers and the standard specification laid down for second class sleepers in the contract differs only very slightly from the specification for first class sleepers in the form of tender.

(2) There is no profit from A. As regards B, the difference is reported to be infinitesimal.

(3) and (4). The Honourable Member is referred to the reply given to-day to a similar question by Mr. Neogi on the same subject.

(5) (a) Government are not aware of the exact output of the forests of the Contractors.

(b) The reply is in the negative.

PRICE OF CHIL SLEEPERS.

349. *Mr. N. M. Samarth : Will Government be pleased to state :

(a) If it is a fact that the Chil B. G. sleepers rate up to March 1923, has been Rs. 4 per sleeper ?

(b) If it is a fact that the rate has been increased in favour of the firm to whom the contract has been given recently by the North-Western Railway at Rs. 4-6-0 ?

(c) If so, why ?

The Honourable Mr. C. A. Innes : (a) The rate was about Rs. 4 per sleeper for mixed soft wood timbers.

(b) The contract given to the firm provides for a rate of Rs. 4 where equal quantities of Chir and Fir are ordered ; the rates of Rs. 4-6 for Chir and Rs. 3-12 for Fir apply only in cases where specific orders for these particular classes are specified.

(c) The combined rate of Rs. 4 compares favourably with the previous rates and also with the tenders submitted.

Dr. Nand Lal : May I ask if the Honourable Member will enlighten us if these changes in the conditions on which the contract was given were laid down in the first notification ?

Mr. President : Order, order. The conditions of contract do not arise out of this question.

Dr. Nand Lal : It pertains to the same subject.

Mr. President : It does not.

PURCHASE OF SLEEPERS BY NORTH-WESTERN RAILWAY.

350. *Mr. N. M. Samarth : (1) Are Government aware that the firm with whom the contract for the supply of Deodar B. G. and Chil B. G.

sleepers at Rs. 7-15-0 and Rs. 4-6-0 has been placed by the North-Western Railway has entered into a contract with the Punjab Government to purchase from them 1 lac B. G. Chil and 1,25,000 broad gauge Deodar sleepers at Rs. 3-3-6 and Rs. 6-8-0 per sleeper ?

(2) If the answer to the above question be in the affirmative, will Government be pleased to state why one Department of the Government has employed the firm as a middleman for passing its sleepers to another Department by paying a commission of Re. 1-7-0 per B. G. Deodar and Re. 1-2-6 per B. G. Chil sleepers ?

(3) Are Government aware that this arrangement causes a loss of Rs. 2,95,312-8-0 to the Public Revenue annually ?

The Honourable Mr. C. A. Innes : (1) The Honourable Member is referred to the reply given to-day to a similar question by Mr. Neogi.

(2) The North-Western Railway has not employed the firm to buy sleepers on a commission basis. The contract to which the Honourable Member refers was an entirely separate contract about which the North-Western Railway was not consulted.

(3) The answer to the question is that the North-Western Railway could only consider the tenders it received in reply to its tender notice, and the Punjab Forest Department did not submit any tender.

Dr. Nand Lal : Sir, may I ask why the Railway Department did not ask the Punjab Government to supply timber direct ?

The Honourable Mr. C. A. Innes : The Railway Department called for tenders and it was open to the Forest Department of the Punjab Government to tender in reply to that call.

Dr. Nand Lal : Is the Government of India aware that all this profit, which is enormous, has gone to the middleman.

The Honourable Mr. C. A. Innes : That is a matter for the Punjab Government.

Mr. N. M. Samarth : Sir, may I know exactly what the answer to clause (3) of my question is—whether the arrangement causes a loss of Rs. 2,95,312-8 to public revenues annually ?

The Honourable Mr. C. A. Innes : I have already said that the answer to that question is that the North-Western Railway could only consider the tenders it received in reply to its tender notice and the Punjab Forest Department did not submit any tender.

Mr. N. M. Samarth : Is that a direct answer, Sir ? My question is a direct one—is it or is it not a fact that this arrangement causes a loss of so many lakhs of rupees to the public revenues ; and I want a categorical answer to that.

The Honourable Mr. C. A. Innes : My answer was given with reference to that part of the question with which this Assembly is concerned, namely, railway expenditure.

Mr. K. B. L. Agnihotri : Is not the Assembly concerned with the loss to the public revenues ?

The Honourable Mr. C. A. Innes : If there is any loss, it is a loss being sustained by the Punjab Government with which this Assembly is not concerned.

ORDERS BY NORTH-WESTERN RAILWAY FOR SLEEPERS.

351. ***Mr. N. M. Samarth :** (1) Will Government be pleased to state :

(a) If it is a fact that the North-Western Railway had offers in October 1922 of B. G. Deodar sleepers at Rs. 7-11-0 and Rs. 7-12-0 ?

(b) If it is a fact that in spite of this offer the North-Western Railway placed another order for one lac B. G. Deodar sleepers at Rs. 7-15-0 with the firm in whose hands they had placed the previous contract ?

(2) Will Government be pleased to state why no tenders were called for, for this supply ?

The Honourable Mr. C. A. Innes : (1) (a) No offers were made to the North-Western Railway in October 1922 other than those in the tenders mentioned in the statement laid upon the table in reply to another question by the Honourable Member.

(b) An order was placed with Messrs. Spedding and Dinga Singh for an additional lakh of sleepers in the current year, but this order has been deferred owing to the postponement of the work for which the sleepers were required.

(2) It was not considered that there would be any advantage in inviting fresh tenders as the market had been recently tested.

(An Honourable Member : “ Is Bawa Dinga Singh a broker of Spedding & Co.’s ? ”)

The Honourable Mr. C. A. Innes : No, he is the second largest contractor in the Punjab.

Dr. Nand Lal : Is the Government of India aware that the giving of this contract to one firm for 50 lakhs of sleepers for 5 years has thrown a number of timber merchants out of employment and some have been reduced to poverty ?

The Honourable Mr. C. A. Innes : I am not aware of that.

Dr. Nand Lal : Is it not true that the Secretary of the Punjab Sleepers’ Association wrote to the Government saying that the sleepers could be had at much lower rates ?

The Honourable Mr. C. A. Innes : I am not aware of any such representation, Sir.

Dr. Nand Lal : Will the Government of India be kind enough to make inquiry into whether the successful firm with whom this contract has been placed has got leases of some forests, and secondly, whether the giving of this big contract to one firm has reduced a number of timber merchants to poverty ?

Mr. President : Order, order. The Honourable Member has had answers to both of those questions already.

NORTH-WESTERN 5 YEARS CONTRACT FOR SLEEPERS.

352. ***Mr. N. M. Samarth :** (1) Are Government aware that since the time when the 5 years contract for the supply of sleepers in October

1922 was given. there has been a great slump in the timber market, of which, owing to the placing of 5 years contract by the North-Western Railway, the Railways are unable to take advantage ?

(2) Are Government aware that the result of the North-Western Railway's creating this monopoly is to firmly establish one European firm in the market at the expense of the competing Indian firms ?

(3) If the reply to the above question be in the affirmative, will Government be pleased to state if they approve of this policy of the North-Western Railway ?

(4) Are Government aware of the serious loss which the Forest Revenue would suffer in case the policy adopted by the North-Western Railway is allowed to continue ?

(5) Will Government be pleased to state :

(a) If they are prepared to appoint a Committee of inquiry to investigate and report on all the circumstances connected with the aforesaid contract for five years given by the North-Western Railway to the European firm in question ?

(b) If not, what other steps they intend to take in this matter ?

The Honourable Mr. C. A. Innes : (1) Before the contract was placed, the Railway authorities were advised that the supply of Deodar sleepers was likely to contract and that a long term contract at current price would be advantageous.

(2) The Honourable Member is mistaken. The contract was secured by Messrs. Spedding and Company and Bawa Dinga Singh in partnership.

(3) Therefore does not arise.

(4) It is not understood how forest revenue can suffer from this contract.

(5) (a) Government do not consider it necessary to appoint any committee of inquiry.

(b) The manner of placing contracts for the supply of sleepers will be re-examined in the light of the contract and all the facts will be placed before the Central Advisory Committee.

HIGH POWER WIRELESS STATION.

353. ***Mr. N. M. Samarth :** 1. Will Government be pleased to state if the Indian Telegraph Department is considering any application for the grant of a license for a high power wireless station in British India for direct communication with England ?

2. If the answer to the above question be in the affirmative, will Government be pleased to state :

(a) the name of the applicant ;

(b) whether the applicant proposes to float a Company in India with a rupee capital ; and

(c) whether the applicant wants merely to exploit the license and sell the same to a foreign wireless company ?

3. Will Government be pleased to say whether it is proposed to grant the said license ?

4. If the answer to the above question be in the affirmative, will Government state the conditions which they propose to lay down regarding—

(a) the question of a monopoly ;

(b) the rates to be charged by the applicant for private and Government radiograms ;

(c) the provision to be made by the applicant for proper training and adequate employment of Indians in his wireless station ;

(d) the facilities for other competitors, should one or more come forward, for installing a similar high power station after the grant of the above license.

5. Are Government aware of the decision of the Postmaster-General of the United Kingdom that in the matter of granting a license to private enterprise for high power long distance wireless stations, no licensee will be permitted to have a monopoly ?

6. In view of the above decision, will Government be pleased to state whether a similar safeguard, in the public interest, has been or will be embodied in the license to be given for high power wireless stations in British India ?

Mr. G. R. Clarke : 1. Two such applications have been received. They have not yet been specifically considered, as the general question of the terms and conditions on which licenses for high power wireless stations should be granted is still under the consideration of the Government of India.

Paragraphs 2, 3 and 4 of the question do not, therefore, arise.

5. Yes.

6. Government consider that in the event of a license being granted for the erection and operation of a high power station in India a similar safeguard will be desirable.

APPOINTMENTS IN MEDICAL DEPARTMENT.

354. ***Mr. N. M. Samarth :** 1. Will Government be pleased to state :

(a) the number of staff appointments on the military side in the Medical Department, *i.e.*,

(i) Deputy Director of Medical Services, Army Headquarters and Commands ;

(ii) Assistant Director of Medical Services, Divisions, brigades and districts ;

(iii) Deputy Assistant Director of Medical Services, District, Sanitary and mobilisation.

(b) How many of these appointments are held by the Royal Army Medical Corps and the Indian Medical Service, respectively ?

(c) How many of the appointments held by the I.M.S. are held by Europeans and how many by Indian members of the Service ?

(d) What is the percentage of Indians in the I.M.S. ?

2. Will Government state the reason why the percentage of Indians in the case of staff appointments is not raised to the level of the percentage of Indians in the I.M.S. ?

3. Will Government be pleased to state which of the following considerations govern staff appointments ; Race, Seniority or Confidential reports ?

Mr. E. Burdon : 1. (a), (b) and (c). A statement is laid on the table which gives the information desired.

(d) 22 per cent. approximately.

2. As in the case of all staff appointments, candidates for staff appointments in the military medical services must ordinarily have a certain prescribed rank. For the most junior staff appointment in the medical services, the rank of Major is prescribed and there are only 3 Indian officers of the I.M.S. serving on the military side who have attained that rank, the great majority of the Indian officers being junior officers. Apart from this circumstance, however—which time will alter—it is not intended to allot staff appointments on a percentage basis determined by racial considerations.

3. None of the three. Selection for staff appointments is governed by the relative merits of the officer eligible.

State showing the number of staff appointments, etc., on the military side in the Medical Department.

			Total.
Director of Medical Services	1 (late R. A. M. C.)		1
Deputy Directors of Medical Services.	2 (R. A. M. C.)	3 (I. M. S.)	5
Assistant Directors of Medical Services.	12 (R. A. M. C.)	11 (I. M. S.)	23
Deputy Assistant Directors of Medical Services.	18 (R. A. M. C.)	7 (I. M. S.)	25
Totals	33 (R. A. M. C.)	21 (I. M. S.)	54
Temporary appointments of Deputy Assistant Directors of Medical Services for W. F. F. Embarkation Bombay and Razmak Force.	3 (R. A. M. C.)	..	3
Totals	36 (R. A. M. C.)	21 (I. M. S.)	57

Of the above, one appointment is held by an Indian officer of the Indian Medical Service (Assistant Director of Medical Services, Allahabad Brigade Area).

SPECIALISTS IN MEDICAL DEPARTMENT.

355. *Mr. N. M. Samarth : Will Government be pleased to state :

- The number of specialists appointments on the military side of the Medical Department ;
- How many of these specialists appointments are held by the R.A.M.C. and the I.M.S., respectively ;
- Out of the I.M.S. appointments, how many are held by Indian members and how many by European members of the Service ?

Mr. E. Burdon : (a) 93.

(b) 55 are held by officers of the Royal Army Medical Corps and 20 by officers of the Indian Medical Service. The remaining 18 appointments are at present vacant.

(c) Of the appointments at present held by officers of the Indian Medical Service, 9 are held by Indians, and the remainder by Europeans.

APPOINTMENT OF D.D.M.C., ARMY HEADQUARTERS.

356. *Mr. N. M. Samarth : Will Government be pleased to state --

- If it is a fact that in the case of a recent appointment of D.D.M.C., Army Headquarters, the claims of a very senior

Indian I.M.S. officer, with a very distinguished career have been set aside in favour of a junior European I.M.S. Officer ;

- If it is also a fact that in the case of a recent civil administrative appointment, the claims of the same Indian Officer have been set aside in favour of a much junior European I.M.S. Officer ?

Mr. E. Burdon : (a) Yes. It is relevant to state at the same time, however, that the junior European I.M.S. officer mentioned was also preferred to 5 European I.M.S. officers who are senior to him in service.

(b) The claims of the officer referred to were considered along with those of a European officer senior to him in service, and certain other European officers senior to the officer selected. The officer referred to could have held the appointment, under the rules, only for a few months, and was not recommended by the Local Government. The officer appointed had officiated in the appointment before and was recommended by the Local Government.

REGISTRATION OF TRADES UNIONS.

357. *Mr. J. N. Basu : (a) Will the Government be pleased to state whether they intend to introduce a Bill for Registration of Trade Unions in India ? If so, when ?

(b) Whether any steps have been taken since March 1921, to collect opinions of Local Governments and Commercial Bodies ? If so, whether the Government will be pleased to publish them on their receipt ?

The Honourable Mr. A. C. Chatterjee : (a) The attention of the Honourable Member is drawn to the reply given to a similar unstarred question by Mr. N. M. Joshi on the 2nd July 1923.

(b) The Government of India addressed the Local Governments and Administrations on this subject in September 1921. The replies have now been received and are being examined, and the suggestion of the Honourable Member to publish them will be considered in due course.

INVESTMENT OF INDIAN GOLD.

358. *Mr. J. N. Basu : Will the Government be pleased to state whether the Indian gold that is locked up in England if invested here, will fetch interest at 6 per cent. yielding Rs. 1,35,00,000 per year ?

The Honourable Sir Basil Blackett : The answer is in the negative. The Government of India has no Indian gold locked up in England. The question is not however fully understood.

ABOLITION OF FLOGGING.

359. *Mr. J. N. Basu : What steps have been taken to abolish flogging ?

The Honourable Sir Malcolm Hailey : The Honourable Member is referred to the question asked by and the answer given to Mr. K. C. Neogy on the 17th July 1923.

ASSESSMENT OF PARCELS, KARACHI.

360. *Mr. Harchandrai Vishindas : Will Government be pleased to state—

- What was the income from the assessment of parcels at Karachi received from the United Kingdom and foreign ports in the years 1920, 1921 and 1922 ?

(b) How many Customs Appraisers were working in the Karachi Post Office in 1920 and how many are working at present?

The Honourable Sir Basil Blackett : (a) The customs duty receipts from postal parcels assessed at Karachi during the three calendar years 1920, 1921 and 1922 were respectively Rs. 1,96,869, Rs. 2,36,312 and Rs. 2,43,462.

(b) One whole-time Appraiser was employed at the Post Office in 1920 and there has been no increase since. The whole-time officer is now however assisted by another Appraiser for 2 or more days a week.

INCREASE OF APPRAISERS.

361. ***Mr. Harchandrai Vishindas :** Will Government be pleased to inquire from the Local Government if they have received any representation from the Chief Collector of Customs, Karachi, regarding the increase in the number of Appraisers?

The Honourable Sir Basil Blackett : The Government of India see no necessity for taking the action proposed. If the Local Government receive any such representation and consider that it merits attention, they will no doubt forward it in due course.

EXAMINERS AND APPRAISERS, KARACHI.

362. ***Mr. Harchandrai Vishindas :** Will Government be pleased to inquire from the Local Government what percentage of promotion has been given to Examiners and Appraisers of the Karachi Customs House?

The Honourable Sir Basil Blackett : I am not quite sure what the Honourable Member means by "percentage of promotion". If he is referring to the increases of emoluments recently granted, the reply is that the Government of India gave full discretion to the Local Government to fix the initial pay of the existing incumbents on the new scales as they thought fit, subject to the maximum of a 50 per cent. increase in each case. The Government of India see no necessity for making the enquiry suggested.

INCOME-TAX WORK IN SIND.

363. ***Mr. Harchandrai Vishindas :** With reference to the answer given on page 2948, to Question No. 443, by Rai T. P. Mukherjee Bahadur, Volume III, No. 49, regarding income-tax establishment, will Government be pleased to state why in Sind the income-tax work is still being done through the agency of the Provincial Government?

The Honourable Sir Basil Blackett : Save for minor exceptions the assessment of income-tax in Sind is being done by the special staff.

INCOME-TAX OFFICERS IN BOMBAY AND SIND.

364. ***Mr. Harchandrai Vishindas :** Will Government be pleased to state when whole-time Income-Tax Officers sanctioned for Bombay Presidency including Sind will be appointed?

The Honourable Sir Basil Blackett : The special scheme is being gradually introduced as trained officers become available.

PASSPORTS FOR PASSENGERS FROM INDIA.

365. ***Rao Bahadur C. S. Subrahmanayam :** 1. Is it a fact that persons proceeding from British Indian ports to Penang and Singapore were required to take out passports and has that rule been since cancelled and such passengers are entitled to sail without passports? When was this change effected?

2. Is it a fact that persons proceeding to the islands of Mauritius and Seychelles have to take out passports before they embark?

3. Will the Government be pleased to state why passports are required to be taken from such persons?

4. Do the Government propose to withdraw the rule regarding the taking out of passports in view of the delay and other inconveniences caused to such persons in the matter of obtaining passports?

Mr. Denys Bray : (1) Yes, except that the exemption from passports granted by the Government of the Straits Settlements in January 1921 was a concession specifically restricted to Indian British subjects and is not of general application to travellers from India.

(2) Yes.

(3) Because the laws of the Colonies in question demand passports on entry from everybody.

(4) It is not within the power of the Government of India to do so.

UNSTARRED QUESTIONS AND ANSWERS.

PAHARPUR CANAL, DERA ISMAIL KHAN.

113. **Baba Ujagar Singh Bedi :** Is it a fact that Paharpur inundation canal, Dera Ismail Khan, has been transferred from the control of the Irrigation Department of the N. W. F. Province to that of the District authorities? If so, will the Government be pleased to state the reasons for this change of control?

The Honourable Mr. A. C. Chatterjee : The transfer has been sanctioned in the interests of economy, as under the present system of working a heavy annual loss is inevitable.

CANAL FOR DERA ISMAIL KHAN DISTRICT.

114. **Baba Ujagar Singh Bedi :** (1) Is it a fact that in 1912, plans and estimates of a perennial canal for irrigating the District of D. I. Khan, to be taken off from the right bank of River Indus at Kalabagh, were undertaken when the Irrigation Department was under the Punjab Government? Will the Government be pleased to state the reasons which led it to give up the scheme?

(2) Is it a fact that the Irrigation Department, North-West Frontier Province has been contemplating during the last three or four years the conversion of the Paharpur inundation canal into a perennial one? If so, what led the Government to give up the scheme?

(3) Is it a fact that the Zemindars of the Dera Ismail Khan Tahsil memorialized the Secretary to the Local Government, Irrigation Department, through the Deputy Commissioner, Dera Ismail Khan, in 1920, requesting for the conversion of the Paharpur canal into a perennial one?

(4) Is it a fact the financial considerations alone have stood in the way of the Government to prepare the canal project?

(5) Have the Government ever inquired from the Zemindars of the Dera Ismail Khan Tahsil that a project for converting the Paharpur canal into a perennial one, can be executed provided they are prepared to pay water rate in the same scale as obtains in canals in the Punjab?

The Honourable Mr. A. C. Chatterjee : (1) The answer to the first part of the question is in the negative. As regards the second part, a canal from Kalabagh on the right bank of the river Indus will become a practical proposition only if and when the Punjab project for the irrigation of the Thal on the left bank is constructed. The idea of a right bank canal from this point has not been finally abandoned, but it is realized that, even should the Thal project mature, the engineering difficulties involved in the construction of a right bank canal would be very great.

(2) The conversion of the Paharpur canal into a perennial one has been carefully considered, but the scheme has been abandoned owing to the great engineering difficulties involved, the cost of overcoming which would be prohibitive.

(3) Yes.

(4) No. As stated under (2) above, there are very grave constructional difficulties to be faced, more especially in regard to the obtaining of a perennial supply and to the safe passage across the canal of floods from the numerous torrential drainages which traverse the alignment.

(5) Yes. But, as explained above, it has been found that the conversion of the canal into a perennial one is not a practical proposition.

IRRIGATION DEPARTMENT, NORTH-WEST FRONTIER PROVINCE.

115 **Baba Ujagar Singh Bedi :** Will the Government be pleased to give the revenue and the expenditure of the Irrigation Department of North-West Frontier Province for the years 1921-23, showing the deficit, if any?

The Honourable Mr. A. C. Chatterjee : A statement giving the information is laid on the table.

Statement showing the expenditure on and revenue from works in charge of the Irrigation Branch of the Public Works Department in the North-West Frontier Province during the years 1921-23 and 1922-23.

Year.	EXPENDITURE.	REVENUE.				
	Capital expenditure.	Gross Revenue.	Working expenses.	Net Revenue.	Interest.	Profit or Loss.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1921-22 (actuals)	1,18,180	17,27,303	11,26,730	6,00,573	9,50,798	-3,50,225
1922-23. (revised estimates)	2,00,000	20,68,000	10,57,000	10,11,000	9,60,000	+ 51,000

N.B.—The above figures relate to the four major canals, the Upper Swat, Lower Swat, Kabul River and Paharpur Canals. They do not include a few small miscellaneous works constructed partly for irrigation purposes and partly for road protection, which were in charge of the Irrigation Branch during the period in question but are now being handed over to the district authorities, and for which separate figures are not readily available.

EASTERN BENGAL RAILWAY BRANCH LINES.

116. **Mr. J. N. Mukherjee :** 1. Will the Government be pleased to state whether there was any project for a broad-gauge line connecting Birnagore railway station on the Eastern Bengal Railway with Santipore, and was any survey made by Government with a view to carry out the project? If so, what has become of it?

2. Are Government aware that the existing narrow-gauge line from Ranaghat to Krishnagore on the Eastern Bengal Railway, *via* Santipore, being discontinued for want of a bridge across the Churni river, fails to serve the public in a satisfactory manner?

3. If so, do Government propose to carry out the above project of a broad-gauge line connecting Birnagore with Santipore, a distance of about 6 miles only, or to consider any other suitable project calculated to remove the existing inconvenience of passengers bound for Santipore?

The Honourable Mr. C. A. Innes : 1. Yes. It was eventually decided that the proposed broad gauge railway to Santipur should take off from the main line just on the north side of the Churni bridge and not at Birnagar.

2. Yes.

3. Government are examining the prospects of a broad gauge railway from the Churni bridge to Santipur.

PAY OF CLERICAL STAFF, ARMY HEADQUARTERS.

117. **Mr. K. C. Neogy :** I. Will Government be pleased to state :

(a) whether it is a fact that the existing rates of pay of the clerical establishments at Army Headquarters are less than those drawn by similar establishments employed in the Government of India Civil Secretariat ;

(b) whether it is a fact that the Civil Secretariat clerical establishments draw house rent and other allowances in addition to their pay, and if so, whether similar allowances are granted to the clerical establishments at the Army Headquarters ;

(c) whether it is a fact that the conditions governing the admission of candidates for employment in the clerical establishments of both the Civil Secretariat as well as the Army Headquarters are identical in nature, notwithstanding the difference in their rates of pay ; and

(d) whether it is a fact that the clerical establishments at the Army Headquarters perform the same class of work as the clerical staff of the Army Department of the Government of India Civil Secretariat ?

II. If the answers to (a), the first part of (b), (c) and (d) above be in the affirmative, what are the reasons for the differential treatment meted out to the Army Headquarters clerical establishments ?

III. Is it a fact that the Esher Committee examined the question of the differential treatment referred to above and recommended that the Army Headquarters clerical establishments should be placed on the same footing as the corresponding establishments of the Civil Secretariat

as regards rates of pay, allowances and status? If so, what action has been taken or is proposed to be taken to give effect to the said recommendation?

IV. Are Government aware of the existence of a general feeling of growing discontent among the Army Headquarters clerical establishments owing to the continuance of the present differential treatment accorded to them? If so, what steps do Government propose to take to remove this feeling?

Mr. E. Burdon : I. (a) Yes.

(b) The answer to the first part is in the affirmative, and to the latter part in the negative.

(c) Yes.

(d) No.

II. The reason for differential treatment is contained in the reply to (d), which I have just given.

III. The answer to the first part is in the affirmative. Government are not prepared to give effect to the recommendations while conditions of work in the Secretariats and at Army Headquarters remain dissimilar.

IV. Government have received information to the effect stated in the first part of the question, but as already stated, they have decided that it would not be justifiable to assimilate the rates of pay in Army Headquarters to those granted to Secretariat establishments, nor do they propose to take any other action in the matter.

INDIGENOUS SYSTEMS OF MEDICINE.

118. **Rai Sahib Lakshmi Narayan Lal :** (a) Have the Government taken any practical steps regarding the indigenous system of medicines for which hopes were held out during the debate on my Resolution regarding the indigenous systems of medicines in January 1922, and in reply to my question regarding the same during the last Simla Session?

(b) If not, do the Government propose to take any such step in the near future?

(c) Will the Government be pleased to lay on the table a detailed statement of what has been done and of what is proposed to be done regarding the Central Research Institute, Delhi?

Mr. M. S. D. Butler : (a) and (b). A copy of the Honourable Member's Resolution of January 1922 was forwarded to all local Governments for information and such action as they might consider necessary.

(c) The scheme for the formation of a Central Research Institute at Delhi has been held in abeyance as a result of the recommendation made by the Retrenchment Committee.

SELECTIONS FOR SANDHURST CANDIDATES.

119. **Mr. Muhammad Faiyaz Khan :** (a) Will the Government be pleased to state the names of the fathers or nearest relatives of all the candidates sent for military training to Sandhurst up to this time?

(b) Is it true that only the sons or relatives of titleholders and flatterers are selected for Sandhurst?

(c) If it is true, why does the Government not select from other classes as well?

Mr. E. Burdon : (a) A statement, which gives the information asked for by the Honourable Member is laid on the table.

(b) No.

(c) This question does not arise.

List of Indian Cadets admitted to the Royal Military College, Sandhurst.

Name of Cadet.	Father's name, etc.
1. Syed Iskander Ali Mirza (Bombay)	Nawab Fateh Ali Mirza of Bombay.
2. Iqbal Ali Beg (Madras)	Nawab Sir Afsar-ul-Mulk, Commander-in-Chief of His Exalted Highness the Nizam's Military Forces.
3. Turan Kumar Sinha (Bengal)	Lord Sinha of Raipur, P.C., K.G.
4. Sirdar Madanjit Singh (Punjab)	Sirdar Partab Singh, C.S.I., of Jullundur (deceased).
5. Lolit Kumar Roy (Bengal)	Pyari Roy, Barrister-at-law, Calcutta.
6. Kumar Shri Himatsinhji (Bombay)	Kumar Shri Narsinhji of Rajpipla State.
7. Nawab Sarwar Ali Khan (Central India)	Nawab of Kurwai (deceased).
8. Sahibzada Faiz Muhammad Khan (North-West Frontier Province)	Khan Mansab Ali Khan, Sherwani Pathan, Zemindar (deceased).
9. Bedi Daya Singh (Punjab)	Bedi Sir Gurbaksh Singh, C.I.E., of Rawalpindi.
10. Kumar Shri Rajendrasinhji (Bombay)	Kumar Shri Davaisinhji (Ward of the Jam Sahab of Nawanganar).
11. Edris Yusuf Ali (United Provinces)	Khan Bahadur Abdulla Yusuf Ali, C.B.E., I.C.S., (retired), United Provinces.
12. Promsik Chunder Sen (Bengal)	Profulla Chunder Sen of Cooch Behar (Private Secretary to His Highness the Maharaja of Cooch Behar).
13. Muhammad Nawaz Khan (Punjab)	Sirdar Muhammad Ali Khan of Attock.
14. Tek Bahadur Shah (United Provinces)	Indra Bahadur Shah of Kheri, United Provinces.
15. Pritam Singh Brar (Punjab)	Honorary Captain Hira Singh, Sardar Bahadur, of Ferozepore.
16. Maung Tun Hla Aung (Burma)	U. May Aung, B.L., Rangoon.
17. Sahibzada Muhammad Kurshid (North-West Frontier Province)	Sahibzada Khalil-ul-Rahman (deceased), North-West Frontier Province.
18. Babu Sukumar Sen (Bihar and Orissa)	Rai Bahadur Jogendranath Sen, Government Pleader, Bihar and Orissa.
19. Kumar Shri Madhavsinhji Chandrasinhji (Bombay)	Chandrasinhji, Jagirdar, Jamnagar, Bombay Presidency.
20. Kunwar Sheodatt Singh (Rajputana)	Thakur Dip Singh of Bikanir.
21. Arthur Rikh (United Provinces)	Kunwar Sheonath Rikh, Rais of Tejpur, United Provinces.
22. Thakur Nathu Singh (Rajputana)	Thakur Hamir Singh of Gumanpura, Rajputana.
23. Charles Ba Thein (Burma)	Professor Maung Tun Po, Judson College, Rangoon.
24. Kumar Shri Kishersinhji (Bombay)	His Highness Maharana Shri Sir Chhaterasinhji, Raja of Rajpipla—Nandod (deceased).
25. Gurbachan Singh (Punjab)	Risaldar Major Kartar Singh Ladhran, Gurbakshpura, Punjab.
26. Mutaqui Muhammad Ali (United Provinces)	Syed Muhammad Ali, retired District and Sessions Judge, United Provinces.
27. Syed Bad Shah (North-West Frontier Province)	Syed Fateh Shah, B.L., of Peshawar, now practising at Lucknow.
28. Har Bishan Singh Brar (Bihar and Orissa)	Honorary Captain Hira Singh, Sardar Bahadur, of Ferozepore.
29. Satyavant Shrinagule Mallanah	Dr. Shrinagule Mallanah, King Koti, Hyderabad, Deccan.
30. Muhammad Ishfakul Majid (Assam)	Honourable Mr. A. Majid, C.I.E., Member, Executive Council, Assam.

Name of Cadet.	Father's name, etc.
31. Thakur Singh Negi (United Provinces).	Thakur Jodh Singh Negi, Ashwal-shyun, Garhwal.
32. Mirza Osman Ali Baig (Bombay) ..	Sir Abbas Ali Baig, K.C.I.E., C.S.I., Panehgani, Bombay.
33. Ajit Kumar Ghosal (Bombay) ..	Mr. Jyotsnanath Ghosal, C.I.E., I.C.S., Bombay.
34. Gurdip Singh Dhillon (Punjab) ..	Late Risaldar Major and Honorary Captain Ram Singh, Sardar Bahadur.
35. Ashghar Ali Khan (Punjab) ..	M. Aziz-ud-Din, Esq., C.V.O., C.I.E., Retired Deputy Commissioner, now Commissioner of Customs, Hyderabad, Deccan.
36. Balwant Singh Lamba (Punjab) ..	S. Tara Singh, Honorary Magistrate, Gujrat, Punjab.
37. Sheikh Maqbul Hussain (Punjab) ..	Khan Bahadur, Sheikh Riaz Hussain, C.I.E., Honorary Assistant Commissioner, Multan.
38. Sahibzada Anis Ahmed Khan (United Provinces).	The Honourable Sahibzada Aftab Ahmed Khan, Bar-at-law, Member, India Council, London.
39. Nirmal Chandra Hoon (Bombay) ..	Balak Ram, I.C.S., District Judge, Bijapur (Bombay).
40. Bakshish Singh Chimni (Punjab) ..	Honorary Lieutenant and Risaldar Major Sardar Sant Singh Chimni Bahadur, Honorary Magistrate, Gujranwala.
41. Thakur Amar Singh (United Provinces).	Naib Commandant Rai Bahadur Thakur Rana Ram Singh Bahadur, O.B.E., Burma Military Police (retired).
42. Satyendranath Sarkar (Bihar and Orissa).	Jadunath Sarkar, I.E.S., Professor, Ravenshaw College, Cuttack.
43. Mirza Rashid Ali Baig ..	Sir Abbas Ali Baig, K.C.I.E., C.S.I.
44. Hira Lal Atal (Punjab) ..	Late Major F. L. Atal, I.M.S.
45. Ali Asghar Khan (Punjab) ..	Nawab Monla Bakhsh Khan, Bahadur, C.I.E. (Woodlands—Simla).
46. Kalwant Singh (Punjab) ..	Late Sardar Bahadur Sardar Sant Singh, E.A.C., Punjab.
47. Mehtab Singh (Punjab) ..	Sardar Gulab Singh, Government Land Contractor, Gujrat District.
48. Jalal-ud-Din Pirzada (Punjab) ..	Mr. Taj-ud-Din, Pir, Bar-at-law, Lahore.
49. Sant Singh (Punjab) ..	Psd. Dafadar Sewa Singh, late 8th Cavalry.

INDIAN MEMBERS OF GOVERNMENT OF INDIA EXECUTIVE COUNCIL.

120. **Mr. Muhammad Faiyaz Khan** : While speaking or replying to questions are the Indian Members of the Executive Council of the Government of India allowed to speak their mind as Indians or they have to speak only as Government servants ?

The Honourable Sir Malcolm Hailey : All Members of the Governor General's Executive Council, whether European or Indian, in answering questions or in speaking in the Indian Legislature express the views of the Government of India. I would remind the Honourable Member that a corporate responsibility is placed upon them.

ANGLO-INDIANS ; WHETHER CONSIDERED AS INDIANS OR EUROPEANS.

121. **Mr. Muhammad Faiyaz Khan** : (a) Are the Anglo-Indians considered as Indians or Europeans in Government service ?

(b) Are the Government aware that some of the dark complexioned Anglo-Indians freely travel in European Compartments while Indians

are refused admission in European compartment, and are even asked to vacate if they are seated there ?

Mr. G. G. Sim : (a) The Honourable Member is referred to the reply given to-day to Lieutenant-Colonel Gidney's starred question No. 315.

(b) The statement made by the Honourable Member is not entirely correct since, on most of the Railways on which reserved compartments for Europeans and Anglo-Indians are provided Indians in European costume are allowed to travel in them.

THE INDIAN PORTS (AMENDMENT) BILL.

The Honourable Mr. C. A. Innes (Commerce Member) : Sir, I beg to move :

" That the Bill further to amend the Indian Ports Act, 1908, be taken into consideration."

This is a very little Bill and its objects are fully explained in the Statement of Objects and Reasons appended to the Bill. I also gave some statement of those objects when I introduced the Bill last week. Since then I have received no notice of any amendment, and no criticism or comment. In the circumstances I do not think it necessary to detain the House further and I move that the Bill be taken into consideration.

The motion was adopted.

Clauses 1, 2 and 3 were added to the Bill.

The Title and Preamble were added.

The Honourable Mr. C. A. Innes : Sir, I move that the Bill be passed.

The motion was adopted.

THE INDIAN ELECTRICITY (AMENDMENT) BILL.

The Honourable Mr. A. C. Chatterjee (Industries Member) : Sir, I rise to move :

" That the Bill further to amend the Indian Electricity Act, 1910, be taken into consideration."

In this case also, Sir, I gave a brief account of the object of the Bill when moving for leave to introduce it, and there is very little further to state. The Bill arises from a little oversight at the time when the Indian Electricity Act was revised last year and we are attempting to remedy this defect in the interests of railway administrations who are electrifying their suburban lines. I hope that the Assembly will allow the Bill to be taken into consideration without reference for local opinion or without reference to a Select Committee.

The motion was adopted.

Clauses 1 and 2 were added to the Bill.

The Title and Preamble were added.

The Honourable Mr. A. C. Chatterjee : Sir, I move that the Bill be passed.

The motion was adopted.

THE LAND ACQUISITION (AMENDMENT) BILL.

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : Sir, I beg to move :

“ That the Report of the Select Committee on the Bill further to amend the Land Acquisition Act, 1894, for certain purposes, be taken into consideration.”

Sir, when I introduced this Bill I explained that its object was to give those people whose land was about to be acquired an opportunity of objecting in the initial stage. At present there is a preliminary notification under section 4 which is followed at a subsequent date by a notification under section 6, when the Government has decided that land is to be taken. The Bill provides that after notification under section 4 the persons interested shall have an opportunity of putting forward their objections. No objection to the principle of this Bill was taken at the time and none has been taken since. The Bill was referred to a strong Select Committee and certain changes of a minor character have been proposed in it. We have, for example, proposed that in clause 1 there should be a commencement clause. This is a petty matter, but we observe that before this Act is brought into force, it will be necessary to instruct all officers who have to administer it as to the new provisions, and it will be convenient therefore if a breathing space is given before the Act actually comes into operation. If there is not time to instruct officers beforehand it is possible that certain proceedings will be invalidated. Our second amendment has been introduced to make it clear that the Collector shall be entitled to make any further inquiry which he considers necessary after hearing the objector. The third amendment provides for summary proceedings in cases of emergency. None of these changes, as I have said, affects the principle of the Bill, and the only disagreement in the Committee was as to certain details about the inquiry to be carried out by the Collector on receipt of objections. I will not discuss this question at the present moment because it will be more suitable to do so if and when the amendments which have been tabled on this point are before the House. I will, therefore, ask the House at this stage merely to pass this motion and then proceed to the amendments which will be dealt with as they arise.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, at this stage I should like to ask the Honourable Member in charge of the Bill one question, in order that we may decide upon the advisability of proceeding with certain amendments which I with several other members of the Select Committee have proposed. (A Voice : “ They are for consideration.”) The question that I should like to ask is this. If in consequence of the amendments of which we have given notice, the Government, before proceeding further, decides to collect the opinions of Local Governments with regard to them, what will be the effect of it ? We are now at the close of the present session and there will be a new Assembly some time later on. I should like to know if, in that case, the whole Bill, with the amendments proposed by us, will be shelved, and a new Bill will have to be introduced in the new Assembly without, perhaps, the amendments ?

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Of course,

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Mr. J. N. Mukherjee : I want an answer from the Honourable Member in charge of the Bill. On receipt of an answer we can decide as to what course we should follow with reference to the amendments that we have put forward.

Mr. M. S. D. Butler : Sir, the position is that we desire to get this Bill through before this session is prorogued at the end of this week, as otherwise on the dissolution of the Assembly the Bill will be lost and we shall have to proceed *de novo*.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, I do not think the Honourable Member in charge of the Bill has given an answer to the question which was put by Mr. Mukherjee. The point is this. There has been a good deal of feeling inside this House and also outside it that the procedure adopted in regard to the acquisition of lands other than for public purposes should be followed also in the case of acquisition of lands for public purposes. I understood the Honourable Member in charge to say that Government is prepared to make some concession on this question, namely, to allow objections to be put forward to the acquisition of land for public purposes before the Collector, but that no attempt will be made at present to enable the party to bring the matter before the civil authorities. Now the question which I ask is this. Supposing this Bill is passed, will the Government take steps to ascertain the opinions of the various Local Governments and other authorities in order that a further change may be made in the Act itself giving power to the person whose land is to be taken, to go before a Civil Court and contest it ? That is the point, I believe, on which Mr. Mukherjee wanted an opinion of the Honourable Member in charge of the Bill.

Dr. H. S. Gour : That is not the point at all.

Mr. T. V. Seshagiri Ayyar : Sir, as Mr. Mukherjee rightly pointed out, we should like to have an opinion from the Government Benches, and not from Dr. Gour. The point is of great importance. We are willing to have half a loaf if we cannot have a full one. Supposing half a loaf is now given, will the Government take steps to see that the full loaf is secured later on, and will they ask the opinions of the Local Governments and of other bodies in order that a further change may be made in the Act ? I should like to have the opinion of the Government Member and not of other people.

Dr. H. S. Gour : Sir, before that question is replied to, may I ask another question. Which is the half loaf presented to the Government, Mr. Mukherjee's or Mr. Seshagiri Ayyar's ? They are entirely two different questions. Mr. Mukherjee raises the question that whenever there is an inquiry as to the acquisition of land, certain assessors should be associated with the inquiry officers. Mr. Seshagiri Ayyar raises an entirely different question, and he fathers it upon Mr. Mukherjee, and the father Mukherjee indignantly repudiates it by a violent shake of the hand. The question that he refers to is that if, supposing after an inquiry is made, the Collector, with or without the aid of the assessors, comes to the conclusion that the land is required for the purposes contemplated by the Land Acquisition Act, will that decision be open to challenge by the aggrieved

[Dr. H. S. Gour.]

party in the Civil Court? That is the question which Mr. Seshagiri Ayyar raises, and that is an entirely different question to the one raised by Mr. Mukherjee. Consequently, I submit these two questions are not identical as Mr. Seshagiri Ayyar seems to have assumed, and the Government must realise that the two questions are independent, and that in accepting Mr. Mukherjee's suggestion they do not necessarily accept Mr. Seshagiri Ayyar's suggestion.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, the object of this House is to point out that there is some improvement on the previous Land Acquisition Act and we all like that this Bill should be passed, provided the Honourable Member in charge will give us an undertaking on two points; firstly, that he will move the Government to put forward another Bill with a view to introduce a change 'that the Collector, after having been assisted by two assessors, may make inquiry into any objection'; secondly, 'that if a decision is given by the Collector against the objector in regard to his title to the land and the same report has been adopted by the Local Government, whether it will be competent for the objector to go to the Civil Court and obtain a decree declaring that he is entitled to the land as owner or that he has got interest in that land and that the decision of the Collector as well as that of the Local Government will not affect his title'. If the Honourable Member in charge of the Bill is prepared to give us an undertaking on these two points, we shall not impede the passage of this Bill, otherwise we shall have to discuss every one of the clauses of the Bill.

Mr. J. Ramayya Pantulu (Godavari cum Kistna : Non-Muhammadan Rural) : Sir, it seems to me that the point raised by Mr. Seshagiri Ayyar does not arise out of the Bill before the House. It was embodied in my Bill but that Bill has been scrapped, and the Government has come forward with a smaller Bill. The question of future legislation on the lines of my Bill does not really arise now.

With regard to Mr. Mukherjee's amendment, I think he has raised a very good point, but we should wait to discuss it till the amendment comes to be moved. The question before the House now is whether the Bill should be taken into consideration or not. I do not think that there is any objection to its being taken into consideration. The question of assessors can be considered when the amendment relating to it comes up for consideration. Meanwhile, I think, Sir, that we ought to agree to the Bill being taken into consideration.

The Honourable Sir Narasimha Sarma (Education, Health and Lands Member) : Sir, some of the questions which have been raised do not properly arise out of this particular motion, but I understand that they have been put in order to facilitate the discussion and passage of the Bill. The Government have had long under consideration the question of amending the Land Acquisition Act in this and other particulars and have stated so on previous occasions in this House. The question as to what is to be done with regard to the acquisition of land for industrial and other purposes was referred to Local Governments. We have received the replies and we have circulated the papers amongst the Industries and

Revenue Committees which have been established in accordance with the promise of the Government. But it was impossible for us to undertake any comprehensive legislation during this session, inasmuch as the Government gave their promise to amend the Land Acquisition Act at least in one particular matter, namely, the granting of a statutory right to be heard and to state objections to parties interested in land which is proposed to be acquired, they have felt that it was their duty to fulfil their promise and that is the reason why they have tabled this small Bill which they considered to be non-contentious before the Assembly, and I would request that the House would assist us in getting this Bill passed during this session both here as well as in the Council of State, so that it may become law and may come into operation at the earliest possible date.

With regard to the question which has been raised by Mr. Mukherjee as to whether any further amendments would be undertaken, it is always open to any Member of this House to propose amendments by bringing in a Bill and the question would be decided on its merits. There is nothing, therefore, to prevent any Honourable Member from introducing any private Bill if he thinks that any useful purpose would be served thereby, suggesting such modifications as he considers would be suitable and would be useful in the scheme of the Land Acquisition Act. But I think it would be difficult—nay impossible—for us to proceed to a solution of the immediate problem before us if difficult questions of that description are raised for discussion in this House at the present moment.

With regard to the question which has been put by Mr. Seshagiri Ayyar, the procedure which may have to be adopted with regard to the acquisition of land for industrial and other purposes and the modifications which may have to be introduced into the procedure, if further facilities are to be given, is a question which I shall not raise now and the Government are not in a position to answer. But as to whether judicial tribunals would be open to parties who may be aggrieved by the Local Government deciding that particular land should be acquired, so far as the Government are concerned they have clearly stated their attitude during the discussion on Mr. Ramayya Pantulu's Bill and they have no reason whatsoever to depart from the attitude which they adopted at that time. That is the position, so far as the Government are concerned.

With regard to private Members, it is always open to them to move any amendment and to bring in any Bill of any kind whatsoever. I think, therefore, Sir, it would be unnecessary to complicate the situation by taking cognisance of matters which do not really come within the scope of this Bill as to what the procedure of the Government or the Honourable Members may have to be when different questions—questions of a different character arise on a future occasion.

Mr. President : The question is :

"That the Report of the Select Committee on the Bill further to amend the Land Acquisition Act, 1894, for certain purposes, be taken into consideration."

The motion was adopted.

Mr. President : We had better postpone Clause one.

The Honourable Sir Malcolm Hailey (Home Member) : Yes.

Mr. President : Clause 2.

Mr. J. Ramayya Pantulu : Sir, before moving the amendment which stands in my name, I wish, if I may, to thank the Government for having brought in this Bill. The Honourable the Revenue Member, in opposing my Bill upon the same subject during the last Delhi session and getting it scrapped, gave the House—I do not say an understanding—but an undertaking that the Government would bring in a Bill of their own at a very early date and they have done so at the earliest opportunity. This Government Bill does not go anything like the length of my Bill but it goes a little way and, if some of the amendments that are to be proposed to-day are to be given effect to in substance though not in the wording in which they are put, I think the Bill can be made to go some way to meet the requirements of the case. I, therefore, Sir, accept the Bill on the principle that “half a loaf is better than no bread,” or, as we put it in our part of the country, “a blind husband is better than no husband.”

My amendment, Sir, is this:

“In clause 2 at the end of sub-section (1) of section 4 of the Act, insert the following, *viz.* :

‘And shall also cause a similar notice to be served on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situated.’”

My object in proposing this amendment is that, when the Government publishes a notification in the official Gazette that a particular piece of land or land in a particular locality is required for a public purpose or for a company, a separate notice should also be served on the person whose land is proposed to be acquired. It is the provincial Gazette that these notifications are published and we all know that people in general do not subscribe for the provincial Gazette, and mere publication in the provincial Gazette is really giving no notice to the party that is interested. Therefore, it is necessary, if you want to do justice to the people, not only to publish a notification in the Gazette but also to give some sort of warning, some sort of intimation to the landholder that his land will be acquired. Such a provision is made in section 9, sub-section (3), in regard to the inquiries to be made about the compensation to be awarded after the final notification under section 6 is published. Now, in some respects, it seems to me that the inquiry to be made under the present Bill is even more important than the inquiry that is to be made under section 9, because the inquiry that has to be made under the present Bill is as to whether there is any objection to the acquisition of the land itself, whereas the other inquiry is concerning the amount of compensation that is to be awarded. Very often, a man loses much more by the acquisition of the land than by the compensation being a few rupees less or more. So, it is much more important to him that the land should not be acquired than that he should get a few more rupees on account of that land. I, therefore, think that, if you want to do justice to the people whose land you propose to acquire, you ought to give sufficient notice to them that their land is going to be acquired and mere publication in the provincial Gazette is not sufficient. And, as to the particular man to whom the notice should be served. I borrowed the wording of my amendment from sub-section (3) of section 9.

I am quite willing, if the Government thinks that it is cumbersome, to have that put into a workable form. What I want to be done is that you should give to the party concerned a better notice than mere publication of the notification in the Provincial Gazette. That is my point, Sir. Therefore, I move my amendment.

Mr. M. S. D. Butler : Sir, it is a most unfortunate thing that circumstances prevented my Honourable friend who has just moved this motion from being present at an earlier stage of the Session when this Bill was committed to a Select Committee. Really, he is the father of the Bill, and we hoped to have had the opportunity of consulting him in Committee on the details of the Bill, for he knows a great deal about it. I have no doubt that, had he been here, and been a member of the Select Committee, we might have arrived at a form of wording which would have embodied the substance of the particular amendment now before us. The amendment as actually proposed throws a very heavy burden on the Collector. He has got to find out who is the occupier, and who are “such persons known or believed to be interested therein, or to be entitled to act for persons so interested” and all that within 30 days. This procedure involves very elaborate inquiries and very serious danger of the right people not being discovered and thereby a danger of invalidation. My Honourable friend has himself admitted in his remarks that possibly the procedure he proposes may be a little cumbersome, and he is prepared, he says, to admit of some modification in it which will suit us. But there is no time now to get the clause redrafted if we are to pass the Bill this Session. So, I hope he will be satisfied if we say that we will consider the point, and refer it to Local Governments for their consideration, for, after all, in a matter of this sort, we ought not to rush the Local Governments who are chiefly concerned, and we ought to know what they think about it. I will point out to him that under section 4, as it at present stands, notice has to be given. The Collector is obliged to cause public notice of the substance of such notification to be given at convenient places in the locality of the land which is to be acquired, and therefore, as a practical measure, I do not think any difficulty will arise. The obligation is on the Collector to give public notice in the locality of the land which is to be acquired, and those who have had much dealing with the acquisition of land know that the fact that it is going to be acquired is generally known and gets abroad very quickly, and during the thirty days which are allotted for the preliminary objection I feel sure that there will be very few cases in which there will be any real serious practical difficulty. I hope my Honourable friend will be satisfied with this explanation and will not press this amendment.

Mr. J. Ramayya Pantulu : I did not quite follow the Honourable Member in the concluding portion of his remarks, but considering the fact that we are now very nearly at the end of our life and that if no proper amendment can be drafted and accepted by this House, and if an amendment is to be made in the other House, there will be no time for its being brought again to this House, and so the whole Bill will have to go,—in these circumstances, Sir, I am prepared to withdraw my amendment provided the Government will undertake to invite the attention of

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the Local Governments to the matter and ask them to frame rules so as to require the Collector to serve individual notices upon persons owning land in cases where particular fields are proposed to be acquired. Of course, I quite recognise that when it is proposed to acquire a large area of land, you do not know exactly what portion of that land you are likely to acquire until you have finished the preliminary investigation under section 4, and it will not be possible to know the owners whose lands will be acquired. But very often it is individual fields that are proposed to be acquired, and all these fields are very often mentioned in the preliminary notification published in the Provincial Gazette under section 4. In such cases, there ought to be no difficulty on the part of the Collector in serving notices upon the owners of those fields. If the Government will ask the Provincial Governments to make provision to this effect in the rules that will be made under this section, I shall, for my part, be quite satisfied with it under the existing circumstances, and withdraw my amendment.

The Honourable Sir Narasimha Sarma : Sir, without proceeding to a discussion as to the merits of the amendment, I may say that Mr. Butler has already premised the Honourable Member that he would invite the attention of Local Governments to this subject and ask them whether they can issue instructions so that the notices that can be legally and statutorily given under section 4 should be so given as to meet the wishes of the Honourable Member by bringing as far as possible to the notice of persons who may be interested the fact that particular lands are to be acquired. We shall have to proceed according to the wording of section 4. We cannot cast upon the Collector any further obligation than is possible. But certainly I think we shall be within our rights and it will be our duty to invite the attention of Local Governments to see that all steps are taken that would render the notice really effectual and that persons whose lands may have to be acquired receive adequate notice of the proposal.

Mr. J. Ramayya Pantulu : Under the circumstances, Sir, I withdraw the amendment with the permission of the House.

The amendment* was, by leave of the Assembly, withdrawn.

Clause 2 was added to the Bill.

Mr. J. Ramayya Pantulu : I suppose, Sir, that the above decision disposes of the next amendment† also.

* “ In clause 2 at the end of sub-section (1) of section 4 of the Act insert the following, viz. :

‘ And shall also cause a similar notice to be served on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue district in which the land is situated ’.”

† “ In clause 3 in sub-section (1) of the proposed new section 5A for the words ‘ issue of the notification ’ substitute the words ‘ service of the notice referred to in the said sub-section ’.”

Mr. President : Clause 3.

Mr. J. N. Mukherjee : Sir, after receiving the explanation which the Honourable Member in charge of the Bill and the Honourable Sir Narasimha Sarma have presented to the House, I and my friends who have joined me—

Dr. Nand Lal : I do not agree.

Mr. J. N. Mukherjee :—some of my friends at any rate—four of my friends excepting Dr. Nand Lal—think that we should not press the amendments* which are tabled against the names of five of us. But I should say a word or two by way of explanation as to the line of action we propose to adopt with reference to our amendments. I submit, Sir, that in view of the recommendations of the Industrial Commission, a very important question of principle is going to be raised in the near future, with reference to the acquisition of land for, what may be deemed, a public purpose ; and the fundamental conception underlying the idea of a public purpose is going to be extended a great deal. Even as matters stand now, the Act is interpreted differently by different officers of Government, in different parts of the country and sometimes in the same part of the country and the expression “ public purpose ” has been utilised to serve various ends the propriety of some of which at least may be questioned. In respect of some of these ends, it may be fairly said that the purpose to serve which land is sometimes acquired, is not a public purpose. Therefore, Sir, that is one aspect of the question which requires very careful consideration. Then, again, various incidental questions arise as regards the suitability of the land proposed to be acquired to the purpose put forward in the notification, and as regards other matters, and objections are raised on various grounds which have to be decided at an early stage of the proceedings before a declaration under section 6 of the Act is made. But there is no provision in the present Land Acquisition Act by reference to which these questions can be satisfactorily decided or, for the matter of that, decided at all. It is with a view to meet this want in a larger measure, than what the Bill provides, that myself and some of my friends on the Select Committee decided to have assessors associated with the Collector in this difficult task of deciding as to the existence of a public purpose within the meaning of the Statute as to whose land should be taken, for the public purpose in view, as to what quantity of land should be acquired, and as to whether there is any probability of the land acquired being put to immediate use, for want of money which can be immediately utilised

* “ In clause 3 of the Bill in the proposed new section 5A (2) after the word ‘ and ’ where it occurs for the second time the following words be inserted :

‘ in case of objection, where the objector so applies, the Collector shall hear such objection with the aid of two assessors, one of whom shall be appointed by the Local Government, and the other by the objector, and ’.”

“ In clause 3 of the Bill in the proposed new section 5A (2) after the word ‘ objections ’ where it occurs for the second time the following words be added :

‘ also the opinion of the Assessors, if any ’.”

“ In clause 3 of the Bill to the proposed new section 5A (2) as amended above the following proviso be added :

‘ Provided that no assessor shall be appointed unless the objector deposits the costs of the assessor to be appointed by him, and that in such event the costs of the other assessor to be appointed by Government as herein provided, shall be paid by Government ’.”

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upon taking possession of the land proposed to be acquired, and similar other questions. I may tell the House that it sometimes happens that although Government is not prepared to put the land acquired to some public purpose immediately after acquisition, yet for some extraneous reason,—for instance, the consideration that the value of land might go up if not acquired at once, and other considerations of that kind induce Government to acquire the land and then leave it vacant for many years to come, and I have known from my own experience that such lands have been lying vacant sometimes for 10 or 12 years. All these questions the Collector might lightly brush aside, once he thinks that the land has to be acquired. Some requisition comes from the Railway Department—and the requisition is often passed from one department to another as if from one post office to another—and the land is acquired, although there may be no money in hand to put the land to use at once. The Railway Administrations are often requisitionists of this type. Some acquisitions of land in connection with the Kidderpore Docks is another instance of this kind. The fundamental or incidental questions which arise in connection with acquisition of land at this stage are dealt with rather lightly in this country, and sometimes people think that because public money is spent in acquiring land under the Act, the purpose of the acquisition must necessarily be a public purpose. But this is not the case in other countries. We have hitherto trusted too much in the Central Government who from the positions they occupy see only one side of the question,—the necessity for the acquisition, the advantages it will bring. Therefore I submit that it is a question of supreme importance that the final authority which decides these questions should be in possession of views other than the official and the Collector should be associated with others who can throw upon the whole subject a different light of their own. Of course, if in every case, people want assessors and a somewhat elaborate inquiry has to be always made it may cause some administrative inconvenience. We have considered this aspect of the question also, and in our amendments we have suggested that the man who wants an assessor to be associated with the Collector should pay his costs. This would go to keep down the number of such applications. Then, again, we have also considered that this question of association of assessors with Collectors might not generally speaking, arise with reference to rural areas at all. It might arise only with reference to lands situated in urban areas and commercial centres, growing towns, and the like. Therefore, the practical inconvenience which might possibly be apprehended if assessors were to be associated in every instance with the Collector would not be present when the practice of association of assessors came to be confined in practice only to urban areas. These are some of the grounds which led us to suggest our amendments, but as it has been said by the Honourable Member in charge of the Bill that our amendments will necessitate an inquiry from Local Governments before we proceed any further, which means that if our suggestions find favour with the House and then in that event, if the Bill has to be re-circulated, we fear the Bill as well as our amendments will have no chance of getting through during the present session of the House. With that view I beg to withdraw our amendments.

Mr. P. B. Haigh (Bombay : Nominated Official) : You have not moved it yet. How can you withdraw it ?

Mr. J. N. Mukherjee : I am now on the amendments. The new clause 5-A is the clause with which we are at present dealing. I may put it also that I do not move my amendments.

Dr. Nand Lal : I rise to a point of order. My Honourable friend is not the only author of this amendment. There are a number of authors. Therefore he cannot be given liberty to withdraw.

Mr. J. N. Mukherjee : If I do not move my amendments, some other friend of mine might move them. As it has been pointed out, half a loaf is better than no bread, and if this Bill is passed into law, I am sure, it will be a decided improvement on the existing Act and it will give some relief undoubtedly. The points to which I have referred and the amendments I have proposed, might be left on the record and if any of us comes back to the Assembly, he may put forward our amendments in the shape of an amending Bill, and we might have some chance then of putting through our idea, but until then we might go on with the present Bill which we think is a decided improvement on the existing Act. If I do not move our amendments now, some other friend will be at liberty to move them.

Dr. H. S. Gour : Has my Honourable friend the leave of the House to withdraw ?

Mr. J. N. Mukherjee : So far as I am concerned, I am willing to withdraw, but unfortunately, five of us have signed together the same notice setting forth our amendments.

Dr. H. S. Gour : Ask for leave to withdraw.

Mr. J. N. Mukherjee : The majority of the signatories are with me—I believe four, out of five.

Mr. President : Order, order. The Honourable Member must address the Chair.

Mr. J. N. Mukherjee : I think I may submit to the House that four are on my side. One member, Mr. Hussanally, is not present here, but I have consulted him privately. And we three who are present, are of opinion that in the present circumstances we should not press our amendments now, but may live in the hope that we may do so later on in future when an opportunity will present itself.

Dr. Nand Lal : Sir, while conceding that this Bill is some improvement on the Land Acquisition Act, I may submit that the suggestion which is made in clause 3,—new section 5-A and sub-section (2) of that new section—is as follows :

“ Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decisions of the Local Government on the objections shall be final.”

What is deduction from this sub-section (2) of new section 5-A ? That the Collector is given the sole charge of making a report and the Local

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Government on the receipt of that report may give any decision and that decision will be considered final. It is not revisable, it is not appealable. Now, my submission is that it cannot be asserted on behalf of the Local Government that every Collector has got the expert knowledge of the various departments, that he understands various sciences. The Government will accede to this contention that the Collector ought to have some sort of assistance, and the assistance, which is suggested now, is this, that if any objector makes an application to that Collector, saying 'I should like that an assessor should be appointed who may go into my objections along with you' his application ought to be allowed. This application could be made on behalf of the objector but in order to have another assessor on behalf of the Collector or on behalf of the Government, the other assessor may be appointed or selected by the Collector, so that two assessors may help the Collector in making the inquiry and arriving at the correct decision. I think the whole House will be in sympathy with this suggestion which is contemplated in the amendment, which I am going to move and which reads as follows :

" in case of objection, where the objector so applies, the Collector shall hear such objection with the aid of two assessors, one of whom shall be appointed by the Local Government and the other by the objector, and "

I think it is a fair suggestion in order to attain the end which, in reality, is contemplated by this Bill, namely, that justice may be done and the grievance, of the land owner or any person who has got any interest in the land, may be redressed. If this suggestion is not accepted by this House, then I may point out very respectfully that it amounts to this, that the Collector according to his own idiosyncrasies and in some cases according to his own error or judgment may submit any report and the Local Government, as we can infer from the procedure, as laid down in this new subsection, has not got to take evidence of experts, whom they may call and consult. The natural result then will be that in some cases there will be room for a great amount of injustice. In order to obviate this injustice this amendment has been moved and I believe that the whole House will be in sympathy with the terms thereof.

Dr. H. S. Gour : I think this House will be in some perplexity because it does not know whether to follow the lead of my friend Mr. Mukherjee or my friend Dr. Nand Lal. Mr. Mukherjee has pointed out, and I think it is a criticism which is very justly made, that it will be very difficult in the case of rural areas to appoint assessors. Dr. Nand Lal's amendment deals both with urban as well as rural areas. Now, so far as Dr. Nand Lal is concerned, I will very briefly point out to the House that his amendment will not serve the purpose for which it is intended. If the objector is at liberty to appoint one assessor he will naturally appoint an assessor in whom he has confidence and who is likely to support his case. On the other hand the Collector may justifiably appoint an assessor in whom the Collector places implicit confidence. Consequently, these two assessors may be at cross purposes. One may say "I believe this is a public purpose." Another may say, "I believe that this is not a public purpose." Now, I wish to ask Dr. Nand Lal if he is able to formulate a clear and comprehensive definition of what constitutes a public purpose. There is

a definition in the Land Acquisition Act but it is a very meagre definition. The reason is obvious. We have the words 'public purpose' in various Statutes in India and the nature of public purpose is to be defined with reference to a variety of circumstances which it is not possible to categorise, and therefore I submit, that if the Legislature has failed to define exhaustively the meaning of the term 'public purpose', it is not likely that the two assessors, both laymen, not conversant with the technicality of the purpose for which, let us assume, the land is acquired, to say whether it is or is not for a public purpose. That is my first contention. My second objection is this. My friend admits or at any rate he has not denied that the purpose of the Land Acquisition Act is to acquire the land with the least possible delay. Now, I submit, would it be in consonance with expedition and despatch if a quasi-judicial inquiry is embarked upon by the Collector with the aid of assessors? I venture to submit that it will cause delay. Thirdly, I have pointed out elsewhere and I wish to repeat it to the Members of the House that the purpose of the acquisition is varied. It may be that land is required for an aerodrome, for a railway stretching over 500 miles of a narrow strip of land, running through about a dozen or more districts, it may be for the opening of a canal, a mine, for a hostel or a college or a hospital. Now, if the assessors are to be appointed with the Collector, and I assume that in all cases where the owner is unwilling to part with his land he will insist upon the appointment of an assessor, because he thinks that is his only chance of resisting the land acquisition officer, in that case where is the assessor to go? Is he to travel 500 miles of a narrow strip of land which is to be acquired for railway purposes? Is he to be let into the arcana of the scientific department which says that the land is suitable for the purpose for which acquisition has been determined upon? These are very difficult questions upon which, I submit, the assessor with the best intentions can give no assistance to the Collector. That is my third submission. Lastly, I submit that Mr. Mukherjee is perfectly right when he says that if he were to insist upon this amendment it would entail delay and possibly indeed wreck this very Bill. Moved by that sentiment, he and his co-authors of similar amendments have withdrawn this amendment. My friend Dr. Nand Lal is irreconcilable and I therefore ask this House to throw out his amendment.

Mr. J. Ramayya Pantulu : Sir, I have only two remarks to make with reference to this amendment. One is that if we are to associate assessors with the Collector when inquiring into the objection, it is only fair that while one of the assessors is appointed or nominated by the objector, the other should be nominated, not by the Government, but by the company or the local body or the Government Department that applies for the land; because the parties to the proceedings are the objector on the one side and the party that applies for the land on the other. I do not see any propriety in the Government appointing an assessor to sit with the Collector. One should be nominated by the objector and the other by the party that applies for the land. That is one point.

But after all, I do not see that the association of two assessors with the Collector is likely to result in much advantage to the objector;

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because, if the assessor appointed by the Department that applies for the land agrees with the Collector, they will overrule the objectors' assessor, and when the papers go to the Government, it will be found that the majority are in favour of acquisition; and how is that any better from the point of view of the objector than that Government should have only one opinion, namely, that of the Collector? In the one case it would be the opinion of one officer and in the other case the opinion of a majority. I do not think that, after all, this amendment if adopted will result in much advantage to the objector. If the Government feels unable to accept it I would advise my friends the authors of this amendment to withdraw it.

Mr. K. Rama Ayyangar (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan) : Sir, I rise to oppose the view put forward by Dr. Gour. The stage at which this is wanted is before the proceedings are taken for acquisition. It may be that there will be an objection with reference to only a portion and not all the land applied for; as for example, we have in one of the villages near Madras a portion of the land through which the line has to run; or it may be that a portion of the land to be acquired for a particular purpose may be so important and essential that it would be better not to proceed with the acquisition. The Collector to whom the application is made may often not fully understand the importance of the spot which is required for the line or the direction in which the line has to run. In such cases, of course, Mr. Ramayya has suggested that the presence of one assessor with the Collector may really be of no advantage, as the majority may hold the view taken by the Collector. We do not say that a Collector is going always to act with prejudice. It may be that the real facts are not brought to his notice. When we appoint assessors the object is more to bring the Government into contact with knowledge that is necessary for consideration of the locality. In such cases it will certainly assist the Collector. I do not think the Collector always means to go against the rights which are put forward. Of course the opinion of an assessor put forward by the party objecting would have the same value, and in such cases the Collector is likely to come to a correct conclusion, more especially in the case of important portions of land to be acquired or where habitations, etc., are affected the provision would be of considerable value, and I think the Government itself would find that it would be of considerable help to it, and I do not think there would be any objection to accepting the amendment.

Dr. Nand Lal : Sir, my learned friend Dr. Gour.....

Dr. H. S. Gour : I rise to a point of order. Is Dr. Nand Lal entitled to reply?

Dr. Nand Lal : You mentioned my name and I must give a personal explanation, in the first place, and in the second place I am entitled.....

Mr. M. S. D. Butler : Sir, if this is in the nature of a reply I must claim the right to speak.

Mr. President : I understand the Honourable Member is giving a personal explanation.

Dr. Nand Lal : Sir, my learned friend says that I have not explained how the assessors will be able to know whether certain land which is going to be acquired is being acquired for a public purpose or not, and what the definition of "public purpose" is. The definition to a certain extent has been given. If not, he should have no quarrel with the suggestion that if two assessors come to the help of the Collector their collective opinion will be better than that of one Collector.

Mr. President : I understood the Honourable Member was going to offer a personal explanation regarding something that Dr. Gour had said. He is not entitled to repeat arguments.

Dr. Nand Lal : Certainly, Sir, I am not entitled to repeat all my arguments. I understand that and I shall eventually refer to the nature of the public purpose, but I had to discuss the previous.....

Mr. President : Order, order. The Honourable Member misunderstands. He must come to the question. If he has any personal explanation to offer he is entitled to offer it. He is not entitled to offer anything else.

Dr. Nand Lal : Well, Sir, I thought that this required personal explanation.

Mr. P. B. Haigh : Sir, I sincerely hope that the House will throw out this amendment, because I think with all due respect to Mr. Mukherjee that it is a most pernicious one. In the first place, it is very desirable when the House is considering any amendment to reflect how it will affect the whole structure of the Bill to which it refers. Now, this amendment attempts to import into the Bill an entirely new principle. The Honourable Member who is in charge of the Bill explained exactly its purport, namely, that when Government has declared that a certain piece of land is wanted for a public purpose, the person who owns or is otherwise interested in that land should have the chance of representing to Government—a chance which he does not at present possess—that the land is not wanted or that the purpose is not public; and Government will then be bound to take his objection into consideration before making a final decision. This amendment, if it is passed, will bring in a sort of quasi-judicial procedure into the investigation which is made by Government. The fact is that at the bottom of the whole thing—and certainly at the bottom, I am sure, of the mind of the Honourable Mover of the amendment—is the idea that the Collector cannot be trusted to make an inquiry properly. I wish to answer the objections that he has put forward to the inquiry being made by the Collector. First of all he told us that a Collector cannot be expected to be an expert on all possible subjects. Well, Sir, I must admit—with reluctance—that this is true. But the Collector is not required to be an expert on all sorts of subjects. Imagine what will take place under this procedure laid down in the Bill. The party aggrieved by the notice of acquisition is to appear before the Collector in person or by pleader and explain exactly what his objections are, and then of course the Collector will hear a representative of the Department which is interested in the acquisition. In 99 cases out of 100 acquisitions of

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land for a public purpose are made, not on behalf of the Revenue Department or any Department with which the Collector is immediately concerned, but on behalf of other public Departments—Forests, Railways, Public Works and so on.

Naturally when the objection has been stated, the Collector will hear a representative of the Department interested who will state the case of that Department, as regards the necessity of the acquisition or the necessity for acquiring that particular piece of land, and having heard the two sides the Collector will make a report to the Government with his opinion and—this is important—all the papers of the case. I would ask the House how will it assist the Collector to have two assessors? The Collector, if I may say so with all humility, is in the habit of hearing statements made by aggrieved parties. It won't be the first time that he will have to hear the other side. It won't even be the first time that he will have to submit a report to Government. But then the Honourable Member proceeds further and says—the Collector having reported to Government according to his idiosyncrasy the papers will go up to Government, and Government having his report before them and not being experts will not understand anything about the matter but will accept the report of the Collector. Well, I only wish the Honourable Member were right and that Government were always so ready to accept the Collector's report. My experience, Sir, has not been so happy as that.

And then, Sir, the other Honourable Member who spoke last suggested that an assessor was necessary to explain to the Collector the point of view of the objector. Now that does really seem to me rather superfluous. In the first place, the objector can have his own pleader. There is nobody who can state a case better than a pleader, and if he has not got his own pleader, then it will be the duty of the Collector to try and find out as clearly as he can what the objector is driving at. The fact is that what the Honourable Member wants is not an assessor but another advocate, and that is another objection to the whole scheme of assessors. Under the pretext of setting up a sort of judicial inquiry, actually it is attempted to enable the objector to have an advocate sitting by the side of the Collector. But an advocate is already provided by the procedure and another one is quite superfluous.

I must refer to one other point to make—if this amendment is pressed the Bill will of course cease to exist. That point has already been dealt with by the Honourable Member from Nagpur, and I do not wish to repeat it; but I did think that it was necessary, in view of the line which was taken by the Mover of the Amendment with regard to the position of the Collector in this matter, that one of that "depressed class" should have an opportunity of speaking, of being heard in his defence.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, my suggestion to this Honourable House is to throw out this amendment with no uncertain voice upon two very short and commonsense grounds. First of all, as pointed out by my friend Dr. Gour who has

had a great deal of experience in these matters, however short it may be of the ideal, the reality will be this—that two assessors appointed in the way suggested by the amendment will in nearly every case constitute a plus and a minus eliminating each other, and the result will be that a decision on the point will still be left in the hands of that Collector who is said to be "not an expert in everything," and who, according to Dr. Nand Lal, will still be obliged "to make any kind of report he pleases."

The other and still more solid ground upon which I am opposed to this amendment is this, that it is perfectly obvious that the Government could not possibly accept an amendment of this kind without consulting Local Government; and if the Government took that course it would mean that this Bill would be wrecked and a very useful advance, a great advantage to the public, would be lost. I think upon these two grounds the amendment should be rejected.

Mr. H. Calvert (Punjab : Nominated Official) : Sir, it is quite probable that in the course of a fairly prolonged career as a land acquisition officer I may have committed many of the atrocities which Honourable Members like to ascribe to us poor depressed Collectors. But from my practical experience I have been trying to imagine what exactly would happen if this amendment were passed and put into practice,—say if I were called upon to acquire land for a new railway line or for a new canal.

Now a new railway line, Sir, as has been pointed out, may extend over a very great length of line running through many districts and many villages and we may have to take up the land of thousands of owners. Now, Sir, presumably when our legal friends really get to work, they would take very good care that every one of those thousands of owners put up an objection and each objection would be supported by an assessor. I would myself of course take very good care to see that the assessor appointed by the Government was a man after my own heart. But what would be the result? The resulting railway line would zig zag gently over the country, arriving or failing to arrive, as the case may be, at the destination which it was intended to reach when the line was designed. Or, Sir, our railway line might possibly be interspersed with gaps; where the objections have been upheld, the line will stop, the passengers will have to tranship and go on to the space beyond. Well, Sir, a railway line might or might not succeed under these circumstances. But a further reason why we have to take up land, in the Punjab certainly, is for canals. Now in aligning a canal, the actual engineers have really little option whatever. The alignment of a canal is decided for them by the features of the land; and, Sir, owing to the peculiar physical defects of nature it will be quite impossible to uphold the objection of an assessor because whatever you do you cannot make water run uphill. You have to take the highest ridge to put your canal through, whether there is an objection or not, and whether your assessor supports it or not. It seems to me, Sir, that the amendment which has been put forward has not been put forward from any experience of the actual methods under which land is acquired. We have not even been told how the assessors will be

[Mr. H. Calvert.]

appointed—whether there will be a panel of assessors kept at the Collector's office and carefully checked by him, or whether each objector will produce from his pocket a list of assessors and we shall have to object to any of them, on the ground that they are not sound of mind or for any of the other reasons usually produced in such cases.

Now, Sir, the main point is this—that in these transactions the collector is merely an executive officer and is merely carrying out the duty handed over to him by Government on behalf of some Department. In the carrying out of this duty there is only one object—that is, the public object. There is a sort of misunderstanding, I think, between the “official” object and the “public” object. Under this Act, Sir, the only official object can be the public object. That is presumed from the Act itself, and there is really no conflict of opinion between the official aspect of the case and the public aspect, because they are bound to be the same. It is merely a conflict between some private person and a public company or the Department concerned; and as I have pointed out, Sir, the actual option open to the Department or the company is usually very small indeed; people are compelled to buy up certain land not because they like that land but because that particular bit of land is the only land suitable for the purpose they have in view. So it is mere waste of time to have two assessors, it is not likely to be of any benefit to the public and it will certainly add to the expenses and delay of these proceedings. If, Sir, there is any case in which the objector feels aggrieved, he can as the Act as present stands take his whole case to the civil courts where he can get the whole case thrashed out with the help of any number of lawyers he might choose to employ. A gentleman behind me points out that a divisional court cannot take up the case of acquisition. But the point is that in most of these big acquisition cases there is no option at all. In a question like that of canals, for instance, nobody can object at all; we must have the canal along the highest ridge, no matter who objects; the canals either go there or nowhere at all. So in most of these cases, Sir, the present amendment will be perfectly useless.

(Several Honourable Members: “I move that the question be now put.”)

Mr. President: The question is that the question be now put.

The motion was adopted.

The amendment was negatived.

Mr. J. Ramayya Pantulu: Sir, I propose

“That in clause 3, in sub-section (2) of the proposed new section 5A, after the word ‘objections’ where it first occurs, the following words should be inserted, viz.: ‘and considering such evidence (if any) as may be adduced.’”

The object of my amendment is that a landholder when he makes an objection before the Collector in regard to the proposed acquisition of land, must be able to adduce some evidence to show that the acquisition is really objectionable. If a man merely raise an objection, and adduces no evidence, I think that the Collector will not, in many cases, be in a position to know how far the objection raised is proper or tenable. To enable the Collector to form a proper opinion in the matter, it will

be necessary for the objector to adduce evidence to show that the acquisition will be really objectionable. I think it requires very few words to support that view; otherwise how can a Collector form an opinion on the objection unless the objector is able to show by evidence that his objection is well-founded? I, therefore, propose, Sir, that these few words may be inserted in the section so as to enable the objector to adduce some evidence before the Collector to enable that officer to come to a proper decision upon the point.

Mr. M. S. D. Butler: Sir, I do not propose to detain the House very long on this subject; I think the House wishes to come to a decision on the Bill soon. But I will only say that very much the same remarks apply in the case of this amendment as to the amendment previously moved by my Honourable friend. Had we had this suggestion in Committee we could have gone into it in detail and found out what would be the suitable way of bringing into effect what the Honourable Member's wishes really are; but now, as the case stands, we have got a procedure by which the Collector has got to hear objections; he has got to receive them in writing; they are going to be put to him in writing; and then he has to hear the person who is objecting and he has to hear his pleader. He has also to make such further inquiry as he thinks necessary; he has to do all this and then he has got to submit his report in detail together with the record of his proceedings to the Local Government. That, I think, is probably as much as we ought to lay upon him, and I am afraid that if we try to elaborate matters any further we may be directing a procedure which will be too dilatory. Besides we are hardly in a position to accept any definite amendment to this effect without consultation with the Local Governments, and as I have explained before, we do not wish to delay the Bill and refer it again to Local Governments; the session is ending and we shall lose the Bill. We are, however, quite prepared to bring the suggestion of the Honourable Member together with his previous suggestion to the notice of the Local Governments and I hope that will meet his wishes.

Mr. J. Ramayya Pantulu: In the circumstances, Sir, I beg the permission of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clauses 3, 4, 5, 6, 7, 8, 9 and 10 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added.

Mr. M. S. D. Butler: Sir, I am very much obliged to the House for the consideration they have shown to this little Bill, which I have brought forward, and I do think that it constitutes a very real advance in land acquisition procedure. The Collectors with whom I have discussed it are, I think, somewhat astonished at the magnitude of the advance, and it undoubtedly is a very big advance, and I am sure we shall all watch its working with the greatest of interest. I am especially obliged to my friend, Mr. Pantulu, for having met us in the way he has, for I know how very deep the interest he takes in this matter is; and he speaks as one who, like myself and others who have spoken, has done

[Mr. M. S. D. Butler.]

a great deal of land acquisition work. He let fall one remark in justification of his not saying much about the Bill in which he said that, as he was at the end of his life here, or rather as we were at the end of our lives here, he would not speak out all that might be spoken on the subject. I am reminded, Sir, of a saying in the Gulistan to the effect that whoever is under sentence of death will speak out without restraint what is in his heart. So I draw the conclusion that we shall meet the Honourable Member here again.

I move, Sir, that the Bill, as amended, be passed.

Mr. J. Ramayya Pantulu : Sir, I heartily support the motion. I welcome the little Bill before us, not because it is all that we desire it should be—it falls very short of what we want it to be—but because we must be thankful to Government even for small mercies ; and such as it is, I welcome the Bill and I thank the Government for the promptitude with which they have carried out the undertaking which they gave the House during the last Delhi session.

I wish to say one or two words by way of personal explanation. I am very sorry that I could not be here in time to take part in the earlier discussions on the Bill. In fact, I had no idea that the Government was going to bring in this Bill in this session at all. There was my old Bill which was disallowed, but I found it in the list of pending Bills that was sent to me by the Legislative Department. So, I sent a notice to the Legislative Department to the effect that I would make a motion, on the 19th instant, to refer it to a Select Committee again, and I came here in time to do it. In the meantime I found that the President had disallowed my motion on the ground that a similar motion had already been rejected. I was not quite satisfied on the point. Nevertheless, the requirements of the case have, I think, been met for the time being at any rate by the Bill introduced by the Government, and I would therefore ask the House to pass the Bill as it is.

The Honourable Sir Narasimha Sarma : Sir, I wish to make just one or two observations before the motion is finally put to the House. Let me in the first place on behalf of Government tender our congratulations to the House for the ready, speedy and expeditious manner in which Honourable Members have allowed this Bill to pass through the Chamber. The second observation that I should like to make is that Government do not accept the position that this is only half a loaf, that it is a meagre measure or that it could be very much improved upon or improved upon at all. No doubt, it did permit of much discussion ; different views may be held, and possibly some changes, not of a very important character, might have been introduced. But I should think that the Government has gone as far as they could in giving an opportunity to persons whose lands are proposed to be acquired to state their objections so that the Government may have all the proceedings before them before coming to a decision as to whether a particular land should or should not be acquired. I think my Honourable friend Mr. Ramayya Pantulu may have the satisfaction that he

had induced the Government to give a promise on the last occasion to expedite the matter as much as they could, and if we did expedite the matter he cannot very much complain because we did introduce it without a long notice being given. We did feel that we might delay this question, and take up the whole question of the amendment of the Land Acquisition Act along with other proposals we have on hand, but we thought that those proposals may or may not get through and that it is desirable to give the persons whose lands may be acquired an early opportunity of having the satisfaction that justice is done to them after hearing them, rather than postpone indefinitely a question of this character. I think, Sir, there is no dispute now as regards the principle of the Bill. I felt as a non-official when I had to defend persons whose lands were being acquired that there was a defect in the Bill and that something could be done in this direction, and I have now the satisfaction that that defect has been remedied. There is not very much more to be done in the direction of amending the Act because we have gone through it, and the report from the Local Governments also have assured us that there is not much more that can be attempted usefully, except on this one question regarding industrial concerns. I have made this observation, because Honourable Members may be under the impression that Government have very wide and extensive proposals before them, and I should not like to disappoint them. The question of the amendment of the Land Acquisition Act has long been under our consideration, and we have arrived at the conclusion that there is not very much to be done except in the one direction I have indicated. I again thank the House for the speedy and expeditious manner in which they have allowed this Bill to pass through it.

The motion that the Bill, as amended, be passed was adopted.

The Assembly then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock, Mr. President in the Chair.

EXCESS GRANTS FOR 1921-22.

EXPENDITURE ACTUALLY INCURRED IN EXCESS OF VOTED GRANTS.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

“ That an excess grant of Rs. 1,95,00,183 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of voted grants in the year 1921-22.”

Sir, this is the first time that the House is called upon to deal with an excess vote. Under Rule 49 of the Indian Legislative Rules ;

“ When money has been spent on any service for which the vote of the Assembly is necessary during any financial year in excess of the amount granted for that year, a demand for the excess shall be presented to the Assembly by the Finance Member and shall be dealt with in the same way by the Assembly as if it were a demand for a grant.”

[Sir Basil Blackett.]

The number of heads under which excess have occurred is rather strikingly large. The explanation is strikingly simple. The year 1921-22, in which these excesses have occurred, was the first year in which the new system under the Reforms of voting on the demands for grants by the Assembly came into force, and both the Assembly and the Government of India were new to the system. The net result is not quite so bad as the fact that I have to present an excess vote for nearly two crores would suggest. As a matter of fact, the total amount of the voted grants for the year 1921-22 including supplementary grants was something over 134 crores. The total expenditure for the year out of those grants was something over 125 crores, so that there was a saving on the whole of over 9 crores. Though there was a saving on the whole, an excess has occurred under individual heads. This matter has been fully examined in the course of the last month by the Public Accounts Committee, which has had before it the appropriation report for 1921-22 and has examined it by item and head by head the whole of the voted grants. In accordance with its duty, it has examined in particular the cases in which excesses have occurred and has given a full explanation of them in the report which has been presented to the Assembly and has recommended that, in the circumstances explained, this excess grant be voted by the House.

There are three particular reasons why the excesses have occurred.

The first two are given in para. 8 of the interim report of the Public Accounts Committee:

"A change of classification in the accounts had been introduced after the demands were passed whereby the expenditure was accounted for under a head other than that under which the funds had provided for it. The most striking instance of this is due to the decision to show the losses under Exchange under the various heads of expenditure instead of under the separate head 'Exchange' where 903 lakhs had been provided for it."

In going through the appropriation accounts, if we had not been forewarned, we should have been rather surprised to discover that there was a saving of nearly 903 lakhs under the head of exchange. That saving was compensated by an excess under some of the other voted head to which the Exchange item had been transferred.

The second explanation which accounts for several of these excesses is the fact that certain items of expenditure on stores in England could not be adjusted by the High Commissioner under the correct heads for want of full information in England. The expenditure consequently had to be passed on to be adjusted in India under the various heads. Funds had been provided for the purchase of stores under the head Expenditure in England, where as a result, there is a net saving of over 58 and a half lakhs, compensated by increased expenditure under the heads to which this charge has been transferred.

Perhaps I might for a moment illustrate what has happened by taking one particular head. I take the head of Stamps, under which I think the largest excess occurs. The grant as finally voted by the Legislative Assembly was Rs. 3,80,000. The actual expenditure was Rs. 54,98,904. An excess of Rs. 51,18,904 on a total vote of less than 4 lakhs. The

explanation is given on page 14 of the appropriation report for the Central Revenues. This excess is made up of about 33 lakhs transferred from the Home accounts to the India accounts on account of the cost of certain European stores,—(that is the second of the two explanations which I gave just now),—and to the adjustment of about 18 lakhs on account of Exchange. 18 and 33 make 51, which practically accounts for the total of Rs. 51,18,904.

The third cause of excess caused us rather more difficulty. That is referred to in paragraph 12 and the following paragraphs of the Public Accounts Committee's Interim Report. We were struck in going through the Appropriation Accounts—and indeed our attention was drawn to the fact both by the Auditor-General and by the Accountant-General for Central Revenues—that in several cases the expenditure of a Department was in excess of the net grant voted by the Assembly in the revised estimates but was under the total grant voted by the Assembly at the beginning of the year. It transpired that in several cases, the authority directly responsible for expenditure out of the given vote did not discover until April or May after the year had ended that the total amount originally allotted to him, had been reduced in the revised estimate. He had gone along in perfect good faith on the basis of his original grant. He had never been notified that the original grant had been altered, and he was a little bit unwilling—if he has a conscience—to be reported to the Public Accounts Committee for having exceeded his grant. Of course it was quite obviously impossible for him to act otherwise, and indeed if the reduction of the grant had been notified to him on the day on which it was passed by the Assembly, it would still have been impossible for him to live within the original grant. The fact was that the revised estimate was drawn up really for quite a different purpose. The revised estimate was an estimate drawn up on the basis of the actual results of the first 8 or 9 months for the purpose of enabling the Finance Member when he introduces his Budget to give an approximate statement of the outturn of the year that was ending. Taken in gross the result is generally very nearly accurate. But when the results of that revised estimate drawn up without consultation with the administrative officers responsible for the expenditure are used to cut down the original grant for a particular head, a good many inaccuracies naturally crop up. The system, I think, arises partly from a confusion between what is being done when a Budget is being drawn up and what is being done when the House is being asked to vote that certain sums shall be appropriated for expenditure under certain heads. The revised estimate is quite good enough as a statistical basis for a total revised estimate for the year, but it is not good enough for securing that a Department shall in no case exceed the amount voted by the Assembly. The Committee has recommended as a method of getting over this difficulty in future that the revised estimates shall not be used as the basis for reducing at the end of the year the total amount granted to individual Departments. What is required at the end of the year, or before the end of the year, is that if in any cases it is evident that for causes which could not be avoided a given Department will require a larger sum for its voted expenditure than has been voted up to that date, the Government must come to the Assembly,

[Sir Basil Blackett.]

and ask for an additional grant under that head. If there have been savings in other directions, well and good. But without a very complicated machinery you cannot just before the end of the year reappropriate sums from one head to another unless you have spent a good deal of time in making sure that the administrative officer responsible for the expenditure is able to live within the reduced grant. I am afraid this cause of trouble will recur next year in respect of the accounts of 1922-23, but in future we hope by a better system to get over that difficulty. What the House is asked to do, therefore, is to vote an additional grant, or rather an excess grant of Rs. 195 lakhs for the purpose of regularising the expenditure which was incurred in the year 1921-22 under voted heads in excess of the amounts voted under those particular heads by the Assembly. Our system of course is modelled on the system in force in the United Kingdom, and there excess grants are regarded as rather heinous offences unless they occur in very exceptional circumstances such as arose during the war. I have not looked up the figures but I think that there were more years between 1900 and 1914 in which no excess grant was required than years in which an excess grant was required under any head, and the Department that had incurred an excess generally came in for a good deal of criticism. I am afraid we are not yet in a position to take that line (*Rao Bahadur T. Rangachariar* : "Why not"?) because, as I have explained, the whole machinery of voted expenditure was new in the year to which we are referring.

A good many of these excesses would not have been incurred, I may say for example, if it had not been for reasons which were due to the transfer of Exchange and spreading it over each individual head instead of retaining it under one head Exchange. That was an improvement in our accounts. But when the House has voted money under one head, if an alteration in the form of account is made during the year, that may result in individual grants being exceeded although the total grant has not been exceeded. That sort of change of classification is not desirable in the course of the year and in the Public Accounts Committee Report it has been recommended that it should not be done, if possible, except at the beginning of a financial year. The change was made for perfectly good reasons, valid reasons, reasons which appealed to the House, but its effect on the doctrine of appropriation was not recognised at the time. It will be recognised in future and that sort of thing won't occur. But, as I say, it is not surprising, I think, in the first year of the new system. All the consequences of the rules of appropriation were not fully recognised by the Departments responsible.

I am in a position to give explanations of the excesses under each head, if desired. But they are already fully set out in the report of the Public Accounts Committee. They have been examined by the Public Accounts Committee who have recommended that this grant be given, and I do not, therefore, propose to take up the time of the House by going further into the details.

Mr. N. M. Joshi (Nominated : Labour Interests) : I rise to support the motion made by the Honourable the Finance Member. The excess amounts to one crore and 95 lakhs nearly. It is a large sum no doubt,

but the Honourable the Finance Member has explained the circumstances or the causes which caused this excess. He has also told the House how the departments, this being the first year, could not or did not succeed in keeping their expenditure within the budget grant. Still, Sir, although I support the motion generally, you will allow me to make a few remarks on the accounts of the year 1921-22 which have been presented to this Assembly just now.

My first remark is that these accounts show that in the votable items in the year 1921-22 there was a saving of 9 crores of rupees and more. I think this saving was brought about by a demand for a supplementary grant amounting to Rs. 21 crores. I feel that there is something wrong in the Department of Government which makes estimates of the supplementary budget. When Government ask this House to give a supplementary grant of 21 crores and at the end of the year show a saving of 9 crores—of course, we appreciate the saving—it shows that the method of estimating is certainly very defective. I do not say there may not be a good explanation. Some of the saving may be explained by the reason of the exchange charges on non-votable items being counted among the votable items, but such a large saving cannot be explained by that reason alone. Sir, that is the first remark which I wanted to make on the accounts which have been presented to this House. The second remark that I would like to make is that the time of the year in which this report has been placed before the Assembly is somewhat too late. No doubt, an explanation has been given, that this being the first year the Auditor General could not be ready with his audit and appropriation reports. Sir, I do not want to say anything as regards that explanation. It looks to be a good reason.

Still, I would like Government to make an effort next time to place the report of the Public Accounts Committee before the Assembly some time next January or February. Then, Sir, although the Honourable the Finance Member has already admitted that some of the excesses were no doubt due to what I may say the negligence of the officers, he sought to excuse them on the ground that this was the first year of the new system. I hope the Government of India in the Finance Department will issue strict instructions to their officers not to depend upon the indulgence of the House in regularising the excesses which they may make in future. That instruction, I hope, the Government of India will not fail to give to their officers, for otherwise they would place this House in a very difficult position. Sir, there is another remark which I want to make on the accounts for this year and it is this. The appropriation reports that have been submitted to the House do not contain all the details which the book containing the demands for grants gives. That book gives all the details of every grant in full but when the appropriation reports are submitted, they do not give all those details. They give much fewer details. This makes the comparison of the budget grant and the actual expenditure difficult. The report of the Public Accounts Committee gives some reasons why such a detailed account could not be given. Unfortunately, I cannot agree with some of the reasons given in the report. In the first place, it is said in paragraph 23 :

"The appropriation reports, instead of dealing with only variations in expenditure under minor heads of accounts, should show in detail the various appropriations

[Mr. N. M. Joshi.]

made and the actual expenditure incurred under each detailed head showing the Demand for Grants for the year in which the Assembly sanctioned it. On the other hand, it was pointed out that this procedure would involve still further delay in issuing appropriation reports and would increase considerably the work involved in preparing them."

Sir, I do not think that any additional labour is required to give the accounts in detail. After all, when the Auditor General prepares the accounts he prepares them from the details. Unless he adds up the details, how can he show the accounts in larger sums? Therefore it is the Auditor General who must be preparing the accounts in detail and so no more labour will be involved in publishing them in the way I suggest. The only other difficulty that may be urged is that the volume of the book will be very large. That may be, but as the Assembly has got the power to go into the accounts of the Government of India, I think it is better that full detailed accounts are placed before the Assembly. At present, the Government of India publishes a big volume about their annual accounts, but that volume contains a mixture of several accounts. Provincial accounts are mixed with the Central accounts and several other things are brought in in that book. I would suggest to the Government of India that if necessary they will publish a separate volume of their accounts showing all the appropriations in as many details as there are given in the Demands for Grants. Then, Sir, it is said that these details are given during the discussion of the budget in the book containing the demands for grants. But, Sir, when the figures about the actuals of the previous year are given in the book of the demands for grants there are no explanations about the variations. What the Assembly cares to know is an explanation of the variations. I therefore feel that, although it may involve a little more trouble or a little more expenditure for the Government, they should publish their accounts in the fullest detail,—at least giving all the details corresponding to the details given in the demands for grants. Then, Sir, there is another point upon which I should like to make a few remarks, and it is this. In paragraph 21 the Public Accounts Committee discusses the *pros* and *cons* of the powers of the Government of India to re-appropriate within the same demand.

Sir, at present the Government of India claims to have the power to reappropriate any savings which they make in one demand for the purposes of that demand. Sir, I do not question the legal right of the Government of India to do this but I feel as a matter of commonsense that when the Government of India place their budget before the Assembly with the details given in the Book of Demands for Grants and if the Government of India makes variations in those details, it is but fair that this Assembly should know why the reappropriations were made and should have some voice in saying whether the reappropriations were justifiable or not. I again repeat I do not question the legal right of the Government of India to do this but as the Government of India places their budget in full detail before the Assembly I feel it is necessary that the Assembly should have an explanation of the variations made in those details and I also feel that the Government should not object to the Assembly having even a voice in determining whether those

reappropriations were right or wrong. Sir, in the explanation given in this paragraph it is said in justification of the right of Government :

"At present the Finance Department of the Government exercises in theory absolute powers of re-appropriation and there are various other authorities which have certain restricted powers. We notice however that these powers of re-appropriation are in practice largely modified and controlled by the fact that all important items of new expenditure are placed before the Standing Finance Committee, whether the expenditure can be met by re-appropriation or requires a supplementary grant."

In this connection I would like the Members to give their attention to the report of the Standing Finance Committee, pages 10 and 11, in which the duties of the Standing Finance Committee are mentioned. In the report it is stated in the first place on page 10, paragraph 5, sub-paragraph 1, last line

"In such cases a reference to the Standing Finance Committee had not been required as that would defeat the object of the delegation."

So in the report of the Public Accounts Committee a justification has been given that these items regarding reappropriations are placed before the Standing Finance Committee.

The Honourable Sir Basil Blackett : All important items of new expenditure.

Mr. N. M. Joshi : The Finance Member says all new items. But in the report of the Standing Finance Committee where the duties of the Standing Finance Committee are set forth a large portion of those items are taken away out of the power of the Standing Finance Committee.

The Honourable Sir Basil Blackett : Certain minor items.

Mr. N. M. Joshi : I do not consider that all items in this category are necessarily minor. Then again in the report of the Standing Finance Committee, paragraph 6, the Finance Department considered that it was unnecessary to apply to the Committee merely to secure approval of excess expenditure on a service for which the Assembly has granted a vote, if the excess is not in any way a new departure and the expenditure is clearly within the ambit of the items for which money has been granted. Here there is no mention about important or unimportant. If Government had money within that grant, then Government claims the right of reappropriating it for items for which the Assembly has voted a grant. For instance, if the Assembly has voted a grant for travelling allowance, say a few lakhs of rupees and by some chance that money has been saved and the Assembly also in that demand has granted a certain sum of money, say a few lakhs of rupees for establishment, then Government claims that the amount saved out of the travelling allowances can be spent, without consulting the Standing Finance Committee, on establishment. That is my reading of the duties of the Standing Finance Committee that have been set forth in this report and I think that this power claimed by Government is certainly too much and makes the work of the Standing Finance Committee not much useful. In the same way, the powers of the Standing Finance Committee are restricted by paragraph 5, sub-paragraph 2 :

"Even where the concurrence of the Finance Department is required to expenditure, the department had used its discretion in deciding that proposals of minor

[Mr. N. M. Joshi.]

importance need not be referred to the committee. No money limit has been laid down as the decision depends not only on the amount but also on the nature of the expenditure involved."

Thus, Sir, the powers of the Standing Finance Committee which have been used as justification in the report of the Public Accounts Committee are too much restricted. I therefore feel that the Assembly will express a very clear opinion on this point and will insist that whenever Government makes a reappropriation even within a grant, those reappropriations should be explained to this Assembly. These are some of the remarks which I wanted to make on this report and with these remarks I again support the motion made by the Honourable the Finance Member.

Mr. B. Venkatapatiraju (Ganjam *cum* Vizagapatam : Non-Muhammadan Rural) : Sir, in rising to offer a few remarks on the Resolution I may be excused if I go a little further into details than my friend Mr. Joshi. We know pretty well the practical effect of either acceptance or rejection of this proposal. Under ordinary circumstances if this Resolution was rejected, there are only two courses open, one is to recover these amounts from the officers concerned, which is unthinkable. Of course the Treasury Benches may laugh but there will come a day when the officers will be asked to pay if the expenditure resulting in loss is due to their negligence ; and the other thing is that the Viceroy can certify this expenditure. Sir, as was explained by the Honourable the Finance Minister, and his speech is not at all provocative, he made the best of a bad situation by appealing to the House that we should excuse the shortcomings because being first offenders we may leave them with a warning. Therefore I do not think the House will be hard on this occasion but this requires not a casual reference from one Member this side or another that side. This is a fitting occasion for a full dress debate which the Leader of the House is anxious to have on important occasions. This was the first occasion when the whole administration was placed for consideration before the Public Accounts Committee whose report is placed before you for consideration, though you cannot take into consideration every item individually.

We have to see with reference to what matters the officials fail in carrying out their work and do their duties according to rules framed by Government, in what other matters they are culpably negligent and in what other matters liberty taken with Government funds can never be tolerated by this House. For instance, Sir, I may mention one glaring instance which was noticed by the Public Accounts Committee, and I may at the same time say that we are very thankful both to the President and the Members of the Committee for the thorough way in which they have entered into their discussion and, I may also add, for the fearlessness with which Auditors have placed their conclusions in their reports and given explanations satisfactory to the Members with reference to various items, and also to the way in which witnesses have been handled and explanations secured under cross-examination. But one or two points require the serious attention of the Government of India. Though the amounts are not large, the way in which it was done is really objectionable. One is the case where a sum of Rs. 22,000 in all was granted as bonus to 46 officers

and men with reference to the Bombay postal strike without obtaining previous sanction, and afterwards in order to keep up the prestige of Government the authorities concerned had to pass it. On another occasion an officer was promised a gratuity of Rs. 3,000 without any authority and subsequently the Finance Committee had to accept it. Now I submit, whenever the Head of a Department proposes to spend any money of the Government of India, he must obtain previous sanction. And if he places the Government in a delicate and awkward situation so that Government is obliged to accord sanction to it, later on, I submit, that the matter ought to be seriously taken notice of, so that no such mistakes might appear thereafter.

With reference to the reports placed at our disposal I may also request the Finance Member that he may be pleased to supply the Members with the audit reports which were placed before the Public Accounts Committee, because some times you find it difficult and even impossible to understand fully and completely certain matters without having all the papers before you. Sometimes also reference was made to the audit reports in the body of the paper. There are certain things mentioned in the audit reports which require serious notice to be taken of them by this Assembly. It was stated in the Public Accounts Committee's reports that there were frauds, not of very large amounts, and also misappropriations of Government funds. It is true that some persons were convicted. But it seems to me that the mention of frauds year after year does not redound to the credit of the Department concerned and we cannot agree to take it for granted that certain losses must occur year after year on account of fraud on the part of officers.

Another matter in connection with the Postal and Telegraph Department is the mention of irregular advances from the provident funds. If there are rules, how are they observed ? Why should there be mistakes in such small matters ? In some places accounts are furnished quite contrary to rules framed. Why should this happen ? Are there no proper accountants ? Is there no proper supervision ? There must be something wrong if this sort of thing happens year after year. Another matter involving no great amount of money but very objectionable in principle is the use of state telegrams by officers for private purposes. No one is entitled to do this and we demand that severe notice should be taken of this. All I notice is that the amount concerned is recovered from the officer, instead of which they should be warned that a repetition of the offence will merit severe notice. Similarly we find Form E being used by military officers wrongly, and we are told that the money has been recovered. But that is not sufficient, because these officers, who ought to set an example to their subordinates, ought to be above-board in these matters, and in order to stop the practice, every case which the auditors take notice of should be taken up by the Government of India, especially those in which higher officers are concerned and not only mere petty officers.

Another matter is that the Secretary of State sanctioned a margin of not more than 17 per cent. for Postal staffs on leave. Why has not that been observed in the Postal Department in which a larger proportion of men than 17 per cent. have been on leave ? There was extra expenditure of about 50 lakhs this year by this Department. And so far as the

[Mr. B. Venkatapatiraju.]

Postal and Telegraph Department is concerned there is another fact we have to take into consideration. They have dealt with a sum of money aggregating about 97 crores and naturally there must be defects in the handling of so much money, but all the same we hope and expect that the Government of India will insist upon all the officers observing rules and regulations provided for them in the carrying out of their duties. In this connection I find with great pleasure that the President and Members of the Accounts Committee have taken pains to elicit admissions from the heads of Departments with reference to mistakes in procedure and consequent loss to Government.

There was another matter, not only in the Postal and Telegraph Department but in other Departments, which was also brought to light, and that was the rush of expenditure in the month of March. The Committee and the Heads of Departments also realized that if expenditure which should have been spread over the previous 11 months is confined to the last month, there must naturally be great waste of public money. This was specially noticed with reference to the Postal and Telegraph Department, but if we were to scrutinise the accounts of other Departments we would find the same state of things. I suggest for remedying this state of things that if Departments were allowed to spend subsequently what they have not been able to spend till March, there would not be this waste. We know that in small institutions like District Boards and Municipalities, when they have to follow this course all the money would be spent somehow or other usefully or otherwise. Why should this money be wasted in March if it can be usefully spent in the next April.

It is only by change of procedure we can do that, and therefore I appeal to the Government of India that they do not allow their officers to go on under the impression that rather than lose the grant they should somehow or other spend and utilise it whether usefully or otherwise.

I need not weary the House but if they consider the various items mentioned in the reports they will find not one irregularity but any number of irregularities in every department. Whatever be the defects of the Reforms scheme one advantage is that our Committee has been able to scrutinise the administration throughout the previous year and we have had an opportunity of judging how our representatives have done their duty. This is the first year that the auditor's reports were placed before them, and there are only two years audit reports available dealing with such matters. We expected that these reports would be supplied to us in time so that we should be able to see and examine how the administration has been carried on, whether the amount has been properly spent or not, and so on. We should then be in a better position to judge. So far as the present question is concerned, I do not think it can be anything but an academic discussion because we cannot expect the officers to pay and we do not want the Finance Minister to go to the Viceroy to get it certified, hence I do not oppose this Resolution.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, if I understood the Honourable the Finance Member

aright, he does not propose to take up the position attributed to Government in paragraph 21, page 5, of the Public Accounts Committee's Report with regard to re-appropriations, or the position attributed, in the proceedings of the Standing Finance Committee at pages 10 and 11. If I understood him aright, he was prepared to concede that re-appropriation on a large scale at the end of the year is inexpedient and....

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Improper.

Sir Deva Prasad Sarvadhikary : I was going to add wrong. That point has been brought out clearly in the course of the debate and I am sure the House will be glad to have a clearing up of the situation and to understand whether the Finance Department agrees with the House that these matters should not be made so much matter of re-appropriation as of grants at some stage or other in the course of the year. I was going to add further that if misapprehensions and mistakes existed in the minds of the Administrative Departments in the earlier stages of our accounting processes it ought to be clearly understood that the Departments ought not to wait for the Auditor to find out those mistakes for them but in the course of their own proceedings they themselves ought to be able to lay their hands, at all events, on those items which by omission did not find a place in the Budget or the estimate. That I think ought to be possible now. Whatever ideas these great Heads of Administrative Departments may have had before will now have to be given the go-by, and if for any reason there have been omissions such as have been indicated in the course of the report, that ought to be immediately brought to the notice of the Finance Department and not late in the year in the shape of demands for excess grants.

Although it is a costly experiment, the new Financial Advisers that are being allocated to the different spending departments—departments like the Railway and the Postal Department—where some of the biggest of these items occur, ought by a sort of internal advance audit, or call it by what name you will—to minimise this evil. And if that is so, I believe there will be greater justification for expenditure in that direction than has been appreciated. I have heard remarks to the effect that the provision of these Financial Advisers inside the different Departments, in spite of there being a large and what some call an expansive Audit Department—is a mistake. I myself do not think so. As a matter of fact, I do not think that audit is as close and as comprehensive as it might be, and I believe—I should be glad to be put right if I am wrong—that not more than 10 per cent. of the items can be properly audited by the Auditor General with his existing staff. Therefore the Departments themselves must put themselves right as far as possible, and it would be best for them to do it early in the year immediately after the Budget stage and not wait till a much later stage when it will be practically useless for the Assembly, under its new found rights to try to go into these omissions and commissions—I shall not call them by harder names. In some cases they may be inexcusable omissions ; but if that is done at a sufficiently early stage in the Departments themselves, some of the objectionable features that are noticeable in this demand for Rs. 1,95,000 would disappear.

Sir, I was looking with some care at the 46 items that find place in this paper circulated to us. There must be almost a method—I won't

[Sir Deva Prasad Sarvadhikary.]

call it madness, but a method almost in allowing excess expenditure in some Departments and in keeping down expenditure in the Departments which some of us have called "nation-building"—a phrase to which some others have taken exception. Take, for example, Education, where no more than Rs. 24,000 was spent. Take Irrigation—a very absorbing topic—Rs. 8,000. Take the Administration of Justice—Rs. 39,000.

The Honourable Sir Malcolm Hailey (Home Member) : A well administered Department.

Sir Diva Prasad Sarvadhikary : A well administered Department, no doubt. I am glad to have that conceded. Take again Mines. I do not know how Mr. Chatterjee feels about it ? Rs. 6,679 only is the excess amount. If he had his way and if he knew his own mind, he would have spent a couple of lakhs of rupees upon that Mining College upon which we have all set our hearts, and then come with the suave and sweet innocence of the Honourable Sir Basil Blackett and said "Here is a case where there can be no appeal and the administrative Department misunderstood their right." I should have been glad to support him. Then we come to the scientific Departments where a modest sum of Rs. 17,000 was overspent ; Public Health spent Rs. 18,000. Rs. 18,000 would not have been too much even in the way of misspending in this Department. Therefore one is left with the impression (one would like it corrected) that there are some—I won't call them favourite Departments but powerful Departments of the Government where these things go on with greater freedom than in those more modest and shall I say conscientious Departments like those that I have mentioned. However, Sir, that is by the way.

The Honourable Sir Malcolm Hailey : Powerful departments like Stamps ?

Sir Deva Prasad Sarvadhikary : Well, Stamps I have let alone, because the Honourable the Finance Member has explained and we shall await with some interest, if not anxiety, the explanations with regard to the 50 lakhs on the Post and Telegraph Department to which reference has been made.

Sir, we do realise that we are at the end of a chapter ourselves and the official world, and it is very likely that under misapprehensions as to their own great powers and prestige mistakes may have taken place for which one could not bargain under another regime. Allowances have to be made for that, and I am sure this House will not regard this Demand to-day critically particularly as there is not going to be any extra actual expenditure. Let us now at all events regard this in the light of the heinous offence that such a demand would be in the House of Commons. Sir, I think the general trend of the discussion is that greater care and earlier care is necessary with regard to the accounting, and if that is well understood I do not think the House will think of that ugly expression "certification" in this connection but give the demand its support.

Baba Ujagar Singh Bedi (Punjab : Landholders) : I move that the question be now put.

The Honourable Sir Basil Blackett : Sir, we have had a very interesting discussion on what is a very technical subject. I confess that I did not come down to the House to-day in the anticipation of an incitement to immorality of the kind which the last speaker has addressed to us. Why, he says, did you only overspend Rs. 6,000 under one particular head ? Why did you not overspend Rs. 6 crores ? I do not think, Sir, that the House votes money under a particular head in the anticipation that the nation-builders will proceed to ignore the House. It was a pretty point which was made by Sir Deva Prasad ; but I really think that to go through these items and take up the ones where the excess is small and incite the gentlemen responsible for those particular heads to spend more is not the way to secure that the Government of India shall follow the directions of the House in dealing with voted expenditure. I think that he will find that the main explanation for the fact that the larger excesses occur under other heads than those he mentioned is that one or two of the main causes which I mentioned, namely, exchange and the transfer of charges from home account to the Indian account do not enter into headings like education which have no home expenditure, and, I think, no exchange.

I said that I was prepared to give an explanation under any head on which I was asked for one. The only one that I think I have been asked to give an explanation of is the excess of Rs. 50,36,000 under the head 'Posts and Telegraphs'. This explanation is really a very simple one. Credit of Rs. 97 lakhs was taken for the value of some stores to be issued to capital. That was in the original demand for grant. Owing to the curtailment of the work, that is, owing to an effort at economy, the programme was restricted, and stores worth Rs. 52 lakhs only were issued to capital, so that there was an increase of Rs. 45,11,000 in the net expenditure against a corresponding saving under the capital head, because these stores had been paid for and remained charged to the miscellaneous expenditure head in the Posts and Telegraphs grant, because the capital expenditure was slightly deferred. That accounts for practically the whole of the excess.

The remainder of the excess is, I understand, due to the fact that prices for paper worked out a good deal higher than the prices on which the estimate was framed, and that accounted for an excess of Rs. 9,61,000.

But more interesting, I think, than the specific explanations of individual cases of excess is the general subject with which the House has been dealing, of the control of the House over voted expenditure and in particular the control exercised through the Public Accounts Committee and through the Standing Finance Committee. The Auditor General remarked the other day that he felt very proud to think that the House was going to have a debate on the Public Accounts Committee Report, and he thought that the Public Accounts Committee ought to be proud because he understood that for the last twenty years all the efforts of the Public Accounts Committee in the British Parliament to get a day set apart for the discussion of their Report had failed ; the House had refused to take any interest in the subject. I answered that that was so, but I think if you go back to the seventies,

[Sir Basil Blackett.]

when the Public Accounts Committee and the method of control of expenditure through appropriation was new, they had some very prolonged and very interesting discussions on the Public Accounts Committee Report and the methods of improving control. What is happening here is that the subject is still young enough to excite a certain amount of interest in this House. Obviously a system of control through appropriation does not grow up in a day. It involves a great many complex problems of accounting and administration and it always leads to a very interesting discussion of the limits of executive authority and the limits of Parliamentary interference in the actual work of the executive Government under the guise of control. When I heard Mr. Joshi speaking I almost imagined that Mr. Gibson Bowles had come to life again in this House. Mr. Gibson Bowles was well-known as the sturdy champion of the control of Parliament over the executive and in particular of the control of Parliament and of the Public Accounts Committee over the spending powers of the Government. He was always demanding that the power of re-appropriation within a vote or within a sub-head should be curtailed and he was always inventing some new stick with which to beat the unfortunate executive. Mr. Joshi's first point was, I think, that the Government produced supplementary grants to the extent of over Rs. 21 crores and underspent them by Rs. 9 crores. Now, of course, one of the great difficulties in the system of appropriation is just that, that if the Government is to be quite sure that it is not going to exceed the authority given to it by Parliament to spend money on any given purpose, under any major head as it is called, it must have a margin; it must be sure, when it introduces its estimates that, unless circumstances are exceptional, it will not exceed them. If you have sixty heads and there are sixty margins, there is a tendency to over-estimate. That has to be corrected to the best of your ability. But you find you have under-estimated under some particular head and then Parliament says "Why did you under-estimate this and come to us for a supplementary grant?" You are always in that difficulty. It is inherent in the system. But Mr. Joshi is perfectly right; the executive has to give an explanation of an under-spending as well as of an over-spending; because when it has under-spent, it has to give an answer to the next question "Why did you over-estimate?" That is the difficulty that is inherent, and it can only be avoided by a most careful estimating, in the first instance, and by a little bit of latitude in the matter of supplementary grants.

His next point was about the late date on which the accounts were presented. That is always a difficulty. The system in the United Kingdom is that the appropriation accounts are generally ready by about February or March, following the previous 31st March of the year to which the Accounts relate, and are examined by the Public Accounts Committee from March to June, so that we are not behind-hand as compared with that system. We are, however, in hopes that we may be able at any rate we shall make an effort, to produce the appropriation accounts in future, if it can possibly be done, by about the first of January, so that there will be time during the January to March session for the Public Accounts Committee to examine them

and in particular in the case of an excess grant to bring the excess grant before the Assembly. But there will be difficulties about that, and I cannot absolutely promise that the accounts will be produced very much earlier than they have been this year. Mr. Joshi has given us an extra reason for caution, because he demanded a great deal more of detail in these accounts, which must inevitably tend to delay them.

I think the rest of Mr. Joshi's points all really came down to this one point: he asks that the accounts might contain much more detail; he asserted the right of the House to an explanation of the variations on the individual items within a given vote. He raised the whole question of the power of the Finance Department to re-appropriate within a vote, and in that connection he quoted passages from the Report of the Standing Finance Committee by which he intended to show that the real effective power of the Standing Finance Committee to control re-appropriation within a vote was limited. The whole of that question is a question of the powers of the executive to re-appropriate within a vote. I agree with him that the House has a constitutional right to an explanation of variations in detail. If it demands an explanation under any head, it has an absolute right to get it. It has an absolute right to ask any question it likes about the voted expenditure of the Government. But it does not sit for 365 days in the year; even the Public Accounts Committee does not do so. There is the Auditor General whose function is to examine minutely the whole accounts, and to draw the attention of the Assembly to any cases, not only to cases where possibly the directions of the Assembly have not been followed, but to all important cases of variation. He is an officer in this matter, not of the Government of India, but of the Assembly. He is not under the orders of the Government of India in regard to what he does in this matter. He is independent, and the Auditor General's job is to go through these accounts, in fact he has gone through them with a fine tooth-comb, and produce appropriation accounts endeavouring to the best of his ability to draw the attention of the Public Accounts Committee and of the House to all important variations, of which he thinks notice should be taken, and also to all cases of excesses. The Public Accounts Committee then proceeds to take that Report; it can go behind it and ask other questions if it likes; but, as a matter of fact, this year and I think for several years to come, it will find that the ground covered by the Auditor General is much more than the Committee can possibly cover within the period at its disposal. The Auditor General has to select important points for the Public Accounts Committee to examine and the Public Accounts Committee has to select important points and important principles from what it has been told by the Auditor. The Public Accounts Committee further supplements its information by asking representatives of the departments to come before it and answer questions. Mr. Joshi wants more. He wants the appropriation accounts to be set out in the same detail as the estimates. I do not think that in the end it would help the Assembly or the Public Accounts Committee to carry through its duty of examining the account of the stewardship of the Government because it would fail to see the wood for the trees. For what it is worth, I may say that it is

[Sir Basil Blackett.]

not the system followed in the United Kingdom. To the best of his ability the Auditor General has modelled his Reports on the Reports of the Comptroller and Auditor General in the United Kingdom. He agrees, I know, with the Public Accounts Committee, that those reports can be very considerably improved and he has determined to improve them. In their Report on this subject, the Public Accounts Committee covers this in paragraphs 20 to 24, but they are very careful to say at the end that they have not arrived at any final conclusion, and they think the matter deserves further consideration. I agree that the whole matter does deserve further consideration. I want to give the system a little more trial, and we shall gradually find out what is the information that we really want, what is essential and what is non-essential and what are the important and unimportant points. I give it for what it is worth that in my opinion a big volume showing the expenditure in the same detail as in the original estimates would not in the end be so useful as something more succinct which will be gradually evolved as experience teaches the Auditor General and the departments as to what is really required. However, this is a matter, Sir, on which I do not think any final conclusion can be arrived at at the present moment.

I now take issue with Mr. Joshi in his capacity as Mr. Gibson Bowles. The House grants to the Governor General in Council a sum of money for expenditure under the account head, shall we say, Stamps or Irrigation. It does not grant the Governor General in Council X rupees to pay to stenographers and Y rupees to pay three peons. Those details are for information. They do not bind the Government to any detail and they are not meant to, and after all, if you consider it, they cannot possibly do so. There must be a little latitude to the Executive Government to very minor details, but not to make important variations. The rule is laid down that any important new expenditure must be brought before the Standing Finance Committee. The variations which the Government are authorised, by what I may call constitutional practice, to make are those which come in the course of the year through unforeseen events. The season may be a bad one and officers may travel a little less; or it may be decided that it is undesirable that they should travel because there is an epidemic somewhere or they may have to travel because there is an epidemic somewhere. An opportunity occurs for doing a special bit of work in connection with a department for an officer on special duty, and just because the officers are not travelling, there may be an officer available to do it. It is within the natural functions of the department; it is not a new expenditure. It is something that possibly has been intended to be done in ordinary time, but there has not been time. A little excess expenditure is incurred under the head of "Salaries" and a less expenditure under the head of "Travelling". The Executive Government must have that power. It is a question of limits. They cannot start on a new departure without obtaining, at any rate, the approval of the Standing Finance Committee, and if it is really of major importance, a supplementary vote as well. If it is outside the purposes of the grant, in no circumstances can money be spent from the grant sanctioned. They have to come for a new grant. It is a question of degree on which it is extremely difficult to lay down absolute rules.

The Public Accounts Committee will no doubt in course of years, as has been done in the United Kingdom, evolve something like a volume of case law as to what is and what is not within the normal functions of the Government in the matter of variation of expenditure within a given vote. I would ask the House, therefore, to hesitate before it completely accepts the view put forward by Mr. Joshi. His view, taken in its entirety would, as I said, mean that he would have the right to get up and complain that the Government had used one and half stenographers instead of two in a particular department.

Mr. Venkatapatiraju made an interesting general speech from which I am glad to see that he has studied so carefully the Report of the Public Accounts Committee. I do not want to take up a great deal of time so that I will only say that I was very grateful for his speech just because it showed the amount of study he had given to this matter. I may also add that it suggests to me a feeling that I had already been beginning to harbour that the position of the Finance Member as *ex-officio* Chairman of the Public Accounts Committee is not going to be a very easy one. He will be passing, in his capacity as a Member of the Council of the Governor General in Council, criticisms on the Governor General in Council, which will be rather difficult and I am not sure that as a permanent arrangement it will really work. But I have been very much interested this year, if I may be excused a personal note, in trying to follow through some of the implications of the grant of the power of voting expenditure to this House and establishing the lines along which their control of voted expenditure shall work, and it has been a very interesting bit of experience. Mr. Venkatapatiraju asked that the Audit Reports might be circulated. I was not aware that they had not been circulated. They are available to the public, and, if the House would like them circulated, they can be circulated. They have been, of course, in the hands of all Members of the Public Accounts Committee and I think I am right in saying that they are in the Library.

I have already answered his point about the explanation of the 50 lakhs excess under the head Posts and Telegraphs. As regards expenditure at the end of March, that is a subject that has worried the Government of India for years. It is a very difficult subject, but I think that the extent of the expenditure at the end of March is often very greatly exaggerated, mainly as a result of the form that our accounts take. So far as I can see, in a very great many cases the expenditure has really been incurred at various intervals during the year but it is brought to account in March in a wild effort to clear up. It is very often not so much a question of expenditure in the ordinary sense in which you or I, Sir, spend the rupees out of our pockets, but it is a question of getting our accounts straight at the end of the year. Items appear as expenditure for the first time which have been charged to a suspense account for months. However, it is a subject which I entirely agree requires careful consideration and of course it is absolutely unjustified that, because we choose to take the financial year—an entirely arbitrary period—as the period for our accounts, that we should be spending as fast as we can go in the last month of that period just because we are afraid that we shall not have the money to spend the next month. As I say, I am pretty sure that there is a great deal of exaggeration, partly caused by the form of our accounts itself, as to the amount of spending in that particular month.

[Sir Basil Blackett.]

As regards Sir Deva Prasad Sarvadhikary's remarks, the only one which I need now refer to, I think, is what he said about the Financial Advisers. I was not quite sure what he meant when he said that they were a costly experiment. If he means that they are highly paid officers, I must agree, but I think that it will be found that, so far as we have gone at present, each one of the Financial Advisers is in the habit of saving, some ten-fold, some twenty-fold, some sixty-fold, his salary very quickly in the course of the year. I know that the Honourable Mr. Chatterjee will confirm that fact, that the "costly experiment" of a Financial Adviser in the Post and Telegraphs has enormously simplified labour and already resulted in an actual saving in the sense that the work which used to take a fortnight or three weeks is now got through very often in half an hour.

I think I have answered all the points that have been raised. I thank the House for attending so carefully to a speech from me on a rather technical subject and I hope the House will now pass the motion.

Sir Deva Prasad Sarvadhikary : Sir, as a matter of personal explanation, I believe the Honourable the Finance Member entirely misunderstood me ; probably I was not able to put my point of view in his felicitous language. I said, costly as these appointments are, I believe that they will justify themselves in the way suggested which the questioning public ought to appreciate. Only the Departments themselves ought to have done what the Financial Advisers will have to do for them.

The Honourable Sir Basil Blackett : I apologise if misunderstood in any way.

Mr. President : The question is :

"That an excess grant of Rs. 1,95,00,183 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of voted grants in the year 1921-22."

The motion was adopted.

DISBURSEMENTS OF LOANS AND ADVANCES.

The Honourable Sir Basil Blackett : Sir, I beg to move :

"That an excess grant of Rs. 2,98,32,976 be voted by the Assembly to regularise the excess which has similarly occurred under 'Disbursements of Loans and Advances'."

This, Sir, is part really of the same matter as the vote which we have just passed. The difference is that this is chargeable to capital and the other was chargeable to revenue. The explanation is, as given already, I think, in the Report of the Public Accounts Committee, that under advances repayable an amount of Rs. 2,44,000 is due to the value of military stores issued on payment being credited to the Army by debit in the first instance to advances repayable ; the head being repayable when recoveries have been effected from individuals ; and also to large amounts having been debited to this head in the absence of requisite information.

This is really entirely an accounting excess. It is explained further, I think, in paragraph 7 of the Public Accounts Committee Report :

"The grant voted by the Assembly is a gross grant and takes no account of recoveries. If the Assembly had voted a net grant under these heads, there would have been no excess."

Under the head of Loans and Advances bearing interest, the excess is due to an over-draft by the Punjab Government counterbalanced by a carry-forward in Bombay. In fact, it is due to the Punjab deficit being rather larger than was expected.

The motion was adopted.

DEMANDS FOR SUPPLEMENTARY GRANTS.

OPIMUM.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

"That a supplementary sum not exceeding Rs. 77,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1924, in respect of 'Opium'."

Sir, this, unlike the subjects which we have been discussing hitherto, refers to expenditure which has still to be incurred, and not to expenditure which has occurred in the past. We require an additional sum of Rs. 77 lakhs in the year 1923-24 over and above what is provided in the Budget in order to pay to cultivators of opium in the United Provinces for the opium which they have cultivated and to purchase opium from the States of Malwa and Rajputana under contract. The figures in the original Demands for Grants were based, as they have to be, on experience of previous years. Unfortunately, from the point of view of the Finance Department, the former and the latter rains were specially suitable for the production of opium and the cultivators produced more opium than was expected. We are under contract to take it and we have to pay for it. We have not got the money with which to pay for it unless this supplementary grant is granted to us this year. I have looked very carefully into the reasons why our original estimate was not correct, but I have been unable to discover that any improvement on the method of estimating which we followed could be made. We have no knowledge of what the outturn of the crop will be at the time the estimate is framed and we can only go on experience of previous years. The effect of this of course is to add Rs. 77 lakhs to our expenditure for the year. We shall not sell any more opium as a result of this. What will happen is that we shall purchase less opium next year and sell presumably the same amount. It really amounts to an investment of Rs. 77 lakhs in opium for sale next year. We lose the interest on that Rs. 77 lakhs for the year. On the other hand, the cultivators get the benefit of it. This does not in any way mean that there is any increase whatever in the strictly limited quantities of opium which are allowed to be sold under the arrangements which are in force at the present time. I really do not think that I can add more except that I should say that the approval of the Standing Finance Committee has been given to this demand being put forward. I ask the House to grant this Rs. 77 lakhs.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadian Urban) : Sir, it is my painful duty to oppose this demand. Sir, this is perhaps the last pilgrimage which many of us in this Assembly make to this white temple in Simla. It may be that a new House will assemble next January under your august presence. Therefore, Sir, the time has come

[Rao Bahadur T. Rangachariar.]

for us to review the work we have accomplished and to see whether really they have done anything to justify the continuance of the confidence in the Executive Government which runs the affairs of this country. Sir, you will remember that at the time we assembled at Delhi in or about February 1921, we assembled under a dark cloud which was casting its long shadows over the whole face of the country. We came here in a fit of resentment and anger against the then Government. We came here to see whether justice could not be done, whether the cruel wrongs which had been perpetrated could not be redressed, whether the offenders who were responsible for those offences could not be punished. It is in that spirit of anger and resentment that we came to this Assembly. Sir, after we come here....

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : What has that got to do with this ?

Rao Bahadur T. Rangachariar : We are so accustomed to the irrelevant interruptions of my Honourable friend that I will not be detracted from the straight path which I have set for myself to-night. Sir, we altogether changed our course of action after a few days in this Assembly, due to the happy spirit of co-operation which we found from the Government Benches both inside and outside the House. Appeals were made to us for co-operation in earnest words, and it was not given to us to have that cruel heart to say "No" to such a request. Sir, almost the first Resolution tabled with reference to the Punjab wrongs contained a clause asking for revengeful action against the officers concerned. This Assembly agreed to expunge that clause. Interpellations which had been put with reference to particular officers who were supposed to be the chief abettors in the drama were withdrawn because we were told not to pursue the officers concerned. Sir, we were willing to forget and forgive as His Royal Highness the Duke of Connaught told us to do, and we were willing to forgive the huge bungling which had been made over the Exchange and the sale of Reverse Council Bills. The financial loss the country had been put to, we forgot and forgave. They came to us with proposals for taxation which we gladly agreed to to the tune of nearly Rs. 19 to 20 crores that year. We marched back to our homes in a spirit of expectation and hope. Sir, the Goddess who invisibly presides—I chose the sex, Sir, so that you may not be confounded with that Goddess—who invisibly presides over the destinies of this House attired herself in her best robes and attracted us to a spirit of co-operation, and we on our part paid cash down. On the part of the Government they drew cheques—very long cheques—on a bank which I may characterise as the bank of hope, faith and expectation, and probably, to end in the words of the Honourable and distinguished Member from Tanjore and Trichinopoly, the word "disillusionment" which was not printed in that cheque book. Apparently it was hidden under some mysterious process. Hope, faith and expectation were writ large in that form, and therefore, when, we were guided by hope, faith and expectation and made the pilgrimage here in September 1921 and came back to this white temple, my Honourable, revered, esteemed and old friend Rai Jadu Nath Majumdar summoned the courage to put forth a Resolution asking for the reforms to be mended and improved upon. Sir, the earnest spirit of co-operation which then prevailed in the Government Benches lent a

helping hand in the actual framing of the Resolution which was carried by this House. My Honourable friend repudiates months and months afterwards—not then—if he had said that in September 1921, if any Member of Government had risen up then and told us "We do not consent to this Resolution although our hand actually drew it for you" it would have been something.

Then, though we, some of us, are sixty and beyond sixty, we were children enough to believe that the Government accepted the Resolution. The Honourable Member from Tanjore and Trichinopoly took great pains in the matter of getting the Indianisation of the Army. He thought he was going to get his hopes fulfilled within a year or two, as he told us the other day. He took great trouble on the Committee that sat on the Esher Committee's Report. He gave his best brains, his best thoughts, and acquired the name of the non-official army expert of this House, and, Sir, he helped this House in framing the Resolutions for the Indianisation of the Army and we carried these Resolutions, I believe, unanimously with the consent of the Government Members there. Again there were other Resolutions which we carried, that were of substance, namely, as regards the Indianisation of other Services. We in our fond hope thought that we were....

Mr. President : I have been waiting for five minutes to see how the Honourable Member proposes to attach this subject to the very narrow issue raised by the supplementary estimate presented by the Honourable the Finance Member. The Honourable Member is perfectly entitled to give general reasons why he proposes to refuse to vote money for the needs of Government, but he is not entitled to review the whole of the situation for the last three years.

Rao Bahadur T. Rangachariar : Then, I will cut short what I have to say. I am only referring to these things in order to show that, whereas on our part we have been behaving most handsomely, co-operating with the Government, giving them whatever money they wanted, they, on their part, when difficult questions arise they appoint Commissions and Committees, as is usual with them. We had the Public Services Commission whose recommendations still remain to be carried out. We had the Indian Industrial Commission whose recommendations still remain to be carried out in substance. We had the Fiscal Commission—that is one of the achievements of this House, of which this House is proud—and their recommendations have still to be carried out. We had the Railway Risk Notes Committee whose recommendations are still under consideration. The recommendations of the Arms Rules Committee have still to be carried out. All these recommendations are being considered, and examined and re-examined. And if Honourable Members will carefully peruse the answers that were given to interpellations on such subjects asked by my assiduous friends, Mr. Venkatapathiraju, Mr. Joshi, the deceased Mr. Misra and others, they will see what little performance there has been on the part of Government. Sir, after this co-operation on our part, if Government can behave in the way in which they have done by flouting this Assembly,—by flouting this Assembly not on a small matter, but on essential matters, matters which affect the well-being of the people, matters which had been

[Rao Bahadur T. Rangachariar.]

decided times out of number, matters on which Government had pledged themselves over and over again—I refer to the salt duty—matters on which the Government of India had led the millions of people to hope and expect that they would not enhance the salt duty except in the case of dire necessity—when they choose to flout the opinion of the Assembly,—whereas we are prepared to put up with small failures in the matter of appointments and such other things,—in matters of such substance as affect vitally the well-being of the people of this country, which is a serious departure from the established policy for the last quarter of a century so far as this salt duty is concerned—when they can flout this Assembly, the wishes of the people of the country, and when they can behave in that manner, are we to go on continuing, extending our hand, our kindly hand of co-operation to them? I say, No. Till they by their conduct show again that they are really in earnest in the matter of co-operation with us, till they show, for instance, as we show, their resentment in the matter of the ill-treatment of Indians abroad, that they are prepared to adopt a policy of retaliation, examine the tariffs of this country in order to see whether retaliatory tariffs could not be imposed on those goods which come from those countries who treat us badly outside, till for instance Government tell us that they are prepared to protect the interests of this country,—then and not till then will the time come for us to extend our hand of friendship with them and comply with this demand. I am not arguing the question of the demand on the merits of the case.... (Hear, hear and loud Laughter).

Mr. President : I am glad to have an acknowledgment from the Honourable Member himself that he is out of order. He must either come into order or close his remarks.

Rao Bahadur T. Rangachariar : We have a bundle of grievances, the grievances of the country, the grievances of the nation. Set them right before you come to us again asking for money to spend on purposes on which this Executive Government is bent. Then and then alone will we be prepared to make the grant. Till then, you have got this power, this beautiful power of certification. Use that power and carry on Government. Let it not be pretended to the world that it is on our mandate that expenditure is incurred. Let it not be pretended to the world that it is by our vote that taxation is imposed. Let it not be left to the Honourable Member who uttered certain words to come to the Assembly and say, "Did I not refer to section 67-A, some previous sentence above—analogue section?" Mandate! Mandate! Has it any meaning, has it any qualification? Why choose that expression, why mislead this House, why mislead this country, why whisper ifs and buts and then draw our attention years afterwards? When we on our part have performed our bargain, you on your part have not. Yes. If some buts lie concealed and can be turned up afterwards, Sir, I ask in all seriousness—in the matter of the certification of the Princes' Protection Bill, in the matter of restoration of grant as regards the Royal Commission,—how prompt they are in certain matters which are nearer and dearer to them, and time is not lost. But when there are matters of substance affecting the political advance of this country, if you ask for reforms or an improvement in the constitution itself inside or outside the Act, an emphatic 'No' comes. Comes when? Not in 1921

but in 1923. In 1921-22. Oh, yes, round table conferences are encouraged! We know there are defects! We are examining them. A report is made to the Home Government. One year is taken in replying to that! Time is a great healer in these matters! That has been the course pursued by you. I therefore say I have no confidence in this Government and on that ground I oppose this grant.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, it is not my painful duty but agreeable duty to oppose this grant, but not for the reasons that have been urged by the last speaker. I oppose it, as far as lies in my power, for what he has disdained to do, and try and argue the question on its merits. Sir, I hope that it shall never go forth from this House that we do anything except for good and substantial reasons or reasons of merits. My Honourable friend has put forward the old obsolete but time-honoured constitutional plea of redress of grievances before supply. Our grievances are so many, so omnibus, so expansive, that God alone knows when their end will come and how. Till then, however, Government has to go on and supplies have to be voted or certified under the constitution which we have accepted and under which we have agreed to serve. Sir, I should be prepared to go the whole length with my Honourable friend regarding the grievance question—I am glad to see him back after his recent illness—but that must be on another occasion and not when we are called upon to perform a plain and simple duty of which there can be no shirking. For the present we ought not to lend ourselves to anything that will justify the certificate procedure or its continuance which we have so much condemned. Let it be the pride of this House to claim that whenever it has had to oppose Government it has been on solid and good grounds and on merits and not merely in a state of mind that made us oblivious of our obligations to the constitution which we have agreed to serve. Whatever the provocation and grievances, let the Assembly never lose its high sense of restraint. Sir, you have ruled that my friend has no right to go in detail into those matters which he was trying to bring out in this House. I am sure that if the theme so checked was the direct proposition before us he would find nearly every one on this side of the House at one with him. But we must disclaim association with opposition so far as necessary grants are concerned for the reasons put forward by him. We do so not because we do not feel entirely the same way as he feels regarding the matters that he has enumerated but because duty under the constitution points the other way. We came to this Assembly in spite of all the disadvantages and handicaps in our way that one could think of. We have at every turn done the best we could to support the Government, and to our regret when we are dispersing we have to disperse under a feeling that all that the Government could have done to advance our point of view has not been done. I do not want to put matters any higher than that. At the same time as I said on a previous occasion we do not want to say every time that the Viceroy against better judgment thinks fit to certify it is necessarily a constitutional crisis. If that was to be so, we should have constitutional crisis in abundance, at every turn. My friend to-day if successful would merely be lending himself to the creation of another such occasion for constitutional crisis. I do not view the question from that point of view. In the admittedly imperfect state of things with

[Sir Deva Prasad Sarvadhikary.]

which we have got to deal it is up to us to do all that lies in our power and it will be up to those who will come after us to do everything that will lie in their power to counteract that by constitutional fight to get the wrong righted. No doubt one constituent means of getting such wrong righted would be the refusal of supplies if it could be made effectual. But are we quite sure that in the present state of things it would be an appropriate method of fight because we know that the thing will be nullified in no time. I for myself am not prepared to do that which will not be effective and knowing that it will not be effective it is worse than useless to do that which is proposed to be done.

I desire to take the question up to a more prosaic plane, I was almost going to add a more moral plane. People find themselves famous of a morning, sometimes people alas find themselves infamous of an afternoon and the immorality that has been hinted about me earlier this afternoon will have to be atoned for if possible and I want to take this question up to a moral plane if I can. A contract has been pleaded. I do not know what that contract is. We are accustomed to read contracts somewhat rigidly between the lines and not knowing what the terms of the contract are, to which Sir Basil Blackett referred. I am not prepared therefore to say whether this grant that is wanted is at all fit to be voted or not. I am leaving things only at that. Then, Sir, we have been told that the Standing Finance Committee has accepted this. I have been looking at the report of the Standing Finance Committee and I do not find any reference there. Probably what has happened is that they gave their consent after this report was published. My friend behind me tells me that it was sanctioned last Friday, one of the last things, that are rushed, about which one sometimes has great diffidence. Whatever that may be, Sir, I was going to say how greatly we admire the work of the Standing Finance Committee and the Public Accounts Committee. As one belonging to neither of those Committees I think that I should be voicing the opinion of the Non-official Members of this Assembly in regard to the excellent work that they have done, the painstaking trouble that they have bestowed over these questions that come before them and they deserve the approbation of the Assembly publicly. But necessarily the decision of the Standing Finance Committee is not the last word on this or any subject particularly as the reasons upon which they proceeded are not known.

This is the first time I believe that a Finance Member has called copious and bounteous rain, unfortunate at least from certain points of view. I know it used to be one of the anxious cares of every Finance Member either to consult the Meteorological Department or to take a hand in the somewhat obsolete gambling in Burra Bazar known as *pani ka khel* as to what was going to be the rainfall for the season, because the Finance Member's prosperity and the prosperity of the country depended upon that. It so happens that that which is good from other points of view is an evil from this particular point of view, the result of which was that we have got to invest, as it is called 77 lakhs of rupees in that which under the Opium Convention has soon to go out of Indian finance and on the double quick. That position has been accepted. Are we going to contribute to the swelling of that revenue the upward tendency of

which public opinion, not only in India, I am not talking of financial opinion, the moral, social and economic public opinion in India and abroad, has condemned. I do not think that this Assembly ought to lend itself to anything that will aggravate the evil of increasing opium revenue to any extent that can be helped.

The Honourable Sir Malcolm Hailey (Home Member) : Did you object last March ?

Sir Deva Prasad Sarvadhikary : I did not. We were proceeding upon an accepted basis of gradual reduction that was known. I do not think investments of the kind now proposed ought to be supported. For these reasons—moral if you like to call them—I desire to oppose this motion.

Having done that and what I consider to be my duty, I should like to raise my voice again against Mr. Rangachariar's position. If a grant is otherwise unobjectionable I do not think the Assembly would do right by objecting to it or throwing it out because of a sense of grievance under a sense of which we all undoubtedly labour. If, hoping against hope, my objection succeeds, it must not go forth to the world that this grant has been objected to and thrown out on any other than reasons of merit.

Mr. E. C. Ansorge (Finance Department : Nominated Official) : Sir, I welcome the last words of Sir Deva Prasad Sarvadhikary because I think that it will not be over difficult to show that this grant is not objectionable. I am unable to follow Sir Deva Prasad into the question of policy because I think it is unnecessary to do so. This House voted a certain amount for opium and the amount for which Government asks now is to be used for exactly the same purpose and in exactly the same way. The circumstances in which Government have been obliged to ask for this supplementary grant of 77 lakhs were dealt with by the Honourable the Finance Member, but I should explain to the House that the production of opium is very strictly controlled, and with that policy of control I have no doubt from what Sir Deva Prasad has just said that he is in full agreement. If we are to control production a certain area must be settled each year for the cultivation of opium. We arrange the area to be so settled according to what is required for our actual needs on the basis of a normal crop. Supposing, as has happened this year, the crop is an exceptionally good one, obviously the output will be more than we actually require at the moment. On the other hand, we are unable to refuse to purchase that opium, which has been grown under control and under a license given to the cultivators. It cannot be grown otherwise and it cannot be sold privately. If therefore we do not buy it up, the crop is lost and the cultivators have to bear the loss. Obviously, therefore, we are under agreement in granting licenses for the production of opium to purchase the outturn, whatever it may be ; and the only thing to do is to make our estimate of area as near as possible to the amount of opium which is actually required. During this last year the crop was an exceptional one,—nearly double the output of opium obtained from a practically similar area in the year before. Nobody can be blamed that a smaller area was not settled. Obviously the settlement of the area must be made upon the basis of the previous

[Mr. E. C. Ansorge.]

and normal years. The immediate result of this exceptional crop is that our stocks of opium, which were depleted, are being replenished, and Government are now taking steps for the coming year to reduce the area of cultivation to a degree sufficient to reduce the output accordingly. It would be possible to put forward this demand merely as a method of replenishing our depleted stocks during a good year, but as a matter of fact we put it forward purely as a matter of necessity. We are under agreement to buy the crop produced and we must continue to do so so long as the system of control lasts. We must purchase the whole of the output this year. We shall be purchasing a large quantity, but we shall reduce the settlement for the coming year so that, even if the crop is as good as this year's, which is unlikely, the total output of opium will be a great deal less. We are therefore merely anticipating our requirements and replenishing our stocks. But that is not really the point. The point is that it is a necessity. It is inevitable expenditure which cannot be avoided under the present system.

As regards Sir Deva Prasad's remarks as to the Standing Finance Committee, I should explain that at the last meeting, held on Friday, this matter was placed before the Committee. It could not be placed before the Committee earlier for the simple reason that it was unknown in the Finance Department of the Government of India until about ten days ago, and the reason for that again was that the crop is only now beginning to come in and the amount of the crop was unknown until very recently. It was impossible to estimate what excess, if any, there would be.

I think the House will be satisfied from what I have said that in putting forward this demand for a supplementary grant we are not asking for anything in the way of new expenditure. We are only asking for what is necessary in order to be able to carry out our commitments under a system which, as the House is aware, has been long in force and about which there is no question now before us for altering that policy. On account of the especially good crop received this supplementary grant follows automatically upon the original demand.

M. K. Reddi Garu (South Arcot *cum* Chingleput : Non-Muhammadan Rural) : Sir, I would not have taken part in to-day's debate but for the events that are happening on these foggy heights of Simla. I would certainly not be on my legs now had it not been for the fact that some of the great democrats on this side of the House have come with a firm conviction to throw out all the demands for supplementary grants, not on their individual merits but because the national honour has been wounded by the certification of the Finance Bill by the Governor General in Council. So, Sir, as a protest, as a challenge or rather as a retort directed against the recent action of the Viceroy, they are determined to oppose all grants. I am surprised, Sir, to see the great democrats who are to-day to wait on His Excellency the Governor General leading a deputation requesting him to veto a Bill passed in one of the Provincial Legislative Councils by a very large majority. I am surprised to see these patriots now thunder forth on the floor of this House that the Viceroy has vetoed the will of

this Legislature by certifying the Salt Tax and therefore we should oppose all demands for grants. Sir, I am one of those sincere men (*An Honourable Member* : "Very doubtful.") who feels the insult offered to the country by the use of the emergency powers of the Viceroy ; I am one of those who voted for the Resolution to curtail these powers of the Governor General. I am one of those who voted for the censure Resolution in the Alliance Bank case, because the Governor General in Council acted without the advice of this House. I am again one of those who voted for the Resolution of Dr. Gour for the working of the Government of India Act to the fullest possible extent. But now that my friends want me to join them in to-day's crusade against the Government, to throw out all grants as a protest against the certification, I feel highly diffident to join their rank and file ; because these very friends, these great patriots, Sir, are to-day waiting on His Excellency the Viceroy to advise, or rather to invoke him that his extraordinary powers should be used to veto a Bill passed by a very large majority in one of the local Legislative Councils. Mark, Sir, that it is a Bill introduced by one of the Ministers on a transferred subject. It was a Bill passed by an overwhelming majority after a long discussion of nearly a fortnight. It is a Bill given assent to by the Governor in Council of that Province. Sir, note how low these patriots are fallen—these democrats who fought against the Viceroy's intervention on the Princes Protection Bill—these patriots who spoke from a thousand platforms emitting fire and brimstone against the recent action of the Governor General.

Sir, now what happens ? These very gentlemen request the Viceroy on their knees to use these very extraordinary powers, to veto a Bill passed in a Legislature, thus giving a death blow to Provincial Autonomy, which we all covet so dearly. Sir, consistency cannot go further. It is for you to see how easily, like the clouds of Simla, these great patriots change their views and their colour, to suit their convenience or selfish ends. Look how quickly and how sweetly they blow hot and cold in the same breath. (*Mr. K. Ahmed* : "What about the time when you were Secretary of the Democratic Party ?") What shall we say of the mentality of these so-called Moderates ? How can we trust them and follow their lead ? I leave it to the good sense of this House to walk cautiously when you follow such chameleon-like patriots.

Khan Bahadur Abdur Rahim Khan (North-West Frontier Province : Nominated Non-Official) : Sir, I have been listening to the pathetic speech of my Honourable friend, Mr. Rangachariar, and I must say that the tone of that speech was rather like that of a jilted lover. Now I am one of those who believe in constancy in love, and as one who has co-operated with Government now when we have a few days left to pass with our love with all its faults—with all the faults of the Government of India if it has any—we must be constant to our love. I have got a special reason for doing so because as we are not going to discuss the question on its merits, I come from a community which must be specially grateful to the Government of India as far as the question of Khilafat is concerned. I am grateful to His Excellency the Viceroy and all his colleagues. They did their best to respect our feelings and they did their level best, going out of their province, to help as far as the Khilafat question was concerned. We

[Khan Bahadur Abdur Rahim Khan.]

have to remember that they are not independent in this or any other matter ; but judging as a member of this Assembly I would be false to my duty if I did not express our sense of gratitude for what they have done and as a Muhammadan I think it is my duty in equity, and my duty under a sense of justice to express gratitude to them. We are about to part and a good many of us who now come here as Members of the Legislative Assembly will probably be sitting in the Visitors' Gallery in the future ; but parting as we do I think it would not be nice that we should part with any sense of vengeance or retaliation. I make this appeal to my learned friend Mr. Rangachariar, who, I know, feels very sincerely on this subject—I say that a member would be false to his country and to his community if he would question and doubt the spirit and sincerity of his speech. My friend's speech was very sincere ; but we must make some allowance for the Government too. The Government has got to perform two duties—one is its duty towards us, and the other is its duty towards the Home Government. The Government of India, as I said before, is not altogether independent and I think we must make some allowance for it. We must also give a chance to the newcomers as far as the Government of India is concerned. Let us give them a chance to love the Government of India. Now when the newcomers are coming into this Assembly they should take their warning from us whether the Government of India has ceased to be loved or not.

With these remarks, specially coming from a community and specially coming from a province where there is a majority of Muhammadans, I want to say how grateful we are, as far as the Khilafat question is concerned, to His Excellency the Viceroy and his colleagues. That being so, I have much pleasure in supporting this demand, and I hope all the other Muhammadan members in this Assembly will also support it.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I think it my duty to support the Resolution. I differ both from my friend Mr. Rangachariar and from my friend Sir Deva Prasad Sarvadhikary. My friend Mr. Rangachariar has admitted that he has no objections to urge to the Resolution on its merits. The only question which is now before the House is whether or not the Demand for a supplementary grant is justified. My friend Sir Deva Prasad Sarvadhikary had some objections on moral grounds, as he put it, to the granting of this demand.

Sir Deva Prasad Sarvadhikary : On grounds of merit, which are moral.

Sir P. S. Sivaswamy Aiyer : But having regard to the explanation which was given by Mr. Ansorge, I do not think there can be any doubt as to our obligation to pay the sum of 77 lakhs or whatever it may be to the cultivators who have grown opium under certain conditions and to other persons to whom we have come under legal obligations to purchase their opium. I can see no question of morality at all involved in the subject-matter of this Resolution. The only ground on which my friend Mr. Rangachariar objects to this Resolution is that the Government have refused to co-operate with the Assembly in spite of its excellent behaviour

and its attitude of consistent co-operation. It rather seems to me to sound like the dying curse of an expiring Legislature towards an unappreciative Government. Analyzing the attitude it amounts to this : It is one of refusal to co-operate with the Government because their conduct in other matters has not been satisfactory. I was not aware that my friend Mr. Rangachariar was a non-co-operator at heart ; but the arguments with which he supported this Resolution lead me to think that he has now probably turned into a non-co-operator. I do not know whether he has turned a non-co-operator for the nonce or has become a disciple of Mr. C. R. Das and intends to follow his policy. I know that he has announced his candidature for the next election. I do not know whether his object in seeking to come to the Legislature the next time is to follow the policy and the tactics of Mr. Das and wreck the Council from inside. Now, Sir, reference has been made to the old and well known constitutional principle of grievances before supplies. I should like my friends to fully realise the implications of that principle and the bearing of that principle on the present occasion, and to consider how far it can be applied under the present circumstances. Are you going to insist upon the redress of all grievances before supplies, or only of some grievances before supplies ? Are you going to refuse all supplies, or only some of the supplies ? If you are going to refuse some of the demands for supplies, on what grounds are you going to discriminate ? Can it be any other ground than the merits of the particular demands for grants ? I for one fail to see any grounds upon which you can discriminate between one demand for a grant and another except it be the merits of the particular demand.

I would ask the House to remember the advice which was given recently by one of our friends who had the honour of being in the Government sometime ago, and who has now joined the ranks of public workers. I refer to the advice given by Sir Tej Bahadur Sapru, that the attitude of indiscriminate opposition would be a great mistake. Now, Sir, I take it that the policy of refusing particular supplies can only be supported on the ground of some discrimination on the merits. Now, if you are not going to adopt the principle of discriminating between one demand and another on its merits your only alternative is to adopt an attitude of indiscriminate refusal of all supplies. Now this slogan of redress of grievances before supplies was raised in Madras by a very distinguished public worker for whose services I have the greatest respect. But before you take up the slogan and begin to apply it, I would ask you to consider carefully what purpose you mean to serve or hope to serve by its adoption. Is your object merely the manifestation of your displeasure because the Government certified the salt tax ? If that is your object, we have already adopted a much more straightforward means of dealing with it and we have suggested a remedy against the abuse. We have passed a Resolution asking that certain words in section 67B should be expunged and that the powers of the Governor General in regard to certification should be curtailed. That action was perfectly intelligible. But now, having already sufficiently manifested your displeasure, if that be your object, what further gain do you derive by this attitude ? Is it as a means to the end of making a further progress in constitutional reforms ? Now, there can only be two ways of achieving further constitutional reforms either by

[Sir P. S. Sivaswamy Aiyer.]

pursuading Parliament of the reasonableness of our demand and by proof of our achievements under the reforms already granted, or by recourse to other means. If you wish to convince the Parliament that you have made a proper and reasonable use of the reforms and deserve a further big concession or instalment of reforms, is it likely that you will persuade Parliament of the justice of your demands or of the reasonableness of your demands if you unreasonably refuse supplies not on the merits but out of pettish motives. Now, if we want to convince Parliament of the reasonableness of our attitude, or of our sense of responsibility in the exercise of our powers, we should not follow this course which has been suggested of refusing supplies. If we can at any time catch the Government tripping, by all means let us go in for them; I do not wish to spare the Government when they are really at fault or to support them in any wrong measures which they may take; but when the Government are manifestly in the right, are putting forward a demand which it is impossible to refuse on the merits as admitted by Mr. Rangachariar, we shall be simply putting ourselves in the wrong and it is not a policy which will pay us with the Parliament. Then, Sir, the only other alternative is this. You may say that by refusing this grant and by following the policy of refusing grants, we shall be driving the Government to make further concessions. It really amounts to the adoption of the policy of the non-co-operators. It is not as non-co-operators that we came into this Assembly, nor have we turned non-co-operators. At any rate, I for one, have not turned a non-co-operator, because the Government may have acted in a manner to cause dissatisfaction on certain occasions. Before you think of applying this old principle of redress of grievances before supplies, I would ask you to remember the conditions under which in the constitutional history of England it was asserted. There is no occasion under the present political conditions of England for applying or acting upon this principle of redress of grievances before supplies. They have a much simpler and more effective means at their disposal under the existing conditions. If the opposition is dissatisfied with the conduct of the Government, they can pass a vote of censure and the result will be they will turn out the Government and put their own party in. We must therefore go back to the old constitutional history of England. What were the times and conditions when this principle was asserted? It was in the days when the people had to carry on a struggle against the autoeracy and oppression of the King that this principle was often resorted to. You may perhaps suggest that we are also labouring under a similar abuse of power by the Government. Even assuming you are right there, it does not show that it is practicable to assert the principle now. When this principle of redress of grievances before supplies was asserted by the Barons in their struggles against the Kings, by the Commons in their struggles against the Stuarts, they did so at times when they were in a position to enforce their resistance to the assertion of autoeratic power by recourse to physical force. In the time of the Stuarts we know that that policy was the precursor of a civil war. In the days of the Plantaganets the Barons rode in arms and captured the King or were in a position to bring the King to his knees and dictate terms to him. Now, do you imagine that you are now in a position to dictate

terms or to assume an attitude like that of the old Barons or the Commons in the times of the Stuarts? I can picture to my mind a time when my friend, Mr. Rangachariar, perched on horse back, will probably ride in arms at the head of the embattled hosts to bring the then existing Government to its knees and dictate terms. But I rather fancy that the time is not yet and I do not think that the policy of either non-co-operation or civil disobedience or passive resistance is one for which the country is prepared or that we shall be justified in plunging the country into that ferment which is the herald of a revolution.

Now, realise all the consequences clearly. If you feel that you are not in a position to back up your demands by that appeal to physical force, by which it was backed up in the days of the old struggles with the Kings of England, with the Stuarts and the Plantaganets, if you feel that you are not prepared for such an assertion, if in your heart of hearts you know that and you feel that, I ask what is the good of this spasmodic, casual and solitary act of non-co-operation?

I assume that it is to be a solitary act of non-co-operation. If it is to be a systematic course of non-co-operation, I can understand it of the Dasites, but not of any members of the present Assembly. I do hope that members who think of acting upon this slogan which has been preached from the Press and which has been caught up by many people, will realise clearly all the implications and consequences of that principle and then exercise their judgment. I for one think that the only issue before us is whether this demand for a grant is justified on the merits or not. If it is justified, I certainly should not be a party to refusing the demand for a grant. I feel that the application of the principle of redress of grievances before supplies is one which is altogether impracticable and futile. I am sorry to say that it is a most fatuous course to adopt, and I sincerely hope the House will not adopt it.

(Voices : "The question be now put.")

Mr. J. P. Cotelingam (Nominated : Indian Christians) : Sir, I listened with very great interest to the speech that the Honourable Mr. Rangachariar made in his attempt to oppose the supplementary demands for grants, and all the time that he was making his speech I was wondering if it was the voice of that same Mr. Rangachariar that spoke only the day before yesterday so very eloquently on the Kenya question. I was wondering if it was the same Mr. Rangachariar who withdrew his amendment to the main Resolution, with explicit reference to retaliation in the event of that proposition not being accepted. I was wondering, Sir, if it was the same Mr. Rangachariar who spoke so eloquently about his services with reference to the raising of the War Loan in Madras. I was wondering, Sir, if it was the same Mr. Rangachariar who spoke of the yeomen services that he had rendered on that occasion and of his hearty co-operation with Government at that very critical time. I was wondering, Sir, if it was the same Mr. Rangachariar that spoke of partnership with Government and questioned if the partnership that was talked of about the time of the Reforms was a real partnership or a bogus partnership. I came to the only conclusion

[Mr. J. P. Cotelingam.]

that the salt duty certification which had been discussed almost threadbare and which had been disposed of, was still oppressing his brain and that he had availed himself of this opportunity to oppose all Supplementary Grants. To what shall I compare this attitude of Mr. Rangachariar who has served upon several Committees during the course of the last three years and who has rendered valuable service to the Assembly and to the Government of India. I can only describe it in the words of that inimitable passage in a well known book where reference is made to children in the market place calling one to another and saying, "We piped unto you and ye did not dance; we waited and ye did not weep." What is the matter with Mr. Rangachariar that he should have led the opposition to all Supplementary demands for grants. Well, I regret, it is pure cussedness. Having known him for many years and appreciated his good qualities and the services that he has rendered in this Assembly from the beginning to the closing days of the session, I regret why he should have put on this attitude of opposition. (*A Voice*: "The election is coming on.") That may be so. But I am very sorry that a Member from Madras, the Province I come from, should have led this opposition, and I trust that the Supplementary demands for grants will all the same be passed by the Assembly.

The Honourable Sir Basil Blackett: Sir, this motion was opposed by Sir Deva Prasad Sarvadhikary on merits and by Mr. Rangachariar for other reasons. I have very little to add on the subject of the merits. Our position is that we cannot avoid making these payments, as has been fully explained by Mr. Ansorge. I should like, however, just to say one word about the question of morality which was mentioned by Sir Deva Prasad Sarvadhikary. As is well known, the Government of India has been one of the leaders in the general campaign in reducing to the best of its power the evils of the opium traffic.

Sir Deva Prasad Sarvadhikary: Let it lead on.

The Honourable Sir Basil Blackett: In 1903 the acreage in British territory in India which was sown with poppy for the purpose of opium was 642,000; and in 1920-21 it was 143,000.

Rai J. N. Majumdar Bahadur (Presidency Division: Non-Muhammadan Rural): It must have been a sacrifice to the Indian revenue.

The Honourable Sir Basil Blackett: It has been a very heavy sacrifice for the Finance Member. In the Indian States towards the end of the 19th century there were over 4,00,000 acres sown. Owing to the policy of the Government of India, this was reduced to 56,000 acres in 1919-20. The income of the Government of India in 1910 from opium was seven million two hundred and forty thousand pounds sterling; in 1920-21 this was less than two million pounds. The motion that has been made to-day has nothing to do with opium policy. It is simply a motion that the Government of India should be granted the money with which to buy the opium which it has contracted to buy which has turned out to be rather more than it expected. It will not increase the amount of opium that will be sold by the Government of India under the exist-

ing policy. That is fixed by the existing policy and has nothing to do with this vote. On merits, therefore, I feel sure that Sir Deva Prasad Sarvadhikary will now vote with the Government in this matter.

I have now to turn to the other question.

Sir, I came down to-day in the anticipation of having to disagree very violently with Mr. Rangachariar, but, after what I have heard, I really feel tempted to take his side. I read in the newspapers some time ago that Mr. Rangachariar was coming up to Simla—all the way from Madras to Simla at great sacrifice to demand redress of grievances before supply. I read that he was choosing his time to come from Adam's Bridge to Eve's Paradise by the date on which the supplementary estimates were to be introduced. And then I heard something about the Madras Hindu Religious Endowments Bill. Well, now, Mr. Rangachariar is a man for whose character I have formed, in the short time I have been here, a very great admiration. He is always sincere, he holds very sincerely what he believes, and he holds strongly to what he believes. I remember, when I was at school, that I was taught what Julius Caesar said of Brutus, that he wanted badly what he wanted; and that is rather Mr. Rangachariar. Therefore, it gives me very great pain that at the end of this third session of an Assembly, of which he has been so distinguished a Member, he should be giving way to what he himself described on Saturday as a spirit of despair and despondency. Now, I agree very largely with a great deal that Sir Sivaswamy Aiyer said. I agreed particularly with his statement that, when the Government are right, the House ought to vote with them. And I wondered in that connection what he meant by his vote on Wednesday last. That however is a by-path. And, after all, last Wednesday, the House was discussing a Resolution. To-day the House is discussing a vote; a case in which it has been given the power of saying "yes" or "no", and enforcing its view, subject only to the exceptional powers of the Governor General or the Governor General in Council. But I should like to modify a little bit the point of view presented by Sir Sivaswamy Aiyer. He said, I think, "You have not got the force to kill your opponents: do what they tell you."

I do not think that is a bit the right point of view. I think that in every vote this House takes, whether it is a Resolution or whether it is a vote on a matter where its will is under the constitution to be given effect to, the question it ought to ask is, "will my vote in this matter hasten or retard the progress of constitutional reform in India?" I think therefore that to vote on this occasion for grievances before supply, to vote that the Government of India ought either to break its contract with the cultivator or take other action which is not such as the House likes is surely not a vote that will hasten the time when constitutional reform in India will take a big step further forward. All of us in this House are Members of this Assembly. All of us are here working with one object. We do not always agree. Some of us thought that by balancing the budget even in the way in which it was balanced we were hastening the progress of reforms in India because we were improving the financial position of India.

[Sir Basil Blackett.]

The House is perfectly entitled to take a different view and I know many Members and my Honourable friend Mr. Rangachariar, did and do take a very different view from that. But they and we are working together with one single object, namely, to hasten the progress of the reforms in India, to hasten the date when we can take another step forward. I do hope therefore that the House will now proceed unanimously to accept this motion not only because on merits it is the only possible decision but in order that we may not begin to think that coming events are casting their shadow before. We had Mr. Devaki Prasad Sinha taking the oath to-day and we had a speech from Mr. Rangachariar which suggests the creeping in of non-co-operation into this House. Let us end this session as we began, in a spirit of co-operation, and the three years that we have been through will be looked back on by the future as years in which tremendous strides were taken amidst tremendous difficulties in the path of progress and constitutional reforms.

Mr. President : The question is :

“ That a supplementary sum not exceeding Rs. 77,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1924, in respect of ‘ Opium ’.”

The Assembly divided :

AYES—57.

Abdul Hamid Khan Khudadad Khan.
Mr.
Abdul Quadir, Maulvi.
Abdur Rahim Khan, Mr.
Abdulla, Mr. S. M.
Abul Kasem, Maulvi.
Ahsan Khan, Mr. M.
Akram Hussain, Prince A. M. M.
Amjad Ali, Maulvi.
Ansonge, Mr. E. C.
Ayyangar, Mr. R. Narasimha.
Bagde, Mr. K. G.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Barodawalla, Mr. S. K.
Barua, Mr. D. C.
Bhanja Deo, Raja R. N.
Bhargava, Pandit J. L.
Blackett, Sir Basil.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chatarji, Mr. P. C.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Cotelingam, Mr. J. P.
Ebdon, Mr. J. W.

Faridoonji, Mr. R.
Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Ikramullah Khan, Raja Mohd.
Innes, the Honourable Mr. C. A.
Jejeebhoy, Sir Jamsetjee.
Lakshmi Narayan Lal, Mr.
Latthe, Mr. A. B.
Majumdar, Mr. J. N.
Misra, Mr. B. N.
Mitter, Mr. K. N.
Mudaliar, Mr. S.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Percival, Mr. P. E.
Rajan Baksh Shah, Mukhdum S.
Ramayya Pantulu, Mr. J.
Reddi, Mr. M. K.
Richey, Mr. J. A.
Samarth, Mr. N. M.
Shahab-ud-Din, Chaudhri.
Sim, Mr. G. G.
Singh, Mr. S. N.
Sinha, Babu L. P.
Stanyon, Colonel Sir Henry.
Yamin Khan, Mr. M.

NOES—17.

Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Basu, Mr. J. N.
Jatkar, Mr. B. H. R.
Man Singh, Bhai.
Nag, Mr. G. C.
Nand Lal, Dr.

Neogy, Mr. K. C.
Roy Choudhury, Mr. S. C.
Shukla, Mr. D. P.
Sinha, Mr. D. P.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.

The motion was adopted.

MISCELLANEOUS DEPARTMENTS.

The Honourable Mr. A. C. Chatterjee (Industries Member) : Sir, I move :

“ That a supplementary sum not exceeding Rs. 1,41,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1924, in respect of ‘ Miscellaneous Departments ’.”

From the papers that have been circulated, Honourable Members must have gathered that this is a supplementary demand on account of the Indian Stores Department. I need hardly remind the House that this item had been included in the Budget which was presented last March, but a lump sum deduction was afterwards made on account of the recommendations of the Retrenchment Committee. My Honourable friend the Finance Member had at that time informed the House that this was one of the items which were still under the consideration of the Government of India, with a view to further examination as to whether the retrenchment should be made or not. I am glad to be able to inform the House that the Government of India did come to the conclusion that the item should be restored and a supplementary grant should be asked for from the House. The object with which this item has been put forward is to expand the activities of the Indian Stores Department. In answer to various questions that have been put in this House I have explained that the Government are carrying out the views which have been enunciated in this House as well as in another place of expanding the work of the Indian Stores Department. Reference was made by my Honourable friend Mr. Rangachariar to the fact that commissions and committees are appointed and he alleged that nothing was done. I claim that in this matter at any rate, we are carrying out the recommendations of the Indian Industrial Commission and the Stores Purchase Committee. At this late hour I do not wish to weary the House with a speech in respect of a measure which, I hope, will receive the unanimous support of the House, and I need only recommend this motion to the House.

Mr. Devaki Prasad Sinha (Chota Nagpur Division : Non-Muhamadan) : Sir, I came to this House to-day in the hope that I would record my vote either for or against the motions as a silent listener. But, Sir, since the Honourable the Finance Member has done me the honour of welcoming me on my first appearance in this hall with a kind reference, I feel that I should explain my attitude in words also. Whether, Sir,

[Mr. Devaki Prasad Sinha.]

I am welcomed as a co-operator—as I was to your knowledge for the last 2½ years in the Bihar Legislative Council—or whether I am branded here as a possible non-co-operator, I want to assure the Government that I am not ashamed of my conduct. I feel that it is everybody's duty here to do what he thinks best in the interests of the country. Sir, in opposing this Demand as well as the previous Demand of Government I feel that I am doing nothing but serving the interests of my country. Sir, the Honourable Sir Sivaswamy Aiyer has said that opposition to these demands smacks of non-co-operation. In the same breath he has referred to the very old principle of demanding redress of grievances before granting supplies. I do not understand how he can reconcile these two views. Is it to be said that when recourse was had to this old principle of constitutional agitation, in other Parliaments, they were non-co-operating with the Government? My answer is this. It is a weapon of constitutional agitation in our hands just as much as the power of certification in the hands of Government is a weapon in their hands to force their will when they believe that we are going wrong.

Well, Sir, my principle has been that we should learn to deal blows for blows. So long as Government respect our wishes, so long as they endeavour to meet our demands, we shall do our best to co-operate with them. But when we find that our sentiments and our feelings are trampled under their feet, we feel it our duty to make use of whatever power we have got in our hands. Sir, I do not want to take the time of this Council any longer. (Mr. N. M. Samarth : "This Assembly.") Yes, this Assembly, I beg your pardon. An Honourable Member sitting opposite to me has said that as we have so far been making love to Government, let us make love to Government for a few days more. I want to remind him that love for Government is not like ordinary pre-matrimonial love. It is of a slightly different character. In the words of a poet this love is:

"Like a coy maiden, when courted most farthest retires;
An idol at whose shrine who oftenest sacrifice are favoured least."

Therefore, to support Government whether they are in the right or in the wrong, does not seem to me to be a correct attitude. In order to show the strength of our resentment at the action taken by Government in the matter of certification of the salt tax, I think it, in my own way, a duty to oppose these demands of Government as a protest. It may not be victory, but certainly it will amount to some kind of revenge which is very often a prelude to victory. With these words I think we ought to oppose this demand also.

Mr. President : The question is :

"That a supplementary sum not exceeding Rs. 1,41,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1924, in respect of 'Miscellaneous Departments'."

The motion was adopted.

CAPITAL OUTLAY ON TELEGRAPHS.

The Honourable Mr. A. C. Chatterjee : Sir, I move :

"That a supplementary sum not exceeding Rs. 10,45,000, be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1924, in respect of 'Capital Outlay on Telegraphs'."

Sir, this is the sum that is needed for telegraph and telephone construction in New Delhi during the current year. I admit that it ought to have been put into the budget when it was presented last March, and I do regret that this was not done. But this was due to a certain amount of misconception on the part of the Department of which I am now in charge and I wish again to apologise for the mistake.

As Honourable Members are aware, Government are trying their best to push on with the construction of New Delhi. It is hoped that the Secretariat Buildings and the Legislative Chamber will be ready for occupation during the winter session of 1925-26. The buildings are in a fair state of progress and the roads are very near completion. It is most necessary that the wiring of the buildings and the laying down of the cables along the main roads should be completed as soon as possible. If that is not done, it will mean a good deal of additional expenditure to Government in future years and it will also, probably entail the work being done in a hurry and in a slipshod manner. I hope, therefore, that this motion will also be accepted.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : I rise to oppose this motion, and I propose to deal with the merits of the demand. As the Honourable Mr. Chatterjee has explained, this amount is needed for equipping the new Capital at Delhi with telegraph and telephone facilities, but the Honourable Member did not take the trouble of explaining as to why this has not been charged to the New Delhi capital expenditure. (An Honourable Member : "It is charged to capital expenditure.") I find that this is charged against capital outlay on telegraphs, which is No. 60 in the accounts. Sir, we have been told times without number that the postal department is a commercial department of Government. Is it so really? What do we find in practice? Here is a proposal for saddling this Department with expenditure that ought to have been charged to another head altogether. (Mr. K. Ahmed : "That may be a mistake.") I should have thought that a commercial department of Government would be run on strictly business principles. Now, Sir, what happens in this case? Can the Honourable Member in charge assure us that this extra expenditure is necessitated by any *bona fide* expansion of business? Does the Honourable Member expect a fair return on the capital that he wants us to vote to-day? Is it not that this expenditure is necessitated by the fact that Government have thought it necessary to alter their plans in regard to the location of the new capital at Delhi? Sir, looking through the details of the expenditure as set out in this demand, we find that they are "required to finance telegraph lines and cables to bring Delhi on to the telegraph system." Would this have been necessary if you were to continue to have the official headquarters just where they are now located? The

[Mr. K. C. Neogy.]

next item refers to "the diversion of existing telegraph line owing to the diversion of the Great Indian Peninsula Railway." This diversion of the Railway line itself has been necessitated by the new Delhi scheme. I remember to have read the evidence of some directors of the Great Indian Peninsula Railway before the Acworth Committee in which they said that the Government wanted to charge the Railway with a very large amount which would be required to divert the line for the purpose of beautifying the new capital. The Railway authorities protested, with the result that the estimates were cut down, but even now, the amount which is going to be spent for this purpose is wholly unjustifiable and ought not to have been borne on the Railway estimates. Now, Sir, this particular item which is necessitated by the diversion of the Great Indian Peninsula Railway line stands on the same footing. The next item is "first fitting of Government House." I do not know the exact meaning of this expression "first fitting." I do not know for how many times more we will have to deal with the subsequent fittings of the Government House.

The next item relates to the first fitting of the Imperial Secretariat, the next again is about laying underground telephone cables at Raisina. The others relate to similar items. Now, Sir, is it permissible for the Post office to subsidise the construction of new capital at Delhi in this manner? I should expect a direct answer to my question. Sir, I believe my Honourable friend Mr. Clarke will bear me out when I say that in one of his annual reports on the working of the Posts and Telegraphs he mentions the fact that his department has to finance certain non-remunerative post offices that are maintained for military reasons. That is one item of subsidy paid by the post office for a purpose which ought to be financed from the Army budget. Here we find another glaring instance in which this vicious principle is sought to be given effect to. It may be said, that it does not matter very much whether you meet this cost out of the capital expenditure under Telegraphs or under capital expenditure for the new Delhi works, and that this discussion is merely of academic interest. It may be said that it does not very much matter whether you pay this Bill from out of one pocket or from another. This is certainly not the position; for who pays in the end? We have been reminded so often that the Postal department is a commercial department and therefore it must primarily pay its way. That has been the argument trotted out, I do not know how many times, in support of enhancement of the postal rates. Let us have honest accounting at least for once. Why should the postal revenue bear this expenditure? (*The Honourable Sir Basil Blackett* : "Hear, hear.") The Honourable the Finance Member exclaims "Hear, hear." I hope he remembers his own words which he used when we suggested that certain items of railway expenditure should be transferred from revenue to capital. He said that he would not be a party to manipulating accounts in that way. I hope he remembers the words he used on that occasion and I put it to him that he is manipulating accounts to-day by asking us to vote this amount under capital works on telegraphs.

Sir Deva Prasad Sarvadhikary : Is there corresponding revenue derived by the Posts and Telegraphs?

Mr. K. C. Neogy : Yes, they still derive revenue from Government House and other offices and the officials at Delhi. That is exactly the position that I am putting to the Honourable Member in charge as to whether he can assure me that there will be a corresponding increased return on the capital that he proposes to sink in this fashion. This is certainly an item of unproductive expenditure masquerading as a productive item, and I maintain that you will not get any return, a due return on the capital that you propose to spend in this manner. Now, Sir I hope that this House will at least on this occasion vote with me in rejecting this demand.

The Honourable Sir Basil Blackett : Sir, if Mr. Neogy for reasons of his own had not been absent for a certain time from his normal position as a member of the Standing Finance Committee, he would have been able to answer for himself some of the questions which he has put to us to-day. I get up to deal solely with the question of accounting. As I said when I introduced the budget this year, I personally felt considerable doubt whether the capital expenditure of Delhi was capital expenditure at all and whether it ought not to be charged to revenue. I am glad to see that to some extent Mr. Neogy supports that view. It is not the view adopted in the accounts of the Government of India. We did not propose then or do not now propose to make a radical change in the form of Government accounts and in presenting this supplementary estimate as a supplementary estimate for capital expenditure under the head of Posts and Telegraphs we are following a regular and well known procedure. The Posts and Telegraphs Department will in the first instance be the owners of the cable lines and of the wiring and so on that are laid down. They will be the administrative department responsible for the working of the post and telegraphs systems and these will be part of the property of the Posts and Telegraphs Department and worked as part of their whole administration. In the second place this particular expenditure will so far as the posts and telegraphs are concerned earn a large revenue. Indeed it may be a remarkably remunerative investment for the Posts and Telegraphs Department. Whether it will be a remunerative investment for the Government of India is another question. The Government of India will be paying the greater part of the rentals that are charged for the telephone lines in New Delhi. The Government of India will also pay for a good many of the other charges which will appear as part of the postal revenue from New Delhi; but from the point of view of the capital expenditure of a commercial department this is obviously correctly charged to posts and telegraphs and not to New Delhi. Exactly the same procedure was followed as Mr. Neogy himself points out in regard to the railways, so that although I sympathise with his desire for strict accuracy of accounts and should like to look forward to the time when there is no charge for capital expenditure on New Delhi in the capital budget of India, at the same time I do not think I can support him in his objection to following the correct procedure in this particular case.

Sir Deva Prasad Sarvadhikary : There is a small matter on page 4 of the paper giving details of these Demands that has apparently escaped notice and which if properly brought out would strengthen the case for this demand. The Incheape Committee and the members of this Assembly have been insistently wanting that the incubus of surplus stores should

Sir Deva Prasad Sarvadhikary.]

rid of as quickly as possible and in this demand of 10 lakhs and odd
ided Stores for 8 lakhs, 28 thousand, leaving only 2 lakhs 17 thousand
ial cash expenditure. That by itself would be a good reason for
ng to this demand, so that the stores which we do not want to accumu-
ould be got rid of as quickly as possible.

r. President : The question is :

That a supplementary sum not exceeding Rs. 10,45,000 be granted to the
r General in Council to defray the charges which will come in course of pay-
uring the year ending the 31st day of March, 1924, in respect of 'Capital
on Telegraphs'."

ie motion was adopted.

he Assembly then adjourned till Eleven of the Clock on Tuesday,
4th July, 1923.

LEGISLATIVE ASSEMBLY.

Tuesday, 24th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock,
Mr. President in the Chair.

MEMBER SWORN :

Lieutenant-Colonel R. H. Palin, O.B.E., M.L.A. (Army Department :
Nominated Official).

QUESTIONS AND ANSWERS.

TREATMENT OF DECK PASSENGERS.

366. ***Mr. Harchandrai Vishindas :** (a) Are Government aware of the
treatment accorded by the B. I. S. N. Company to the deck passengers
travelling between Bombay and Karachi ?

(b) Are they aware that when steamers anchor in the stream, deck
passengers are not carried to the shore ?

(c) Is it part of the Company's contract to carry deck passengers on
shore from ships anchored in the stream ?

(d) Are they aware that no officer is appointed on board the steamer
to enquire into the deck passengers' complaints and that no medical aid
is given to them ?

The Honourable Mr. C. A. Innes : As far as Government are aware
no complaints were made to the Deck Passenger Committee that the
B. I. S. N. Co. do not make arrangements to carry passengers to and from
the steamers. The Committee recommended merely that better police
arrangements should be made in respect of the boats conveying
passengers. One of the Committee's other recommendations was that
owners should be required to carry a Passenger Inspector on every steamer
licensed to carry 100 passengers or more.

Mr. W. M. Hussanally : Are Government aware that in the corres-
pondence with one Mr. Sidwa of Karachi the B. I. S. N. Co. admitted that
it was obligatory of them to carry passengers ashore ?

The Honourable Mr. C. A. Innes : I am not aware of that.

INSUFFICIENCY OF WAGONS.

367. ***Rai Tara Prosanna Mukherjee Bahadur :** (a) Is the Govern-
ment aware of the inconvenience of the public for the insufficient supply
of wagons ?

(b) If so, has the Government taken any step to remove the said
inconvenience ?

(c) If the answer is in the affirmative will the Government be pleased
to state when this inconvenience is likely to come to an end ?

The Honourable Mr. C. A. Innes : (a) Government are aware that the supply of wagons is not always equal to the demand.

(b) and (c). The remedy lies in the provision of additional wagons and of better facilities for their movement. As the Honourable Member is aware, these matters are receiving the constant attention of Government and of the various Railway Administrations.

In this connection the Honourable Member's attention is invited to the reply given in this Assembly to a similar question No. 39 asked by Sir Deva Prasad Sarvadhikary on the 4th September 1922.

Lala Girdharilal Agarwala : Are the Government aware that merchants generally cannot get wagons unless they pay something to the station authorities ?

The Honourable Mr. C. A. Innes : I have heard complaints to that effect, Sir.

INCONVENIENCE OF INTERMEDIATE AND THIRD CLASS PASSENGERS

368. ***Rai Tara Prosanna Mukherjee Bahadur :** (a) Is the Government aware of the hardships of inter and poor third class passengers, for the great rush, especially for long journey trains ?

(b) If so, has the Government taken any step to remove it, by attaching more compartments ?

The Honourable Mr. C. A. Innes : The Honourable Member is referred to the answer given in this Assembly on the 27th March 1923, to a similar question (No. 663) asked by Babu Baidynath Prasad Sinha.

URINALS IN THIRD CLASS CARRIAGES.

369. ***Rai Tara Prosanna Mukherjee Bahadur :** Will the Government be pleased to state whether the Government intends to make any urinal arrangements in third class compartments ?

The Honourable Mr. C. A. Innes : It is the general practice of Railway Administrations to provide lavatory arrangements in all new passenger stock with the exception of stock designed for short distance and suburban traffic.

The percentage of third class Broad and Metre Gauge carriages fitted with lavatory arrangements is 78.5 per cent.

INSUFFICIENCY OF SECOND CLASS ACCOMMODATION.

370. ***Rai Tara Prosanna Mukherjee Bahadur :** Is Government aware that in all passenger trains only two second class compartments are attached, one for females and another for males, the latter being generally occupied by Railway Officers ? Has the Government taken any step to remove the inconvenience of the passengers by attaching at least another compartment for Railway Officers ?

The Honourable Mr. C. A. Innes : The Honourable Member is referred to the answers given in this Assembly on the 15th September 1921 and 7th September 1922, to questions Nos. 192 and 111 respectively, asked by him on the same subject.

Rai Tara Prosanna Mukherjee Bahadur : Has Government taken any steps to remove the inconvenience ?

The Honourable Mr. C. A. Innes : I must ask for notice of that question.

RAILWAY PLATFORMS.

371. ***Rai Tara Prosanna Mukherjee Bahadur :** (a) Is the Government aware of the great inconvenience of the people and of frequent accidents for want of high platforms ?

(b) Will the Government be pleased to state, whether the Government have settled any plan to remove the said inconvenience in the near future ?

The Honourable Mr. C. A. Innes : (a) and (b). Government fully recognise the convenience of high level platforms, but in view of the great expenditure involved they do not consider it advisable to embark on a general scheme for their provision at present. They propose for the present to leave it to the discretion of Railway Administrations to provide high level platforms at stations where the requirements of the passenger traffic justify them.

Rai Tara Prosanna Mukherjee Bahadur : Is there any provision, Sir, in this year's Budget for the purpose ?

The Honourable Mr. C. A. Innes : I cannot answer that question without notice.

Sir Deva Prasad Sarvadhikary : Would the Government consider the desirability of providing steps and ladders like those provided on the E. B. R. at Kustea and Goalundo for the accommodation of passengers ?

The Honourable Mr. C. A. Innes : I will certainly have the matter inquired into.

CATTLE ACCIDENTS ON EASTERN BENGAL RAILWAY.

372. ***Sir Deva Prasad Sarvadhikary :** (a) Would the Government please state the number of cattle killed on the southern section of the Eastern Bengal Railway (since my last question on the subject) owing to the unfenced condition of the line ?

(b) Would the Government be pleased to state what steps have been taken for fencing the line ?

(c) Would the Government be pleased to state when the fencing may be expected to be taken in hand and when it is likely to be finished ?

The Honourable Mr. C. A. Innes : (a) The cattle killed number 13.

(c) Government are informed that the 5 miles of line near Canning where most accidents occur will be fenced this year.

Mr. N. M. Joshi : Is Government aware that the leaving of a railway line unfenced is against the Railway Act ?

The Honourable Mr. C. A. Innes : I will have that matter inquired into, but I may point out to the Honourable Member that the fencing of all the railway lines in India would be an extremely expensive business. The policy of the railway administrations at present is to fence those portions of the line where accidents are most likely to occur.

STRENGTH OF ARMoured CAR SERVICE.

373. *Sir P. S. Sivaswamy Aiyer : With reference to the announcement in the Assembly a few days ago by His Excellency the Commander-in-Chief of his intention to raise the actual strength of armoured car companies to 8 units, will the Government be pleased to state whether the proposed addition is inclusive or exclusive of the half unit stated (in the Military Budget for this year) to have been assigned to the Auxiliary Force and whether if it is to be exclusive, a similar assignment will be made to the Territorial Force ?

Mr. E. Burdon : No Armoured Car unit of the Auxiliary Force has been constituted as such. The actual position is that certain Cavalry or Infantry units of the Auxiliary Force have had allotted to them a number of vehicles of obsolescent type. It is now proposed to bring the Armoured Car Companies up to the authorised establishment by the addition of 2 regular units. When this has been done, it is not proposed to have an Auxiliary Force Armoured Car unit as well and it is not proposed to issue modern equipment in the shape of armoured cars either to the Auxiliary or to the Territorial Force.

AMENDMENT OF REGULATION III OF 1818.

374. *Mr. K. C. Neogy : (a) With reference to the recommendation made by the Repressive Laws Committee, regarding the amendment of Regulation III of 1818, and the corresponding Madras and Bombay Regulations, will Government be pleased to state what steps they propose to take in the matter ?

(b) In how many cases, have these Regulations been put into operation since the submission of the report of the Repressive Laws Committee ?

(c) Do the circumstances in which the Regulations were put into operation in these cases, fall within the reservations made by the Repressive Laws Committee in recommending the amendment thereof ?

The Honourable Sir Malcolm Hailey : (a) Government are not yet in a position to make a statement on the subject.

(b) and (c). The Bengal Regulation III of 1818 has been put into operation in three cases all of which may reasonably be held to fall within the reservations made by the Repressive Laws Committee. The Madras Regulation II of 1819 has been put into force in 214 cases connected with the Moplah Rebellion and the Rampa Fituri agency. I think it clear that the Committee recognised the necessity for special measures in these tracts. The question of local legislation on the lines indicated by the Committee is still under consideration.

UNSTARRED QUESTIONS AND ANSWERS.

REPRESENTATION ON AGRA CANTONMENT COMMITTEE.

122. Lieut.-Colonel H. A. J. Gidney : Is Government aware that in the Agra Cantonment not one of the additional non-official members of the Cantonment Committee is an owner of bungalows, so that landlords are without representation on the Committee, and is it a fact that the

latter contribute the largest revenue to the Cantonment Fund in various taxes which are calculated on rental values ?

Mr. E. Burdon : Government have no information in regard to the facts alleged and I invite the attention of the Honourable Member to the reply given on the 3rd February last to unstarred question No. 134.

OVERSEER IN AGRA CANTONMENT.

123. Lieut.-Colonel H. A. J. Gidney : Is Government aware of the fact that the engineering subordinate of Agra Cantonment Magistrate's office, called the Overseer, is not a Roorkee College man ? Does he hold an engineering certificate from any recognised institution ? If not, why should he not be replaced by a man selected from the list of qualified candidates maintained by the Principal of Roorkee College ?

Mr. E. Burdon : Government have no information on the first two points raised by the question. The selection and appointment of cantonment servants are matters which at present rest with the Cantonment Magistrate.

WORKING OF INCOME-TAX DEPARTMENT.

124. Colonel Sir Henry Stanyon : (1) Will Government be pleased to state whether any Collectors of Income-tax or other taxes in British India are paid commission on their collections ?

(2) Are Government aware that income-tax for 1922-23 collected in advance in 1921-22 upon an estimate of income yet to be ascertained was collected and paid upon the understanding that any excess of the estimate over the actual would be adjusted in 1922-23 ?

(3) Are Government aware that Income-tax Collectors have refused to make such adjustment and to refund amounts collected in excess of the tax legally payable for 1922-23 on the ground that the Income-tax Act, 1922, compels them to retain such excess, albeit the retention of them constitutes " a hard case " ?

(4) Does Government sanction this breach of a condition under which the tax was paid in advance in 1921-22, and by a retrospective application of the Act of 1922 now in force, approve of withholding money to which Government is not entitled ?

(5) If not, are Government prepared to issue orders for the refund of all money taken in 1921-22 as income-tax for 1922-23 in excess of the tax actually payable for 1922-23 ?

The Honourable Sir Basil Blackett : The answer to the first part of the question is in the negative. As regards the second part, section 18 of the Indian Income-tax Act, 1918, provided that the sum of income-tax payable by an assessee for the year in which a return was made should be assessed on the basis of the return, while section 19 enacted that when in any year the total income actually received by or accrued to an assessee in the previous year had been ascertained, the Collector should compute the income-tax which would have been payable in respect thereof if it had been levied in such previous year with reference to the amount of the income so ascertained and the law then in force, and the difference between the two sums should be demanded or refunded as the case might

be. Section 19 was kept alive by section 68 of the Indian Income-tax Act, 1922, so far as assessments relating to the year 1921-22 were concerned.

The Government of India have no knowledge of any refusal to make adjustments and will be glad if the Honourable Member will communicate the necessary details to the Board of Inland Revenue in order that inquiries may be made.

AIR FORCE AT DRIGH ROAD.

125. **Colonel Sir Henry Stanyon :** With reference to the Air Force at Drigh Road, Western Command, will Government be pleased to state :

- (i) The number of officers and men there stationed ?
- (ii) The number of (a) flyers, and (b) groundmen ?
- (iii) The number of flights made monthly ?
- (iv) Under what limitations, if any, officers and men have the use of military motor-transport to and from Karachi, and whether transport by rail would not be considerably cheaper ?

Mr. E. Burdon : (i) There are 30 officers and 592 British other ranks stationed at Karachi.

(ii) All the British other ranks and 22 of the officers are employed on technical and administrative ground duties. The remaining officers form a small reserve of flying officers for squadrons in India and they as well as some of the other officers fly for purposes of practice.

(iii) The average number of flights made in a month in the last three months was 107.

(iv) Married officers and British other ranks, for whom accommodation at Drigh Road is not provided, are permitted to use the light tender and the lorry which run daily morning and evening for the conveyance of stores between Drigh Road and Karachi. The Officer Commanding, Aircraft Depot, is also permitted to use an official car while on duty, and the Officer Commanding in charge Port Depot at Kiamari is allowed the use of the tender which is in constant use carrying parcels, etc., from the Kiamari Docks.

The use of motor transport is therefore strictly limited. The transport by rail of those entitled to conveyance would involve extra expense which is at present avoided. But in any case the timings of the trains are quite unsuitable in relation to the hours of work.

BENGAL COAL SUPPLIED TO ADMIRALTY AND WAR OFFICE.

126. **Colonel Sir Henry Stanyon :** With reference to the monopoly contract for the supply of Bengal Coals at Karachi for the British Admiralty and War Office during the Great War, will Government be pleased to state :

- (i) To what firm or combination the monopoly contract was given ?
- (ii) On what terms and for what period ?
- (iii) The number of tons (a) paid for, and (b) delivered, and the explanation of the shortage if any ?
- (iv) Whether there are any reasons, in view of the subsequent revelations, to suspect corrupt practices as regards this

contract either in Calcutta or at Karachi, and, if so, what steps Government are taking to bring the offenders to justice and to obtain restitution ?

Mr. E. Burdon : The Government of India have no information on the subject, but are inquiring. I will let the Honourable Member know the result.

POSTAL LIFE INSURANCE FUND.

Mr. J. Ramayya Pantulu (Godavari, *cum* Kistna : Non-Muhammadan Rural) : Will the Government be pleased to state how the profits arising out of the administration of the Postal Life Insurance Fund are utilized and whether any portion of those profits is credited to the general revenues of the country ?

The Honourable Mr. A. C. Chatterjee (Industries Member) : I do not think, Sir, that we have accepted that question. I believe the Honourable Member gave notice to the Director General of Posts and Telegraphs and I understood from him that the Honourable gentleman had withdrawn the question.

Mr. J. Ramayya Pantulu : No, Sir. I met Mr. Clarke last evening. I told him I was going to put this question.

The Honourable Mr. A. C. Chatterjee : I did not accept private notice of the question.

Mr. President : I am afraid if the Member in charge of the Department has not accepted notice, the Honourable Member cannot get an answer.

Mr. J. Ramayya Pantulu : I want to clear my position, Sir. Mr. Clarke came to see me here in the morning and then I met him again in the evening. I said to him that I had better ask the questions formally and he said he had no objection. In these circumstances, I thought that the notice was accepted.

The Honourable Mr. A. C. Chatterjee : The Honourable gentleman addressed a letter to me, and I asked the Director General of Posts and Telegraphs, Mr. Clarke, to speak to Mr. Pantulu. I never gave any assurance to Mr. Pantulu that I had accepted the question.

Mr. J. Ramayya Pantulu : I give notice now, Sir, so that it may be answered the next day.

The Honourable Mr. A. C. Chatterjee : I cannot give an off-hand answer at present whether I can accept this notice.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I beg to present the Report of the Select Committee to which my Bill further to amend the Code of Civil Procedure was referred.

Mr. E. Burdon (Army Secretary) : Sir, I move :

“ That the report of the Select Committee on the Bill to consolidate and amend the law relating to the administration of cantonments, be taken into consideration.”

The scope and purpose and the important features of the Cantonments Bill must I think already be familiar to the great majority of Honourable Members of this Assembly, and, the report of the Select Committee which has examined the Bill being unanimous, I should not ordinarily have thought it necessary to trouble the House with more than a very few words in support of my motion. But in view of the large number of amendments which appear upon the paper, it is desirable that I should recapitulate the history of the measure, and emphasize once more the fundamental propositions which Government laid down for their own guidance in embarking upon a revision of the existing Cantonments Act and Code. The same propositions I may say have in effect been accepted by the Select Committee in arriving at their unanimous conclusions on the Bill. I will make my recapitulation as brief as possible. Well, Sir, as I pointed out when introducing the Bill, cantonments exist primarily for the accommodation and for the service generally of troops and when cantonments were first established the needs of the troops constituted the sole consideration by which the system of governing cantonments had to be determined. In the course of time, however, conditions have changed and there are many large cantonment areas in India containing a considerable civilian population whose presence in the cantonments has no specific connection with the troops or with the military administration. It is true that this civilian population has settled in cantonments and brought itself under cantonment law of its own free will, but time has, naturally, led to a demand for some change in the methods by which cantonments are administered. In the past few years the question has formed the subject of public discussion between, on the one hand, those sections of the public that are directly interested in the Municipal aspect of cantonment affairs, and the Government of India, on the other hand. In the result, an undertaking was given that Government would endeavour to introduce a liberal measure of reform into cantonment administration, provided that they were able to do so without sacrificing the fundamental principle that cantonments exist primarily for the troops and accordingly without Government foregoing such powers as are absolutely necessary in order to protect the health, the welfare and the discipline of the troops. I am going to assume that there is no Honourable Member of this House who would desire seriously to challenge the correctness of this principle, and that no elaborate demonstration of its correctness is required on my part. I will assume also that Honourable Members appreciate the fact that in India more stringent precautions are required in regard to the health of our soldiers than may be necessary in other countries. In India there is a much greater risk of serious epidemic disease which can only be avoided by preventive measures carefully devised and carried out with unremitting attention. We know also, unfortunately, that in the past few years the discipline and the morale of troops in India have been exposed to definite attempts at contamination, and the

danger of further attempts of the same kind has not wholly ceased to exist. We know on the other hand, to our satisfaction, that the attempts made in the past have been frustrated, primarily because the traditional loyalty of the Indian Army is a thing difficult to shake ; but it must also be recognised at the same time that the powers of prevention which Government have had available to them have contributed to the result. Turning to the other side of the picture, the desirability of introducing a more progressive form of cantonment government which, subject to the conditions laid down, shall accord with the present day demand for representative institutions, equally requires no justification from me on this occasion.

Essentially, therefore, the conception of the Bill is that it shall serve two well defined purposes, and that the provisions of law which it seeks to introduce shall deal justly and fairly with two important interests—the interests of the civil community and the interests of bodies of troops, the two living together in close association. But the interests of the troops have to come first. It is impossible to emphasize too strongly the importance of this aspect of the matter, and I ask Honourable Members to bear this fundamental principle continuously in mind when they are dealing with the Bill as a whole and with the amendments which we have yet to discuss. It has been postulated by Government from the start that cantonments cannot be turned entirely into municipalities. As a matter of fact I don't think that any one has ever suggested that such a thing should be done, but I lay stress on the point because it is essential to a proper understanding of every feature of the Bill which the House has now to deal with. There is no amendment of substance on which a proper conclusion can be reached without applying this vital consideration. Once the principle is accepted, it is a relatively easy matter to determine what the points of difference between cantonment and municipal administration should be. But if the principle should not be accepted, then the Bill as a cantonments Bill would fall to the ground. I do not propose at this stage to touch on any of the detailed provisions of the Bill ; an opportunity of doing so, where necessary, will be given to me later. I may mention, however, that what I may call the municipal portions of the Bill have been borrowed almost entirely from the most recent Municipal Acts where these deal with subjects of the same or cognate character. This I think will serve to explain why the amendments proposed by the Select Committee are so few, relatively to the size of the Bill. I desire also to draw attention now to the recommendations made on two administrative points by the non-official Members of Select Committee. Those will be found in paragraph 3 of the report. In the first place, the Select Committee have expressed the view that the ultimate control of cantonment administration under the reformed system should be exercised by the Government of India in the Army Department and not by any executive military authority. In this view the Select Committee, I may explain, do not challenge the powers which, under the Bill, it is proposed to vest in specified military authorities. They are referring to the general control which will be exercised at Headquarters ; and I may say at once that the point which the Select Committee desire to make can readily be achieved in every matter of substance. Cantonment administration

[Mr. E. Burdon.]

is a central subject, and the powers of superintendence, direction and control in regard to cantonment matters will be exercised by the Governor General in Council, that is to say, ordinarily by the Government of India in the Army Department. The Bill, it will be observed, confers no power of control upon any executive military authority at headquarters. The Select Committee have also expressed the opinion that the Executive Officer, though he may be a military officer subordinate to the Army Department, should, like the Cantonment Magistrate of the present, be an officer in civil employ. Well, Sir, as the Select Committee have recognised, this is an administrative matter. The question whether the Executive Officer of the cantonment should be in civil or military employ constitutes one of the terms of service which will be framed for the Cantonment Magistrates Department, as reconstituted, when judicial functions are no longer to be exercised by the Executive Officer or Secretary of the Cantonment Committee. It is a matter on which a definite undertaking cannot be given at this stage, since the terms of service to be introduced will ultimately have to be referred, under financial rules, to the Secretary of State for India ; but I can assure the House that Government fully appreciate the importance of the matter and will treat very favourably this particular proposal of the Select Committee. They are fully alive to the importance of the point of principle which it involves. This assurance, however, is subject to the post of Executive Officer being constituted on the basis laid down in the Bill as amended by the Select Committee. If any change were to be made in regard to this, the whole matter would obviously acquire a different complexion. There is nothing further, Sir, which I need bring to the attention of the House at this stage, but before concluding, I may explain quite frankly that so far as the requirements of the troops alone are concerned, the existing Cantonment Act and Code are entirely satisfactory to the military authorities and judging by the number of amendments on the paper and the shortness of the time available, to this Assembly, for their consideration it seems to me to be not impossible that the military authorities may have to put up with the existing law for some time to come. The Government however are themselves anxious that the interests of the civilian population of cantonments should receive an ampler recognition than the existing law provides ; and with this object in view they have been at some pains to bring the Bill before this Session of the Legislature. Government ask the House to leave in their hands certain essential powers in matters affecting the health, welfare and discipline of troops and also the means of exercising these powers effectively. Government do not ask that they should be given more in these respects than the Select Committee in their unanimous report have recommended ; and the last point of all to which I desire to draw attention is that the Select Committee included in its numbers two Members, one of them the President of the all-India Cantonments Association, which has been prominent in urging the reform of cantonment administration to which the Cantonments Bill seeks to give effect.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, while we welcome the new Cantonments Bill, I think there is a feeling on the part of the Members of this House that the Bill might have been improved

much more than it has been, as I shall presently show. The spirit of new reforms is grudgingly acknowledged in several sections of the new Cantonments Bill. The Cantonment Reforms Committee, for instance, recommended that the Cantonment Boards should consist of 21 Members. I find from the Bill that provision is made for only 16 Members, of whom 8 will be *ex-officio* and nominated Members. The other 8 will be elected. Now, if these elections had been confined to election by civil population, excluding not only the soldiers but all military element, I would have expected that there would be some counterpoise between the elected and the nominated Members. But as it is, excluding soldiers, I find that the military people would be entitled to take part in the elections alongside of the civil population. The result would be that there would be a preponderance of military nominees on the Cantonment Board. So much for the constitution.

It seems to me that extraordinary power has been conferred upon the Magistrate, the President of the Board and upon certain officers of the Cantonment, to suspend the action of the Cantonment Board, though it may have been recommended by a large majority of the Board. I shall deal with this point when the question comes up under the proper clause. It seems to me, Sir, that the true solution of the question we have in hand might be found in separating what is known as the Cantonment bazaars from the proper cantonment area. Very large cities have grown up round the cantonment areas and it seems to me that these cantonment bazaars and cities which cluster round the cantonment areas should be brought directly under Municipal control. There is no reason why by the mere fact of their juxtaposition to the cantonment areas they should be classed as cantonments and subjected to the cantonment regulations and Cantonment Code. Power is given to the Government to separate the areas from Cantonments proper, and I hope the Government will freely exercise their power and separate the civil population as far as possible from Cantonments proper. This is especially necessary in view of the very drastic procedure contained in section 239 of the Cantonment Code to which I beg to take strong exception. Now, if Honourable Members will turn to that section, they will find that the most drastic power has been conferred upon the Cantonment Commanding Officer to exclude a person from the Cantonment area, not only a person who "does not act which he knows is likely to cause disloyalty, disaffection or breaches of discipline" but also "a person who, the Commanding Officer of the cantonment has reason to believe....

Mr. President : Order, order. That will be in order on the discussion of the clause, but not on this motion.

Dr. H. S. Gour : No, Sir. I beg respectfully to submit....

Mr. President : Order, order. The Honourable Member will accept my decision.

Dr. H. S. Gour : I wish to point out that these are drastic provisions of the Cantonment Code and therefore it is all the more necessary that the civil population should as far as possible be separated from the cantonments proper.

[Dr. H. S. Gour.]

Now, Sir, there is another point upon which I should like to make an observation. It is this. In the Municipalities when a person wishes to build or re-build, he gives notice to the Municipality. He waits for a certain time and if after that time, the Municipality neither sanctions nor refuses sanction to his application, he is at liberty to proceed with the construction of the building.

Here, after waiting for a certain time, he has again to apply and remind the cantonment authorities of the dereliction of their duty, and then, if the cantonment authorities still do not pass any orders upon his application.....

Mr. President : Order, order. That again is a matter of detail. I must point out to the Honourable Member that there are over 200 clauses in the Bill. If I allow him and the other Members to discuss details of that kind, we shall be considering this Bill till midnight and then will not have reached clause 1.

Dr. H. S. Gour : I was merely illustrating a few leading cases presented to me in the Bill itself to show its outstanding defects, and it is only by way of illustration that I am pointing out one or two instances, not necessarily instances which will come up for discussion, to show how the Cantonments Bill is defective and contains defects which might have been remedied. These are the observations which I have to make generally upon the Bill. It has been said by the Honourable the Mover of this motion, that he is anxious to proceed with this piece of legislation during the present session of the Assembly. We reciprocate his sentiments and we shall try and do all that lies in our power to facilitate the passage of the Bill. My Honourable friend here reminds me that there is another serious, and almost a glaring defect in this Bill, namely, no provision for the making of budgets. We all know that the Cantonment Code is intended to bring about a sort of municipal administration within the cantonment area, and while we recognise that certain exceptional provisions must exist in this Bill because of the necessity of preserving discipline and order within the cantonment areas, I fail to see why no provision is made for the preparation of a budget, which I submit is the very foundation of all administration and ought to be the foundation for cantonment administration. On these grounds, Sir, I submit that the Bill ought to have been further improved, and I can only venture to hope that, after this Bill is passed with such improvements as we may be able to effect therein, the Government will not delay in revising it so that it may be brought into line with the proper view of what cantonment administration ought to be.

Mr. Pyari Lal (Meerut Division : Non-Muhammadian Rural) : With reference to certain observations which have fallen from Dr. Gour, I am sorry to observe that he has not read through the provisions of the Bill with as much care as we generally find him displaying in ordinary measures. Sir, he has stated that the Bill contains no provisions for the drawing up of annual budgets. If he had only read section 280, he would have seen that we have made a provision for that purpose, and though that provision may not be in the form in which he desires, still

that provision exists. Sir, as has been observed by the Honourable the Army Member, this measure is a measure of an exceptional character. Those who have lived in cantonments and who have hitherto had some experience of the autocratic military administration which prevailed there, will fully realise the vast improvement which is sought to be made in this measure. The one god of the cantonment, the Cantonment Magistrate, was hitherto supreme. He could do anything and everything ; he was his own complainant and his own magistrate, and there was no help against his orders. Now, that state of thing has been done away with. The Cantonment Magistrate as a Cantonment Magistrate has been eliminated. Now does this not represent a vast improvement on things as people at present find them ? There are certain other matters in which, when we come to discuss the provisions, you will notice that this Bill is a vast improvement on the existing law of the cantonment, and that I think ought to be a source of very great satisfaction to the Honourable Members of this House. Instead of picking holes here and there, they ought to be satisfied that something is better than nothing. The half loaf is better than no loaf at all. We in this world need not proceed on abstract principles, but must be practical. We must take as much as we can possibly get, and out of the military we have secured a great deal and that ought to be a very great source of satisfaction. Two opposing principles had to be reconciled, and I must congratulate our Army Member that he has been able to reconcile them. He had to maintain the first principle that while these cantonments are maintained, they are for the military in the first instance. The military interests are supposed to be all supreme. The second principle was that the requirements of the civil population had to be considered and their aspirations in the way of representative government had to be satisfied, and we have been agitating for very long in this matter, and I am very thankful to say that the Government have come to our help and yielded in respect to that matter. Therefore the framing of this law was not an easy matter. It was a very ticklish and intricate matter, and two opposing claims had to be reconciled, and I must again congratulate the Army Member on his having been able to do so to an appreciable extent. I know he has been labouring very hard at this, and for the happy result which he has been able to bring about, we ought to be very thankful to him. And as he has observed, I want the Honourable House to remember that, if through our fault-finding, or our criticisms, we are not able to see this Bill through in this session in this Assembly, that is either to-day or on Thursday, the whole thing lapses and all the efforts we have made for years will fall to the ground. I must assure the Honourable Members that in this Bill the Government has made the utmost concession it was possible for them to make while keeping the principle that cantonments exist primarily for troops in view.

Pandit Devi Prasad Shukla (Allahabad and Jhansi Divisions : Non-Muhammadian Rural) : Sir, as I go through this Bill I am afraid I find that I must differ from the Honourable Member who has just delivered his speech. He says half a loaf is better than none. I am afraid I find that the Bill does not give us even a few crumbs, not to say half a loaf. Sir, the Bill gives us a new constitution in which the Government propose to have an official majority. And then again we find that the employees

[Pandit Devi Prasad Shukla.]

of the Board generally are not to be appointed by the Board, a Board wherein there is an official majority, so that it is only a shadow and not a substance which is being given to us. Sir, I cordially associate myself with the sentiments which have been expressed by my learned friend, Dr. Gour.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, so far as the congratulation to the Army Member goes, I am willing to join my friend, Mr. Pyari Lal in saying that the Honourable Mr. Burdon has been very anxious, solicitous and sympathetic to the interests of the people living in the cantonments, but so far as the Bill before us is concerned, I beg to differ from my Honourable friend Mr. Pyari Lal, who happens to be the Chairman of the all-India Cantonments Association but who at present has taken upon himself to champion the cause of the Government. There is a saying, Sir, that a person who has been starved for a long time will even content himself with the berries of the forest or the roots and leaves of trees. Similar is the condition of Mr. Pyari Lal. If my friend Mr. Pyari Lal is working on that principle, then I have no grievance against or quarrel with him ; but the moment he accepts the extension to cantonment areas of the principle of representation and the principle of reforms in the cantonments in other areas, then I beg to differ from him in saying that we should accept even a half-hearted measure, which does not provide any of the good things which should have been provided there and which are generally to be met with in the Municipal Acts. Many of the defects in this Bill were pointed out by Dr. Gour, but there are also other defects relating to rights of appeals, to the powers given to the executive officers and other person on the Cantonment Boards. I may concede to the Army Secretary that, so far as the health, welfare and discipline of the troops is concerned, the military authorities must have some real power in their hands, but, so far as the civil population and their welfare and convenience are concerned, I beg to say that such power should be curtailed and there should be a compromise in the matter of such powers. Now, so far as appeals or revisions in this Bill are concerned, Honourable Members will find that there are practically no rights of appeal or revision worth the name. Some power has been given but that is a very limited and restricted one which may not meet with the justice of the demand of the people in the cantonment areas. Ordinarily, I would have opposed this measure, but, looking to the solicitude and eagerness of friends like Mr. Pyari Lal and others, who are very anxious to see this Bill passed even in its present form, I do not desire to go against their wishes ; but I, for one, would certainly like to correct and amend the existing defects in the Bill, so far as possible, on the floor of this House.

With these words, I support the motion that the Bill may be taken into consideration.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, to my mind this Bill is decidedly an improvement and I think the Government and the Honourable Member in charge of this measure must be thanked. But, when I say this measure is decidedly an improvement, I ought not to be misunderstood. What I mean to say is this. Improvement there is, but,

all the same, there are a number of defects. Some of the defects are of a very complicated nature and, if we were to advert to some of them, I am afraid it would take a number of days. But since we desire that this work may be expedited, we have therefore contented ourselves with tabling a few amendments, which, to our minds, seem to be very useful.

I shall make one reference only with reference to the opinion expressed by the Mover of this motion. He tells us that it should not be forgotten that it is not a question of a Municipal Act. Decidedly not, but he must bear in mind that, so far as the civil population is concerned, the principle of the Municipal Act ought, to a certain extent, to be considered applicable.

With these few remarks I whole-heartedly support the motion.

Mr. W. M. Hussanally (Sind : Muhammadan Rural) : Sir, I beg to associate myself with my friend, Mr. Pyari Lal in congratulating Mr. Burdon and the Military Department on having launched this measure of importance for the purpose of liberalising cantonment administration in India. Along with Mr. Pyari Lal I have also taken some little interest in this measure and, so far as possible, I have given my best attention to the Bill, as it has been presented to the House to-day. The liberalisation of the government of cantonments, as exhibited by this Bill, is one which deserves the whole-hearted support by this House. No doubt, as pointed out by my friends, Dr. Gour and Dr. Nand Lal, there are some defects in the Bill as presented to them, but these defects are of a minor character. The main principle of the Bill is in the grant of the franchise to the inhabitants of cantonments, and that principle having been conceded by Government, we cannot be too thankful to them ; and from that point of view I think it will behove the House to present no difficulties in the passage of this Bill to-day. It must be conceded that cantonments are intended for the welfare and discipline of the troops located therein in the first instance, and the proximity of the bazars to the quarters inhabited by the troops is a matter which Dr. Gour must take into consideration before he can import an absolute municipal government into the cantonment areas. It must also be remembered that these military bazars are in the first instance meant for the benefit of the troops and the troops frequent these bazars every day, and the proximity of these bazars to the military barracks must necessarily make the Government a little more careful about sanitation and the prevention of diseases therein, so that the troops should not be affected. From that point of view I think the control of the military department over these bazars must be stricter than in ordinary municipalities. Dr. Gour referred to the separation of these bazars from the cantonments. That is a matter which, I think, is before the Government, and within a short time we expect that in large cantonments the civil part of the population of the cantonments will be separated from the actual cantonments ; but, with all that, it must be conceded that there must be a stricter control over these bazars than in ordinary municipalities for the reason I have stated above.

Reference has been made by Dr. Gour to section 239. I can assure Dr. Gour that every one of us on the Select Committee bestowed very careful attention on that section and, if he will compare the section as it has been presented to him to-day with the section as it existed in the old Code,

[Mr. W. M. Hussanally.]

namely, section 216, he will find that there is a vast change even in that section, and the powers of the military authorities with regard to the expulsion of people from cantonments have been very considerably restricted. I daresay even the present section will be amended as time goes on and the political atmosphere is a little calmer. But that section should not frighten Dr. Gour. If people choose to go into cantonments and try to tamper with the discipline or loyalty of the troops, surely there must be some drastic measure in the hands of the military authorities to remedy that defect and to stop people from interfering with the troops.

That principle must be conceded, and you will find that so far as this section is concerned, he has got the right of appeal and the whole matter, after expulsion, will be very carefully gone into and decided. With these words, Sir, I beg the House not to waste much time upon many of the amendments that have been put forward to-day. Many of them, I think, are of minor importance and, therefore, might be left over to some amending Bill hereafter after we have seen the working of the present Bill when passed into law.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, there is an important question of principle connected with representation which Dr. Gour has overlooked and to which I desire to draw attention very briefly. It is natural that in a House like ours we should be anxiously careful to guard against encroachment when questions of people's representations are under consideration and it appears that we are not having all that we ought to have under the circumstances. The feeling of the House will necessarily be against any enactment that curtails permissible rights of representation. As has been pointed out, this is frankly a measure of compromise, and the Non-official Members of the Select Committee accepted it as such and proceeded on the basis of its having been accepted by those of our own people who are primarily interested in cantonments. It is not usual to refer to what happens in Select Committee meetings, but I am free to refer to what happened outside the Select Committee in this case and must do so. The President of the Cantonment Association and one of its most important Members with whom we conferred at length outside the Committee gave us the clearest assurance that the matters upon which they were trying to concentrate attention were the things that really mattered and they had the authority of their Association for the compromise. The Non-official Members proceeded on that basis and we tried to get out of the Government as much as was possible. That is one of the questions to which I am wanting to draw Dr. Gour's attention particularly. Like the budget section he has apparently overlooked sections 27 and 28 of the Bill. He has suggested that military men ought to be kept out of taking part in the elections. They are not permitted to take part as such. But how is section 27 (1) (a) worded ? It refers to those who are assessed directly and have paid taxes on their own behalf. How could you keep military men out if they were paying taxes and were being assessed just as the civil population were and they must be allowed the ordinary tax-payers rights ? I think it is to the credit of the Select Committee that they succeeded in getting two very important concessions which are embodied in the Bill. One is that

although the military may be permitted to take part in the elections because they pay taxes, they are not to be permitted to stand as candidates for any of the vacancies. The pertinent section provides :

" Save as hereinafter provided, every person, not being a military officer or a soldier, whose name is entered on the electoral roll, etc."

Therefore none of these elected 8 seats could go to any military officer or soldier. That is an important step in advance. The next thing that the Committee succeeded in getting is about the Vice-President. So far as the President is concerned, he has to be a Government nominee under the scheme. That, we were told, was one of the fundamental propositions without accepting which this Bill could not go forward. But when we come to the question of the Vice-President, it is enacted that he must be elected by and from among his elected Members and the official Members do not take part in this. I need not give the reference, for I shall not go into details at this time of the day. It is specifically enacted that the Vice-President is to be elected from the elected Members. That, Sir, is a proposition which I do not think has found place in many schemes of representation that we have had to deal with. I do not propose to take up the time of the House on this motion. We shall have plenty of opportunities of doing so when the amendments come up. I think Dr. Gour and Mr. Agnihotri have already profitted by the concluding sentences of Mr. Burdon's speech, namely, that if we are not going to have this Bill on the terms on which the Government is prepared to accept it, the Bill will have a very indefinite future. I do not want to give free advertisement to anybody but I want to draw attention to an advertisement which may be of interest in this concern. I am sometimes a careful reader of advertisements and I find a newspaper advertisement to the effect : " New Cantonment Bill will put up cantonment property 25 to 50 per cent. Many railway retired men wishing to buy property to stay on as it is cheaper, healthier, and more select than civil lines. All worries removed by this Bill. Safer investment than banking. A few houses can be had if applied for." I do not want to go further and say where one has to apply. The question before the House to-day is not only the future of cantonment investments but the interest of the civil portion of the cantonments without detriment to what are considered as military interest. I think that if we accept what we can get to-day out of the Government, the revising and supplementary measure will not be long in coming for the tendency is to liberalise cantonment administration.

Mr. J. P. Cotelingam (Nominated : Indian Christians) : Sir, as a member of the Cantonment Reforms Committee which met early in 1921, I would like to say a few words on the Bill before the House. The desire on the part of residents in cantonment areas for a revision of the existing Cantonment Code and the Cantonment Act was expressed for many years past. The Local Boards Acts and the Municipalities Acts had been revised several times before this, but there was no revision worth mentioning of the Cantonment Act and the Cantonment Code. The present Bill is the revision of the Cantonment Act that came into existence in 1910 and the Cantonment Code of 1912. The military authorities and those responsible for the administration of cantonment areas responded to the request that was frequently made by residents in cantonment areas

[Mr. J. P. Cotelingam.]

and especially by the all-India Cantonment Association that the time had come for a revision of cantonment law. A Departmental Committee therefore was appointed to consider what revision could be made and Mr. Craig, a Member of the Indian Civil Service was appointed President. That Committee presented its report. It was felt that non-official representation was lacking upon that Committee and a representative committee was therefore appointed in the beginning of the year 1921, and I remember the time that was given to the work of that Committee.....

Mr. President : The history of the measure was in order on the motion to refer the Bill to a Select Committee. The Bill has come back from the Select Committee, the House has endorsed the principle of it, and the matter now in issue is whether the report of the Select Committee be considered, and matters arising out of that. All this past history may be very interesting, but it is entirely irrelevant.

Mr. J. P. Cotelingam : I have come to the point. I therefore welcome this Bill and my only regret is that the Bill could not come up at an earlier stage of the Session. I read through the report of the Select Committee, and while I regret very much my absence on the Select Committee to which I was invited, I found that the Select Committee went very carefully through the draft Bill and made very valuable suggestions and alterations. Last night I was staggered to see the formidable array of amendments that were presented to the Bill and this morning it almost took my breath away when I saw a further addition to the amendments that were presented, numbering over a hundred. I wish, as I have said already, that this Bill could have been taken out at an earlier stage of the Session. At any rate, after having waited for more than four long years for a revision of the cantonment law, I should be very glad if those who have proposed amendments will not take up much time if they are of minor importance, and as has been mentioned by my Honourable friend, Mr. Hussanally, if necessary an amending Bill may be brought later on. With these remarks, Sir, I welcome once more the Bill which is now before the House.

The motion was adopted.

Mr. President : We will postpone clause 1. Clause 2.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : I beg to move :

"That in clause 2 (i) for the words 'Officer Commanding the District', substitute the words 'Cantonment Board'."

I must take this opportunity of thanking the Honourable Mr. Burdon and other Members of the Select Committee for improving the Bill so far, but then it does not come up to the mark and there are some minor defects and it is for this reason that I am proposing this and other amendments. The Cantonment Reforms Committee recommended that the appointment of Assistant Health Officer and Health Officer should be in the hands of the Cantonment Board. This is similar to the appointment of Health Officers in Municipal Boards. It is very necessary that the

health and sanitation of the military and civilian population should be safeguarded. There is no reason to doubt that the appointment made by the Cantonment Board would not be a suitable one. Of course, with the constitution of the Cantonment Board as it is likely to be, it is not to be feared that they would appoint some inefficient man to fill the post or that they would appoint a non-co-operator who would tamper with the army. I would be the last person to allow any such thing to be done. It is a most serious thing, no doubt, that there should be any element in the cantonments which might create a danger of that kind. At the same time, I submit that there is no reason why the Cantonment Board should not be entrusted with this job. So, I move this amendment.

Mr. E. Burdon : Sir, the general observations which I concluded only a short time ago are directly applicable to this amendment. The amendment seeks to attack a provision of the Bill which embodies a principle regarded by Government as fundamental. Government cannot divest themselves of their responsibility for the health of troops, nor can they lose the means by which alone they can discharge that responsibility in a satisfactory manner. It is essential that the Assistant Health Officer, and I may say the Health Officer also, of the cantonment should, as at present, continue to be officers of the Military Medical Services, selected and appointed by Government. Government, I may say, will also continue to pay their salaries, and I must here remind my Honourable friend of a fact—of which I think Dr. Gour too is not aware—the fact that apart from anything else, very few cantonments could afford to pay the salary which a competent Health Officer or an Assistant Health Officer would require. There are many cantonments in India that are not self-supporting. They receive grants-in-aid from the Army estimates. But, even if a Cantonment Board could afford to pay the salary required, it could not be in a position to obtain from a source outside the Military Medical Services an Assistant Health Officer or a Health Officer who is trained in the special requirements of the troops. Further, even if my Honourable friend were to gain his point, Government would still have to employ with troops some, if not all, of the officers of the Medical Services who at present also act as Assistant Health Officer or Health Officer. I do not know if the House is aware that the Health Officer is generally the Senior Medical Officer in charge of the Station Hospital, either the British Station Hospital or the Indian Station Hospital. They would continue to be employed, and though they would have a certain amount of scope for curing sickness, they would be deprived of their powers of preventing sickness among troops. Apart from the question of general principle, the Assistant Health Officer as I have explained is generally an officer of the Indian Medical Service or the R. A. M. C. : and supposing a Cantonment Board were willing that this arrangement should be continued but that the selection should rest in their hands, you would then have the anomaly, and the entirely impossible situation, in which the posting and transfer of officers of the Indian Medical Service and the R. A. M. C. would be dependent on the will of individual Cantonment authorities. I ask the House to reject this amendment. It is really based, as I think my Honourable friend's speech has clearly shown to you, upon a desire to turn the Cantonment into a Municipality. He definitely quoted the Municipal analogy, and in this particular

[Mr. E. Burdon.]

matter the change would be wholly foreign to the scope and purpose of the Bill.

The amendment was negatived.

Mr. President : The same applies to that standing in the name of Dr. Nand Lal, and I think also to part (ii) of his amendment which raises precisely the same issue but in another form.

Dr. Nand Lal : The second part of my amendment refers to a different point. Of course, so far as (i) goes, it should be considered to have been decided along with the amendment of Mr. Agarwala, but the second part of my amendment relates to a different point. Am I allowed to proceed ?

Mr. President : If the Honourable Member heard the speech of the Army Secretary, he will find that it covered both the Assistant Health Officer and the Health Officer. If the Honourable Member can show me the real distinction I will allow him to make a speech.

Dr. Nand Lal : My object is not only to make a speech. My object is to point out the defect and if the Honourable Member in charge of the Bill accepts my suggestion it will be of great benefit. The definition of Health Officer, as it is given in the present Bill, is, you will be pleased to find on page 3 :

“ ‘ Health Officer ’ means the senior executive medical officer in military employ on duty in a cantonment.”

You will agree with me, Sir, that this definition on the very face of it seems to be defective. Mark the words “ on duty ”. If he is not on duty, then he is not to be considered as Health Officer though he is an incumbent whose designation is Health Officer. The other objection which I have got to this definition is this, that here it is not clearly laid down who will appoint this medical officer. In consequence of these two defects I have been prompted to move this amendment which runs as follows :

“ For clause 2 (xiv) substitute the following :

“ ‘ Health Officer ’ means the medical officer appointed by the Cantonment Board with the concurrence of the Officer Commanding the District to perform the functions of a Health Officer for a Cantonment ’.”

Sir Deva Prasad Sarvadhikary : And where are those functions defined ?

Dr. Nand Lal : You need not trouble about that. I am referring to the definition but I am not referring to the side issues of that definition. You will be pleased to see the recommendation made by the Cantonment Reforms Committee. You will find that recommendation on page 29 of that report. It says :

“ Since the medical officer or health officer as he is now named receives an allowance from the cantonment fund the committee are of opinion that the cantonment authority should be the authority for appointing its own health officers to be in charge of the hospital or dispensary. It appears to us that it is quite unnecessary for the Local Government to interfere at all in this matter. It is not done in municipalities as the Board alone has the power of appointing, dismissing or discharging.”

Here I submit there is some sort of analogy between the cantonment authority and the municipal board. We find in municipalities the health officers are appointed by the municipal boards and therefore it seems proper that this medical officer also may be appointed by the cantonment board, no doubt, with the concurrence of the officer commanding the district. With these few remarks I commend my amendment to the consideration of the House.

Mr. President : Amendment moved :

“ For clause 2 (xiv) substitute the following :

“ ‘ Health Officer ’ means the medical officer appointed by the Cantonment Board with the concurrence of the Officer Commanding the District to perform the functions of a Health Officer for a Cantonment ’.”

The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri : I beg to move :

“ That in clause 2, sub-clause (xxii), the words ‘ or offence to the sense of sight, smell or hearing ’ be omitted.”

Sub-clause (xxii) provides the definition of nuisance. Nuisance is such a simple word that its meaning is very well known to everybody knowing the English language. Nuisance generally means anything that causes inconvenience, hurt or damage and from that meaning, it has developed as Dr. Gour points out to mean anything that we do not like. Now, I do not find the necessity of providing in this Bill any definition of the word ‘ nuisance.’ Nuisance is of two kinds, public—which affects the people in general—and private. Public bodies are generally concerned with the nuisance that affects the public at large. It would have been much better if instead of nuisance the public nuisance as defined in the Penal Code had been defined here. Public bodies should have no concern with a private nuisance, the same thing may be quite pleasant to a particular person at a particular time and in particular circumstances and localities and the same thing may be repugnant or offensive to other persons in the same localities and circumstances. Now for instance take the chewing of betel. It may be pleasant to me but it may be offensive to my European friends. Now smoking may be pleasant to them but offensive and repugnant to me. So in the case of Indian music. Indian music may be repugnant to my European friends and may be very pleasant to my Indian friends. So the insertion of these words here in the definition is improper and is also superfluous and redundant because that is covered by the word ‘ annoyance.’ Further, we deal with nuisances in Chapters IX and X of this Bill. In Chapter IX we have provided all the possible acts, omissions and things that may be considered to be a nuisance. When they have once been specified where is the necessity to provide a definition at the beginning of the Bill. It may be said that clauses 133 and 134 deal with nuisances in general and not with any specific thing or act of nuisance, but even in that case it does not seem necessary to insert a definition of nuisance in the Act. As I said, the same thing may be pleasant to one and repugnant to another, these words are not only redundant and unnecessary but shall prove to be dangerous according to the peculiar whims of officers. Therefore I propose that these words be deleted from this definition of nuisance.

Mr. E. Burdon : I will confine myself strictly to the limits of Mr. Agnihotri's amendment. I think the House will agree that anything which causes offence to the sense of sight or smell or hearing is a nuisance, whatever Mr. Agnihotri may say to the contrary and I think that most dictionaries would support the view which I have stated. The only other thing I have to say on this amendment is that the definition is borrowed from the Madras Municipal Act of 1920, which is one of the most recent of the Municipal Acts.

Mr. President : Amendment moved :

" In clause 2, sub-clause (xxii), omit the words ' or offence to the sense of sight, smell or hearing '."

The question is that that amendment be made.

The motion was negatived.

Mr. President : No. 5* is not an amendment.

Clauses 2 and 3 were added to the Bill.

Dr. Nand Lal : I beg to move :

" That in clause 4 (2) and (3), for the words ' six weeks ' the words ' three months ' be substituted."

If you will be pleased to see the provisions of clause 4, you will come to this conclusion that it relates to the alteration of limits of cantonments. If the limit of any cantonment is altered, namely, if some land is included in it or some area is excluded then that alteration will be notified in the Gazette. The time that is allowed to the public for raising its voice against it is only six weeks. To my mind this time is insufficient. Sometimes ignorant men and illiterate men cannot get information within time and afterwards they raise a hue and cry and it gives rise to a good deal of grievance and discontent. Therefore to obviate this complaint, I have given notice of this amendment, so that if any person wants to bring an objection against that alteration he may make his petition within time. With these few remarks, I commend my amendment to the consideration of the House.

Mr. President : Amendment moved :

" In clause 4 (2) and (3), for the words ' six weeks ' the words ' three months ' be substituted."

The question is that that amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, I do not propose to move the first two parts of my amendment as they are practically covered by the amendment which has just been lost. I move :

" That at the end of clause 4, add the following sub-clause :

' (4) Any person aggrieved by any action taken under this section may claim compensation in a civil court for actual loss resulting directly from the said order in respect of any property possessed or owned by him '."

I desire that the persons whose property might be affected should have the right to get some compensation either by amicable arrangement or by suit. The idea is that when the limits of a cantonment are

changed sometimes that has a material effect on the property or business of those living there in or carrying on their profession in Cantonments. It is for this reason I beg to move this amendment.

Mr. President : The amendment does not seem to me to be in order under this clause. The scope of this clause is the notification in the Gazette of the intention to include a certain area within a cantonment and the period within which that may be done. This amendment must be brought in somewhere else.

Clause 4 was added to the Bill.

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

Clauses 9 and 10, as amended by the Select Committee, were added to the Bill.

Dr. Nand Lal : Sir, you will be pleased to see the provisions of clause 11 in the Bill which says :

" The Governor General in Council may, by notification in the Gazette of India, order in respect of any cantonment that a Cantonment Board shall be constituted therein, and may, by a like notification, order that any Board so constituted shall cease to exist."

Now, this provision....

Mr. President : I really must ask the Honourable Member not to repeat verbatim the words we all have printed before us, otherwise I shall have to rule him out for deliberating wasting the time of the Assembly.

Dr. Nand Lal : Sir, I am not prepared to give a reply to what has dropped from your lips. I might simply say I shall obey but it is extremely difficult to explain the position without repeating the source from which the difficulty arises. However, in compliance with your order I shall not read out, but it will be extremely difficult to explain my case.

Mr. President : I told the Honourable Member that it was unnecessary to read the words of a clause verbatim. It is a habit that he has fallen into and I ask him to break it.

Dr. Nand Lal : Well, the amendment which I wish to move is :

" That for clause 11, substitute the following :

' 1. There shall ordinarily be a Cantonment Board in every cantonment which has a population of at least 2,000 persons '."

I am moving this amendment in two parts. Now, in the provision embodied in clause 11 no definite number of inhabitants is given. Therefore a great deal of doubt may arise in some cases. A place with a population of 5,000 may not be allowed a Cantonment Board, whereas another place with only 500 inhabitants may be given one. To obviate this ambiguity and defect I move this amendment. The first part deals with a place whose population is 2,000. That may be considered to be a fit place in which a Cantonment Board may be constituted. The other part of the same amendment is this :

" 2. The Local Government may by notification in the local Official Gazette order, in respect of any cantonment, where a Board does not already exist, that a Cantonment Board shall be constituted therein."

[Dr. Nand Lal.]

As I have already explained, there are two conditions. First, if there is a cantonment whose population is 2,000 then that cantonment may be given a Cantonment Board necessarily. But if there is another cantonment whose population is less than that, then it rests with the Government to allow a Cantonment Board there. With these few remarks, I commend my amendment to the House.

Mr. President : Amendment moved :

“ For clause 11, substitute the following :

‘ 1. There shall ordinarily be a Cantonment Board in every cantonment which has a population of at least 2,000 persons.

2. The Local Government may, by notification in the local Official Gazette, order, in respect of any cantonment, where a Board does not already exist, that a Cantonment Board shall be constituted therein ’.”

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I think Dr. Nand Lal is trying to give to cantonments a Cantonment Board in localities where neither municipalities nor notified areas would be started, say, for instance, in the United Provinces. In the opinion given by the Government of the United Provinces, there was a significant passage in which they said that Cantonment Boards will not be strictly comparable with Municipal Boards. “ None the less it is thought,” they observed, “ that the size of the towns to which it has been found desirable to grant a municipal constitution affords some indication of the size of the civil population in a cantonment which should be regarded as entitled to the privilege of electing representatives on the Cantonment Board. Now, there is in the United Provinces no municipality with a population of less than 7,000. Even the limited constitution of a Notified Area has not been granted to any town with a population of less than 3,500, with the exception of five localities which are all exceptional, being either hill resorts or important railway junctions.” Now, this question was considered by the Select Committee and they thought it was no use laying down any such hard and fast limit, either 7,000 or 3,000 or 5,000. It may be, having regard to the locality and the nature of a particular cantonment, that, although the population may be even less than 2,000, it may still deserve special treatment, and, therefore, we left the section as it is, namely, leaving it to the Governor General in Council, by notification in the Gazette of India, to order in respect of any cantonment that a Cantonment Board shall be constituted therein. I trust the House will accept the provision as it is in the Bill.

Mr. Pyari Lal : If this provision in section 11 is read with the provisions of section 14 the point would be cleared up. In section 14 it is provided that every place which has a population of at least 2,500 and over, shall have a Cantonment Board and half the members thereof shall be elected members.

Sir Deva Prasad Sarvadhikary : No. That is not the provision there.

Mr. Pyari Lal : Yes, in section 14 it says :

“ Provided that in the case of any cantonment in which the total civil population is, according to the latest census, less than 2,500.”

The elective principle will not be introduced. But if it is over that, the elective principle must be introduced. So, therefore, the Government may not give a Cantonment Board to every town, no matter what its population is, but if its population exceeds 2,500, then the elective principle shall be introduced therein, and in towns where the population is less than 2,500, there the elective principle shall not be introduced ; so practically it comes to this that every place having a population of more than 2,500 will have a Cantonment Board on an elective basis ; and therefore this amendment to my mind is uncalled for.

Mr. President : The question is that the amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, my amendment is to the effect that in every case it is optional whether to have a Board or not, but in cases where the civil population is over 2,500 there shall be a Cantonment Board. I move my amendment.

Mr. President : Amendment moved :

“ To add the following proviso to clause 11 :

‘ Provided that there shall be a Cantonment Board in every cantonment which has a civil population of not less than 2,500 persons according to the latest census ’.”

Mr. E. Burdon : Sir, the matter is really covered by the remarks which my honourable friend, Mr. Samarth, made on the last amendment. In order to decide the question whether there should be a Board or not, the numerical test is not always the most satisfactory. There may be cantonments with a population of over 2,500, where it would be quite unsuitable to have a Cantonment Board. On the other hand, there are cantonments with a population of considerably under 2,500 where it is desirable to have a Cantonment Board. The form in which we have drafted the Bill was therefore considered to be the most convenient and most satisfactory, and I think the House will agree.

Lala Girdharilal Agarwala : Sir, I withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clause 11, as amended by the Select Committee, was added to the Bill.

Clause 12 was added to the Bill.

Mr. President : Clause 13 :

Mr. K. Rama Ayyangar (Madras and Ramnad cum Tinnevely : Non-Muhammadan) : Sir, my amendment is a drafting amendment. You will see from clause 10, sub-clause (2), that for the Presidency towns the authorities to be appointed are left to the Local Government and from clause 13 that the executive officer of every cantonment shall be appointed by the Governor General in Council. So I only suggest that these words should be inserted. I move :

“ In clause 13, insert the words ‘ other than those in the Presidency towns ’ before the words ‘ shall be appointed ’.”

I hope my amendment will be accepted.

Mr. President : In clause 13 amendment moved :

“ To insert the words ‘ other than those in the Presidency towns ’ before the words ‘ shall be appointed ’.”

Mr. E. Burdon : Sir, I do not think the addition of these words is really necessary. If there is no executive officer, he cannot be appointed by the Governor General in Council.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Lala Girdharilal Agarwala : Sir, the object of my amendment is to give to the Cantonment Board power to punish or dismiss executive officers. It is with this object that I move my amendment.

Mr. President : Further amendment in clause 13 moved :

“ To add the following at the end :

“ The Executive Officer in a Cantonment where there is a Board shall be liable to punishment or dismissal by such Board and in other cases by the person making the appointment ”.

Mr. E. Burdon : Sir, I find it a little difficult to deal with this particular amendment of Mr. Agarwala's. I do not know whether he intends to attack the principle that the Executive Officer is to be appointed by the Governor General in Council and is to be a servant of the Government and not a servant in that sense of the Cantonment Board. What he is actually proposing, so far as I can see, is that the Executive Officer, even if appointed by the Government, shall be liable to be punished and dismissed by the Board. That, I am afraid, is quite impossible.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clause 13, as amended by the Select Committee, was added to the Bill.

Lala Girdharilal Agarwala : Sir, the object of my amendment is that as there are to be a certain number of members of the Government, nominated members, the number of elected members should be double of that so that one-third shall be nominated members and two-thirds elected members. The Honourable House will remember that the military population also have got the right of vote, so it is likely that some of the persons who would be elected would belong to the military population and some to the civil population ; so on the whole I think there should be an elected majority. But that would not do much harm, on the contrary it would safeguard the interests of the civil population as well as of the military population. I move my amendment.

Mr. President : Amendment moved :

“ In sub-clause (1) (f) in clause 14, for the words ‘ equal to ’ substitute the word ‘ double ’.”

Mr. E. Burdon : Sir, I oppose this amendment without any reservation. It is against the basic conception of the Bill, it conflicts with the hypothesis from which the whole of our present proceedings started, namely, that a special form of administration is still required for military cantonments. I have already said a great deal on this subject, and I am sure that it is unnecessary for me to say very much more. I will, however, to start with, put the matter in this way. If the object in view were to

turn cantonments into municipalities, what would be the first and most obvious step to take ? It would be to provide, as my Honourable friend has proposed, that on the governing body there shall be a non-official majority. This is what my Honourable friend means, and I need not expound to the House the consequences which would follow its adoption. The troops would have none of the safeguards, or at any rate they could have no guarantee that they would have, the safeguards which the public interest demands that they should have, save perhaps at the cost of much additional expenditure from central revenues. I am quite sure that the House in general will share the view which I have indicated and will realize that Government would not be justified in proceeding, and could not proceed, with a measure of cantonment administration which included the change advocated by the Mover of the amendment. Sir, this Bill already contains many important features of reform. The Cantonment Magistrate is to disappear, with his combined judicial and executive powers ; the whole of the substantive law relating to cantonment administration is to be embodied in a modern Statute which only the Legislature can alter, instead of, as at present, being largely contained in a Code which is subject to alteration by the executive Government ; the supervision of cantonment affairs of a strictly municipal character will pass very largely into the hands of the civil Government of the province in which the cantonment is situated, and the Cantonment Board in all important cantonments will contain a large proportion of elected representatives to safeguard the interests of the civil population. The official majority would be a majority of one. If cantonments are to remain cantonments, it is unjustifiable to concede more than this ; and as will be seen from the opinions received, there are responsible authorities who hold very strongly that the Bill before the House has already gone too far. The Government of India do not share this latter view ; but they have no hesitation in opposing the further step which the amendment contemplates.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clause 14, as amended by the Select Committee, was added to the Bill.

Clause 15, as amended by the Select Committee, was added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I move :

“ That in clause 16, sub-clause (2), omit the proviso.”

Clause 16 provides for the filling up of casual vacancies. It says that casual vacancies should be filled up by casual elections. But if the vacancy arises within three months preceding the next general election, the casual vacancy may not be filled up by election but be filled up at the general election. My amendment provides that if a casual vacancy arises within three months of the general election, even in that case the vacancy should be filled up by election and the seat be not left vacant.

It may in a way be reasonable to some extent to provide such a clause. We find from our experience of the vacancies arising now at the close of the

[Mr. K. B. L. Agnihotri.]

Assembly session that it is unnecessary to allow people to incur expenditure for a short period when the general election is approaching but the same thing is not applicable to local bodies which have their meetings every month. There may be cases on occasions when it may be necessary to have an election for casual vacancies also. Take for instance a case in which the non-official elected members of the Cantonment Board resign, say, by way of protest or to show their dissatisfaction or resentment or for some other reasons. If the vacancies are kept vacant for three months the work of the Board shall have to be discharged either by the nominated members who may be nominated by the Cantonment authorities or by the remaining official Members of the Board. In such cases, I consider it necessary to provide for election. There may be very important subjects coming up before the Board for decision within these three months which will be decided without ascertaining the wishes of the people through their representatives. Apart from the question of resigning as a protest, it may happen that vacancies may ordinarily arise; it may be that almost all the places may be vacant by some accident, by some coincidence or chance. In that case, to allow the Board to remain without elected non-official members will be improper and the Board will be handicapped in carrying out its public duties. Therefore, I propose that even in such cases, there should be an election, and with that object, Sir, I move the amendment that this proviso should be dropped.

Mr. E. Burdon : Sir, I cannot accept this amendment. I do not think it improves the Bill in any way. The existing draft has been borrowed from the Madras Municipal Act.

Mr. Abdul Hamid Khan Khudadad Khan (Sind : Muhammadan Rural) : I wish to say, Sir, a word or two about this amendment. I am a Member of a Local Board and a Municipality. Government have inserted this proviso just to save intending candidates from expense and botheration for only three months. It is not worth while to try for such a short period. I think it is a useful proviso and therefore I support the original clause.

Mr. President : The original question was :

“ That clause 16 do stand part of the Bill.”

Since which an amendment has been moved :

“ In clause 16, sub-clause (2), omit the proviso.”

The question is that that amendment be made.

The amendment was negatived.

Clause 16 was added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move :

“ In clause 17, in sub-clause (1), for the words ‘ the outgoing member shall if qualified and willing to serve be deemed to have been re-elected ’, substitute the words ‘ the vacancy shall be filled by fresh election ’.”

Clause 17 provides for filling up special vacancies. It lays down that when the elected member is unwilling to serve the outgoing member shall, if qualified and willing to serve, be deemed to have been re-elected, and he shall continue to be a member of the Board, and in case the

outgoing member is not qualified or is not willing to serve or if at a casual election no member is elected, that vacancy shall be filled up by nomination by the Local Government with the concurrence of the Officer Commanding-in-Chief the Command. This provides that in case the outgoing member also is not willing to serve on the Board or is disqualified in some other way to work on the Board, then that vacancy may be filled up by nomination. I beg to propose that there should be no question of nomination ; such of the vacancies of the membership which are elected should always be filled up by election, and not by nomination or by substituting the outgoing member. If at the subsequent election a particular person is not coming forward for election or the outgoing member is not willing to work, even in that case there should be election. Why should there be nomination and why not a fresh election ? In such cases fresh election is the only proper course to adopt. I propose, Sir, that in clause 17, in sub-clause (1) for the words “ the outgoing member shall if qualified and willing to serve be deemed to have been re-elected ” substitute the words “ the vacancy shall be filled by fresh election.”

Mr. E. Burdon : Sir, here again, I do not think Mr. Agnihotri's amendment is any improvement on the draft of the Bill before the House ; and here again, the draft clause is borrowed from the Madras Municipal Act.

Mr. President : Amendment moved :

“ In clause 17, in sub-clause (1), for the words ‘ the outgoing member shall if qualified and willing to serve be deemed to have been re-elected ’, substitute the words ‘ the vacancy shall be filled by fresh election ’.”

The question is that that amendment be made.

The motion was negatived.

Clause 17, and clauses 18, 19, 20 and 21, as amended by the Select Committee, were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

“ In clause 22, sub-clause (1) (a), omit the words ‘ unless prevented by reasonable cause ’.”

Clause 22 provides :

“ It shall be the duty of the President of every Board :

(a) unless prevented by reasonable cause, to convene and preside at all meetings of the Board and to regulate the conduct of business thereat, etc., etc.”

It seems to be a precautionary qualification, namely, “ unless prevented by reasonable cause.” I think this precautionary clause is superfluous and redundant, as it is not expected that even when there is reasonable cause preventing the President from presiding at a meeting he shall be compelled to preside. Ordinarily from the commonsense point of view, any reasonable person will think that the President will usually preside unless he is prevented by some reasonable cause, and therefore this appellation “ unless prevented by reasonable cause ” is superfluous and redundant and should be dropped.

Mr. E. Burdon : Sir, if the amendment proposed were made, the President would have to convene and preside at all meetings even if he were suffering from cholera.

Mr. President : Clause 22 : Amendment moved :

" In sub-clause (1) (a), omit the words ' unless prevented by reasonable cause.' "

The question is that that amendment be made.

The amendment was negatived.

Clause 22 was added to the Bill.

Clauses 23 and 24 were added to the Bill.

Clause 25 was added to the Bill.

Mr. K. B. L. Agnihotri : In clause 26, it is provided that if a new electoral roll is not published in any year on the date prescribed, the Local Government may direct that the old electoral roll shall continue in operation until the new roll is published. Now, this roll is to be prepared, I presume, every 3 years ordinarily. If there are any amendments or changes to be made in the electoral roll, they cannot be made within these three years. (*Mr. N. M. Samarth :* " They can be. ") I do not find any provision. It may be an omission on my part by oversight. If my Honourable friend Mr. Samarth thinks that there is such a provision, for making necessary changes in the electoral roll even in the interval, then I will withdraw my amendment. But if it is the case as I have put, then there is no chance of amending the electoral roll within that interval of time. By that many persons who would ordinarily be entitled to be in the roll would be deprived of their opportunity at the general election. Therefore if this clause is omitted it will be compulsory on the part of the Cantonment authorities to prepare a fresh electoral roll every three years before election and that would be very proper and desirable. Sir, I move :

" In clause 26, omit sub-clause (4). "

The amendment was negatived.

Clause 26 was added to the Bill.

Mr. K. B. L. Agnihotri : I move :

" In clause 27 (1), sub-clause (b), substitute the word ' six ' for the word ' twelve ' . "

Now clause 27 provides for the qualifications of the electors. It lays down that in order to entitle a man to be an elector and to come on the electoral roll, that person must have resided within the cantonment area for a period of 12 months. This period is pretty long, and even in the case of elections for the Legislative Assembly and the Council of State the period of residence necessary is only six months. I do not see what special reason there could be to require 12 months' residence as necessary to entitle a man to be enrolled as an elector in the cantonment. In a municipality I mean in the Central Provinces only a three months' period is compulsory, so I do not think it proper and desirable to fix 12 months in this Bill and make a departure from all the other electoral rules. Therefore, Sir, I propose that as six months' residence is quite long enough, six months should be substituted for 12 months.

Mr. E. Burdon : " Twelve " is taken from the United Provinces Municipal Act and seems to be perfectly suitable.

The motion was negatived.

Lala Girdharilal Agarwala : I beg to move the amendment that stands in my name. The object of the amendment is that persons who are not graduates may also be given the right to vote. Now Honourable Members are aware that there are examinations and persons who pass them are not called graduates. For example, the Senior Cambridge, the Intermediate and Acharya Alim Fazil, etc. These are qualifications which are recognised by educational authorities. In my Province, the Intermediate Board examination is sufficient for appointments of Deputy Collectors and other high posts.

The Honourable Sir Malcolm Hailey (Home Member) : Is it sufficient for electoral purposes ?

Lala Girdharilal Agarwala : For Deputy Collectors. Fortunately His Excellency the Commander-in-Chief is in the House just now and I appeal to him to extend the right of voting to persons who have got certificates from educational authorities, which certificates qualify the holder for Government appointments.

Mr. President : Clause 27, amendment moved :

" In clause 27 (1) (b) (iii) for the words ' a graduate ' substitute the words the holder of a certificate or diploma ' . "

The motion was negatived.

Lala Girdharilal Agarwala :

" After the words ' British India ' insert the following :
' or any other authority recognised by any Local Government as educational test qualifying for any appointment under the Government ' . "

The Honourable Sir Malcolm Hailey : That falls through.

Mr. K. B. L. Agnihotri : I move :

" In clause 27, sub-clause (2) (v), between ' imprisonment ' and ' for ' insert ' for an offence involving moral turpitude ' . "

This sub-clause provides for the disqualifications of persons for coming on the electoral roll. It provides that if a man has been imprisoned for a term exceeding six months or to transportation, such a man should not be put on the electoral roll. Sir, persons may be imprisoned for very minor offences, for instance, for an assault or causing hurt to another. I do not think it could be the object of depriving such persons from coming on the electoral roll. A person may be convicted for defamation, etc. Punishments for such light offences should not be regarded as disqualification for persons being brought on the electoral roll. Therefore I suggest that only such persons who have been in prison for offences involving moral turpitude should be debarred, and propose to insert " for an offence involving moral turpitude " after the word " imprisonment. "

Mr. L. Graham (Secretary, Legislative Department) : Sir, the amendment moved by my Honourable friend raises an extremely difficult ethical question. It is impossible to predicate of any offence that it does or does not involve moral turpitude ; everything depends on the circumstances in which the offence is committed. Now, if my friend, the Mover of this amendment, were to walk along the streets of Nagpur waving national flag, I for one should be convinced of the honesty of his

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purpose ; but if an unfortunate volunteer were to be dragged there from the other end of India and bribed with eight annas or a rupee, I should not be convinced of the honesty of his purpose. Then there is the question of who is to be the judge whether any particular offence involves moral turpitude or not. Apparently that unfortunate gentleman called the Revising Officer. I do not know what his qualifications are to be ; whether he is to be a professor of ethics or not, but I do suggest to this House that this proposal is utterly and entirely unpractical. The other reason I have for opposing this amendment is this. My Honourable friend said, in moving the amendment, that all sorts of petty offences, such as assaults, would disqualify a man from being an elector. I think he has omitted to read the provision in the section that to be disqualified from being an elector a man must have been sentenced for a term exceeding six months. Now for petty offences six months' imprisonment or over is never given. Therefore I oppose this amendment.

The motion was negatived.

Mr. K. B. L. Agnihotri : I move :

" In clause 27, sub-clause (2) (v), omit the words ' or has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898 '."

Sir, this also specifies another disqualification for enrolling a man as an elector or to disfranchise a man from becoming a Member of the Cantonment Board. Now it may happen, as is happening these days in the Central Provinces, that a man having good means of livelihood, may be bound over under section 109 of the Criminal Procedure Code for vagrancy and such a man, if he were to be a resident of a cantonment area outside the place where he was bound over in the Central Provinces, would be deprived of the franchise. There may be other reasons, Sir. A man may be inimical to a particular person, and being so, he may have been bound over under section 107 of the Criminal Procedure Code to keep the peace.....

The Honourable Sir Malcolm Hailey : Is that good behaviour ?

Mr. K. B. L. Agnihotri : Let it go, take sections 108, 109 or 110 of the Criminal Procedure Code—we know in what way section 108 has been abused in the past, and 109 is being abused and misused at present in the Central Provinces. We should take advantage of this knowledge and should safeguard rights that exist and try and delete this provision, and should provide that a person who has been bound over to give security for good behaviour under the Code of Criminal Procedure should not be deprived of his right to be a voter or be removed from the electoral roll. Therefore, Sir, I propose that this clause be dropped.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, all these whitewashing amendments seem to me to overlook the proviso which is attached to this clause, namely :

" Provided that the Local Government may, by order in writing, remove any disqualification incurred by a person under clause (v)."

Surely, there has been experience enough to satisfy the inhabitants of every district in India that the Local Government is always ready to give a convicted man a *locus poenitentiae*.

Mr. Abdul Hamid Khan Khudadad Khan : Sir, these disqualifications are provided in the Municipalities and Local Boards and I cannot understand why these new municipalities, which are going to be provided in the cantonments, should not have them. It would be disgraceful and unsafe to have people of such character, who have been sentenced to six months' imprisonment or have been bound over to be of good behaviour, as members of the Cantonment Boards.

I therefore oppose the motion.

The motion was negatived.

Clause 27, as amended by the Select Committee, was added to the Bill.

Mr. K. Rama Ayyangar : I only put forward my amendment as a suggestion :

" In clause 28, delete clauses (a), (b) and (d) of proviso (ii) to sub-clause (2)."

My experience both in Municipalities and Local Boards is that interests of the kind referred to in clauses (a), (b) and (d) of proviso (ii) to clause 28 have frequently led to trouble. Of course clause (d) itself provides :

" Except as a shareholder (other than a director) in an incorporated company."

That provision is made and such an interest of course has been excluded. I only suggest that interests of the kind referred to in clauses (a), (b) and (d) may be sufficient to exclude persons from being candidates for election, because once one of that interest gets into the Board his influence is great, and it has been found it works against the interests of the Board. It is better to be above suspicion and it is in that sense I suggest that these three clauses be deleted.

Mr. E. Burdon : Sir, the provisions which my Honourable friend seeks to exclude are taken from the Madras Municipal Act of 1920, one of the most recent Municipal Acts, and the Act, as I am reminded, is for the province from which my Honourable friend comes. We prefer the draft as it stands.

The motion was negatived.

Clause 28, as amended by the Select Committee, was added to the Bill.

Dr. Nand Lal : As you know, the provisions of clause 29 practically define who is the taxpayer. I am going to give you the gist of sub-clause (b). It is that " a person shall be deemed to pay a tax directly if he pays the tax either himself or through a legally appointed agent." The amendment which I move contemplates that in clause 29 at the end of sub-clause (b) the following insertion may be made :

" or is a member of a firm which is paying a tax."

Mr. President : Is not the Honourable Member's point covered by clause 30 ?

Mr. E. Burdon : The matter is provided for in clause 30.

Clauses 29 and 30 were added to the Bill.

Clause 31, as amended by the Select Committee, was added to the Bill.

Clauses 32 and 33 were added to the Bill.

Mr. K. Rama Ayyangar : My amendment reads as follows :

"In clause 34 (1) (a), after 'months' insert the words 'or three consecutive meetings if there are no 3 meetings within that period'."

I only submit that this three months' period provided may in some cases amount to only one sitting or two sittings. That certainly cannot be taken as sufficient and, therefore, I only move after the word "months" the insertion of the words "or three consecutive meetings if there are no 3 meetings within that period." It is only a suggestion.

Mr. E. Burdon : I think the clause as drafted is quite sufficient.

The motion was negatived.

Clause 34, as amended by the Select Committee, was added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move the following amendment :

"In clause 35, sub-clause (3), substitute the words 'for the remaining period of the term of his membership' for the words 'until the expiry of three years from the date of his removal'."

Clause 34 provides that if the Local Government is of opinion that any member has flagrantly abused in any manner his position as a member of the Board so as to render his continuance as a member detrimental to the public interests, he may be removed from the Board. Now clause 35 provides that in the case of the removal of any such person, such person shall not be entitled to come in as a member again for a period of three years ; that is, he is to be kept out for three years. My amendment provides that that period should be reduced and he should be kept out only for the remaining period of the term of his office. A member of the Cantonment Board will ordinarily be elected for a period of three years. Now, supposing that in the first or the second year of his period of membership he has been removed by the Local Government as an undesirable person or as one who has flagrantly abused certain of his powers. Such a man should not be deprived of his right of election at the general election but should be deprived of his right only for the unexpired portion of the current term. His removal and being kept out for some period will be more than sufficient punishment to him.

Therefore, Sir, I propose that the period of three years should be done away with and that the bar should remain only for the remaining period of the term.

Mr. E. Burdon : Sir, if my Honourable friend's amendment were adopted, it would be possible for an individual who had incurred the very grave penalty of removal to become eligible for re-election within a fortnight. No doubt the United Provinces Government and the United

Provinces Legislature foresaw this when they put in their Municipal Act the clause which we seek to put in this Bill. °

The motion was negatived.

Clause 35 was added to the Bill.

Clauses 36 and 37 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, clause 38 provides for the business that is to be transacted at the meetings of the Board. It provides that :

"No business relating to the imposition, abolition, or modification of any tax shall be transacted at a meeting unless notice of the same and of the date fixed therefor has been sent to each member not less than seven days before that date."

That is, it is provided by this clause that only certain classes of business shall not be transacted at the meetings of the Board unless seven days' notice has been given. In other words we provide that other classes of business may be transacted without notice, even though they be put up just at the meeting of the Board. My amendment will go to improve this clause to some extent. I wish to add :

"Provided, further, that without the consent of the three-fourths of the members of the Board, no business shall be transacted at a meeting unless notice of the same and of the date fixed therefor, has been sent to each member not less than three days before that date."

There may be other important matters besides those provided for in the first proviso of clause 38 that may come up for discussion before the Board, and if the members of the Board have had no notice of the business, they may not come prepared for it, and the matter may not be properly discussed and a proper decision arrived at. Therefore, I provide that ordinarily, in every case, three days' notice should be given for any subject that is brought up before a meeting of the Board. If the Government want it, they may make some amendment in the amendment proposed by me such as is to be found in the rules and standing orders for the business of our Assembly, namely, that if the Chairman thinks that such notice should not be insisted upon, that business might be taken up. But ordinarily some notice should be given to the members so that they may come prepared with the subjects that may come up for discussion. I therefore propose that a subject can only be brought before a meeting of the Board in respect to which three days' notice had been given. With this view, I move the amendment which stands in my name, namely :

"To clause 38, add the following further proviso :

"Provided further that without the consent of the three-fourths of the members of the Board, no business shall be transacted at a meeting unless notice of the same and of the date fixed therefor, has been sent to each member not less than three days before that date."

Lieut. Colonel R. H. Palin (Army Department: Nominated Official) : Sir, I think the Honourable Member has overlooked section 44 (1) (b). These matters are left to the Cantonment Board and 44 (1) (b) provides that the Board may make regulations consistent with this Act and the rules made thereunder to provide for the manner in which notice of the meetings shall be given, the time and place of its meetings, etc.

The motion was negatived.

Clause 38 was added to the Bill.

Clauses 39, 40 and 41, as amended by the Select Committee, were added to the Bill.

Clauses 42, 43 and 44 were added to the Bill.

Clause 45, as amended by the Select Committee, was added to the Bill.

Clause 46 was added to the Bill.

Clauses 47, 48, 49 and 50, as amended by the Select Committee, were added to the Bill.

Clauses 51 and 52, as amended by the Select Committee, were added to the Bill.

Clause 53 was added to the Bill.

Mr. K. B. L. Agnihotri : Sir, clause 54 provides for the supersession of the Board, and I wish to move an amendment to that clause, namely :

“ To clause 54, sub-clause (1), add a proviso :

‘ Provided that no Board shall be superseded before a reasonable opportunity has been given to it to show cause against the supersession ’.”

Sir, I do believe that ordinarily such Boards will be given an opportunity to show cause why the Board be not superseded, but I wish to provide in the body of this Bill a compulsory provision to this effect that the Government must call upon the Board to show cause before the supersession actually takes place. Therefore, Sir, I move the amendment which stands in my name.

Mr. E. Burdon : Sir, I oppose this amendment. I think Honourable Members of the House will recognise that it is quite inconceivable that any Local Government would proceed to the extreme step of superseding either a Municipal Board or a Cantonment Board without going very carefully into the necessity therefor. They will almost certainly—in fact I may say quite certainly—not take that step without having previously warned the Board and without the Board knowing thoroughly what the reasons for the action which it is proposed to take are. It will be seen, Sir, that clause 54 (1) lays down that :

“ The Local Government may, with the previous sanction of the Governor General in Council, by an order published, together with the statement of the reasons therefor, in the local official Gazette.”

I therefore do not think that a provision such as is contained in this amendment is required.

Dr. Nand Lal : Sir, I am sorry to say that when a Board is to be superseded, no provision is made that it may be given an opportunity to show cause why this order should not be passed. No system of law will allow any prejudicial order or decision to be given against any person, body or community, unless that person, body or community has been given sufficient opportunities to explain that person, body or community's conduct. But here I find that a Board will be superseded and no such

opportunity is provided for. If our voice is raised in this House, then the answer is given that the Local Government will not allow itself to pass this prejudicial order without hearing the Board. We want that it may be clearly provided in the Act itself. What answer shall we give to the lawyers in court if this point is raised ? We are going to pass this law and we shall be laughed at if this provision is not incorporated in this Bill. This is a most useful amendment and I submit that this House should consider its responsibilities and accept the amendment. There is the other part of the amendment which I shall move on the proper occasion.

Bhai Man Singh (East Punjab : Sikh) : Sir, I really wonder at the attitude of the Government Member when I find him opposing even this most reasonable amendment of my Honourable friend, Mr. Agnihotri. The Honourable Mr. Burdon admits that when the Local Government is going to take such a drastic step as superseding a certain Board, they are naturally expected to consult the Board and that they will ask the Board for an explanation. But I really wonder why, when the Honourable Mr. Burdon thinks that the Local Government would generally ask for an explanation from the Board, he should shrink from incorporating that provision in the law itself. Why should not a statutory right be given to the Board of being given a chance of submitting an explanation before its authority is superseded ? There must be chances, even if there is one chance in a hundred. I believe every lawyer, every gentleman who has got a sense of justice, who knows that whenever a charge is brought against an individual or a body of individuals he or they must be given a chance of defending their position, would insist on having this provision in the Act.

And I would request my Honourable friends to see why the Board should be deprived of this very, very important right. The Honourable Mr. Burdon has not been able to raise any objection to this amendment. He simply says, he will expect the Local Government to do it. All right. If you expect the Local Government to do it, why not then give a statutory right to the Board to claim it ? There may be certain times when certain forces might act and deprive the Board of this right. Why should not the Board have that right statutorily ?

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Although I was a Member of the Select Committee, I must say that my Honourable friends were well advised in bringing an amendment of this nature. The Army Secretary has told us that ordinarily the Local Government would give notice to the Board concerned before supersession. If that is the convention which has to be taken into account, why not make it clear by making a provision in the Act itself that such a thing is compulsory on the part of Government and that there should be no supersession without the Board being asked to explain why they have misbehaved and why it is necessary that they should be superseded ? It may happen in certain cases when there is a great deal of feeling in the country that the Board without being consulted might be superseded, and looking to such a possibility it seems desirable that the law should provide that unless the Board is given an opportunity of showing cause it should not be superseded.

Dr. H. S. Gour : There seems to be very little difference between the Honourable Mr. Burdon and Members on this side of the House. We are both agreed that the Local Government would not be justified in superseding a Board without giving it a chance of being heard. If that is so, all that Members on this side of the House desire is that, if this assurance, this *conditio sine qua non* which Mr. Burdon admits is to be respected in practice, it should be embodied as a part of the statute law. Well, Sir, I speak with a certain amount of experience in these matters. When there is no statutory provision, though ordinarily the Local Government would consult the Board concerned and receive its explanation, it is conceivable that when there is no provision compelling them to hear the Board before its suspension, they might not exercise that power of asking the Board to submit an explanation. There is really no question of principle. We are both agreed and I therefore appeal to my Honourable friend Mr. Burdon to accept this amendment.

Mr. L. Graham : Sir, my Honourable friend, Dr. Gour, has suggested that the Local Government might, on a rare occasion, be led away by some feeling of bias. I would not agree to accept that position for a moment, but, if we did accept that position, there is a further safeguard that any order of Local Government requires the previous sanction of the Governor General in Council. The Governor General in Council could not possibly be affected by any bias in such matters. The first question which would be asked of the Local Government, if it did not appear from the proceedings of the Local Government that the offending Board had been given an opportunity of stating the reasons why it should not be suspended—as I say, the first question which the Governor General in Council would ask would be, what is the case of the offending Board, and he will certainly not sanction the order until he has seen the case. This matter is not one of great importance, but all that Government feels is this, that it is a wholly unnecessary provision from their point of view, and that it will involve fresh printing of the Act. But it is not a matter of principle at all. Government have given that assurance and therefore they do not consider this amendment necessary, and on principle Government do not accept unnecessary amendments.

Colonel Sir Henry Stanyon : Sir, in my humble opinion Government will be well advised to accept this amendment. As has been pointed out, it is really only a question of the form in which something that should be done and that certainly will be done is to be put. There are many acts and powers reserved for the Local Government and for the Governor General in Council in this Act (as in all other Acts) which we know, we will always presume—those of us, at all events, who reason upon ordinary constitutional lines,—will be regularly and properly performed. But there are the outside public who wish to be informed as to what we, as legislators, are doing in measures intended to govern and control their interests. The Governor General in Council will, no doubt, be consulted and his sanction will have to be obtained by the Local Government, but all that will be done by correspondence which will not be open to the public. And however much a number of us may presume that everything is correctly done, it will certainly be very much better if a formal procedure is provided by the enactment

by which the public, who perhaps are more prone to believe what they see than what they do not see, will be satisfied that the case has been reasonably and fairly carried to the conclusion which ends in the supersession of an important authority like a Cantonment Board. This proviso, if put in the Act, will merely require that to be done which we, who are better informed, know will be done; and it seems to me that such a proviso will not cumber the Act. It does not cast any aspersion or suspicion upon the actions of Government. It is merely a very ordinary proviso such as constantly occurs in legislative enactments. I would submit to Government very strongly that if this proviso is accepted, while Government will lose nothing by it, a little satisfaction will be given to the non-official Members of this House and to the public whom they represent.

Mr. E. Burdon : I recognise the difficulties of the Legislative Department, but in view of the feeling of many Honourable Members of the House I am afraid the Army Department will have to throw the Legislative Department overboard. We are prepared to accept the amendment which is certainly quite harmless. But I would make one verbal change and suggest the word “unless” for the word “before” as this would be better drafting.

Mr. President : Amendment moved :

“To clause 54, sub-clause (1), add a proviso :

“Provided that no Board shall be superseded unless a reasonable opportunity has been given to it to show cause against the supersession.”

The question is that that amendment be made.

The motion was adopted.

Mr. President : The question is that clause 54, as amended, stand part of the Bill.

Dr. Nand Lal : There is the second part of my amendment. Of course, the first part has been decided. There is the second part which is of importance. You will, I hope, allow me to move it, Sir.

You will be pleased to see in this very clause, 54(2)(c), the following : “before the expiry of the period of supersession elections shall be held”. Now, from this provision we can easily deduce that there should be some fixity of time and neither in sub-clause (1) or sub-clause (2), is there any period provided and when this question is before some court, I think the members of the legal profession as well as the court will laugh at us that this sort of Bill has been passed by the Assembly. In order to obviate that sort of criticism and that kind of aspersion I beg to move the following amendment, namely :

“That to clause 54(1), the following be added, namely :

“An order of supersession should not ordinarily extend to a period of more than six months.”

I trust that this amendment will be accepted by the House.

Mr. E. Burdon : Sir, there is nothing new in the provisions of the clause which we are discussing. The mistake, if it is a mistake, exists also in the United Provinces Municipal Act, which contains no such provision as my friend Dr. Nand Lal wishes to add here. That Act contains

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no such clause, either including or excluding the word 'ordinarily' which word I may say destroys absolutely the effect which is intended to be secured by the clause and would be anathema from the point of view of legislative drafting.

Mr. President : The question is :

“ That to clause 54 (1), the following be added :

“ An order of supersession should not ordinarily extend to a period of more than six months ”.

The motion was negatived.

Clause 54, as amended, and clauses 55, 56, 57, 58, 59, 60, 61, 62 and 63 were added to the Bill.

Mr. K. Rama Ayyangar : I beg to move :

“ That in clause 64 (a), the words ‘ colleges, schools, hospitals ’ be omitted.”

This is a somewhat important matter which I wish to place before the House. Part (a) of that clause proposes one principle of taxation, and part (b) another. In the case of railway stations, hotels, colleges, schools, hospitals, factories and any other buildings which a cantonment authority decides to assess under this clause, “ one twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto ” and in the case of other buildings, “ the gross annual rent, etc.”. So that we are not going to leave anything unassessed. I remember the time when it was considered that these colleges and hospitals should not be assessed at all as charitable institutions, but later on there has been a change of view and it has been the usual practice now to assess them. But the assessment has always been carried on at the lowest rate which is available in the municipality which taxes. I do not know if it is going to be pleaded on behalf of Government that this has been copied from some provincial Municipal Act or Local Boards Act. Whatever that may be, the matter should be judged independently. I should request that if these schools, colleges and hospitals are charged at all, they should be charged under clause (b). That is ordinarily the way in which house buildings are taxed. It is very proper not to bring them under the category of railway stations, hotels, factories and other buildings. I therefore submit that this matter should not be treated lightly and I hope that the whole House will vote for my amendment. It is a matter of some importance. If there is a statement to the effect that clause (a) is more advantageous, I should have no objection, but my experience has been otherwise. I have sat in the Madura Municipality and we have been charging the railway, the mills and other institutions of that kind at a rate which came to 5 or 6 times the rate at which ordinary houses have been charged. I trust that the Government will enlighten us on that point. I am afraid my friends here seem to treat the matter lightly but I have no objection to these buildings being charged at whichever is the lower rate. It is a matter of some importance and I hope the House will accept my amendment.

Mr. President : The question is :

“ That in clause 64 (a), the words ‘ colleges, schools, hospitals ’ be omitted.”

The motion was negatived.

Clauses 64 to 70 were added to the Bill.

Mr. E. Burdon : We are prepared to accept Mr. Agnihotri's amendment to clause 71.

Mr. K. B. L. Agnihotri : I want to move the amendment in a form different to that notified by me. I formally move the amendment :

“ That to clause 71, sub-clause (1), the following proviso be added, namely :

“ Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of taxes in respect of any period prior to the commencement of the financial year in which the amendment is made ”.

Mr. President : The question is that that amendment be made.

The motion was adopted.

Clause 71, as amended, was added to the Bill.

Clauses 72 and 73 were added to the Bill.

Clauses 74 and 75, as amended by the Select Committee, were added to the Bill.

The Assembly then adjourned for Lunch till Fifteen Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Fifteen Minutes to Three of the Clock, Mr. President in the Chair.

Clause 76, as amended by the Select Committee, was added to the Bill.

Clauses 77 to 81 were added to the Bill.

Clauses 82 and 83, as amended by the Select Committee, were added to the Bill.

Clauses 84 to 86 were added to the Bill.

Mr. President : Clause 87 :

Mr. K. Rama Ayyangar : Sir, I think the amendment is not properly printed ; the word ‘ trustees ’ must be ‘ owners ’, not trustees. I move :

“ That in clause 87 (a), after the words ‘ under section 71 ’ insert the words ‘ in cases in which owners have been previously served with notice and in other cases ’ ”

and it will read as “ and in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof, etc ”. The idea I hope will be clear to the House ; it is this, that where there has not been previous notice, an appeal ought not to be made as provided—it must be from the date next after the date of the presentation of the first bill in respect thereof ; and I hope that my amendment will be accepted.

Mr. E. Burdon : The amendment, Sir, is quite unintelligible.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 87 to 90 were added to the Bill.

Mr. K. Rama Ayyangar : Sir, ordinarily the charge in this case should amount only to two annas, and I say that it should be four annas for the demand, not Re. 1 as suggested ; and I place it for the consideration of the House.

Mr. President : In clause 91, amendment moved :

“ In sub-section (2), substitute the words ‘ four annas ’ for the words ‘ one rupee ’.”

Mr. E. Burdon : May I point out, Sir, that one rupee is the maximum—‘ not exceeding one rupee ’ is the provision proposed, that is to say the intention is that the charge should cover the cost of this particular service, and discretion is given to the Executive Officer to fix such amount not exceeding Re. 1 as will cover the cost. I do not think that there is any improvement to be made by adopting the suggestion of the Honourable Member.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clause 91, as amended by the Select Committee, was added to the Bill.

Mr. President : Clause 92.

Mr. K. Rama Ayyangar : The amendment I propose is more or less, I think, a drafting amendment—the insertion of the words I propose ‘ less any amount deposited under section 87 (b) ’. The amount, if any, has been deposited with Cantonment Authority under section 87 (b). Now he has to appeal ; he has to deposit the amount,—the difference, otherwise the demand will be for the full amount, and so the deposit made under section 87 is not included.

Mr. President : In clause 92, amendment moved :

“ In sub-clause (1), after the words ‘ amount due ’ insert the words ‘ less any amount deposited under section 87 (b) ’.”

Mr. E. Burdon : Sir, ‘ The amount due ’ means the amount that has not yet been paid. The amendment is not I think in the least necessary.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clause 92, as amended by the Select Committee, was added to the Bill.

Clause 93 was added to the Bill.

Clause 94, as amended by the Select Committee, was added to the Bill.

Clauses 95, 96, 97, 98 and 99 were added to the Bill.

Clause 100 was added to the Bill.

Clauses 101, 102, 103, 104 and 105 were added to the Bill.

Clauses 106, 107, 108, 109, 110, 111 and 112, as amended by the Select Committee, were added to the Bill.

Clause 113 was added to the Bill.

Clauses 114, 115, 116 and 117 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

“ In clause 118 (1), in sub-clause (a) (xi), between ‘ any ’ and ‘ building ’ insert ‘ public ’.”

Clause 118 provides for ‘ general nuisances ’ ; sub-clause (a) (xi) says :

“ Whoever in any street or other public place within a cantonment without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing ; or ”

Here it is stated that even if a man were to put a poster or make any defacement or write anything on any building, which is even a private building, such person shall be deemed to have committed a nuisance and he shall be liable to be punished with a fine to the extent of Rs. 50. My submission is that this provision should only apply in the case of public buildings ; because in the case of private buildings, the owners thereof can take care of their buildings for themselves and of their rights also. If they find that any person is defacing a wall, they can go to Civil Courts and have their rights established. If they find that anybody is meddling with their fencing or any tree in their compound, they can go to the Civil Courts and have their rights established and have him punished. It should not be within the jurisdiction of the cantonment authorities to interfere in the case of private buildings. If this clause was to apply to the public buildings, I would not have the least objection to it, but I object to the cantonment authority taking sides with a private owner and proceeding against the man who has offended the private owner. I therefore propose that the word “ public ” may be inserted between the words “ any ” and “ building ”, so as to make only that person liable to punishment under this Act who defaces or writes upon or otherwise marks in the case of public building, public monument, public post, public wall, public fence, a tree in a public place or other public thing.

Mr. E. Burdon : Sir, the provision made is of the most common place description and the amendment which my Honourable friend seeks to make would, I think, be positively objectionable. I do not think it is necessary to say anything more on the subject.

Mr. President : Amendment moved :

“ Clause 118, sub-clause (1). In sub-clause (xi) between ‘ any ’ and ‘ building ’ insert ‘ public ’.”

The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

“ In clause 118 (1), in sub-clause (a) (xiii), between ‘ authority ’ and ‘ displaces ’ insert ‘ intentionally ’.”

This clause provides that any person who without proper authority displaces, damages or makes any alteration in or otherwise interferes with the pavement, gutter, storm-water drains, flag-stone, etc., shall be liable for punishment under this clause. What I wish to suggest is that if he were unintentionally to cause such a damage, he be not made liable to the punishment under this section, but he should be made liable only if he deliberately or intentionally or knowingly does

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any such thing. Now, cases may arise in which a man may be going in a trap or on a pony and have a fall and accidentally knock against these things and cause damage. If there is no intention on his part to damage these things, then he should not be guilty of an offence under this section. I therefore seek to provide that if he does these things intentionally, only then he should be liable to be punished, but not otherwise.

Mr. E. Burdon : Sir, if a gentleman throws a stone at another gentleman and breaks a street lamp or if he negligently damages a tree or any other piece of public property referred to in this section, and thus causes loss to the public, I do not see any reason why he should not be punished, why he should not pay.

Mr. President : Amendment moved :

“ In clause 118 (1), in sub-clause (a) (xiii), between ‘ authority ’ and ‘ displaces ’ insert ‘ intentionally ’.”

The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri : I beg to move, Sir :

“ In clause 118 (1), in sub-clause (c), before ‘ deposits ’ insert ‘ without proper authority ’.”

Sub-clause (c) lays down that any person who deposits or causes or permits to be deposited earth or materials of any description or any offensive matter or rubbish in any place not intended for the purpose in any street or other public place or waste, etc., he shall be liable to punishment under this clause. It may happen that a person building a house in any street may be compelled to deposit materials for the construction of that house. We find that in the other sub-clauses that we have finished there are words “ without proper authority ” put in at the beginning of each sub-clause. While here that has not been put in. That means that even if a person or the owner of a house were to take permission from the cantonment authorities, to deposit things and materials in the street, even then, he will be liable under this clause. I therefore submit that in cases in which a person obtains permission from the proper authorities, he should not be liable to punishment under this clause and the insertion of words as proposed by me are essential for the convenience of people.

Mr. E. Burdon : Sir, the amendment of my Honourable friend assumes that a Cantonment Authority, a Cantonment Board, will be prepared to give permission to a person to deposit offensive matter or rubbish.....

Mr. K. B. L. Agnihotri : Not offensive matter or rubbish ; I only mean building materials.

Mr. E. Burdon : Offensive matter or rubbish (I am quoting from the clause) in a public place which they have said shall not be used for the purpose.

Mr. President : Amendment moved :

“ In clause 118 (1) in sub-clause (c), before ‘ deposits ’ insert ‘ without proper authority ’.”

The question is that that amendment be made.

The motion was negatived.

Mr. K. Rama Ayyangar : Sir, I beg to move :

“ In clause 118 (d), after the word ‘ fails ’ insert ‘ without just cause or without the permission of the Cantonment Authority ’.”

Corpses have to be removed within twenty-four hours. No exception is provided. There may be exceptional circumstances in which a corpse may have to be kept longer than 24 hours. There is no provision, as far as I can see, for that purpose ; and I therefore suggest that the words mentioned may be inserted.

Mr. E. Burdon : Sir, I cannot believe that the House wishes to consider an amendment of this kind seriously. I suggest that it be negatived.

The motion was negatived.

Mr. K. Rama Ayyangar : I beg to move :

“ In clause 118 (g), add at the end ‘ except to celebrate religious festivals or rights ’.”

Sir, I hope at least this amendment of mine will have a better fate. Beating a drum or tom-tom can be prohibited ordinarily, but if it is a question of celebrating a festival which has to go with the usual rites tomtom and other festivities it cannot be stopped, and therefore I want an exception to be made in the case of religious festivals. I hope the House will adopt this amendment.

Mr. E. Burdon : The addition of these words would stultify the clause in 95 per cent. of the cases in which it is intended to apply. The object in view is of course, that when it is desired to play music, etc. in connection with religious festivals or rites the permission of the cantonment authorities should be obtained. This is a perfectly ordinary provision.

The motion was negatived.

Mr. K. B. L. Agnihotri : I move :

“ In clause 118 (1), omit sub-clause (h). ”

Sub-clause (h) defines a class of nuisance in the form : “ Whoever disturbs the public peace or order by singing, screaming or shouting,” in any street or other public place within a cantonment shall be punished. Now if any one were to have a singing party in his own house, it might be regarded by the executive officer of the cantonment or by some other person to be a disturbance of the public peace. Similarly if a boy were screaming or crying in a house it may be taken by the executive officer or other officers to be a nuisance. Similarly in regard to shouting. If I am passing along a street and a friend of mine has gone 50 yards ahead of me and I shout at him, “ Mr. such and such just wait for me,” probably I may also be taken to be committing a public nuisance. Therefore this clause is a

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very wide one and will give a very wide power to officers and to ill-tempered ones particularly. I therefore propose that this clause should be qualified and that such innocent acts should not be included, or it should be omitted altogether. It will otherwise cause very great inconvenience and irritation to the public.

Mr. E. Burdon : Sir, my Honourable friend seems to have overlooked the fact that the person who is to decide whether the singing, shouting or screaming disturbs the public peace is not the executive officer, but the Court. (*Mr. K. B. L. Agnihotri :* "Whoever the officer may be, I gave an illustration.") I think the House will agree that singing, screaming or shouting in certain cases can be a disturbance to the public peace, and I see no reason why the provision should be omitted.

The motion was negatived.

Mr. K. B. L. Agnihotri : I move :

"In clause 118 (1), sub-clause (j), substitute 'six' for 'three' wherever it occurs and between 'night' and 'within' insert 'or within an hour before sunset'."

Now, this clause (j) provides that any person who happens to be an occupier of any building or land upon which an animal dies "neglects within three hours of the death of the animal, or, if the death occurs at night, within three hours after sunrise," etc., will be punishable under this clause. I do submit that three hours time in certain cases may be found to be very insufficient. It may often happen that in three hours time a man may not be able to procure persons to remove the carcass from the place where the animal died. It may also happen that an animal may have died half an hour or an hour before sunset and it would be impossible for the man to have it removed during the night. Therefore this clause should be so amended as to provide for such class of cases also.

Mr. E. Burdon : I think the clause, as passed by the Select Committee, is as good as, if not better than, my Honourable friend's amendment.

Mr. N. M. Samarth : May I add to that that the wording is not "fails within three hours of the death to 'remove,' but 'neglects'." Neglects is a different thing.

The Honourable Sir Malcolm Hailey : He only has to report.

The motion was negatived.

Clauses 118 to 121 were added to the Bill.

Mr. K. B. L. Agnihotri : I move :

"In clause 122, after 'straw' add 'in quantity in excess of the reasonable needs of occupant for a period of three months'."

Now, this clause provides against the storing of certain things such as a collection of wood, dry grass or straw. Now the collection of such things may be necessary for household purposes. If a man has got cattle he will have to provide for straw or grass against rains, and have to collect fuel, for the use of the household. If this clause were allowed to stand as it is, the result would be that a man shall not be able to provide for such necessities even during the rains and it would be a real hardship

to the people living within the cantonment area. Therefore I suggest that in such cases the cantonment authorities may permit the storage of such things which may be reasonably necessary for a certain period and I put the period at three months. With this object I move my amendment, that there should be no interference with the people's right to collect fuel, straw, dry grass, etc., for the use of the animals or the household and that be necessary for use for three months.

Mr. E. Burdon : The clause reads :

"A Cantonment Authority may, by public notice, prohibit, in any case where such prohibition appears to it to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials."

Is it desirable to limit this discretion of the Cantonment Authority in the manner suggested by the Honourable Member? I do not think the House will agree that it is.

The motion was negatived.

Clause 122 was added to the Bill

Mr. K. Rama Ayyangar : If you will permit me, looking at the mood of the House, I will take permission to withdraw all the amendments I have suggested.

Clauses 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136 and 137 were added to the Bill.

Mr. K. B. L. Agnihotri : Clause 138 ; I have an amendment under clause 138 which has been accepted by the Government.

Mr. President : The Government has not had an opportunity of accepting it.

Mr. K. B. L. Agnihotri : I thought you had only read out to 137 and therefore I did not intervene.

Mr. President : I will allow the Honourable Member to move his amendment.

Mr. K. B. L. Agnihotri : I would like to move my amendment to clause 138 which has been accepted in the form in which I will read it out.

"In clause 138, sub-clause (1), omit the word 'and' at the end of clause (b) and after clause (c), at the end add 'and' and add the following new sub-clause :
" (d) where there is a board, two non-official members'."

I need not say anything on this matter as the Government have already accepted it.

The motion was adopted.

Clause 138, as amended, was added to the Bill.

THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) :
Sir, I beg to present the Report of the Select Committee on the Bill to amend the Legal Practitioners' Act of 1879.

THE CANTONMENTS BILL—continued.

Mr. President : The House will resume consideration of the Cantonments Bill.

Clauses 139 and 140 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

"That in clause 141, sub-clause (2), substitute 'fifty' for 'Two hundred'."

Sub-clause (2) of clause 141 deals with the power of executive officer to require the lands or buildings to be cleansed and adds that the disobedience of that order shall be punishable with a fine of Rupees 200. (Mr. N. M. Samarth : "With a fine which may extend to Rs. 200.") Yes, which extends to Rs. 200, but experience in the Cantonment shows that when a fine is inflicted, it is generally very severe and heavy. Therefore, we should not go on the technicalities. I would rather propose that this limit of Rs. 200 be reduced to one of Rs. 50, because if a man fails to cleanse his house or compound a fine of Rs. 50 will be more than sufficiently high punishment for that man.

Mr. P. B. Haigh (Bombay : Nominated Official) : Sir, I trust the House will throw out this amendment. This is a serious matter. One of the greatest curses of modern times in towns is the owner of property who will not keep it in a sanitary state. It must be remembered that in large towns large numbers of poor people are obliged to live together in buildings which are owned by well-to-do capitalists, and one of the greatest difficulties of municipal administration in the United Kingdom has been dealing with people of this description. These are the people who grow rich on the sufferings of the poor and on the ill-health of small children. Mr. Agnihotri wants us to confine the penalty for people of this kind to Rs. 50. What is Rs. 50 to people of this character ?

Sir, I hope that my Honourable friends, the Labour Party, will support me in this matter, and that the House will throw out this amendment.

The motion was negatived.

Clauses 141, 142, 143, 144, 145, 146, 147, 148 and 149 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

"That in clause 150 :

(a) omit 'whether' and 'or otherwise', and

(b) omit 'or being the owner, lessee or occupier of any building in a cantonment in which he knows that any such person is suffering'."

Sir, clause 150 provides that a person who attends on a sick person suspected of suffering from any contagious or infectious disease shall be under an obligation to report about that illness to the cantonment authorities. So far as that provision for giving information is concerned, it seems to be quite wholesome and there can be no objection to it, but, looking to the difficulties that might arise in such cases, I thought it desirable to put this amendment before the House for its consideration. The House will realise that there are certain diseases in which it will be very difficult for a layman to find out whether or not they are contagious

or infectious. Take the case of severe diarrhoea. Sometimes a doctor may come forward and declare that it was not simple diarrhoea but that it was cholera while the people in attendance may have taken it to be only diarrhoea. Take the case of a man, who is suffering from a wasting disease. A doctor may come forward and say it is tuberculosis, while, a layman may not be able to find out whether it was tuberculosis or not. In many cases even the doctors differ just as in the case of Lala Lajpat Rai at present and to put this obligation on a layman to report about such matters will be a very great hardship indeed. Therefore, so far as the obligation to report in such cases extends to the layman or the attendants on such sick persons, I propose that that may be done away with and the obligation for such intimation be only put on the medical practitioners who are the best judges in such matters, and they should be required to report. In the case of municipalities it is provided that the medical practitioners who attend on sick persons should be bound to report the matter to the proper authorities. I think that a similar provision may also be applicable to cantonments. I do realise that it is necessary that contagious or infectious diseases be reported to the cantonment authorities who may have to take proper care of such cases and to segregate such persons to prevent the infection from spreading further. Therefore, the clause, though necessary, in respect to medical practitioners, becomes troublesome and a source of oppression so far as the attendants on the sick person are concerned, and I propose that this obligation on the layman be omitted.

Mr. P. B. Haigh : Sir, I am afraid the Honourable Member is going still further back into the paths of reaction. The object of this amendment seems to be to facilitate the concealment and spread of infectious diseases. The House will observe that as the clause is worded in the Bill no penalty attaches to any person, unless he knows or has reason to believe that somebody in this House is suffering from a contagious or an infectious disease. There is no question of his properly diagnosing the case as some form of disease or another. It would have to be proved that he knew or had reason to believe that there was a case of infectious disease in the House. If the amendment is accepted, it means that, unless a medical practitioner is actually employed by the people concerned, the disease can be concealed with impunity. Now, the kind of people who want to conceal diseases are just the people who never employ a medical practitioner. There is every need for a penalty to be imposed on people who deliberately harbour persons in their houses who are suffering from infectious diseases.

The motion was negatived.

Clause 150 was added to the Bill.

Clause 151, as amended by the Select Committee, was added to the Bill.

Clauses 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164 and 165 were added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move :

"That in clause 166, sub-clause (3) :

(a) substitute 'shall' for 'may' before 'give', and

(b) substitute 'reasonable' for 'such' and omit 'as he thinks fit'."

[Mr. K. B. L. Agnihotri.]

In this clause 166 the President of the Board or the Commanding Officer of the Cantonment is authorised to destroy any clothing of a person who suffered from any infectious or contagious diseases. Sub-section (3) also provides that in the case of such destruction, if the President thought it proper, he may give such compensation as he thought fit. My amendment suggests that in the case of such destruction some reasonable compensation must be given to the person whose property has under this section been destroyed. The clause as it at present stands gives an option to the President of the Board and the Commanding Officer to give or not any compensation. By my amendment I make it obligatory on these authorities to give compensation to the person whose property has been destroyed, and to give "reasonable compensation" and not "such compensation as he thinks fit."

Mr. L. Graham : Sir, the whole point of this clause is to authorise the President of the Board without consulting anybody else to do what he considers to be just. The articles which may be ordered to be destroyed may be absolutely worthless, and yet, as far as I can understand, he has got to arrive at some valuation of this worthless property in order to satisfy Mr. Agnihotri's sense of justice. I oppose the amendment.

The motion was negatived.

Clauses 166, 167, 168, 169, 170, 171, 172, 173 and 174 were added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I move :

"That in clause 175, sub-clause (1), substitute the following for the proviso :

'Provided that such person shall not be called upon to attend for examination at any such hospital or dispensary, if having regard to the nature of the disease or the condition of the person suffering therefrom or the general environment and circumstances of such person, the attendance of such person at a hospital or dispensary is likely to prove unnecessary, inexpedient or objectionable; in such case the Health Officer or medical officer, as the case may be, shall examine such person at such person's own residence.'

Clause 175 provides that in cases in which a person is suspected of suffering from any contagious or infectious disease, that person may be obliged to present himself at any dispensary or hospital for examination. So far as this clause goes, it is quite all right that a man who suffers from any contagious or infectious disease be made to go for examination to a hospital or dispensary. But there may be certain cases in which the disease may have much advanced or in which the man may not be in a position to move out of bed or to expose himself or to proceed to the dispensary. In such cases, the man should not merely for the purpose of examination be forced to go to the dispensary but should be examined at his own place. A proviso has been provided in this clause that only in such cases in which "the Health Officer or medical officer, as the case may be, considers that the attendance of such person at a hospital or dispensary is likely to prove unnecessary or inexpedient, he shall examine such person at such person's residence," provided that, having regard to the nature of the disease or the condition of the person suffering therefrom or the general environment and circumstances of such person, he may not send him. That is the proviso. But look

to what it means. (Voices : "Withdraw, withdraw.") As my friends press me to withdraw the amendment, I withdraw it.

The motion was, by leave of the Assembly, withdrawn.

Clause 175, 176 and 177, as amended by the Select Committee, were added to the Bill.

Mr. N. M. Joshi (Nominated : Labour Interests) : Sir, I beg to move the following amendment :

"That clause 178 of the Bill be omitted and the necessary consequential changes be made in the re-numbering of the clauses that follow."

Sir, I do not know whether I should be in the pessimistic mood of my friend, Mr. K. A. R. Ayyangar, or in the optimistic mood of my friend, Mr. Agnihotri. But, Sir, I propose to be in that mood in which I shall be sure of getting the help of this House in passing my amendment. Sir, clause 178 provides for the punishment of imprisonment to sweepers who neglect or refuse to do their duty. The second sub-clause of that clause provides that the Local Government may notify to include some other classes in the class of sweepers as regards the punishment. Sir, in the first place, I do not know why in the Statute-book of this country punishment of imprisonment for refusal to work should have been put....

Mr. W. M. Hussanally : Without giving sufficient notice.

Mr. N. M. Joshi : only in the case of the working classes. My friend Mr. Hussanally says : "without giving notice". The punishment is given when a man refuses to work without notice. But, Sir, my Honourable friend Mr. Hussanally was a Government servant. I want to know whether a man in his position if he had to resign without notice and if he were sent to jail for that action, he would have liked it. There are hundreds of other people who give up their job. For instance, pleaders give up their briefs at the last moment. Barristers give up their briefs at the last moment. But they are not sent to jail.

Colonel Sir Henry Stanyon : In the interests of public health or safety.

Mr. N. M. Joshi : There are hundreds of other people who refuse to work without notice and they are not sent to jail. It is only in the case of the working classes that Government thinks of sending them to jail when they refuse to work without notice. (A Voice : "In the interests of public health.") I will come to that point. I know, Sir, that my Honourable friend Mr. Burdon may again quote some sections of the Municipal Acts—the United Provinces or Madras or some other Municipal Act. I know that there are several Acts in the legislative armoury of the Government of India where the working classes are punished with imprisonment for very slight offences for which other classes are not punished in that manner. So, quoting either the United Provinces Municipal Act or some other Municipal Act will not be considered a justification by me at least, and I am quite sure I will not be considered to be a justification by this House.

Sir, an Honourable friend just now told me that these sweepers are sent to jail for refusing to work in the interests of public health

[Mr. N. M. Joshi.]

and safety. Well, I am not quite sure about that. If it had been only in the interests of public health and safety, this section would not have had two sub-clauses. There is one clause for sweepers. There is no mentioning about public safety or public health there. There is another clause for other servants whose refusal to work would be dangerous to public health or safety. So, the clause has made a difference between sweepers and those other classes whose refusal to work would be dangerous to public health or safety. Sweepers will be sent to jail whether their refusal to work is dangerous to public health or not. (*Voices* : "No.") That is the section.

But, Sir, I should like to say this that sweepers perform a very useful service to the community. They are the protectors of the public health. They are the protectors of public safety. If that is so, they deserve to be treated much better than other classes. Is it right that a class of people who are more useful to the community should be punished more severely than the other classes? It is the fault of the sweepers that they do not engage themselves in doing less useful service, such as that of lawyers, civil servants, and several other people? Is it their fault that they engage themselves in such a noble work as that of protecting public health and public safety? Surely, they ought not to be punished more severely than others because they engage themselves in such useful work. I therefore feel, Sir, that it is not right that this useful class of public servants should be punished in this way. I know, Sir, I am not one of those people who would be lightly ready to endanger public safety and public health, but I submit that this is not the way of protecting public health and public safety. If sweepers go on strike and public health is in danger, you can resort to some other methods, but not penalise the sweepers unjustly. (*Dr. H. S. Gour* : "What is the other method?") If Government does not know any other methods I am prepared to suggest one. Sir, sweeping is absolutely necessary, and if it is not done, it will, I know, be a danger to public safety. Therefore, in the interests of the community, let every citizen be compelled to do the work of a sweeper in case of an emergency. In an emergency every man is compelled to serve as a soldier. Similarly, in an emergency of this kind, let every man be compelled to serve as a sweeper. That is the right method, that is the fair method and just method, but certainly it is wrong, it is unjust that simply because some other classes of people are not willing to do the work of sweeping the sweeper should be sent to jail. I know why Government does not resort to the method suggested by me. During the war, conscription was used, and Government knows that conscription is one of the methods by which you can get in an emergency certain necessary work done. But Government will not resort to this method in this case, particularly because the work of sweeping in this country will not be done by all classes of people. The work of sweeping must be done in the Hindu community by only certain classes of people. This class of people, simply because they do this useful kind of work, are considered untouchables and the touchable classes will not do the work of sweeping. Government knows this. If Government tries to introduce a clause asking every citizen to do the work of sweeping in case of emergency, I am quite sure there are very few people who will support

the Bill. Even Mr. Pyari Lal who is so anxious to get this Bill passed in this session will ask Government to postpone the consideration of the Bill. It is for that reason that Government does not resort to the proper method of getting communal interests served in case of an emergency. The real cause of this is these poor classes have to suffer on account of the strange notions of the Hindu community, and if that is so, why should the sweepers suffer on account of these orthodox notions of the Hindus? I therefore hope that Government will not punish the sweepers who are a very useful class of people. I am quite sure there may be some people who may tell me that in certain contingencies even in outside countries, when some classes of work-people go on strike they are prohibited from going on strike without notice. But if the services rendered by the sweepers are so useful and if you want them not to leave without notice,—instead of putting some special disadvantages upon them, why not at least give them some special privileges? I know of legislation where the working classes are not allowed to go on strike without notice, but in that case they receive certain privileges. In such cases the masters or employers are compelled to put the grievances of the work-people before a committee immediately. Why should not Government provide that here? Why should not Government provide that in the case of sweepers a minimum wage much more than the ordinary wage should be given. If the ordinary wage of the ordinary worker is Rs. 25 a month, let the sweeper be paid Rs. 50 a month by law. Then I can understand the Legislature putting certain restrictions upon the liberty of the sweeper. If you are not prepared to do that, I think it is wrong to put this penalty upon the sweepers who are a very useful class of people. I hope the House will accept the amendment.

Mr. Pyari Lal : I am afraid my Honourable friend Mr. Joshi is allowing his zeal to serve the cause of the sweepers, to override his sense of public duty. (*A Voice* : "Louder please.") He must know, and I suppose he knows it full well, that sweepers do a kind of work which is very essential to preserve the health and safety of the people, and especially in a cantonment where troops reside, the sanitation of the place is a matter of great importance. It is simply a matter of contract, when sweepers join the service they accept the wage which is offered and agree to do the work that is assigned to them. Therefore, without any previous notice if the sweepers take into their heads to run away or to strike work they deserve punishment, surely, in the interests of the public health and safety. Then as to why the sweepers should be treated like that, it is the fault of the society in which Mr. Joshi is born,—the Hindu society,—because the sweeping work is particularly assigned to a certain section of the people and no other people are allowed to do it. Therefore, it is that when the work is assigned to a particular class of people that class and that class only have to do it (*A Voice* : "No, no.") ; and that class has accepted to do it in spite of all that Mr. Joshi may say to serve their cause. Even in an ordinary private house sweepers are a necessity. In the case of other servants you can get other people to do their work, but in the case of sweepers nobody else can do it and therefore stricter safeguards are required and in the interests of the public, this section is absolutely essential and I oppose this amendment.

Mr. K. Rama Ayyangar : I have in fact given notice of a similar amendment but I took the course I did under the circumstances that I have already stated, but Mr. Joshi has been courageous and I wish him good luck. At the same time I must say that this House sitting in the heights of Simla has forgotten its duty to the cause which they are supposed to represent. We have been fighting for the labour laws in other places where Indian labour is concerned. That being so, imprisonment is not really efficacious as a punishment for making people work according to the terms of the contract. We have been fighting for a long time. Here is a law enacted for the first time. I do not know if it exists in any other province but it does not in the Madras Presidency, as far as I know. But if there is such a law in other places, then I certainly should like to protest against such legislation being further extended. Here are a set of people who know nothing about the law, who every day do the meanest of work that menials can do, who ordinarily are beaten by Sanitary Inspectors, who do their work without any protest for little or nothing. Such people if they happen to go on strike it must be on very proper grounds. I do not think this ordinarily happens. They do not do it for fun. They do not do it simply because they get irritated all on a sudden. The fact must be that their stomach is not fed properly. They live on the refuse thrown in the streets and the money that they make is often times not sufficient for their expenses. Under those circumstances I suggest that the whole clause be omitted or at least leave it at a fine of Rs. 10 according to the nature of the case to be decided by the magistrate in charge of the matter. These are a poor class of people who work most slavishly all the time and what we are doing here is to punish them when they fail and send them to jail. Let us see how that will save the situation. Suppose you send a few people to jail. They will be much better off in jail. They will get better meals there. Ordinarily they live on the refuse thrown in the street, mixed with mud and other things. What is the loss they incur? They may get Rs. 20 or 25 at the highest, which they spend on their families. I have not known that these people are very much improved in their condition and in spite of their earnings they live on the refuse. Suppose all of them agree to go to prison. How are you going to save the situation? Are you going to turn other men into sweepers all at once?

Mr. N. M. Joshi : That is the only remedy.

Mr. K. Rama Ayyangar : I considerably differ from you there. One word more I want to say. They spend all their earnings on drinking and probably that is necessary for them. I do not know. That being the position they may not care if they are sent to jail. On the other hand if you only give two annas extra by a general arrangement, the whole thing could be brought to order, and this ten rupees fine for one or two people may bring them to order. That will certainly be much more useful than sending them to jail and trying to introduce into the law a punishment which must reflect very much on the responsibility of Members who sit in this Council. These people cannot defend themselves and they have not got a voice here. I do not think that this particular section should be enacted in the Statute-book, especially when

you are passing a law like this under the Reforms. I should certainly oppose with all the force and argument at my command the passing of this section in its present form.

Lieut.-Colonel R. H. Palin : The provisions of this clause appear in practically every Municipal Act as well as in the recent Calcutta Municipal Act. Speaking as one of the "about to be deposed" Cantonment Magistrates after some 18 or 20 years' executive experience I can say that without this deterrent clause in the Act, the work of the executive officer will be rendered almost nugatory. Government has never up to date received any complaints that this particular clause which appears in the present Cantonment Code has been abused in any form whatever.

Mr. N. M. Joshi : The sweepers are not educated. How can you hear?

Lieut.-Colonel R. H. Palin : The effect of the omission of this clause will be that in order to obtain a higher rate of wages the sweepers in charge of the conservancy arrangements of a cantonment would be in a position to strike and the results in a cantonment so far as the troops are concerned would be at any rate disastrous. I beg therefore to oppose this amendment.

Chaudhri Shahab-ud-Din (East Central Punjab : Muhammadan) : Mr. Joshi's amendment bespeaks inexperience.

Mr. N. M. Joshi : No, Sir.

Chaudhri Shahab-ud-Din (East Central Punjab : Muhammadan) : He comes from Bombay where I believe self-flushing arrangements are in existing to a great extent. I am not sure whether he has any actual experience as a member or executive officer of a Municipal Corporation....

Mr. N. M. Joshi : I have.

Chaudhri Shahab-ud-Din : or of the actual working of the sweepers. [I would request the Honourable the President to give Mr. Joshi another turn to speak so that he may answer some of the charges levelled against him.] No one means to convert non-sweepers to sweepers by this deterrent clause of the Bill. The object simply is to make sweepers do their work as sweepers and not to resign their posts without giving due notice. It is not intended that they should be coerced to work against their will for an indefinite or inordinately long period. All that is meant is that like ordinary domestic servants they should give one month's notice when they want to relinquish service. And if sweepers, being a class of persons upon whose service depends the health not only of one or two but perhaps of millions of inhabitants, were given the liberty of giving up their work at their own sweet will and pleasure, without any coercive powers being given to the executive to compel them to work at least for such time as may be necessary for making arrangements for their work, I am afraid the health, not only of one or two cantonments but perhaps of every town in India, might suffer. In the clause under discussion the punishment provided for is only one month's imprisonment. In the Punjab Municipal Act it is two months, and I believe

[Chaudhri Shahab-ud-Din.]

similar provisions exist in the Municipal Acts of the other provinces. This provision during the last 11 or 12 years that I have been connected with the Lahore Municipal Corporation has never been actually put in force. No such occasion has arisen. Yet here is a weapon which in case of need may be, and in fact should be, in the interests of public health, used by the executives of a corporation. The object is simply, as I have already said, to get work out of them and not to convert non-sweepers into sweepers. If Mr. Joshi means that like a clerk a sweeper also may give up his service at any time without a moment's notice, I am afraid he is misjudging human nature and is misapplying the principle of philanthropy to the sweeper class. No one says that sweepers should be treated more severely than other servants. But it is only reasonable to expect that they should give due notice when they want to leave, so that the executives concerned may be able to make arrangements to carry on their work. Without this I am afraid the sanitation and health of the whole of the Continent of India might suffer. It is no doubt very plausible to argue such cases on humanitarian grounds, but practical politics are entirely different. If a sweeper were to give up sweeping and removing the night-soil from his house without giving him any notice, I am sure within a week Mr. Joshi would realize the true significance of this wholesome provision. Therefore I request the Honourable Members of the House not to pay any attention to all the specious but hollow arguments which have been advanced by Mr. Joshi and the speakers who have followed him, and to pass this provision, which is indeed a very wholesome and necessary provision in the Bill.

Mr. President : The question is :

"That clause 178 do stand part of the Bill."

The motion was adopted.

Clauses 179, 180, 181, 182 and 183 were added to the Bill.

Mr. K. B. L. Agnihotri : I move, Sir :

"That in clause 184, the word 'fifty' be substituted for the words 'five hundred'."

Now clause 184 provides a penalty for the erection of buildings without the sanction of the cantonment authority or without complying with any of the conditions of any sanction given or after the expiry of sanction and the punishment for that is a fine extending to Rs. 500. In section 107 of the old Cantonment Code, Sir, the fine for the same offence was only Rs. 50. In addition to this punishment, such a person is also liable under clause 185 to have that building demolished. I beg to submit that as the cantonment authorities are also empowered to demolish a house so erected, there does not seem to be any valid reason for enhancing the limit of fine from Rs. 50 to Rs. 500. The punishment as was previously provided is quite sufficient. And a fine of Rs. 500 for the mere breach of the rule requiring sanction, etc., I submit, is very severe, specially in addition to the demolition of the structure. I therefore propose that the old limit of the fine to Rs. 50 be retained in this Bill also.

Mr. L. Graham : Sir, anyone who has ever had anything to do with a municipality knows how extremely difficult a task it is to prevent people from erecting unauthorized buildings. They have a pernicious habit of running out little galleries or verandas above the street from which they may drop things on the heads of persons passing below. They have a most pernicious habit of attaching little steps to the ground floor which would trip up unwary passers-by at night. Altogether, Sir, the lot of the municipal officer who has to try and check these building enormities is not at all a happy one. The limit of the fine in the Act before, as pointed out by Mr. Agnihotri, was Rs. 50 ; a penalty which was obviously insufficient, and I take it that the reason why this maximum penalty has been raised is that the old penalty by experience has been shown to be insufficient. And in support of that, Sir, we have also the more recent Municipal Acts in which we find exactly the same maximum punishment of a fine of Rs. 500. And considering the enormities which are perpetrated by householders in re-building their houses, I think this maximum fine of Rs. 500 is extremely moderate. Sir, I oppose the amendment.

Mr. President : The question is :

"That in clause 184, the word 'fifty' be substituted for the words 'five hundred'."

The motion was negatived.

Clauses 184 to 201, were added to the Bill.

Clause 202, as amended by the Select Committee, was added to the Bill.

Clause 203 was added to the Bill.

Clause 209, as amended by the Select Committee, was added to the Bill.

Clauses 205 to 209 were added to the Bill.

Mr. K. B. L. Agnihotri : I move, Sir :

"That in clause 210, sub-clause (2), omit the words 'offensive or'."

This clause 210 provides that certain classes of traders and business men in cantonments should obtain a licence to trade therein and that license shall be liable to renewal every year. This sub-clause provides that a licence granted under sub-clause (1) shall be valid only for one year and makes it obligatory that every year such licences be renewed. Though the clause also lays down that the grant of such a licence would not be withheld by the cantonment authority unless it had reason to believe that the business was offensive or dangerous to the public it can be safely asserted that the safeguard provided is of no practical benefit at all.

My objection is mainly confined to the word 'offensive.' I concede, that so far as a business was dangerous to the people in general, it may be stopped, and the licence be not renewed, but the adjective 'offensive' is such a vague,—it may be offensive to sight, it may be offensive to smell, it may be offensive to hearing. The word 'offensive' can be extended to all trades or occupations. I therefore provide that the word 'offensive' should be deleted.

Mr. President : In clause 210, amendment moved :

"In sub-clause (1), omit the words 'offensive or'."

Mr. E. Burdon : Sir, I cannot believe that the House will agree with Mr. Agnihotri. The inclusion of the word 'offensive' is in my opinion essential. (*The Honourable Sir Malcolm Hailey :* "More essential" in practice than the word 'dangerous.') When I was Secretary to the Municipal Committee at Delhi I remember—I find the Honourable the Home Member's recollection of Delhi coincides with mine—that one of the troublesome occupations we had to deal with was the preparation of catgut. I do not know if any Honourable Member of this House has ever been within half a mile of a place in which catgut is prepared; if they had, I am sure they would never have forgotten it. That particular occupation is not one which is dangerous to the public, but it is one which is extremely offensive to the public; and it is just the sort of case in which the Cantonment Authority or any municipal authority would be perfectly justified in refusing a license unless the trade was carried out in a place situated where there was no public to whom it could be offensive. Another example, of course, of the same thing is any process connected with the tanning of hides—anything of that kind. But I feel sure it is quite unnecessary for me to elaborate the argument any further. I am quite sure that the House will agree that to exclude the word 'offensive' would be an obvious mistake.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Mr. K. B. L. Agnihotri : Sir, I move :

'That in clause 210, in sub-clause (3) : (a) omit 'if' and substitute 'shall not refuse' for 'refuses'; (b) omit 'it shall pay compensation for any loss incurred by such refusal'.'

Sir, this sub-clause (3) provides that in the case of trades or business in existence in the cantonment area, at the commencement of this Act persons carrying on such trade or business may not be required to apply for a license under certain conditions, that is, until they have received a notice from the Cantonment Authority requiring them to apply for a license. This sub-clause is probably meant to appear as an Act of generosity on the part of Government for the men already carrying on trade in the cantonment area in that they be not compelled to apply for a license just on the passing of this Act, but may wait for the Cantonment Authority's notice asking them to apply for that. But at the same time this sub-clause also authorises the Cantonment Authority to refuse them the license. It is a very hard provision indeed. My Honourable friend, Mr. Burdon, had said in connection with the previous amendment that in Delhi there were certain persons who carried on the business of manufacturing and preparing catgut which was very offensive; I am afraid that in cases of similar trades alleged to be offensive, a license would be refused by the Cantonment Authority. The result would be that such persons will be deprived of their trade and livelihood. Deprivation of the trade would be a very serious thing for that poor man. It may be offensive to some of us and to the people of highly developed aesthetics but what about that poor man and his family? How will they get their living? We may regard as an offence the smell of the preparation of catgut, but looking at it from the standpoint of the people

manufacturing it and who make their living by it such a provision would be very drastic indeed, and I submit that in the case of businesses and trades that are already in existence in the cantonment area, no license should be necessary; or if a license be necessary, then such license should not be refused by the Cantonment Authority simply on the flimsy grounds of their being offensive. I suggest that in the case of existing trades the Cantonment Authority shall not refuse to grant a license to persons carrying on the trade in cantonment areas.

Mr. President : In clause 210, amendment moved :

"In sub-clause (3) (a) : (i) omit the word 'if' and substitute the words 'shall not refuse' for the word 'refuses'; and (ii) omit the words 'it shall pay compensation for any loss incurred by such refusal'."

Mr. P. B. Haigh : Sir, there is a well-known scripture which I think must have been in the mind of the Honourable Member who moved this amendment, and it is this :

'He that is filthy, let him be filthy still.'

That is the meaning of the amendment.

If there is any offensive trade....

Mr. K. B. L. Agnihotri : I could not hear it.

Mr. P. B. Haigh : I shall repeat it. The scripture is this :

'He that is filthy, let him be filthy still.'

If the amendment were carried, it would mean that no matter what disgusting trades were being carried on, what dangerous occupations were being carried on, at the time when the Act came into force, the Cantonment Authority would have no power to prevent them, it must grant a license, it is absolutely precluded from making any improvement in this respect. And who is it that is to be prevented from making the improvement? Not some autocratic military authority but the Cantonment Authority itself. This has nothing to do with the discipline of troops, but is definitely in the interests of the inhabitants of the cantonment, military and non-military alike. Let the public suffer as they will, the mover wants that no private person shall be interfered with or regulated in any manner, however offensive, however disreputable, however dangerous his trade. Sir, I call this absolute Bolshevism.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 210, 211 and 212 were added to the Bill.

Mr. E. Burdon : Sir, I have to move a formal amendment :

"That in clause 213, for the words 'profession or calling', substitute the words 'calling or occupation'."

The object of this amendment is merely to bring the language of the clause into harmony with the language used in other portions of the Bill.

Mr. President : In clause 213 amendment moved :

"Omit the words 'profession or calling' in order to insert the words 'calling or occupation'."

[Mr. President.]

The question I have to put is that that amendment be made.

The motion was adopted.

Clause 213, as amended, was added to the Bill.

Clauses 214 to 216 were added to the Bill.

Clauses 217 and 218, as amended by the Select Committee, were added to the Bill.

Clauses 219, 220, 221, 222 and 223 were added to the Bill.

Mr. President : Clause 224.

Mr. K. B. L. Agnihotri : Sir, I move that :

" In clause 224, sub-clause (c), after the word ' writing ' add the words ' and considering his reply '."

Sir, under this clause 224 the Cantonment Authority is authorised to cut off the water connection of any person's house or building if they considered that water was wasted by reason of the pipes, drains or other works being out of repair. This provision was much objected to by the All-India Cantonments Association. They found that similar provisions have been abused by the cantonment authorities in the past and they wanted the insertion of a notice of fifteen days before any connection was cut off and of a provision for calling upon that man to show cause why the connection should not be cut off. After considering all that, the Select Committee has amended this clause by inserting a provision to give notice, but they have made no provision for calling for any explanation from the man concerned before cutting off the water connection. It may happen that the report of the subordinate officers of the cantonment be not correct, and on that report probably the cantonment authorities may proceed to cut off the water connection, in which case it would be a great hardship to the person and his family.

By this amendment of mine, I wish it to be provided not only that notice be given but also that in case the person concerned offers any reply or shows cause, that explanation be considered before water connection is cut off. With this object, Sir, I move my amendment.

Mr. E. Burdon : The clause, if amended as proposed, will read :

" The Cantonment Authority may after giving notice in writing and considering his reply "

I want to know whose reply it is.

Mr. K. B. L. Agnihotri : I have said " reply, if any."

Mr. E. Burdon : And I should also like to know what Mr. Agnihotri would advise the Cantonment Authority to do supposing a person to whom a letter was addressed did not reply.

Mr. President : Amendment moved :

" In clause 224, sub-clause (c), after the word ' writing ' add ' and considering his reply '."

The question is that that amendment be made.

The motion was negatived.

Clauses 224 to 236 were added to the Bill.

Mr. N. M. Joshi : Sir, I move the following amendment :

" That the words ' such person ' be substituted for the word ' her ' wherever it occurs in clause 237 of the Bill."

I ask for the substitution of the words " such person " and not " that person " for the word " her " occurring in this clause. This amendment.....

Mr. E. Burdon : To save time, may I say that I accept the amendment.

The motion was adopted.

Clause 237, as amended, was added to the Bill.

Clause 238 was added to the Bill.

Mr. K. B. L. Agnihotri : Sir, I beg to move :

" In clause 239, sub-clause (1), omit ' disaffection ', omit ' or breaches of discipline ', and after ' cantonment ' at the end of the clause, add ' within a year from the date of such order '."

This clause 239 provides for the removal from cantonment area of certain classes of people, that is those persons who are known to be likely to cause disloyalty, disaffection, or breaches of discipline amongst any portion of His Majesty's forces ; or such persons whom the Commanding Officer of the Cantonment has reason to believe to be likely to do any such act. The Commanding Officer of the Cantonment may make an order in writing asking them to leave that area and not to return without the permission of the Commanding Officer. Now, this provision has been a source of constant irritation in the Cantonment areas causing great inconvenience to the civil population ; and has also been the cause of much wrangling between the Government authorities and the people living in cantonments. It has also on occasions been admitted by the Government authorities that this power had not always been used properly and that there were occasions when this power had been improperly used or abused. I propose that, though it may under certain circumstances be proper to retain such a power in the Commanding Officer, it should be strictly limited. The removal or deportation should be limited to a particular period ; and should be used only against such person who may be guilty of tampering with loyalty of troops but not against persons against whom there is a mere suspicion of their causing disaffection or breaches of discipline and they should not be the persons that should be excluded from the cantonment areas. I do not mean to say that persons who deliberately and directly attempt or cause breaches of discipline or disaffection should not be punished. That is not my object at all. My object is for removing the word " disaffection " and " breaches of discipline ", because these words are very vague. In spite of the many legal decisions in the Courts of Law, these words have not been given any definite or exact definitions or meaning. Anything may amount to or cause a breach of discipline. If any person in the cantonment area were to preach to the civil population in the cantonment area that they should use caps in a particular fashion, and though this preaching in itself may be a harmless and an innocent one, still it may be considered by the Cantonment Authority or the Commanding Officer as likely to create breaches of discipline among the Indian sepoys in that regiment. Any such preacher may under the provisions of this clause be deported. Breaches of discipline cannot be properly defined. This clause will make it possible for even innocent persons to be removed from

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such areas. Therefore, Sir, I suggest that the words "disaffection" and "breaches of discipline" be deleted from this clause as well as that such persons who are to be kept out of the cantonment should only be kept out of the area for a period of one year only and not indefinitely. If after a year such persons again show a tendency to commit such offences, they may then again be removed under this Act or be punished under the Indian Penal Code or any other law. With this object in view, Sir, I move my amendment.

Mr. President : Amendment moved :

"In clause 239, sub-clause (1), omit 'disaffection', and omit 'or breaches of discipline', and after 'cantonment' at the end of the clause, add 'within a year from the date of such order'."

Mr. N. M. Samarth : Sir, I am afraid that Mr. Agnihotri when he referred to this provision having given rise to discontent in the cantonment population and read this provision as it is now in this Bill has unintentionally misled the House. The section of the Cantonment Code, which was 216 before, no doubt gave rise to a great deal of discontent. Now that section was in these words :

"The Commanding Officer of the cantonment if he thinks it expedient to exclude any person from the cantonment, whether with or without assigning any reason therefor and whether such person resides in or frequents a cantonment, shall send to the Cantonment Magistrate an order in writing to that effect and the Cantonment Magistrate shall cause a copy of the order to be served on the person together with a notice in writing requiring him to remove from the cantonment within a time to be specified in the notice and prohibiting him from re-entering it without the permission in writing of the Commanding Officer of the Cantonment."

Now, these were the words in that section. There is no doubt that that wording was likely to lead to cases in which there was abuse of power and authority on the part of the person who used it. That section in the old code has been re-modelled in the present Bill. Mr. Agnihotri does not object to the power of removal being given to the Commanding Officer of the Cantonment. He does not object to that. He thinks, I take it, that it is reasonable to give such power to the authorities in the cantonment with a view to prevent the commission of any of the offences which are mentioned in the section. He postulates that it is desirable to give the power to the authorities. But he objects to the words "disaffection" and "breaches of discipline" and limits the wording to this :

"If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty amongst any portion of His Majesty's forces,"

then he should be liable to be expelled from the cantonment area. There are other offences, short of causing disloyalty. The conduct may not amount to causing disloyalty, but at the same time it may cause or tend to cause breach of discipline in the Army, for instance, some one may go and preach or send leaflets saying it is against their religion, or it is *haram*, to serve a foreign Government. (Mr. K. B. L. Agnihotri : "It is disloyalty.") It may not necessarily result in making them break the discipline of the Army. Still, it would be an attempt to do so. It is spreading disaffection. You need not object to the word. It is in the Penal Code. Mr. Agnihotri has not asked for that word in the Penal Code to be deleted. So these words are absolutely necessary in order to cover all

the various shades of offences which are likely to be committed by persons seditiously disposed. Then he says, at the end of the word "cantonment" words shall be inserted to the effect that the order shall last only for one year. He forgets that in this connection various safeguards have been provided, so that, whatever the order passed, the person against whom the order is passed has about eight different safeguards by which he can protect his interests. Why should the order be for one year? It would depend upon the nature of the offence. For instance, persons who have been guilty of sedition are sentenced sometimes to six years and sometimes to six months, so that it all depends on the nature of the man's offence or of the attempt the man has made to tamper with the loyalty and the discipline of the Army. But the section provides various safeguards by way of appeal, by way of the Local Government on its own motion calling for an inquiry, or being compelled on the application of the person concerned to call for an inquiry, but before this procedure comes into operation, there are various safeguards, namely, giving him a hearing before the order is passed and making the order state the reasons why it is passed. Then, later on, making an inquiry at which the person will be given a hearing. All these safeguards, which, I think, are eight in number are given in the section. I, for myself, cannot think of any further safeguards that may be introduced without practically nullifying the section. The Select Committee added two more to those which were originally in the Bill, and have made this provision such that it would be a silly Magistrate who would pass a perverse order, because as soon as he had done it, there are so many ways in which his order would be exposed. (Mr. K. B. L. Agnihotri : "The Magistrate may not be sitting"). The person concerned is given an opportunity of being informed of the grounds on which the order is made and of showing cause why it should not be made, and the order is set out in writing. It is sent to the Superintendent of Police, who causes it to be served on the person against whom it is passed. Then, it is sent to the Local Government. The Local Government may, of its own motion, and shall on application made to it by the person concerned, make an inquiry and the person has the right to appear at that inquiry and be heard in his own defence. The Local Government makes a report, and all this within one month from the date of his application. Then there is another provision made as to what will happen after one month. Clause (6) says :

"Any person who has been excluded from a cantonment by an order made under this section may, at any time after the expiry of one month from the date thereof, apply to the Officer Commanding-in-Chief, the Command, for the rescission of the same and, on such application being made, the said officer may, after making such inquiry, if any, as he thinks necessary, either reject the application or rescind the order."

Having regard to all these safeguards I do not think it is right on the part of Mr. Agnihotri to ask this House to make the amendments that he proposes.

Dr. H. S. Gour : Sir, after hearing my friend Mr. Samarth, I feel constrained to support the principle underlying Mr. Agnihotri's amendment, and I think if Mr. Samarth would advert to section 239, he would be immediately converted to a view opposite to that which he has expressed just now, because I should interrogate him on a few points and await his

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reply or that of those who support the original clause. In order to see the glaring defect which underlies this clause, will the Honourable Members pause and read the clause as it stands? I recognise with Mr. Samarth that clause 239 is a great improvement upon the old section 216, but that is not enough. That section was enacted when this House was in a minority and the Executive Government could pass any legislation despite the protest of the representatives of the people. Are you going to stereotype a similar clause when you have a majority in this House, of which you cannot conscientiously approve. (Mr. N. M. Samarth: "It is not a similar clause.") We have been told, and that statement has been repeated times out of number, that this is an improvement and if you do not accept this clause, then the whole Bill is likely to be wrecked, and its beneficent provisions would not be given effect to because this is an integral portion of the new Cantonment Bill. Well, Sir, that is the alternative. Let this House stand by its rights and see that the freedom of man, that the liberty of man is not jeopardised by some false notion of accelerating the pace of a lame piece of legislation. Now, Sir, what does this clause lay down? The Honourable the Home Member has been counting on his strength. I appeal to his conscience, not to his packed majority in this House. (The Honourable Sir Malcolm Hailey: "I have only a majority.") Will the Honourable Member now see to what class of persons this clause applies? "If any person in a Cantonment." That person may be a house-owner, he may be an occupier of the house, not necessarily a new comer in the cantonment. Any person in a cantonment may be expelled under the provisions of this Bill, and there is no provision made in this connection for the payment of compensation consequent upon expulsion.

Mr. Pyari Lal: May I rise to a point of order. We are concerned only with the amendment before the House. It is out of order to discuss the whole clause as my learned friend Dr. Gour is doing.

Mr. President: Dr. Gour!

Dr. H. S. Gour: Now, Sir, that is the first point, and Honourable Members will remember it when they vote on this proposition. I now pass to the next point:

"If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty, disaffection or breaches of discipline amongst any portion of His Majesty's forces, etc."

Now, I can well understand the meaning of the word "disloyalty," but I cannot understand what the Cantonment Code means by the word "disaffection." Honourable Members know that, after repeated amendments, we have threshed out something in the nature of a definition of the meaning of the word "disaffection" appended to section 124-A of the Indian Penal Code where it is laid down: "The expression disaffection includes disloyalty and all feelings of enmity." Then there are two very salutary exceptions:

"Comments and expressions of disapprobation of the measures of the Government, with a view to obtain their alteration by lawful means without exciting, or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

Second exemption:

"Comments expressing disapprobation of the administration or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

These are the explanatory clauses which by a process of exhaustion except from the purview of section 124-A all comments which the Legislature regards as constituting disaffection of a criminal character. But is there any exception here? I see, Sir, in the interpretation clause a very large number of terms defined, but, if you turn to it, you look in vain for any definition either of "disloyalty" or of "disaffection" or of "breaches of discipline" within the meaning of the Cantonment Code. Now, Sir, it may be said that these are matters which must be left to the judgment of the Commanding Officer. If that is the argument, it is my very objection. If a man goes to a cantonment, how is he to know what is in the mind of the Commanding Officer when he expels a person, an old resident it may be of a cantonment area, that he has been guilty of disaffection towards His Majesty. I would therefore suggest that this is a pitfall, a trap for the unwary and this Legislature should resist with all the force at its back the passing of this clause unless it is made perfectly clear as to what is the exact meaning of the Legislature in defining these obscure, abstruse and vague terms.

Now, as the section develops, we get into greater depths. Later on, we find "or is a person who the Commanding Officer of the Cantonment has reason to believe is likely to do any such act." A prospective and possible person committing the offence or who is likely to commit the offence is to be laid by his heels and expelled from the cantonment. Now, my friend, Mr. Samarth, waxed very eloquent about the safeguards that this section provides. He tells us "look at the safeguards that have been provided." Surely my friend, with his large forensic experience at his back, could not be unaware of the fact that all the safeguards boil down to this that the matter is subject to inquiry by or at the direction of the Local Government. Now, Sir, when we were passing the Code of Criminal Procedure, I understood that it was the sense, at any rate of at least the majority of the Members of this House that wherever any judicial power was conferred upon the executive officers of Government, this House naturally resented it, and it has always required that a judicial act must be performed by a judicial officer with judicial experience; and with this feeling it transferred from the District Magistrate a very large number of cases to the Sessions Judge. Now, I ask Honourable Members to recultivate that spirit and see whether an improvement cannot be effected in this section and whether we cannot substitute a judicial officer in the place of a purely executive officer such as the Local Government is bound to be. My friend, Mr. Samarth, says "look at clause 4." Now, I ask my friend, Mr. Samarth, to look at it for himself. What does it say? It says simply this that, if the accused desires, the Local Government shall order an inquiry to be made. By whom? By the District Magistrate. Now, Sir, I have told you a few seconds ago that, so far as the considered opinion of this House is concerned, it would rather trust the Sessions Judge than the District Magistrate, and, if you turn to the Indian Penal Code, which punishes an exactly analogous offence, the offence under section 124-A, it is exclusively triable by a Court of Sessions. I therefore suggest that,

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if any inquiry is to be made, it should be made by a judicial officer. Has any provision been made to that effect? It has not, and I therefore suggest that this clause 4 which has been inserted by the Select Committee does not contain a necessary safeguard, that we should have expected in this connection.

Mr. W. M. Hussanally : May I also rise to a point of order. Dr. Gour is speaking to an amendment which is following this.

Mr. President : I allowed Mr. Samarth to reply to Mr. Agnihotri on the understanding that these questions, if discussed together now, cannot be discussed *seriatim* on the amendments which follow. The Assembly may, if it so desires, divide on subsequent amendments, but not debate them. I think it more convenient to take the whole subject together under the first amendment.

Dr. H. S. Gour : I thought my friend Mr. Wali Muhammad Hussanally was not enamoured of this clause, and, if I betray no confidence, he sympathised with my point of view and said that he would be glad if this clause was altered. If he has made a *volte face* in the meantime, I do not know the reason for it.

Now, Sir, it has been said that the accused will be heard. That is perfectly true, but I ask the Honourable Member in charge of the Bill whether he intends that the accused's pleader should be heard in this connection, because nothing is said here about the accused's pleader and nothing has been said by the Select Committee on this subject. I emphasise this point for a very good reason. The question as to what is disloyalty, disaffection or breach of discipline is a very difficult question. Cases after cases occur in the Law Reports where the learned Judges have striven to define without much satisfaction what is disloyalty, what is disaffection, and what constituted cognate offences of the character punishable under section 124-A. I therefore submit that, unless the accused has the assistance of counsel, he is not likely to give his explanation satisfactorily to himself or in the interests of justice. Now, I would like, therefore, the Honourable Member in charge of the Bill to assure the House as to whether the accused is to be heard or whether his pleader is equally entitled to be heard on behalf of the accused.

Now, Sir, this is all the safeguard, but, having made this safeguard, I should have expected that the accused would be entitled, as of right, to send his case up for the orders of the High Court. Honourable Members will remember that after long years of struggle in this country we have succeeded in placing on the Statute Book provisions similar to the Habeas Corpus Act and we are now in a position to go to the High Court and say that no executive officer of Government shall arrest and keep us in detention unless there is a judicial order in support of such detention. Now, Sir, I say by parity of reasoning that the High Court should be the final judge in the case of persons who have been expelled from a cantonment and against whom an order it may be has been passed that they shall not enter within those limits. Now, I submit, what difference in principle is there between the provisions of the two Acts, and I therefore ask this

House to support the amendment to the extent that, unless the Government are prepared to make some changes safeguarding the rights of the accused and giving him the right of trial before a judicial officer, preferably the High Court, we should be constrained to vote against this clause. It is not denied, indeed it could not be denied, that except in the very exceptional cases of cantonments in this country such a provision would not be tolerated by this House for a single moment. And what is the object of Government in stereotyping in an altered form a provision which has been obnoxious to the people of this country and which has been abused in the past, as is admitted alike by the Government and by those who champion this clause in this House.

I say, Sir, it is the primary and primitive right of a man to move about as he pleases in the British Empire, or at any rate in this country, and if his liberty is to be curtailed, it can only be done under the salutary restrictions which the law has placed upon the Statute Book. Let us not pass the provisions of section 239 for which we should afterwards be sorry. I therefore warn this House that there are numerous pitfalls in this clause 239 and the mere fact that the language of the section has been altered should not make Members of this House feel that there has been such improvement in the construction of this section as is likely to reduce its abuse to a minimum. After all, who are the Commanding Officers? I do not for a moment wish to suggest to this House that they are not men of common sense, but I do suggest that they are not lawyers. They put their own interpretation of what is disloyalty, disaffection and breach of discipline. If there were a provision that the Commanding Officer shall lay his case before the Sessions Judge and say that "Upon these facts I want the expulsion of this man" and this Sessions Judge were to pass an order to that effect, I shall be satisfied, because there will be a judicial officer who would examine the proceedings and pass an order for his expulsion. Even if you cannot get a Sessions Judge, I am prepared to allow the District Magistrate to pass the order. But I say, Sir, that I would strongly oppose the mere fiat of the Commanding Officer expelling persons on those grounds. There is a remedy, but that remedy, as I have pointed out to the House, is wholly inadequate. I therefore beg to ask the House to remember that assuming for argument's sake that the Commanding Officer and the Local Government ask the District Magistrate to make an inquiry, and the District Magistrate finds that the man has been rightly expelled and therefore no action is necessary, that is an order passed by the District Magistrate within the meaning of clause 4. Now, I wish to ask the Honourable Members occupying the Treasury Benches, "Is this an order subject to the revisional jurisdiction of the High Court within the meaning of section 435?"

Mr. N. M. Samarth : He makes no order. He makes a report.

The Honourable Sir Malcolm Hailey : He makes an inquiry.

Dr. H. S. Gour : If he makes no order at all, so much the worse for that clause. I therefore submit that the report is a very inadequate report, because the accused has no relief at all, and there is no order by any judicial officer at any stage justifying his expulsion from the cantonment.

Rai Bahadur Bakshi Sohan Lal (Jullundur Division : Non-Muhamadan) : What remedy has he got after expulsion is ordered ?

Dr. H. S. Gour : One Honourable Member asks me if he is once removed from the cantonment in the cavalier fashion contemplated by section 239, what redress has he got. I answer "So far as I can see, none."

Mr. N. M. Samarth : He has got a remedy at common law.

Dr. H. S. Gour : Now, Sir, these are in short my grounds for supporting the principle underlying my friend's amendment, and I appeal to the Honourable Members on the Treasury Benches to meet us half way at any rate by amending clause 239 the provisions of which as they exist at present are far too drastic to be acceptable to this House.

Colonel Sir Henry Stanyon : Sir, I would ask this Honourable House to make a very careful study of section 239 (1)—it is simple enough—before it is led away by the eloquent address of my friend Dr. Gour, an address which completely missed the most essential part of this clause. This is not a case where the political rights and liberties of a civil population are being interfered with generally. This is not a case where the law of sedition is being re-enacted in a stricter fashion. One expression which Dr. Gour made use of—if I quote him correctly—shows how he himself has misunderstood this clause. He said that a house-owner or a respectable inhabitant of a cantonment may suddenly find himself charged with disaffection towards the troops. Now, in all common sense, I do not understand what that means. The object of clause (1) is this, that a particular section for whom cantonments are primarily formed, namely, His Majesty's forces, shall be prevented from committing breaches of discipline and shall be prevented from learning to entertain feelings of disaffection or disloyalty. What may be a perfectly proper and innocent act in relation to any other section of the community might be a very serious offence from the military point of view if done to influence troops. For example, a religious teacher with the very best of intentions may say to his congregation "Give up your time from 6 to 10 every morning, *at any expense of your work and business*, in praying to God." That is a teaching that might be commended everywhere, but if that teaching was given to troops who were bound by discipline to attend parade from 6 to 9, and had the effect of making those troops keep away, upon religious grounds, from that parade, that would be an offence under this section. That would be teaching them to commit breaches of discipline. Whether troops have reached a state of mind where they are likely to be disloyal or disaffected or to commit breaches of discipline—whether that condition has come about—who, in the name of commonsense, can be a better judge than their Commanding Officer ? He is the only man who can say that his troops are being led out of the right path. If a person who is living in the cantonment as a civil resident,—be he owner of property or be he anybody else, however big or however small—chooses to go and meddle with the troops and to lead them along the line of disloyalty or disaffection or breach of discipline, then, if there is any sense in having a cantonment area for the habitation of troops, one of the most urgent needs of such a condition of things is

that that man should be turned out of that area. There would be no consistency or sense in a Cantonment Act which did not provide some rule of that kind. The Select Committee have taken the course of making a very proper amendment. Instead of being dealt with in the old fashioned, summary, military style and shot out of the cantonment as quickly as a commanding officer might wish, an offender accused of seducing troops will be informed of the grounds on which an order of eviction is to be made, and he will be entitled to show the commanding officer reasonable cause why the order should not be made. Then the Act provides still further protection against an unjust order. The District Magistrate may be required to inquire, and the Local Government may be required to decide whether the commanding officer's order is correct. That is a very substantial protection, and if the Local Government is of opinion that the commanding officer's order is not correct, then the matter is to go up before His Excellency the Governor General in Council. Surely, that is complete protection for any misuse of what ordinarily is a matter that hitherto has been absolutely at the disposal of the military authorities. It does not matter to a commanding officer who the person is, but it does matter to him what that person does with the troops under his command. Troops are under special rules of discipline, and are placed in an area where that discipline can be exercised over them ; and if anybody comes there and interferes with those troops, the commanding officer has every right in reason and common sense to have that person removed from the area where he can interfere and meddle with the troops. This Act gives a great deal of liberty to the civil population,—political liberty which it did not possess before—and it only provides, side by side with that concession, that the giving of this political liberty shall not be made an opportunity for interfering with the troops who are in the cantonment. I ask the House very earnestly not to be led away by the eloquent and long argument suggesting that political rights and liberties are being interfered with. That is not so. In giving political rights and liberties to the civil population, care has been taken to protect the troops from being in any way injured thereby, and I entirely associate myself with my Honourable friend Mr. Samarth in saying that this amendment ought not to be accepted.

Mr. E. Burdon : Sir, it will perhaps assist the House in coming to a conclusion with regard to this amendment if I supplement the arguments of my Honourable Friends, Mr. Samarth and Sir Henry Stanyon by the cold light of a little fact. In 1922, the Government of India undertook to review the cases of all persons who during the preceding seven years had been expelled from cantonments under section 216 of the Cantonment Code on account of their political views and activities. The House will observe that I am referring here to section 216 of the Cantonment Code as it formerly stood, that is to say, the old section which my Honourable friend Mr. Samarth read out to the House. Well, Sir, Government found that there had been 27 such cases in that period of seven years, and I wish to emphasise that the Cantonment Act and Code including the old section 216 applied to 102 cantonments with an aggregate civil population of 706,000 individuals, and yet in those seven years only 27 cases had taken place—27 cases under the much more drastic provision which then existed. I think that this makes it very clear that even the

[Mr. E. Burdon.]

old section had not been grievously abused. I can say with certainty myself that it had not been abused because I undertook the review personally of all these 27 cases. Now the implication of what I have said might be held to be that this particular provision is unnecessary, but the further fact which I am about to state will show that this is not the case. During the seven years there were four years in which no case at all took place. All the 27 cases took place in the years 1919 to 1922, the period which witnessed the rise of the non-co-operation movement and the development of a propaganda which aimed at the subversion of Government. In other words, the section was not used except during that period, and I think every Member of the House will admit that during that period the necessity for such a section clearly existed.

My next point is this : it is an equally definite point. The clause which we have here, clause 239 of the Bill, merely reproduces, subject, of course, to the amendment made by the Select Committee, section 216 of the Cantonment Code as it was amended in 1922. My Honourable friend Mr. Samarth and my Honourable friend Sir Henry Stanyon have shown what ample safeguards exist in this clause, and the proof of this contention is to be found in the fact that since 1922 no case of expulsion has taken place in regard to which any complaint has reached Government. The sum and substance of the position of Government in this matter is this. Even the Mover of the amendment, Mr. Agnihotri, himself agrees that there must be a power of this character, and my Honourable friend Mr. Samarth and my Honourable friend Sir Henry Stanyon have shown quite clearly that if any power of this character is to exist it would be impracticable to whittle it down more than it has been whittled down by the revision of 1922 and by the further safeguards which have been imported into the clause by the Select Committee.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Mr. President : The question is :

“ That in clause 239, sub-clause (1), after the word ‘cantonment’ at the end of the clause the words ‘within a year from the date of such order’ be added.”

The motion was negatived.

Mr. President : Further amendment moved :

“ In sub-clause (4), substitute ‘Sessions Judge’ for ‘District Magistrate’.”

The question is that that amendment be made.

The motion was negatived.

Clause 239 was added to the Bill.

Mr. President : The question is that clauses 240 and 241 do stand part of the Bill.

The motion was adopted.

Mr. K. B. L. Agnihotri : I beg to move :

“ That in clause 242, the words ‘with the previous sanction of the President’ be omitted.”

This clause 242 provides for the power of inspection by a Member of a Board of papers of the Board and certain institutions. It says that such papers could only be inspected with the permission of the President. I submit that Members of the Board should have every right to inspect every paper of the Board or institutions supported by or connected with the Board. A member is as much interested and responsible as the President himself and therefore I want him to be put on the same basis as the President, so far as the inspection of papers of the Board and the institutions are concerned.

Mr. E. Burdon : Any Honourable Member of this House who has any practical knowledge of the administration of municipal business, and it is essentially a municipal matter that we are dealing with, will realise that it would be most undesirable to omit the words to which my Honourable friend has taken exception. It must be recognised that the servants of a cantonment committee are the servants of the committee and not of the individual members, and it would place servants of the cantonment committee in a perfectly impossible position, if any individual member without giving notice, without going through any of the usual formalities of courtesy were to be at liberty to go into the office, to go into particular departments and insist on work being suspended, possibly the work of a tax collector, could insist on registers being produced and were to conduct a summary inspection of the work of the department. I am speaking from my own experience as Secretary of one of the largest municipalities in the North of India. I was Secretary of the Municipality of Delhi for something over two years and I know very well what I am talking about. After all, what is the difficulty ? What objection is there to going to the President and saying “ I wish to inspect such and such a hospital to-morrow. I am told that there is a great deal of extravagance going on in regard to diets. May I have your permission to go. Will you kindly inform the medical officer in charge of the hospital that I am coming. Will you ask him to give me such facilities as I may require.” What is the difficulty ? What possible objection can there be ? It is the customary procedure and it is the procedure which courtesy demands. The amendment may seem a very simple matter but carried into the administration of cantonment business it would be a very serious matter indeed and lead to great trouble, great inconvenience and much friction. I ask the House to reject the amendment.

Mr. President : The question is :

“ That in clause 242, the words ‘with the previous sanction of the President’ be omitted.”

The motion was negatived.

Clauses 242 to 253 were added to the Bill.

Mr. K. B. L. Agnihotri : I beg to move :

“ That in clause 254, sub-clause (1) (a), the word ‘registered’ be inserted between ‘by’ and ‘post’.”

Clause 254 provides for the mode of service of notices in the cantonment area. It provides that the notice may either be served by tendering it to the persons concerned or sending it by post. Now, Honourable

[Mr. K. B. L. Agnihotri.]

Members realise that it rather often happens that the letters sent by post do not reach the addressee. I have personal experience of such occurrences. I have sent papers to the Legislative Department and I found them missing. It may be that my servant did not post them or the postman did not deliver it. Letters sometime even get stuck in the letter boxes and remain there for sometime even for years. I have read such instances in English papers and such cases have also occurred in this country too. Thus there is a possibility that the letter by post may not reach the addressee. Under this clause even such an addressee will be deemed to have received the notice and be held liable for its non-compliance. It will be really very hard and therefore I suggest that the word 'registered' should be introduced before the word 'post,' so that there may be a guarantee that the letter would reach him.

Mr. L. Graham : Sir, the pathetic picture drawn by my friend; Mr. Agnihotri, not only leaves me cold but makes me tired.

If my learned friend Mr. Agnihotri had only taken the trouble before he framed this amendment to read section 27 of the General Clauses Act it would not have been necessary for me to read that section to this House. That section, Sir, runs as follows :

"Where any Act of the Governor General in Council or any Regulation made after the commencement of this Act authorises or requires any document to be served by post, whether the expression 'serve' or either of the expressions 'give' or 'send', or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post....."

Does the Honourable Member now wish to withdraw his amendment ?

Mr. K. B. L. Agnihotri : I beg leave to withdraw my amendment.

The amendment was, by the leave of the Assembly, withdrawn.

Mr. K. B. L. Agnihotri : I move, Sir :

"That in clause 254, sub-clause (1) (b), omit the words 'or servant'."

Now, the other mode of serving a notice has been provided by giving or delivering the notice to a servant. This provision has been objected to by the All-India Cantonment Association, and their objections to it are very reasonable. They say that it often happens in Indian households that the servant is an illiterate person and the paper left with him may not reach the master. But the service of the notice on a servant will be deemed to have been a proper service. I suggest that the words "or servant" be omitted. I would have accepted the delivery to be proper if instead of a servant, the notice was to be delivered to an agent of the owner of the house. The servant may be illiterate and negligent enough not to give that notice to the master. I propose that such a service should be deemed to be improper and the words "or servant" be omitted from the clause.

Mr. E. Burdon : Sir, the service of a notice, or whatever it may be, on a servant is a recognized custom in India, recognized as necessary in practice and also as a matter of convenience. The provision which we have here is also to be found in the United Provinces Municipal Act of 1916 and in the Central Provinces Municipal Act of 1922.

Dr. Nand Lal : Sir, I desire to say a few words on this amendment. It is simply extraordinary that a very peculiar provision is made here to the effect that if any notice is handed over to a servant that act should be considered a proper service. I submit that the word "servant" is very vague. The word "agent" is well-defined, and if that word had been used there would have been no objection. Now it may be that a servant may be a boy who is retained for bringing certain articles from the bazaar. He may be on his way to the house of his employer and the notice is handed to him. Sir, will that be deemed sufficient service ? He may forget to deliver it or lose it. He is not really a true servant ; he is employed for the purpose of carrying certain articles from the bazaar to the house. So therefore the word 'servant' is so vague that it is a great surprise to me that it has been incorporated in this clause. The Honourable Member in charge of the Bill has referred to certain previous Acts in which a like provision occurs. But if there is a mistake in those Acts, should we adopt it here ? That is no argument. Two evils cannot make a right. Evil is evil. I respectfully submit that the insertion of this word is very ambiguous and it ought to be deleted. It won't harm the Government if they accept this innocent amendment which really is in favour of the clearness of the provision.

Bhai Man Singh : Sir, I know full well that in pressing for this amendment we depend solely on the mercy of the Treasury Benches. If the Honourable Mr. Burdon will be kind enough to understand our position he can secure the amendment, otherwise I know what its fate is to be. I would appeal direct to the Honourable Mr. Burdon and his friends to see how far this amendment is reasonable. Whenever we make a very reasonable demand, and a demand which costs the Government absolutely nothing, it does not take away the least little bit from the Government if they accept the suggestion. Now, so far as the provision itself is concerned, with all due deference I should say that there could be nothing more absurd than taking a service of notice to be properly made by giving the notice to the servant of the man concerned. Those who know anything about Indian Homes will understand the kind of servants we have. If I were to repeat stories of what my servants have done, you would really be astonished and every Member of this House would laugh over them and they would see what kind of servants we have. We are very often at a loss how to deal with them in the way of asking them to serve our dishes and in securing good vegetables from the bazaar. I really wonder how any responsible authority can say that a notice handed over to a man who hardly knows how to clean utensils should bind his master down, who, if he disobeys a notice which never reached him, may be hauled up criminally. And surely the Honourable Mr. Burdon can see the pitiable position of a gentleman whose servant lets him down in this way. And even a syce, a motor-cleaner or a chaukidar is a servant. Everybody is a servant. And if service on such people is to tie down a gentleman, then it affects everybody and not only Indians but Europeans. I know as a matter of fact that most European gentlemen somehow or other have a knack of getting good servants who are well trained. But it may be perhaps that their new chauffeur, their new chaukidar or even their new sweeper may be handed over a notice, and the master may be placed in a difficult position. I therefore request

[Bhai Man Singh.]

the Honourable Mr. Burdon to at least give very careful consideration to this point and delete a provision which is very drastic and absurd on the face of it.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 254 to 261 were added to the Bill.

Mr. President : Clause 262

Mr. K. B. L. Agnihotri : Sir, I move :

“ That in clause 262, sub-clause (1) (a), substitute the words ‘ District Magistrate ’ for the words ‘ the Commanding Officer of the Cantonment ’.”

Now in clause 26, Honourable Members will find that a provision has been made for the appointment of a committee of arbitration in certain cases, and those cases are that in the event of any disagreement as to the liability of the Cantonment Authority to pay any compensation under this Act or as to the amount of any compensation so payable, the person claiming such compensation may apply for the appointment of an Arbitration Board. This clause 262 provides that the Chairman of that Arbitration Board may be nominated, by the Commanding Officer of the Cantonment. Under the provisions of this Bill, the Commanding Officer of the Cantonment will generally be the President of the Cantonment Board, and he is the person who will directly be responsible and interested, as being one of the parties to the matter in dispute. Therefore, I think, Sir, that it is a very undesirable and improper provision that the person who is directly interested and directly liable should have the right of nominating the chairman, and therefore I provide that the chairman should be nominated by the District Magistrate of the place instead of the Commanding Officer of the Cantonment.

Mr. President : In clause 262, amendment moved :

“ In sub-clause (1) (a), substitute the words ‘ District Magistrate ’ for the words ‘ the Commanding Officer of the Cantonment ’.”

Mr. Burdon.

Dr. Nand Lal : With due deference, I rise to a point of order. With the greatest respect, may I ask the Honourable Chair whether he is in possession of the consolidated list of these amendments, or not ?

Mr. President : I am in possession of the consolidated list of amendments, and also in possession of information from the Honourable Member himself that he did not intend to be here this afternoon.

Dr. Nand Lal : I made a mistake, I came back.

Mr. President : I cannot help it, if the Honourable Member changes his mind, after informing me that he did not intend to move his amendments.

Dr. Nand Lal : If my absence.....

Mr. President : Order, order. **Mr. Burdon.**

Mr. E. Burdon : Sir, the constitution of the Committee of Arbitration which is proposed in this clause follows exactly the constitution of arbitration committees laid down in the Cantonment House Accommodation Act recently passed by this Assembly, and the point of the present amendment was on that occasion very carefully examined by the Select Committee on that Bill and by this House. It was considered then that this clause (a) contains a very liberal provision, in that it provides that the chairman of the arbitration committee shall in every case be a non-official ; that is what the House will find the clause provides for. I repeat, Sir, that committees of arbitration under this Act will, if this clause stands, be constituted in precisely the same way as this Assembly determined that committees of arbitration under the Cantonments House Accommodation Act should be constituted.

Dr. Nand Lal : Sir, at the very outset of the debate in connection with the Cantonment Board, I had the pleasure of expressing my view that I really think there is an improvement so far as this measure goes. But the wording of this section 262, especially sub-clause (a), leads me to believe that the reform which is alleged to have been given in this Bill is not such as could be expected. Now take the case, Sir, where the nomination will be made by the Commanding Officer of the Cantonment. Now he is, so to speak, at the helm of the whole executive administration, and if he is given this power to nominate, will you accept this assurance on behalf of the Government that there is any kind of reform in connection with representation ? Therefore, in brief, I submit that it would be meet and proper if, instead of the Commanding Officer, the words “ District Magistrate ” may be incorporated. It will not cause any damage to the provisions of this clause at all, it will satisfy the public that really there have been great improvements. With these few remarks, I support the amendment.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 262 to 273 were added to the Bill.

Mr. President : Clause 274.

Mr. K. B. L. Agnihotri : Sir, I move that :

“ In clause 274, sub-clause (1), at the beginning of the sub-clause and before the words ‘ any person ’, add the words ‘ any person aggrieved by any order of the Cantonment authority other than those described in the second column of Schedule V and in respect to which no other appellate authority has been specified, may appeal to the Officer Commanding the District and ’.”

Sir, this clause 274 makes provision for appeals against certain orders. Now the orders against which appeals have been provided for under this clause 274 are very limited indeed. In Schedule V there is mention of about half a dozen or dozen sections only the orders under which would be appealable and not in other cases. Now take the case of clause 133 of this Bill where a man may be ordered or may be obliged to close his cesspool, to stop his drain, to remove his receptacle of unclean water—in any such case he has no right of appeal as no such order has been made appealable under this Bill. There may be other orders which are unappealable and which I have not been able to notice at a casual glance, but I do think that there are provisions the orders under which also may necessitate an appeal, and I wish that the

CORRIGENDA.

Legislative Assembly Debates, Vol. III, page 4227 :

Above the head-line "THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL" *insert* the following :

"THE ABOLITION OF TRANSPORTATION BILL.

The Honourable Sir Malcolm Hailey (Home Member) : I beg to lay on the Table the Report of the Select Committee on the Bill to provide for the abolition of the punishment of transportation in respect of certain criminal offences."

And in the Contents on the Title page, *below* the words "The Indian Merchant Shipping Act" *insert* the following :

"The Abolition of Transportation Bill—Report of Select Committee laid on the Table."

Page 4642 :

For lines 27 and 28 from the top, *i.e.*, *for* the words "That the Report of the Select Committee on the Bill further to amend the Act, 1908." *read* "That leave be granted to introduce a Bill further to amend the Indian Ports Act, 1908."

[Mr. K. B. L. Agnihotri.]

framers of the Bill had the generosity to give the right of appeal in other cases also in which at present they have not provided any such right. Therefore, I suggest that even in those cases which have not been provided for in Schedule V there should be a right of appeal, and that the appeal may be made to the Commanding Officer of the District, who is the appellable authority specified in Schedule II. With this object, Sir, I move my amendment.

Mr. President : Amendment moved :

"In clause 274, sub-clause (1), at the beginning of the sub-clause and before the words 'any person' add the words 'any person aggrieved by any order of the Cantonment authority other than those described in the second column of Schedule V and in respect to which no other appellate authority has been specified, may appeal to the Officer Commanding the District and'."

Mr. L. Graham : Sir, I must confess that this wholesale provision of appeals is a perfectly terrifying proposition. Had the Honourable Member attempted to convince the House that there was a single case in which an appeal had not been provided and in which an appeal should be provided (*Mr. K. B. L. Agnihotri* : "Under section 133"), then he should have put forward an amendment asking for an appeal against an order under section 133 to the constituted appellate authority,—but to set up this pleaders' paradise of an appeal against everything is, I suggest, absolutely impossible as a proposition to be considered at this time of the day. We cannot do justice to this proposition without looking through the whole of this Bill, studying every order and seeing whether we agree that an appeal shall be allowed against it. This suggestion is positively preposterous.

Mr. President : The question is that that amendment be made.

The motion was negatived.

Clauses 274 to 292 were added to the Bill.

Schedules I and II were added to the Bill.

Dr. Nand Lal : Sir, I move a very modest amendment which is this :

"At the end of Schedule III, add the words 'by public auction'."

Mr. E. Burdon : Sir, I accept it.

The amendment was adopted.

Schedule III, as amended, was added to the Bill.

Schedules IV, V and VI were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

Mr. E. Burdon : Sir, I move that the Bill be passed. I have already talked a great deal to-day, the hour is very late and I do not propose to say more than a very few words indeed. All that I have to say is to express my acknowledgments to the Members of the Select Committee who took an infinity of trouble to dispose of this very heavy and very voluminous Bill in a remarkably short time with the object that the

Bill might be passed before the close of the last session of the first Legislative Assembly. The work which they did is, in my humble opinion, beyond all praise, and I merely wish once more to say how grateful I am to them all and more particularly to my Honourable friend Mr. Samarth who accepted the duties of Chairman and carried them out with marked success.

Mr. President : The question is :

"That the Bill to consolidate and amend the law relating to the administration of cantonments, as amended by the Select Committee and as further amended by the Assembly, be passed."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 27th July, 1923.

LEGISLATIVE ASSEMBLY.

Friday, 27th July, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

MEMBERS SWORN

The Honourable Mr. David Thomas Chadwick, C.I.E. (Commerce Member) ; Munshi Iswar Saran, M.L.A. (Cities of the United Provinces : Non-Muhammadan Urban).

I.C.S. COMPETITIVE EXAMINATIONS.

The Honourable Sir Malcolm Hailey (Home Member) : I place on the table a statement giving the information promised on the 9th instant in reply to part (a) of Mr. K. Ahmed's question regarding the Indian Civil Service competitive examinations in India.

Statement showing the total number of applications received for the Indian Civil Service competitive examinations in India held in 1922 and 1923 and the number of candidates rejected each year on medical grounds :

1922—

Total number of applicants	..	..	..	..	170
Rejected on medical grounds	..	..	..	..	49

1923—

Total number of applicants	..	..	..	..	194
Rejected on medical grounds	..	..	..	..	58

QUESTIONS AND ANSWERS.

INDIAN WOMEN IN FIJI.

375. *Mr. B. Venkatapatiraju : Will the Government be pleased to state :

- (1) Whether they are aware that Women's Suffrage Congress was held at Rome in March last and associated with it there was a Committee to deal with the social and moral condition of Indian women in Fiji ?
- (2) Whether this committee consisting of fifty or more societies throughout Australasia including the National Council of Women and their affiliated bodies in each state came into being as the result of Rev. Andrews' report in 1917 ?
- (3) Whether the committee deputed Miss Graham of the London Missionary Society, Calcutta, to report the condition of Indian women in Fiji and whether she sent a report and whether the Government got a copy and whether it would be placed on the table ?
- (4) Whether on the representation of the Committee as a result of Miss Graham's report Lady Doctor Mildred Staley was appointed in January 1921 in the Colonial Hospital, Suva ?

- (5) Whether she has done devoted and strenuous work among the Indian women during the last two years?
- (6) Whether she was removed now, owing it is stated, to financial stringency?
- (7) Whether the aforesaid Women's Organisations throughout the world cabled to the Colonial Office and the Fiji Government urging the continuance of this appointment upon the grounds of its absolute necessity?
- (8) Whether the Indian Government propose to take any action to secure the continuance of that lady either by the Fiji Government else even at the expense of this Government as she has been doing splendid work?

Mr. M. S. D. Butler : (1) and (2). The Government of India have seen statements to this effect in the press but have no official information.

(3) The Government of India understand that Miss Graham was deputed to Fiji in 1918 as the representative of the combined Women's Organisation in Australasia to report on the social and moral condition of Indian women in Fiji. A complimentary copy of the report was received by the Government of India and a spare copy of it will be sent to the Honourable Member.

(4) Dr. Staley was appointed to the staff of the Colonial Hospital, Suva, in accordance with the recommendation of a sub-committee appointed by the Colonial Government in 1919 to consider and report upon Indian conditions.

(5) and (6). The Government of India have no official information but believe the facts to be as stated.

(7) The Government of India have no information.

(8) In the prevailing financial stringency the Government of India do not feel that they can take the action suggested, but they will make further inquiries in the matter and consider what can be done.

IRREGULAR RUNNING OF TRAINS ON BENGAL NAGPUR RAILWAY.

376. ***Mr. B. N. Misra :** (a) Is the Government aware of the inconvenience and hardship caused to passengers by the irregularity and frequent delay of Bengal-Nagpur Railway Trains running between Howrah and Khurdha-Road Stations?

(b) In view of the difficulty of the passengers who are frequently disappointed to catch the corresponding trains from Khurdha-Road Station to Waltair and *vice versa* are the Government prepared to direct the Bengal-Nagpur Railway Administration to make necessary arrangements to obviate the hardship of passengers and to run

8 Up (Puri Express),

24 Up (Khurdha-Waltair Passenger)

and

10 Up (Puri Passenger),

22 Up (Khurdha-Waltair Passenger),

as corresponding Trains?

The Honourable Mr. D. T. Chadwick : (a) Government has received no representation on the subject.

(b) The matter will be brought to the notice of the Agent, Bengal-Nagpur Railway.

Mr. B. N. Misra : Has the attention of Government been drawn to the articles which have appeared in the local papers, namely, "*Utkal Dipika*" of Cuttack, the "*Shakti*" of Puri and the "*Asha*" of Ganjam?

The Honourable Mr. D. T. Chadwick : I have seen none of the publications referred to.

BENGAL NAGPUR RAILWAY PLATFORMS.

377. ***Mr. B. N. Misra :** (1) Is it a fact that there are only 15 stations out of 61 between Howrah and Puri, that are without raised platforms? If so are the Government prepared to ask the Bengal-Nagpur Railway Administration to provide for raised platforms at those stations for the safety and convenience of passengers, *e.g.*, Byree, Laskshan Nath Road, Malatipatpore and Jagatpore?

(2) Will the Government be pleased to ask the Bengal-Nagpur Railway Administration not to open any new station without raised platform?

(3) What is the total annual income of the Bengal-Nagpur Railway from passenger traffic between Howrah and Puri? What percentage of it will be expended in constructing raised platforms at the above mentioned 15 stations?

(4) Is it the duty of the Railway Administration to provide for the safety and convenience of passengers at all stations, irrespective of the income derived from any particular station?

The Honourable Mr. D. T. Chadwick : (1) and (2). Yes, the policy of Government is to leave it to the discretion of Railway Administrations to provide high-level platforms at stations where the passenger traffic justifies their provision. Government do not, therefore, propose to address the Bengal-Nagpur Railway Administration in the matter.

(3) The figures asked for are not available.

(4) The provision of reasonable conveniences as high-level platforms depends upon the volume of traffic offering at each station.

Mr. K. Ahmed : May I ask, Sir, whether the Department of my Honourable friend has got the controlling and supervising power over the railway? If so, whether he is responsible at all with regard to these questions put by my Honourable friend Mr. B. N. Misra, they being questions Nos. 376 and 377? If the answer is in the affirmative, Sir, then will the Honourable Member be pleased to answer the questions? If the answer is in the negative, will he be pleased to enlighten the House as to the duty and responsibility that is placed on this Department?

The Honourable Mr. D. T. Chadwick : I give it up, Sir.

Sir Deva Prasad Sarvadhikary : Would the Honourable Member be pleased to indicate what is the standard of "justification" that he has referred to just now, does it depend upon so many broken limbs or the age disability and infirmity of the passengers? What determines the justification for high-level platforms?

The Honourable Mr. D. T. Chadwick : The provision of reasonable conveniences depends upon the volume of traffic offering at the railway stations, and on the number of passengers.

Sir Deva Prasad Sarvadhikary : If the number of passengers is not large, are their safety, comfort and convenience not to be looked after?

The Honourable Mr. D. T. Chadwick : Yes. Above a certain point conveniences must depend on traffic.

JELLASORE-CONTAI RAILWAY EXTENSION.

378. *Mr. B. N. Misra : Is it a fact that the Bengal-Nagpur Railway intends to open a branch line to Contai in Midnapore District from Jellasure Station ?

The Honourable Mr. D. T. Chadwick : A scheme for a branch line to Contai from Jellasure is under consideration by the Bengal-Nagpur Railway Administration.

INTEREST ON RAILWAY CAPITAL.

379. *Mr. K. B. L. Agnihotri : (a) Will Government kindly state whether they have ever considered the question of charging interest on capital used in the case of the Railway and other commercial departments out of surplus revenues ? and if so, with what result ?

(b) If the decision is against such charge being made will they kindly state the reasons ?

The Honourable Sir Basil Blackett : Interest is charged on the capital outlay of commercial departments irrespective of the sources from which such outlay has been met, i.e., from borrowed funds, surplus revenues or other resources.

TRAFFIC FACILITIES ON RAILWAYS.

380. *Mr. K. B. L. Agnihotri : (a) Has the attention of Government been drawn to the article "Administration Report on Indian Railways" which appeared in the issue of "The Servant of India" of the 22nd February 1923 ?

(b) Have any calculations however rough been made as to the time and money required to equip railways with adequate traffic facilities ?

(c) If so, will Government kindly lay the information on the table ?

Mr. G. G. Sim : (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the reply given on the 9th July to starred question No. 170.

RETURN ON RAILWAY CAPITAL.

381. *Mr. K. B. L. Agnihotri : (a) Has the attention of Government been drawn to the article "Railway Expenditure and the Incheape Committee" in the issue of "The Servant of India" of the 14th June 1923 ?

(b) If so, will Government kindly state what figure they have adopted as the standard minimum return on capital invested by the State ?

Mr. G. G. Sim : (a) Yes.

(b) The attention of the Honourable Member is invited to Statement No. III laid upon the table on the 2nd of July in reply to question No. 15. This particular matter is still under consideration.

REMOVAL OF CANTONMENT FROM HYDERABAD TO KARACHI.

382. *Mr. S. C. Shahani : (1) Will Government be pleased to state if they are prepared to consider the desirability of removing the cantonment in Hyderabad, Sind, to Karachi instead of to Kotri ? If yes, will Government be pleased to state the probable cost of the location of the Hyderabad Units at Karachi ?

(2) Will Government be pleased to state if they are prepared to allow the Hyderabad Municipality to raise the cost of stationing the Hyderabad Units at Karachi on the security of the Cantonment Area in Hyderabad ? If yes, will Government be pleased to have the Hyderabad Cantonment land valued by an expert at an early date ?

Mr. E. Burdon : (1) Government would be willing to investigate the possibility of moving the cantonment to Karachi if they received any indication that the cost of doing so would be provided by the Hyderabad Municipality or the Local Government.

The remainder of the Honourable Member's questions are however premature : they could only be answered if and when the suggested inquiry took place.

SPECIAL TRAINS FOR MELAS.

383. *Lala Girdharilal Agarwala : Have the Government made arrangements for running special trains to cope with the heavy traffic of Ad Kumbh Mela at Allahabad, if so, what ?

The Honourable Mr. D. T. Chadwick : Government have reason to believe that the Railway Administrations will make such arrangements as may be necessary.

IDENTIFICATION OF ELECTORS.

384. *Lala Girdharilal Agarwala : In case of electors who have a right to vote at election of more than one candidate, one for the Provincial Council and the other for Legislative Assembly, at the same time and before the same polling officer, is the elector required to be identified only once or more than once before voting for each candidate ?

Mr. L. Graham : The Honourable Member is referred to the regulations made by the Local Governments under rule 13 of the various provincial electoral rules, and to the notifications issued by the Governor General in Council under the proviso to rule 13 of the Legislative Assembly Electoral Rules.

Mr. K. Ahmed : Is it not superfluous that the Returning Officer should get the same elector to be identified twice ?

Mr. L. Graham : Sir, I fail to see how this Government is concerned with the performances of the Returning Officer.

GOVERNMENT LOAN ISSUE.

385. *Mr. Mammobandas Ramji : Will the Government be pleased to state :

(a) what is the total amount of Government Loan Issue up to the end of the last financial year ?

(b) what is the total book-value of the revenue-earning assets such as Railways, Irrigation, Telegraphs, etc., up to the same period ?

(c) what is the percentage of assets to total debt ?

(d) how the percentage in the case of India compares with such percentage in the case of other leading countries like England, France, America, and Japan ?

- (c) whether it is a fact that there is a considerable appreciation in value, as compared with the book-value, of the revenue-earning assets according to present cost of construction ?

The Honourable Sir Basil Blackett : The final accounts for 1922-23 are not yet ready. The information in regard to parts (a), (b) and (c) of the question is therefore not available. The Government have not the information required to answer part (d). Part (e) would require a number of hypothetical assumptions to be made before an answer could be given.

RETRENCHMENTS ON RAILWAYS.

386. ***Mr. K. B. L. Agnihotri :** (a) Will the Government be pleased to give the number of employees including daily rated labour who have been removed or given compulsory leave in the Bengal-Nagpur Railway, Oudh and Rohilkhand Railway and North-Western Railway and Great Indian Peninsula Railway, due to retrenchment ?

(b) How many of these are Indians, Anglo-Indians and Europeans ?

Mr. G. G. Sim : Information on this matter will be included in the budget memorandum for next year.

RECRUITMENT OF RAILWAY STAFF.

387. ***Mr. K. B. L. Agnihotri :** (a) Is the recruitment to the Officers' and Upper Subordinate ranks of the Railways made by competition or by nomination ?

(b) How many such appointments were made during the year 1922-23 ?

(c) How many of them are Indians, Anglo-Indians and Europeans ?

The Honourable Mr. D. T. Chadwick : (a) Recruits for the Superior (Officers') Establishment of State Railways are appointed both in England and in India. In the former case they are appointed by the Secretary of State for India acting on the advice of a Selection Committee.

In India, the Engineering Department is recruited from the Thomason College, Roorkee, and the Bengal Engineering College, Sibpur,—a certain number of appointments being guaranteed.

The system of nomination for appointments to the Traffic Department has ceased and the introduction of a system of selection by competition is under consideration.

As regards subordinates of all departments on pay above Rs. 250 per mensem—save for a few specialist mechanics and foremen who are appointed by the High Commissioner for India acting on the advice of the Consulting Engineers to the Secretary of State, appointments are made, as occasion demands, from the Locomotive Shop and running staff who possess the necessary qualifications.

As regards other departments—vacancies in the Upper ranks of the subordinate cadre are filled ordinarily by promotion of the most efficient men already in employment.

(b) and (c). 19 appointments to the Superior Establishment were made on State Railways during the year 1922-23. Fourteen of these

were Europeans and 5 Indians. Subordinate appointments are made by the local railway authorities and the information which the Honourable Member requires can be obtained from the classified List—copies of which are in the Library.

Mr. K. Ahmed : From the answer it appears that 5 Indians have been appointed. Out of that number, how many of them are Anglo-Indians and how many of them are Indians ? Are Anglo-Indians included among Indians ?

The Honourable Mr. D. T. Chadwick : The only information I have at present is that 14 of these were Europeans and 5 Indians, but I will inquire.

UNIVERSITY BILL.

388. ***Rai Tara Prosanna Mukherjee Bahadur :** (a) Will the Government be pleased to state, whether the Bengal Government has placed the *University Bill* before this Government for its opinion ?

(b) If the said University Bill is placed before this Government for its opinion, does the Government intend to place the said University Bill before the Assembly for its opinion ?

Mr. L. Graham : (a) No ; the Government of Bengal have however submitted a draft Calcutta University Bill for the sanction of the Governor General under section 80-A of the Government of India Act.

(b) No answer can be given to a hypothetical question.

STATEMENT IN THE PRESS RE A STERLING LOAN IN LONDON.

Mr. Abul Kasem : Sir, I want to put a question of which I have given private notice to the Honourable Member in charge of the Finance Department.

Has the attention of Government been drawn to the statements made in the press that the Government of India is about to issue a loan of 50 millions sterling in London, and, if it is a fact, when they propose to do so ? If not, will the Government be pleased to state what are the facts ?

The Honourable Sir Basil Blackett : Sir, I am glad of the opportunity of correcting misapprehensions which appear to be prevalent on this subject. The Government of India loan for 20 millions which was issued in London in May last fully covered our estimated capital requirements for the current financial year. There is no intention of making any further issue in London in the near future. The East India Loans Bill, which was recently introduced into the House of Commons and was necessary, because the Statutory authority of Parliament is required for the issue of an Indian loan in London, provides for the borrowing of 50 millions in the United Kingdom by the Secretary of State, and is no doubt the reason for the misconception.

The purpose of the Bill is to supplement the unexhausted borrowing powers under the provisions of the existing East India Loans Act which had been reduced by the issue of the last loan to a very small amount. It was thought desirable during the present session of Parliament to

obtain powers in order that, if and when the issue of a further loan in London becomes necessary in pursuance of the existing capital programme of the Government of India, there might be no risk of a favourable opportunity being missed owing to the absence of Parliamentary sanction.

UNSTARRED QUESTIONS AND ANSWERS.

HARDSHIPS OF PASSENGERS ON EAST INDIAN RAILWAY.

127. **Munshi Abdul Rahman :** (1) Are the Government aware of the allegations by the passengers of the East Indian Railway :

- (A) That the third class passengers in the East Indian Railway suffer a great deal for want of drinking water as there are no proper arrangement for the same except by the "Seva Samity" specially in the Sitarampur Junction, Baraker, Gomoh Junction, Hazaribagh Road, Choba, Kodarma, Gujhandi, Gurpa, Paharpur, Rafigunje, Palmergaunje, Sone East Bank Junction, Dehri-on-Sone stations during the summer days of May and June (the hydrants remaining closed in almost all the stations) ?
- (B) That as there are rush of passengers in the above stations many illiterate villagers who come from remote places have to wait for days together as they cannot afford to pay money to the guards and other station staff for preferential treatment ?
- (C) That double the allotted number of passengers are put in the third class compartments for want of accommodation causing great inconvenience and injury to their health ?
- (D) That the station coolies exact money from the poor illiterate passengers by forcibly keeping back their luggage ?
- (E) That in the above stations there always remain rush of passengers as the pilgrims to Gaya, Benares, Jaganath (Puri) travel from these stations ?

(2) If not do the Government propose to enquire and take proper steps to remove these grievances of the poor third class passengers ?

Mr. G. G. Sim : (1) (a), (b), (c) and (e). Government are not aware of the allegations referred to, but the attention of the Honourable Member is invited to the concluding portion of paragraph 67, Chapter VII of the Administration Report on Indian Railways, 1921-22, Volume I, copies of which are available in the Library and to the answer given in this Assembly on 27th March 1923 to question No. 663 asked by Babu Baidyanath Prasad Sinha on the subject of overcrowding in third class carriages.

(1) (d). The tariff which coolies are authorised to charge for services rendered is fixed by the Railway Administration and each complaint forms the subject of inquiry and if a licensed porter is proved to be guilty of harassing a passenger, he is summarily dismissed.

(2) In the circumstances explained, Government do not propose to take any further action.

WATER SUPPLY IN RAISINA HOSTEL.

128. **Mr. Saiyed Muhammad Abdulla :** (1) Is it not a fact that the drinking water supply in the new Raisina Hostel, Delhi, is defective, owing to the close proximity of the drinking water pipes in the kitchens to the pipes for taking underground the refuse of the kitchens, used up bath water and the night-soils, possibly contaminating the sources of the drinking water ? If so, do the Government propose to provide necessary wells or set pipes in the courtyard of the Hostel for supplying drinking water ?

(2) What sort of water is stored in the tanks on the roof of the Hostel and for what purpose is it used ? Are the tanks ever emptied of the stagnant water and cleansed ?

The Honourable Mr. A. C. Chatterjee : (1) The answer to the first part of the question is in the negative. The second part does not, therefore, arise.

(2) Filtered water for general purposes. The tanks are cleaned at frequent intervals.

PLAGUE IN DELHI.

129. **Mr. Saiyed Muhammad Abdulla :** (1) What were the causes of the outbreak of plague in Delhi this year ?

(2) Was the drinking water in the affected area examined and found free from impurities ?

(3) What steps are taken to prevent percolation of the obnoxious matters underground into the sources of the drinking water ?

Mr. M. S. D. Butler : (1) Plague is a rat disease and the cause of the epidemic was heavy rat infestation of grain godowns and domestic houses.

(2) The water issued from the central waterworks is examined daily both chemically and bacteriologically. The standard of purity for this water is very high.

(3) No steps other than seeing that pipes are soundly jointed.

RAILWAY PROJECTS.

130. **Mr. Saiyed Muhammad Abdulla :** How far have the projects of the following Railway construction advanced and when are they likely to be undertaken :

- (a) From Sainthia or Ahmadpur on the East Indian Railway Loop line to Kandi (Murshidabad) and thence to Berhampur ?
- (b) From Chuadanga on the Eastern Bengal State Railway to Meharpur (Nadia) and thence to Jallangi ?
- (c) From Bansi on the Bhagalpur-Bansi Branch of the East Indian Railway Loop to Dumka (Santhal Parganas) and thence to Suri or Rampur-hat ?

Mr. G. G. Sim : (a) The line has not yet been surveyed in detail and it is not possible to say whether and if so, when its construction will be undertaken.

(b) There is no such project under contemplation. The only projected railway in the area is from Krishnagar to Jallangi *via* Meherpur, the consideration of which has been deferred pending a decision in regard to the projected Sainthia Bhairamara Railway.

(c) The railway under consideration is from Bausi to Sainthia or Nalhati *via* Naya Dumka. The financial prospects of this line are not sufficiently favourable to justify its construction under present conditions.

FAMINE RAILWAYS.

131. **Babu Braja Sundar Dass** : (a) Will the Government be pleased to state the names of the Famine Railways ?

(b) What railways received help from the Famine Insurance Fund and when ?

(c) What railways were started within the last 10 years for the same purpose ?

Mr. G. G. Sim : (a) and (b). The Honourable Member is referred to Accounts Nos. 48 and 73 of the Finance and Revenue Accounts of the Government of India for 1920-21 and previous periods.

(c) No such railways have been started within the last 10 years.

ARRANGEMENTS FOR PILGRIM TRAFFIC.

132. **Babu Braja Sundar Dass** : (a) Is it a fact that there has been a great rush of pilgrims to Puri for the Rath-Festival ?

(b) Have the authorities of the Bengal-Nagpur Railway opened any booking offices in the town ?

(c) What arrangements for supplying good drinking water to the Pilgrims have been made by the Bengal-Nagpur Railway between Howrah and Puri ?

(d) What steps do Government propose to take to ensure that during heavy rush of pilgrims the Bengal-Nagpur Railway authorities do not huddle together men and women in passenger compartments and that they do not allow more people into compartments than their prescribed carrying capacity ?

Mr. G. G. Sim : (a), (b) and (c). Government have no information.

(d) On such occasions a certain amount of overcrowding is inevitable and Government do not propose to take any action.

MESSAGE FROM HIS EXCELLENCY THE VICEROY.

Mr. President : I have received the following Message from His Excellency the Viceroy :

"In pursuance of sub-section (3) of section 63-B of the Government of India Act, I Rufus Daniel Isaacs, Earl of Reading, hereby require the attendance of the Members of the Legislative Assembly in the Assembly Chamber at 11 O'Clock on Saturday the 28th July 1923.

(Sd.) READING,

Viceroy and Governor General."

QUESTIONS ON THE KENYA AFFAIRS.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, before further business is proceeded with, may I, with your permission, ask certain questions of the Honourable the Education Member and the Honourable the Commerce Member ?

Mr. President : Has the Honourable Member the assent of the Government Member concerned ?

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : I am prepared to reply to the questions, Sir.

Mr. T. V. Seshagiri Ayyar : The first question is this : Will the Government be pleased to state whether they have made or intend making any further representation to the Government at Home with reference to their decision on the Kenya question ?

Mr. M. S. D. Butler : Sir, the Government of India intend to make a representation to secure that Indian interests are duly safeguarded in translating into practice the broad general principles enunciated by His Majesty's Government.

Mr. T. V. Seshagiri Ayyar : May I ask a supplementary question ? Does it mean that the Government of India does not intend to protest against the decision which has been come to on the subject by the Government at Home ?

Mr. M. S. D. Butler : We have had no time at present to consider that, but it is clear that the principles enunciated are of importance particularly in their application, and the Government of India have already decided that, in respect of the application of those principles, especially in the case of immigration, it will be necessary forthwith to make a representation.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I ask of the Honourable Member answering the question whether the Government of India have decided to accept the principles enunciated by the British Cabinet ?

The Honourable Sir Malcolm Hailey (Home Member) : The House will, I think, realise that we are only just in possession of Reuter's message on the subject. That arrived, either yesterday morning or the evening before. It is quite impossible for the Government of India in the time to arrive at a decision whether it will fully accept the decision of the Cabinet or not. *Prima facie* I may say, however, this—that we have to deal with a decision of the Cabinet arrived at after hearing both sides of the question ; and I fail to understand the suggestion that we could refuse to accept it. Whether we protest against it or not is of course a different question.

Dr. H. S. Gour : Am I to understand that the Honourable the Home Member is not in possession of any official telegram received announcing the decision of the British Cabinet ?

The Honourable Sir Malcolm Hailey : We are ; but we are not in possession of the full wording of the decision of the Cabinet, other than that comprised in Reuter's telegram.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Even a full summary of the White Paper has not been issued to the Government of India ?

The Honourable Sir Malcolm Hailey : We believe that Reuter's summary is full, and we have also had an abbreviated summary, but we are naturally awaiting the White Paper itself.

Mr. N. M. Samarth : Meanwhile is the Government of India justified in saying that the general principles laid down are broad or narrow ?

The Honourable Sir Malcolm Hailey : That is a matter of opinion. What my Honourable friend was referring to was the general principle laid down on the subject of immigration. That is obviously a question which will interest us most in its application, and as Mr. Butler said, it is the intention of the Government of India to do its best to safeguard the translation of that principle into practice.

Mr. T. V. Seshagiri Ayyar : Will the Government be pleased to make a statement regarding their recommendations to the British Government on the subject of the position of Indians in Kenya, and also be pleased to lay on the table the correspondence which passed between them and the Secretary of State for India ?

Mr. M. S. D. Butler : The question of publishing the correspondence, in so far as it is not of a confidential nature, is being considered. Pending the decision of this question, the Government are not in a position to make a detailed statement.

Mr. T. V. Seshagiri Ayyar : Has the Government any information that the position of Indians overseas is not to be included in the agenda of the forthcoming Imperial Conference ? If it has been decided not to include it, will the Government be pleased to insist on its inclusion in order to enable the Indian delegates to lay before the Conference the Indian point of view regarding our brethren overseas ?

Mr. M. S. D. Butler : The Government understand that the subject of the relations of India to the "C" mandated territories has been included in the Agenda. They do not consider that it is at present advisable to press the inclusion of any other subject, considering that the general principles have been laid down in clear terms by the Imperial Conference held in 1921. But the question as to how far the Imperial Conference can be further utilised to promote Indian interests in this matter will be considered.

Mr. T. V. Seshagiri Ayyar : I will now ask a question of the Honourable the Commerce Member. Will the Government be pleased to state,

in view of the decision of the Cabinet on the Kenya question, whether they would ask the Secretary of State for India not to take part in the Empire Exhibition to be held in 1924 ?

The Honourable Mr. D. T. Chadwick : The Government of India are not prepared to take the course of action suggested.

Mr. T. V. Seshagiri Ayyar : Can the Honourable Member give us any reasons as to why that decision has been come to ?

The Honourable Mr. D. T. Chadwick : The reasons are obvious.

Mr. T. V. Seshagiri Ayyar : Not to us.

Rao Bahadur T. Rangachariar : Was the question considered by the Government of India ?

The Honourable Mr. D. T. Chadwick : The answer given is given in the name of the Government of India.

Dr. H. S. Gour : May I ask the Honourable Member if his reply is a considered reply in view of the fact that the Honourable the Home Member has just now announced to the House that not being in possession of the White Paper or of an authenticated summary of the decision of the Cabinet the Government of India are not in a position to say whether they accept the principle enunciated by the Cabinet, and whether after perusal of the Paper if they do not accept the principle they would still adhere to the decision of joining the Empire Exhibition, though they may have to protest against the principle ?

The Honourable Mr. D. T. Chadwick : One decision of Government, Sir, may alter another decision of Government. I do not know what decision the Government of India may come to when the White Paper is received, and not knowing that decision I do not know how that decision, when that decision is arrived at, will alter the decision given at present !

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Secretary of the Council of State :

"I am directed to inform you that the Council of State have, at their meeting held on the 24th July, 1923, agreed without any amendments to the following Bills which have been passed by the Legislative Assembly :

A Bill further to amend the Indian Stamp Act, 1899 ; a Bill further to amend the Code of Criminal Procedure, 1898, for certain purposes ; a Bill to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes ; a Bill further to amend the Indian Lunacy Act, 1912 ; a Bill further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes ; a Bill to amend the Kutchi Memons Act, 1920 ; and a Bill further to amend the Code of Criminal Procedure, 1898."

MOTION FOR ADJOURNMENT.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I understand that notice has been given by my leader, Mr. Seshagiri Ayyar, of a motion similar to mine, and I therefore beg to withdraw in his favour.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : My notice is in these terms :

" I hereby give notice of my intention to move the adjournment of the Assembly on the 27th July, in order to call attention to an urgent matter of public importance concerning the position of Indians in Kenya in the light of the decision of the British Government with a view to express the opinion of the Assembly on such decision."

Sir, I ask your permission to move the adjournment of the House at the proper time. This is a matter of considerable importance—there is no doubt about it. I think the country from one end to the other is feeling very keenly the decision which has been arrived at by the Government at Home. It is also urgent in this sense, that the decision has recently been reached, it has created unprecedented tension in India, and we shall be going away tomorrow without having had an opportunity of giving to this House our opinion unless this motion is made. Under these circumstances, having regard to the gravity of the situation, the importance of the subject and the urgency of it, I ask your permission, Sir, to move the adjournment of the House this afternoon.

Mr. President : The Honourable Member asks leave to move the adjournment of the business of the Assembly to-day in order to call attention to an urgent matter of public importance concerning the position of Indians in Kenya in the light of the decision of the British Government with a view to express the opinion of the Assembly on the said decision. I am afraid that under sub-section (iii) of rule 12 the Honourable Member proposes to revive discussion on a subject which has already been fully debated and therefore I cannot admit his request.

Mr. T. V. Seshagiri Ayyar : May I say a word. That was with reference to influencing the decision of the Home Government. This is to criticise the decision of the Home Government. Therefore, Sir, the two matters are not of the same character. But of course, if you decide it cannot be moved there is an end of the matter. We would like, however, to draw your attention to the fact that the discussion which we had in this House the other day related to influencing the opinion of the Home Government in favour of Kenya Indians ; but now that the decision has been given against them, we are making an attempt to criticise that decision in order to point out how grievously the Government at Home has erred in their treatment of Indians. That, Sir, I submit, is different from what has taken place already.

Mr. President : The Honourable Member's motion in the first place must concern a matter in which the responsibility of the Governor General is definitely engaged. The Honourable Member is aware that the Governor General has been a party to this discussion, but the decision made by the Home Government is a decision for which the Governor General is not primarily responsible, and in any case as I have pointed

out to him this proposal raises a matter which has been already discussed more than once during the present session.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, with reference to what has fallen from you, may I draw your attention to what has been just stated by the Honourable the Home Member, namely, that in the absence of the full text of the White Paper Government has not been able quite to decide what line to take. Although the Governor General's responsibility is primary with regard to arriving at a decision, yet in the light of what has been telegraphed from England by Reuter, I think this House is still at liberty and to place the views of the country as far as possible with the purpose of further influencing it on the new materials now forthcoming before the Government : And from that point of view as well as from the point of view that the decision itself was not before the House when the question was discussed on previous occasions, we hope you will be pleased to reconsider your decision and allow the House to make its views known to the Government so that its future action may be influenced by what we have to say.

Mr. President : The Honourable Member is aware that the rule says that a motion of this kind must not revive discussion of a matter which has already been discussed, and I am afraid he will be much more ingenious than I am to be able to discuss that matter without reviving the previous debate.

Sir Deva Prasad Sarvadhikary : It is the future with which we are concerned now.

RESOLUTION *RE* BRITISH CABINET'S DECISION *RE* KENYA.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : In view of the decision on the motion which my Honourable friend moved, I am throwing a responsibility on you, Sir, by the request I am about to make. The request which I am making is under paragraph 22, sub-clause (2) which you will find at page 9 of the Manual of Business :

" Save as otherwise provided in the rules or standing orders, no business not included in the list of business for the day shall be transacted at any meeting without the leave of the President."

Sir, I ask your leave under that clause after the legitimate business of the day is over, which must have precedence under that paragraph, that this business may be transacted, namely the Resolution which I propose to move, if you permit me to do so, in these terms :

" The Assembly recommends to His Excellency the Governor General in Council that in as much as His Majesty's Government have decided to ignore the united representations made by the Government of India and the people of this country on the Kenya question, he may be pleased to take early steps :

- (i) to cease to take any further part in the British Empire Exhibition, and
- (ii) to explore the possibility of imposing prohibitive tariffs on all imports from the colonies and dominions."

Sir, at the time I wrote to you, I also wrote to the Honourable Member in charge of the subject whether he proposed to raise any objection or whether he would not consent to this procedure. I am sorry to say—and it is with extreme regret that I have to say it that the Honourable

[Rao Bahadur T. Rangachariar.]

Member in charge, the Honourable Sir B. N. Sarma, sees objections to this procedure which I propose to adopt. I much regret to have to say this; but, Sir, under this clause his objection or consent does not matter. The responsibility is yours and here I may mention that the language used in paragraph 22 (2) is "transaction of business." I know that the Honourable Member for Government may rely on rule 107 (at page 36 of the Manual) which says that a Member who wishes to move a Resolution shall give fifteen days' notice and shall together with the notice submit a copy of the Resolution which he wishes to move: Provided that the President, with the consent of the Member of the Government to whose department the Resolution relates, may allow it to be entered on the list of business with shorter notice than fifteen days. That, Sir, has reference to entering on the list of business, which as you are aware the Secretary does before the day of the meeting. It has nothing whatever to do with rule 22 (2) which deals with transaction of business on the day other than the business entered on the list. So this power is reserved to you, Sir, under rule 22 (2) in order to provide for emergencies of this kind, where a dying Assembly has got to face a critical situation in the country. Sir, that is my first point, namely, that you have the power.

The second point will be, why should you exercise that power, which I admit must be an exceptional power, no doubt? My position in regard to that matter is this: this is not a new matter. This ought to have been moved on last Saturday along with the other question which was taken up for discussion on that day. In view of the demand made for moderation on our part, a demand made out of considerations of expediency, I yielded to the request made, and therefore I did not press my motion which I otherwise was entitled to do. The point, Sir, is this: the Government cannot say that they have had no notice of this motion; they have had ample notice. I submit, Sir, on a subject like this, where we have no more opportunity of moving this Resolution again, where perhaps there will be no Assembly sitting till January next, if not February, when a new Assembly will have to face the situation, where an old Assembly which had dealt with it at various sittings seeks to have an opportunity of discussing this question, where constructive proposals are made in order to enable the Government to face the situation and to protest against this unjust decision which, we say, has been arrived at by His Majesty's Government, in these circumstances, Sir, your responsibility is great. This is the first time, you, as President, are asked to intervene and protect the rights of the people, and I have no doubt, Sir, that they are safe in your hands. I therefore ask for leave.

Mr. President: The Honourable Member, the Assembly will acknowledge, has rarely used his forensic skill with greater effect, but the foisting of responsibility for matters of policy on the Chair must, I am afraid, fail. The operative words, as far as I am concerned, in Standing Order 58, are the words "with the consent of the Member of Government." I might be prepared to meet him more than half way, but unless Government gives its consent, I am unable to do so.

The Honourable Sir Malcolm Hailey (Home Member): I must be excused if I rise to defend the interests of my friend Sir Narasimha Sarma who is unavoidably absent in the Council of State. I am aware that the Honourable Member in charge was unable to waive the condition of 15 days' notice in this respect; but there was a very good reason for this. It is perfectly true that that motion was tabled as an amendment to the Resolution which we debated on Saturday last. It is equally true that Mr. Rangachariar, in exercising a feeling of moderation which I think did both him and those who took part in that debate great honour, withdrew that amendment. To that extent we did have notice of it, but that notice did not amount to 15 days, nor has it been effective notice in the sense that we could properly come in that time to a decision on a matter so important as the proposal involving the complete withdrawal of Indian labour from the Crown Colonies.

Rao Bahadur T. Rangachariar: I have not moved that.

The Honourable Sir Malcolm Hailey: That however was the motion which he presented us on Saturday last: in regard to the remaining items, they are of equal importance, and I think the House will agree with me that the Honourable Member in charge of the department could not be expected to face a Resolution of that nature without full notice, to debate such a Resolution which would involve his either accepting or opposing proposals of a very momentous nature.

MOTION OF EXPRESSION OF GRATITUDE TO HIS EXCELLENCY THE VICEROY IN CONNECTION WITH THE TREATY AT LAUSANNE.

Mr. Muhammad Yamin Khan (Meerut Division: Muhammadan Rural): Sir, I also beg your leave to move a Resolution of which I have already given notice. If the Honourable the Home Member and your worthy self have no objection I will move it. My Resolution runs thus:

"This Assembly recommends to His Excellency the Governor General in Council to convey its gratitude to His Excellency the Viceroy for having made a thorough representation of the sentiments of the Indian Mussalmans to the Home Government which had a great effect in bringing about the treaty at Lausanne in its present form."

Sir, this is a very non-contentious Resolution, and it is merely conveying the expression of gratitude of this Assembly to His Excellency the Viceroy, and if there is no objection I will move this Resolution formally without a lengthy speech.

Mr. President: I cannot accept this in the form of a Resolution. The Honourable Member states that it is of a non-contentious character, and as far as I can judge it is. I am therefore prepared to take it under Standing Order 74 by which communications from the Assembly may be made to the Governor General either by formal address or through the President. I suggest, if this is to be treated as a non-controversial business, that the Assembly should authorise me as their representative to convey that message to His Excellency the Viceroy, and as it is desirable to get the endorsement of the Assembly, I would suggest that he should move the motion in the following form:

"That this Assembly requests Mr. President to convey to His Excellency the Governor General the thanks of the Assembly for the efforts made by His Excellency

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to place the views of the Mussalmans of India before His Majesty's Government during the cause of the negotiations at Lausanne now so happily terminated by the signature of peace."

If the Honourable Member is prepared to accept the Resolution in that form, I shall have great pleasure in conveying it to His Excellency.

Mr. Muhammad Yamin Khan : I am quite prepared to accept it, Sir. I therefore move.

The motion was adopted.

THE ILLEGITIMATE SONS RIGHTS BILL.

M. K. Reddi Garu (South Arcot *cum* Chingleput : Non-Muhammadan Rural) : Sir, I beg to place on the table the Report of the Select Committee on the Bill to amend the Hindu Law of Succession.

THE LEGAL PRACTITIONERS BILL.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, I beg to move :

"That the Bill to amend the law relating to Legal Practitioners in India be circulated for the purpose of eliciting opinions thereon."

I briefly explained, Sir, the other day the central object underlying this measure, namely, to create an Indian Bar. I do not think it is necessary to reiterate now what I stated then. I do not think that it is right for this Assembly to pass a measure of such importance during its short existing life, and it is only right that on a matter of this sort opinions should be elicited. I am glad that the Honourable the Home Member announced the other day that he was going to appoint a Committee to go into the whole matter. We welcomed that announcement knowing that an expert Committee will be able to deal with the matter with satisfaction. Meanwhile, in order to enable the Committee to come to a proper decision, the proposal which I make will be of great use. They will get opinions on these constructive proposals which will be the skeleton on which the Committee may work. I, therefore, Sir, commend this motion for the acceptance of this House.

The Honourable Sir Malcolm Hailey (Home Member) : As I made clear in speaking on the introduction of this Bill, there are many aspects of it with which Government does not agree and there are many details which it cannot accept. At the same time, I agree with Mr. Rangachariar that it would be well that those who have to consider this question in connection with the inquiries of the Committee which we contemplate, should have this Bill before them as a concrete measure showing what is intended by those who support one of the several possible solutions of the question. We shall, therefore, agree to the proposal for circulation, but we shall call the attention of all concerned to the fact that a Committee is about to be appointed on the subject, and no doubt in dealing with the Bill, they will remember that their opinions will also be called for by that Committee.

The motion was adopted.

THE IMMIGRATION INTO INDIA BILL.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, I beg to move for leave :

"To introduce a Bill to regulate the entry into and residence in British India of persons domiciled in other British Possessions."

Honourable Members will find that this Bill which I seek the leave of the House to introduce to-day is supported by a Resolution of the Imperial Conference passed in the following terms. In the Imperial Conference of 1918 it was resolved as follows :

"It is an inherent function of the Government of the several countries, communities of the British Commonwealth, including India, that each should enjoy complete control of the composition of its own population by means of restriction of immigration from any of the other communities."

The right of the Government of India is recognised to enact laws which shall have the effect of subjecting British citizens domiciled in any other British country to the same conditions in visiting India as those imposed on Indians desiring to visit such country. Honourable Members will thus find that the principle of reciprocating enunciated and embodied in this Bill was recognised at the Imperial Conference when it was laid down that the Government of India possess the power to make laws for the purpose of ensuring that immigrants to this country should possess the same rights and be subjected to similar disabilities as the people of India visiting other parts of the British Empire enjoy and suffer. So far, therefore, as the right of the Government of India to legislate upon the lines of my Bill is concerned, there can be no question. The Imperial Conference have recognised the right, and the only question that arises now is whether the time is ripe for undertaking such legislation. Well, Sir, with the recent happenings relating to Kenya, I shall not be long in asking this House to give me leave to introduce this Bill. Honourable Members will find that in the Imperial Conference of 1921, it was decided as follows :

"This Conference, whilst re-affirming the Resolution of the Imperial War Conference in 1918 that each community of the British Commonwealth should enjoy complete control of the position of its own population by means of restriction of immigration from any of the other communities, recognise that there is an incongruity between the position of India as an equal member of the British Empire and the existence of disabilities upon British Indians lawfully domiciled in some other parts of the Empire. The Conference accordingly is of the opinion that in the interests of the solidarity of the British Commonwealth it is desirable that the rights of such Indians to citizenship should be recognised."

Now, Sir, this was the decision given two years back at the Imperial Conference. That the right of the Indians to citizenship in the British possessions and colonies should be recognised and this right originated from the recognition of India as a partner in the British Commonwealth, that it was a right which India as a partner in the British Commonwealth was entitled to enjoy, is, I submit, recognised by the Imperial Conference, and against which there was no protest except from General Smuts, who said that the representatives of South Africa regretted their inability to accept this Resolution in view of the exceptional circumstances of the greater part of the Union. General Smuts in 1917 had pointed out that, if there is a restriction of immigration, the rest of the question was easy

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of solution and that, so far as the white settlers in South Africa were concerned, if some check would be devised to prevent the free immigration of Indians, their right to equal citizenship could not be denied. Speaking in 1917, this is what General Smuts said :

" All I invite the Conference to do, in accepting the principle of reciprocity of treatment between India and other Dominions in this matter of emigration and visits is to commend to the favourable consideration of the Government concerned a memorandum which we have laid before the Conference."

He favoured the principle of reciprocity and, in the memorandum which is printed at the end of these proceedings, he pointed out that, if the white settlers are able to restrict immigration into South Africa from India, they would be prepared to concede equal rights of citizenship upon those who were resident there. Now, Sir, the disabilities from which the people of India suffer in the Crown and Self-Governing Colonies of England is a by-word. In a book published by Lord Bryce on his impressions of South Africa, he points out the galling distinctions made by the white settlers against the Indians in that country. In a recent Reuter's telegram, to which reference has been made this morning, the decision of the Cabinet is summarised, and on no less than three or four occasions the British Cabinet have emphasised their position as trustees for the natives of South Africa and they justify their decision.....

Mr. President : Order, order. On the motion for leave to introduce a Bill, the Member asking for leave must, under the rule, confine himself to a very brief statement of the principle and occasion of the Bill. The Honourable Member will have a further opportunity, as he knows, when he comes to the motion for consideration.

Dr. H. S. Gour : I shall very briefly close, Sir, my remarks by saying that the British Cabinet justify their decision on the ground of their trusteeship of the people of South Africa. I shall, if my motion succeeds, a few moments later show to you how hollow is that claim and how unjustifiable is that assumption. For the present I rest content with asking this House to accord me leave to introduce my Bill.

Mr. President : The question is :

" That leave be given to introduce a Bill to regulate the entry into and residence in British India of persons domiciled in other British Possessions."

The motion was adopted.

Dr. H. S. Gour : Sir, I now introduce the Bill. Sir, I move :

" That the Bill to regulate the entry into and residence in British India of persons domiciled in other British Possessions be taken into consideration."

I shall, Sir, now very briefly give to the House the reasons why they should immediately pass into law this Bill which has just been introduced. A few moments back I referred to the decision of the British Cabinet in connection with Kenya.

And I then pointed out that the British Cabinet took their stand upon the restrictions which they justified and sanctioned against the free entry of Indians into Kenya, their exclusion from the Highlands and the grant of a communal franchise as opposed to the common franchise which the Indians claimed, on the ground that they are trustees for the natives of South Africa. In no less than four places which I have marked in this Reuter's cablegram the British Cabinet say that they are trustees for the people of South Africa and are therefore constrained to make these distinctions. Their first reference is in the following words :

" His Majesty's Government regard themselves as exercising a trust on behalf of the African population and they are unable to delegate or share their trust the object of which may be defined as the protection and advancement of the native races."

Noble words, magnificent expression ! But let the historian speak of what they are actually doing in South Africa ! I use language not all my own : no less a historian than Lord Bryce, writing of the history of South Africa after his visit to that colony, wrote of this trusteeship in the following terms, (*A Voice* : " In what year ? ") in 1897 (*Mr. N. M. Joshi* : " That is all right ; things have grown worse.") This is what Lord Bryce wrote in his *Impressions of South Africa* :

" At present, he (that is, the white settler) considers that the native exists solely for his own benefit. He is harsh or gentle according to his own temper. But whether harsh or gentle, he is apt to think of the black man just as he thinks of an ox, and to ignore native rights when they are inconvenient to himself."

This is the trusteeship which the British Cabinet enunciate and re-enunciate in the despatch under reference. This book contains pages after pages of clear and direct indictment of the policy which is said to underlie the decision of the British Government. (*The Honourable Sir Malcolm Hailey* : " It dates over a quarter of a century ago.") Yes : But remember the Ordinances of 1923. Now, Sir, the Honourable Members will observe that all the British possessions may be divided into three classes. The constitutional historian would divide them into three classes. We have at the topmost rung of the ladder what is known as the ' self-governing colonies,' of which Australia, Canada and South Africa are examples. Secondly, we have possessions known as Crown Colonies, in which the Crown is directly responsible for the government of that country. An instance of this is to be found in the case of Kenya. Lastly we have ' government by the British Crown,' subject to what is known as the mandate. An instance of this is to be found in the case of Tanganyika.

The policy of the British Government in respect of the self-governing colonies has been to leave the colonies alone and let them decide their own policy of immigration. When we make protests to the British Cabinet, we are told that, with the grant of self-government and the establishment of local autonomy, it is for the colonies concerned to decide their policy regarding the composition of their own population. But when similar distinctions against Indians are made in the Crown Colonies, as in the case of Kenya, and when we protest and ask the British Cabinet to place us on the same footing as are the other British settlers, we are told that the British Cabinet is the trustee of the people of that country. When similar distinctions are placed on the Statute Book in the case of the mandated

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territories, and we protest, we are told that these distinctions are not made against Indians but are made with a view to the promotion of the advancement of the indigenous population. Now, Sir, I take my stand upon the indubitable right of this country to exercise the same degree of freedom and autonomy as is conferred by the Imperial Conference upon the colonies; and if the colonies have their right of making laws enacting galling distinctions against Indians, how long shall we tolerate it. We have used language of extreme and studied moderation when we were hearing the sound of rattling sabres from the colonists of South Africa; we have tolerated language on those occasions which we would not have tolerated, because we were counselled to be moderate and temperate in our demands.

The Honourable the Home Member has acknowledged the moderation of our tone in the recent debate on the Kenya question. Our moderation has borne no fruit—the decision has gone against us upon all the points which were vital to a satisfactory and honourable settlement to the people of India. (*The Honourable Sir Malcolm Hailey*: “All?”) (*Sir Deva Prasad Saravdhikary*: “Nearly.”) We are asked, all? Well, Sir, I pointed out on the last occasion when I spoke on the subject that the exclusion of Indians from the Highlands of Kenya was one against which the Indian delegates and the Kenya delegates alike protested. I pointed out that both the Kenya and the Indian delegates strongly opposed the establishment of a communal franchise. I also pointed out that we object to restrictions placed upon free immigration. On all these three points the decision has gone against India. It will be said, on the other side, what about segregation,—the question of segregation has been decided in your favour. It is perfectly true that the question of segregation within municipal areas has been decided in our favour, but we have been segregated from the highlands of Kenya where, as I pointed out on the last occasion, a small fraction of the land has been given out to Europeans, and the rest of the highlands are awaiting cultivation, and of which the Indians are anxious to secure a fair share.

My friend the Honourable the Home Member says with feigned astonishment “All?”. Well, Sir, I will read to you the latest telegram of one of our delegates, the Right Honourable Mr. Sastri who in an interview with Reuter “condemned Kenya settlement as profound humiliation and deepest affront to India.” I do not think stronger language could have been used than has been used by the Right Honourable Mr. Sastri. But if it were a case of the maltreatment of Indians in one Colony, we might have said that this was not the normal treatment by the British settlers and that the Indians are treated well elsewhere. Let me depict to you in brief the picture of the treatment which Indians suffer at the hands of white settlers in the various Colonies. In South Africa there is a law prohibiting the issue of hawking licenses to Indians. In Natal there is a law which prohibits the sale or lease of Municipal land to Indians. In Transvaal there is a prohibition of the right to acquire land except in demarcated areas, and these areas have never been demarcated in spite of the requisitions of the Indians to make the demarcation contemplated in

the Ordinance. In Transval and in many other parts there is a complete segregation in towns, and added to this there is a social boycott which is far more galling than the boycott created by law. Indians are not admitted to the hotels; they are not admitted to compartments, first class compartments on the South African Railways, but are isolated in compartments set apart for them. Even the foot-paths are denied to them. In a recent book published by Sir Robert Buchanan recounting his experiences in South Africa, there occurs the following passage and that describes and gives a vivid description of the treatment to which our countrymen are subjected in that Colony. He says:

“No man is more appreciative of courtesy than the Indian, and in that respect some of the Europeans in East Africa have a good deal to learn. When I was in Nairobi last October there was a football match between Mombasa and Nairobi which created more interest than anything else in the world at the time. The Indians boycotted the match and were much abused in consequence. But happening to pass a football ground, I saw posters at various entrances ‘Europeans enter here;’ ‘Asiatics and natives enter here.’ I then understood the feelings of the Indians.”

Well, Sir, this is the position of humiliation to which the people of India are subjected in South Africa. This is the condition of Indians in these Self-Governing Colonies. Only the other day General Smuts is said to have made the following statement:

“We ask”, (*he says*) “to be masters in our own house and to regulate South Africa according to our ideas. We want to remove patent anomalies and injustices from our Government here in Union and if measures of segregation be considered essential by white community in its own interests, I do not see why should they be resented by Indians in India or here.”

Now, that is a plain statement. The policy that has been sanctioned by the British Cabinet as regards Kenya is not an isolated act of the British Cabinet but is of set purpose to be followed throughout South Africa. General Smuts makes no secret of the fact that he intends to introduce at an early date a measure for the segregation of Indians. This is what the telegram says:

“General Smuts’ speech at Maritzburg Congress on the 25th July shows determination of Union Government to enforce segregation of Indians by legislation to be introduced in the forthcoming Session of the Union Parliament.”

Those, therefore, who ejaculated the word ‘all’ when I said we have lost our all in the settlement about Kenya will remember that those questions of segregation that had been postponed in Kenya are very near realization in the whole of South Africa. I, therefore, submit, Sir, that if the people of South Africa have the right to determine the composition of their own population, so has India, and I submit, therefore that a policy of reciprocity is the only policy which is possible under the circumstances. I have heard friends and sympathisers of the Indian claim speak to me and say: “But how are you going to enforce this policy of reciprocity? It would be a mere paper enactment. How is it going to work in practice?” I can only hope, Sir, that if the Government of India will assist this House in placing on the Statute-book my Bill on the subject of reciprocity, I feel confident that it will suffice to arouse the enlightened conscience of humanity and bring to the forefront a question which, I submit, no Resolution of this House will be able to solve. It will bring into vivid light the disabilities from which the people of India suffer, and I submit that if it will have no practical effect on either emigration from

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South Africa, Australia or the other Colonies, it will have done its work. But, then, Sir, if my friends who are in favour of the principle are yet afraid to lend their support to my measure, I ask them what other alternative have they to suggest. We are suffering from these humiliating and degrading treatment from your fellow-countrymen in the Colonies. If this is not a Bill acceptable to you suggest to us some other practical measure to alleviate our wrongs.

I therefore submit, Sir, that no objection could be taken to our Bill. I submit, Sir, that my Bill is supported by the unanimous recommendation of the Imperial Conference, and the only delegates who objected to it were the delegates from South Africa; but that does not take away from the fact that it is the decision of the Imperial Conference, to which I submit the British Cabinet was a party. It was the duty of the British Cabinet to respect that decision, and it has been forgotten in connection with the settlement of the Kenya problem. Then, Sir, it has been said that, if you were to pass this Bill, the people of South Africa and other Colonies affected by it will increase the torments and torture of the Indians resident there. I can only hope, Sir, that the principle of reciprocity recognised by the Imperial Conference, and which we wish to give effect to, would not lead to that untoward result. And if the people of South Africa, Australia or elsewhere embark upon a policy of greater persecution, I can only hope that the British Cabinet with its enlightened conscience, will assist the people of India and will prevent the persecution which might be practised. I moreover ask what greater humiliation, what greater persecution of our people across the seas is now possible? The only thing that they could now do is to raise their rifles and commence shooting Indians wherever they see them. That is the only thing left to them: they are to be segregated, their lands are to be confiscated, trading licenses are not to be given to them, the right of citizenship is denied to them. All this the people of India are already suffering from. What greater humiliation can the people of India suffer? And I say to my fellow countrymen across the seas, if they are shot, death will be preferable to dishonour....

Rai Bahadur Bakshi Sohan Lal (Jullundur Division: Non-Muhammadan): What about the threats of violence by the white population of Kenya against the Indian population of the Colony.

Dr. S. H. Gour: I therefore submit, Sir, there is every reason why my Bill should be taken into consideration, and I move that it be taken into consideration.

The Honourable Sir Malcolm Hailey (Home Member): I beg to move the alternative motion:

"That this Bill be circulated for the purpose of eliciting opinion thereon."

In making that motion, I do not propose to cover ground so wide as that taken by Dr. Gour. It will not be necessary for me to enter into the general question of the treatment of Indians in the Dominions, nor to attempt to re-adjust our outlook on the history of that question in the light of the announcements made in the last two days. The attitude of the

Government of India on such questions is well known; it has from the beginning been both decided and consistent. Let me say at once, that to us some of the discriminations that are made against Indians in the Dominions and in the Possessions are as galling as they can be to Indians. Further than that the fact that over and above legislative enactments, Indians are often subjected to social disabilities of a humiliating nature, appears to us, who have learnt to live on terms, not only of appreciation, but of close friendship with Indians, both in public and in private spheres of life, to be unjustifiable, and cruel; such discriminations are of a class of which everyone must disapprove. If then I do not dwell at length on the general aspects of the question, it is because I have another and a more limited purpose, and a more restricted line of argument to put before the House. The mover has put forward his Bill on the ground that it is the indubitable right of India to legislate for a policy of reciprocity. We have not opposed the introduction of this Bill because we also have recognised that it is the indubitable right of India in the last resort and on proper occasion arising, to legislate in the sense approved of by the Resolution of 1918. My argument is concerned mainly with the occasion, the nature and circumstances of this Bill. Take first the circumstances in which it has been introduced. It comes in the last session of this House. Even if passed to-day, it could not in the most favourable circumstances come into law until the Council of State has met next January. If therefore I propose circulation for eliciting further opinion, I cannot be accused of making a delaying motion.

A few minutes ago we had a proposal from Mr. Rangachariar that his Bill on the Indian Bar should be circulated; he knew that it could go no further in the present session, but he regarded it as a matter of importance that the public should be possessed of the proposals contained in his Bill and should have an opportunity of giving their opinion on it. These two Bills therefore are in the same position. I admit that if this particular Bill is circulated, it will lapse. That is true but there can be no more difficulty in reviving it, should it be necessary to do so, than there would be in reviving Mr. Rangachariar's Bill, and if it were revived, it would then be considered by a Chamber which would be in possession of the considered opinion of the public on the subject. That is my first point. I now turn to the Bill itself, and without attempting to deal with its different sections, for I should not be in order in doing so on the present occasion, I will only point to its results; and I call attention to certain features which must immediately strike even the most cursory student of its terms. In the first place it makes it obligatory on the Governor General to pass certain rules at once, and as far as I understand, it provides for no discrimination at all, although there are very great differences in the manner in which various Colonies and Dominions treat Indians resident in their areas. That is the first result.

Dr. H. S. Gour: May I, Sir, correct a misapprehension on the part of the Honourable the Home Member? It is in view of that argument that I have put a commencing clause: "It shall come into force on such date as the Governor General in Council may notify in the Gazette of India." Therefore it does not bind the Governor General in Council immediately to make rules, but to postpone the bringing into operation of the Act till such time as will be notified in the Gazette.

The Honourable Sir Malcolm Hailey : I have not overlooked that clause ; but the House has heard the speech of the Honourable Member and the feeling which lay behind it, a feeling which he says reflects the opinion of the country. What answer should we have if we were faced with a law which rendered it obligatory on us to make rules, and we did not make them. A commencement clause in these circumstances, has a very different effect to a similar clause inserted in such a Bill as, say a revision of the Code of Criminal Procedure.

I have given one result ; I ask the House to look at another. Dr. Gour has referred to the decision in regard to Kenya which has, I am aware, aroused much resentment here and elsewhere. But this Bill would not deal with the settlers in Kenya who may visit India ; very few are domiciled in Kenya ; that is a well-known fact. I will take a third point. The Bill introduces a definition of domicile which, I venture to say, is quite new in Statute law and which, I can certainly add, would involve the greatest difficulties in interpretation. Then, I come to a fourth point. We are visited by large numbers of native inhabitants of Africa, who come in the service of ships and otherwise to Bombay. We have yet to ascertain what the Local Governments would think of a proposal that they should introduce exceptional regulations in regard to the entry of those persons. Take yet another point, and again I am dealing not with the sections of the Bill but with its results. There are Indians who have been resident in the Dominions for over three or four generations. What would be the fate of those Indians under the proposals contained in this Bill if they came back to India ? It would be a sad fate, I think : for they would either be excluded, or suffer from a variety of disabilities as soon as they landed.

I have enumerated some of the difficulties arising from the application of the Bill, and I affirm confidently that difficulties of this nature render it essential that a Bill of this type should be circulated before the House considers it further. I am aware that there are some of my Honourable friends here who have it in mind to propose amendments in order to bring the Bill into something like a condition in which the Legislature can safely pass it. The list of amendments must be a long one, and, even so, I should distrust the ability of this House to deal without further notice with those amendments or to dispose of them in the short time which we can now afford to give to the measure.

But I must go somewhat further. I take the object of the Bill. Now, the object of the Bill is to make it obligatory on us to pass rules which will in brief language render the civic condition of Dominion subjects coming to India the same as that of Indians resident in the Dominions and Possessions. That is its professed object, or I should rather say, that is its object but not its objective. For are the exact measures which it is proposed to enact of any intrinsic value in themselves ? Is this measure required either in the economic interests of India or for the sake of preserving its racial integrity ? Should we have anything to gain, or would the Indian population at large receive any benefit, if the small number of visitors to India from the Dominions and possessions were checked on their entry into India, or if, when they became resident here, they were segregated or were obliged

to take out licenses before they could trade ? Is that measure required, I ask, either in our economic or in our social interests ? Obviously not, and obviously that is not the real objective of the measure at all. At this moment, the measure is professedly one of retaliation ; but retaliation is not an end in itself, indeed in the somewhat peculiar circumstances of this case, it can be no more than an instrument of negotiation. Admittedly we can do the Dominions and Possessions little or no harm by enforcing reciprocity. The measure contemplated by this Bill will have so little effect on the Dominions that its value is exhausted at the very minute that you pass the Bill. And is this the time to employ this particular weapon ? (*Rao Bahadur T. Rangachariar and other Members :* "Why not ?") What advice have you on this subject ? You are suggesting this measure of retaliation at this moment in order to give satisfaction to a sentiment of resentment which may be natural and justifiable, but the satisfaction is limited to those who are dealing with the political aspect of the case in India. But what of those who are even more intimately concerned with the effects of the measure ? Last Saturday, when we were speaking on a somewhat similar matter, the proposer of the Resolution was rebuked because he referred to this House as having sympathy with the claims of Indians in Kenya. We were warned against any expression which seemed to define those claims as being only those of Indians in Kenya ; we were told that on the contrary the claims preferred were those of India at large. Now, that may be true. I agree that behind the claims of the Indians in the Dominions is a vast mass of feeling in India itself, and, to that extent, the claims of Indians in the Dominions are the claims of India. But let me point out that, when you are contemplating a measure of retaliation, it has to be regarded from a somewhat different aspect, namely, its effect on the immediate interests of the Indians resident in the Dominions and in the Possessions have to be fully considered. Are they behind, you at this moment in demanding a measure of this kind ? I have read numerous Resolutions passed by bodies in the Dominions, and I cannot remember seeing one which demanded that at this moment you should use the weapon of retaliation. (*Mr. T. V. Seshagiri Ayyar :* "What about the Natal Congress ; they asked for it.") That was not my impression and if it is so, I should be glad to be referred to the facts. But you have Indians in Australia, in New Zealand and in Canada, and this measure must apply to all. At this particular moment Indians in South Africa are faced with a measure against which they have protested, against which we have protested, and which at the present moment is in actual discussion in the Union legislature. Are the Indians in South Africa anxious that you should increase their difficulties at this juncture ? Can you quote to the House anything to substantiate that ? Again, you have a deputation in England. They are disappointed with the Kenya decision, as you are. Have you any advice from that deputation ? One of the principal members of that deputation, the Right Honourable Srinivasa Sastri, not so very long ago said that retaliation must be our last weapon and he deprecated its use. (*Mr. N. M. Samarth :* "At the time he deprecated its use.") What is his opinion to-day ? Can you say what he thinks to-day ? (*Mr. N. M. Samarth :* "I am not in a position to say, nor is he a great authority.") Nor am I in a position to say, but I at least claim that you should give some proof that the measure is desired by those even more intimately concerned

[Sir Malcolm Hailey.]

than you are ; your pride and sentiments are affected ; in their case it may be even more, vital interests.

Let me sum up. We have to consider exactly the results of this Bill as drafted, for its language appears to me difficult, and is, my lawyer friends tell me, in need of radical correction. We have to consider whether it would not give rise to the hard cases and anomalies to which I have referred already. But, far beyond that, you have to consider the interests of those who are immediately and intimately concerned with difficulties arising from legislation or ordinances contemplated in the Dominions and in the Possessions ; and I say you need circulation in order that the case may be fully considered from all these aspects.

I said that I would put my case on a restricted and limited ground. I have endeavoured, in doing so, to avoid reference to those feelings, natural and justifiable to some extent though they may be, which arise from the announcements of the last two days. The proposition I am putting is one which must be regarded from a businesslike, a practical standpoint. It is for this reason that I have confined myself to entirely practical arguments ; I ask the Assembly to look at the matter in the same sense, putting aside all those sentiments which arise from their recent experience, of treatment accorded to Indians in the British Dominions and Possessions. I ask it to look at the matter in the spirit which is essential in times of difficulty like these, namely, with calm, and with an unimpassioned and well-balanced judgment.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Sir, it is with feelings of sorrow and satisfaction that I rise to offer the few remarks which I am now about to make. My satisfaction, Sir, is that we the people of India and our trusted spokesmen stand to-day on a common platform with the mighty Government of India. We are companions in sorrow. Our faces have been blackened both literally and metaphorically. Sir, colour prejudice has been the cause of injustice to us. The Government of India, be it said to its credit, stood up against that colour prejudice, and I am willing to give it that credit, and with us they stand on a common platform. But, Sir, the Government of India is a corporation while we are individuals. Our feelings of resentment find expression. The corporation has no soul. It is inanimate. It cannot rise, it cannot feel, and that is the unfortunate situation in which the Government of India finds itself placed to-day. Sir, let them also assume a body ; let them get into themselves some feeling of resentment ; let them also resent the action of our trustees at Home ; let them feel as we do ;—then only, Sir, will the Government at Home realise the gravity of the situation. Just as the people are like a house divided against itself, so unfortunately the Government of India are a house divided against itself. Reading between the lines of the telegrams announcing the Cabinet's decision, what do we find ? The Secretary of State acted merely as the Post Office for placing the Government of India's representations before the Home Government.

The Honourable Sir Narasimha Sarma (Education, Health and Lands Member) : That is not correct. Mr. Ormsby-Gore has said emphatically

that the Secretary of State advocated the Indian cause powerfully and fearlessly.

Rao Bahadur T. Rangachariar : I stand corrected, and I am glad to be corrected. I am glad to hear that the Secretary of State stood by us on this occasion. But notwithstanding all these representations our protests have been laid aside, and what is the feeling that comes upon us ? I do not think I can do better than read what an Englishman—a noble soul—has said :

" All the long journey of more than 10,000 miles which all the delegates have made and all the long anxious days of consultation have been in vain. If no delegation at all had gone to England it would seem that things could not have been worse, assuming that the news is true. I have had to learn the bitter lesson step by step, and it is almost by now complete. The lesson is that blood is thicker than water, and that in every single issue where the decision lies between the Colonies and India, the fact that Colonials are of British blood and the Indians of non-British, will tell in favour of the Colonials. India will be kept in good humour as long as possible for commercial and other reasons, but when the crisis comes the racial question will be uppermost and it will defeat the claims of justice everywhere. As I preached in my sermon in the Danish Church in Madras, it is the question of the colour bar. This question of race supersedes all others. It supersedes even the claims of Christianity itself."

Sir, those noble words were uttered by an Englishman—Mr. Andrews, whose name we revere and adore ; and I do hope and trust that Englishmen here share the sentiments expressed by him. Let him not be put down as a sentimentalist. Unless these same views take root in the minds of Englishmen in this country, it is hopeless to think of India being a partner in the Empire. Sir, I said that is why feelings of sorrow overpower individuals to-day. This measure which comes before us to-day, should have come before the Legislature in the year 1918 or the year 1919, immediately after the Conference of 1918. In fact, if my information is correct, Lord Sinha (I think he was Sir Satyendra Sinha then) sent up a draft Bill on this very subject of reciprocity. Reciprocity and retaliation stand on different grounds. The Honourable the Home Member has tried to miss the real issue before us. The real issue before us is not retaliation. I wish we had it. I tried my best to bring it in, but the rules of the Assembly—the rules which guide our debates—do not allow me. Here anyway is an accepted principle, accepted by the parties interested. The parties interested are the Colonies. In conference, in solemn conference, their representatives accepted the Resolution as was framed :

" British citizens domiciled in any British country, including India, should be admitted into any other British country, etc., etc., on the following conditions."

One of the conditions was :

" The right of the Government of India is recognised to enact laws which shall have the effect of subjecting British citizens domiciled in any other British country to the same conditions in visiting India as those imposed on Indians desiring to visit such country."

So the principle of reciprocity has been accepted by the interested parties. I can understand our circulating Bills for opinion where we differ on principles, where there is any question that the principle which a Bill enunciates is right or wrong. But what is the object of this circularisation in the case of a Bill of this sort which affirms a principle which has been accepted by the parties interested. Do the Government of

[Rao Bahadur T. Rangachariar.]

India deny the principle which has been accepted in Conference in 1918 and again reaffirmed in 1921? Have the Government of India had no time all these five years to consider their position in this matter? Is this the first time that they have to consider this question? Did they not instruct their delegates to this Imperial Conference to fight for this principle? Did not the then Secretary of State, Mr. Montagu, fight for this principle? Did not the Right Honourable Mr. Sastri and Lord Sinha fight for this principle? Then, what is the object of circularisation just now? It seems to me, Sir, that the Government of India not only do not protest against the action taken by the Home Government but that they will not recognise a principle which has been accepted not only by them but also by the Government at Home.

The Honourable Sir Malcolm Hailey : The Honourable Member knows that to be unjustifiable.

Rao Bahadur T. Rangachariar : I am glad to hear it is unjustifiable, but then this attitude is meaningless to my mind.

If there are defects in the language I can understand a motion for reference to select committee. That is a legitimate motion to make. But whose opinions are you going to collect? Of the Local Governments? On what matter? On this question of principle? What is it that this principle asks? That the Government of India shall make rules corresponding to the rules which each Government has made in their respective colonies. The Government of India will have those rules before them; they will make corresponding rules in our country applicable to each country; and therefore I do not see the object of this circularisation; it is merely to gain time; it is merely to allow these feelings of resentment to die out. But feelings of resentment have nothing to do with this legislation. Feelings of resentment will find other channels of expression. I am sorry to have to use that expression, but it is pure accident that this Bill comes on to-day. This Bill has nothing whatever to do with what happened in Kenya. This Bill arises out of a principle which has already been accepted in 1918 on account of conditions which existed for a long time in various colonies. Therefore, let us not confound the issue. I am sorry my learned friend, Dr. Gour, based his argument on the Kenya question. (Dr. H. S. Gour : "I did not.") I am glad to hear that. It has nothing whatever to do with the Kenya decision. This is a longstanding question. In fact the Government of India have neglected the question for a long time; they ought to have themselves come forward with this legislation. Why did they not? Because they are a subordinate Government seven thousand miles away, taking their orders from the Secretary of State for India. The real remedy for all this is self-government. The Government of India will now at least work with us in getting that self-government. Till that is done we will be in this wretched state, both the Government and ourselves. Therefore, Sir, as I began, so I end, by saying that I oppose this motion for circularisation. There are matters of detail which have to be considered, and I would have supported a motion for reference to a select committee; but I am bound now to support the

motion as it stands, for the Bill being taken into consideration. Therefore, Sir, I implore the Government not to throw any doubt on the principle underlying this Bill. Their motion will throw doubt.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I think there is a great truth in the time-honoured saying that God helps those who help themselves. We are going to follow that saying to-day. I do not agree with my learned friend, Rao Bahadur Rangachariar that there is no element of resentment in it at all. I think there is. We are fighting on principle; but on this occasion we have *inter alia* been actuated, no doubt, to a certain extent, by resentment also. He will excuse me if I differ from him. But, Sir, what could we do? Could we do better than we are doing now? The Government of India have tried their level best and they deserve the sincere thanks of India. His Excellency the Viceroy and Governor General and His Excellency's Government have sent despatches after despatches; they have shown practical sympathy with us; but their sympathy and our own legitimate efforts combined have miserably failed so far as their ultimate result goes.

Therefore, Sir, we are compelled to avail ourselves of the most fundamental principle of legislation, and that principle has been supported and corroborated, as it has been clearly laid down in the Statement of Objects and Reasons, by the fact that the Imperial Conference have decided in favour of reciprocity of treatment of British subjects, who are residents of various possessions of His Majesty. This proposition has been acceded to even by the Honourable the Home Member. It finds support in every system of law, in every constitution of every dominion, whether it is a Crown Colony or a self-governing dominion. Therefore, this sort of legislation is simply permissible and at this juncture it is very badly needed in India. Now, Sir, as to the language of the Bill, I am very sorry to say that it is not properly drafted. I do not agree with my learned friend, the author of this Bill, so far as its terminology goes as for instance the definition of domicile. I beg to differ from him in respect of some terms in this Bill. There are certain defects, but, Sir, those defects can be removed, at once, and just now, if the Bill may be referred to select committee.

I do not agree with the view of the Honourable the Home Member that the Bill may be circulated. There should be an object in circulation. We are not going to refer the matter to the Local Governments; we are not going to refer the matter to various institutions in this country; we are going to make these laws against certain dominions only; they have not treated us properly and we are going to tell them that we are, now, going to use our constitutional, proper and legitimate weapon. That is the real object. We must speak the truth.

Therefore, there is no necessity for circulating this Bill at all. Had they treated us fairly we might not have tried to see this Bill expedited. You will kindly see, Sir, our numerical strength in Kenya is decidedly larger than the population—I mean the present population—of the white settlers in Kenya. We pay the bulk of the taxation there; we are the pioneers; we, as a matter of fact, improved the whole land, namely,

[Dr. Nand Lal.]

the place, which is being inhabited by us now. It must be admitted, on all hands, that India had seen East Africa much earlier than the white settler went there. We developed commerce there; so far as the present industry there goes, we are the real authors of it, and, consequently, Indians deserve the greatest credit. In return for all this, instead of their work being appreciated, they are told "You are not entitled to live on the highlands; they are meant only for the white settlers." This is not fair. We are told, "You are not entitled to have general and adequate representation; only communal representation will be allowed and only five seats will be given to you while 11 seats will be given to the white settlers, though their population is much less." I may submit, and the Honourable the Home Member will agree with me, that this is not just. So far as the social disabilities are concerned, the Honourable the Home Member very rightly has condemned them, and I give him the greatest credit for that very candid admission. Now, Sir, in brief, my submission is that we will be simply wasting time in circulating this Bill. We are fully competent to consider this Bill now. I quite agree with the view of my Honourable friend, Rao Bahadur Rangachariar, that if there was a motion for referring the Bill to select committee there would have been some force in the amendment. But the present amendment, which has been moved by the Honourable the Home Member does not deserve appreciation; at least I am not prepared to support it and I oppose it. With these few words, I support the motion, as it has been moved by my Honourable and learned friend, Dr. Gour, that the Bill be taken into consideration.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhamadan Urban) : Sir, amongst Hindus it is after Yoga extending over long periods that a man attains the position when griefs and sorrows, joys and pleasures do not move him and he remains calm and unmoved in the most trying of circumstances. But the Honourable the Home Member to-day has shown us an easier method of reaching that state and that is by entering the ranks of the bureaucracy. Look at the advice he gives us. He tells us; "Oh, look at this question from the practical point of view; do not be excited; do not lose patience; all this is a matter of negotiation." I wish, Sir, the Honourable the Home Member had tried to understand our outraged feelings at the present moment. Negotiation with whom and for what? We are told that the Government of India has been behind us in this matter. Sir Narasimha Sarma most indignantly contradicted Mr. Rangachariar and said that the Secretary of State and the Under Secretary of State for India were with us in this struggle. What is the result? The united nation, assisted by the Government of India and supported by the Secretary of State and by the Under Secretary of State has been defeated. Negotiation! One of the men whom Government themselves honour, I mean the Right Honourable Srinivasa Sastri, together with two other esteemable men, went to England for negotiation, and here is the result; complete defeat. (*The Honourable Sir Malcolm Hailey* "No, no.") The Honourable the Home Member says "No." I can quite understand it, because he looks at it not from the point of view of an Indian who feels that in all those vital and

fundamental matters in which the decision should have been in his favour it has gone against him. Sir, I wish I could express to the House the state of our feeling at the present moment. But I hope, Sir, Government will be able to realise before long that this is one of those decisions which will have and is bound to have most disastrous effects as far as the relations between the two countries are concerned. The iron has entered into our souls, and we are now face to face with the naked fact that whatever support you might have, whatever justice you might have on your side, if there is a question between the white and the coloured, the coloured are bound to go to the wall. I say in the interests of the British Commonwealth itself, it is a most disastrous and a most dangerous lesson for this great country to learn. Sir, I do not wish to indulge in strong or violent language. I see that my friend on my left laughs. He is incapable of understanding our feeling. The House will agree with me that moderation of language when it is not in accordance with real feeling is untruth. If exaggeration has to be avoided, so has understatement.

I hope, Sir, the Government of India even now will do what little it can, because it can do only little now, and I hope our own people will try to make their position clear not only to England but to all the Dominions concerned. There might have been some excuse to put forward in favour of this decision if the question had been between India on the one side and a self-governing Dominion on the other. But the present question is between India on the one side and a Crown Colony on the other. You can not say that the Colony can manage its business in the way it thinks best. Here the responsibility is of the British Cabinet which has come to this decision, and we hold the British Cabinet responsible for it.

As regards the question before us, I understand that this Bill was circulated 4 or 5 days ago before this Kenya decision was arrived at, and I do not see that there is any justice in the argument that this Bill is the product of any angry feeling or of any feeling of resentment. That it so happens that at the present moment there is this feeling not only in this House but all over the country is a matter of misfortune for all parties concerned. I agree with my friends who say that this measure should be taken into consideration, and if there are certain defects it may be possible to rectify them. Moreover Government will have to make rules, and they will be able to take every fact into consideration before framing them. What the Bill lays down is that the Government of India should frame these rules, and I do not understand why it is necessary to circulate the Bill for opinion. As far as the broad question of principle is concerned, there can be no difference of opinion, and there is none, so far as the Indian public is concerned. I therefore submit that the House will be well advised in accepting the motion of my Honourable friend, Dr. Gour.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhamadan Urban) : Sir, it is difficult to deny that there is a great deal in the calm and dispassionate statement of the case which the Honourable Sir Malcolm Hailey placed before us this morning, and I for one do not believe that he and the Members of his Government do not feel quite as strongly on the matter as we in this part of the House do. I believe, in speaking as he has done, he has but tried to do what we have been trying to do so long,

[Sir Deva Prasad Sarvadhikary.]

namely, to put a restraint as far as possible, upon all those angry feelings and sentiments, premature expression of which would jeopardise our cause to a considerable extent. Having said so much, Sir, I am afraid it is not possible to go further with him on this occasion. If there was time between now and January or February when the Legislature would in due course deal with the matter, probably there would be reason in the suggestion about postponement in the way that has been suggested. That unfortunately in view of the elections and the delay they imply is not possible. I take the cue from what the Honourable the Home Member has said this morning, namely, that this measure of reciprocity in order to have value, must be used as a method and weapon of negotiation. I recognise that. But negotiation where and with whom? I shall not go into the technical question as to whether Kenya being a Crown Colony, the domestic affairs, as it were of the Empire, can be brought before the Imperial Conference or the League of Nations. And in what shape and stage, I am now taking the broader point of view and am supposing that the state of affairs can be brought home to these peace evolving organisations of which India claims to be a Member.

We are not concerned with the isolated question of Kenya this morning. What is happening there is happening everywhere in some shape or another. Say what we may, it would be useless to disguise the fact that the Kenya question has largely influenced what we have done and what we are going to do, but that is not the essential question before us. Motives may be attributed and attributed without much detriment to us whenever we may proceed to "*reciprocate*". The question before us has reference to all the Self-Governing Dominions and Crown Colonies. Wherever Indian interests are in jeopardy, a measure like this has to be used and used for the purpose, to use Sir Malcolm Hailey's words, of a weapon or "method of negotiation." The Imperial Conference will be sitting, I believe, in October. General Smuts, the other day, refused to receive a deputation of Indians with regard to the questions troubling them there and he stated that it would serve no useful purpose because that question in any shape or form was not coming up before the Imperial Conference. At question time this morning we were informed to the contrary, and were told that some aspects of the question are already tabled for consideration by the Imperial Conference.

The Honourable Sir Malcolm Hailey : Only mandates.

Sir Deva Prasad Sarvadhikary : Only mandatory. Well, there you are. It is much more restricted than I understood at the time and General Smuts is probably right. But is it not necessary for us here to urge upon the Government that vital questions like these should be brought before the Imperial Conference and that what has been decided according to General Smuts should not be permitted to be the last word on the subject. Here is a weapon or method of negotiation to put it at that and no higher opportunity for use of which, I do not think, this Legislature would be well-advised in letting go. Sir, we are needlessly losing time. I think, if we proceed straight away to decide that the Bill may be taken into consideration, and discuss such amendments as you may

permit without notice to come up, we can do some useful work, although not perhaps that perfect work which, with the assistance of Mr. Graham's Department, we might have been able to do later on. After all, all our legislative measures are not perfect, we may make mistakes, and, when occasion arises, they can be put right by subsequent legislative action. But let us put this through now in the way open to us. I don't think it is too late for the Council of State is not coming to an end. If it is only a question of drafting, we can consider that later on in the day. There can be no difference of opinion on the principle for that was accepted long ago. With regard to a Bill such as we have to consider in these peculiar circumstances, we have no procedure by which the House can go into Committee. There is no time for a Select Committee to be appointed and to have its report, as some have suggested, taken into consideration. Therefore, the only thing that is left for us to do is to go straight into the details of the Bill and move such amendments as are permitted, so that in such time as is left to us we may be able to turn out a tolerable piece of work. The question of policy is not really troubling us or the Government and the more practical way of proceeding would be, not to retail the grievances of our countrymen abroad because between us and the Government of India there is no difference on that question. And, after all, it is with the Government of India we are concerned just at the present moment. Let us go into the details of the Bill and move such amendments as may be open to us to move and are necessary for the due consideration of the Bill, and let us turn out such a piece of work as we may under handicap and in admittedly emergent circumstances.

Rai J. N. Majumdar Bahadur (Presidency Division : Non-Muhammadan Rural) : Sir, I cannot but express my heartfelt approval of the Bill that has been introduced by my friend Dr. Gour though I am sure that he will not himself approve of all the wordings of the Bill when the defects are pointed out to him. Therefore, I submit, Sir, that this Bill requires some consideration. There is a proverb that, when we are most in anger, we should restrain our passions. We are in anger now and, therefore, whatever we do in anger will not be good work. Therefore it is necessary that we should consider this Bill properly. As regards the question of principle, the Government of India is perfectly in harmony with us. The Government of India feel almost as much as we do in this matter, but I think that if they had felt a little more deeply, the matter would not have come to this pass. For instance, the feelings of the Government of India have not gone to the extent of resigning. They have not even held out a threat that, if their recommendation was not accepted, they would resign. I think such resignations often happen at Home. When a particular Ministry find that their proposal was not accepted by somebody else, they at once resign. But here, although we have three Indians on the Council of the Governor General, we do not find any suggestion that they would resign if this were not accepted. It is a matter of great importance, the question of the equality of Indians with the rest of the Empire. Therefore, if the Government of India were fully in accord with us, I think it was their duty to offer their resignation. Of course, such sympathy as we have got from them, we ought to thank them for. But sometimes sympathy may come from the mouth, but not from the inmost places of the heart. When it comes from the

[Rai J. N. Majumdar Bahadur.]

inmost places of the heart, then it comes to a resignation. There were times when the Governors General had resigned. I have known many Governors General and Governors General have resigned on occasions. But in this case, perhaps the depth of feeling has not gone to the extent of the Governor General resigning on account of his recommendation not being accepted by the Colonial Secretary. We understand, Sir, that the Secretary of State in Council for India was also with us. Why does he not resign also? He does not hold any inferior position to that of the Secretary of State for the Colonies. He has a Council; the Colonial Secretary has no Council. When the Secretary of State, who is our father and mother, is treated just as they like, I think we ought to show some strong resentment, and this resentment we cannot show by fighting but by a measure of this kind.

The Honourable Sir Malcolm Hailey said that we cannot touch the colonials. Suppose there is one colonial in India and suppose that colonial is compelled to register his name, would not that have some effect? I think it would. If we make a rule that every colonial gentleman who comes into this country will have to register himself, it will be taken as an insult and an indignity to all the Colonials and would not that make them reconsider their position? They must treat the Indians better. We, Sir, have always been told that we are all equals in the British Empire. I said the other day that we are always asked to be proud of being British citizens but, as soon as we stir out of our own homes, we do not feel that we are British citizens, but feel that we are helots of the Empire. I am told that the Government of India are in sympathy with us. How far has that sympathy extended, except in the mere sending of some despatches? If it has not extended beyond that, I do not call it real sympathy. Real sympathy can go beyond that. "We have done our best, we have written to the Secretary of State. The Secretary of State has written to the Duke of Devonshire. The Government of India is in sympathy." It is not this sort of sympathy we want. We want something more. We want a definite strong stand on the part of the Government of India, and if the Government of India does at this moment offer its resignation, or holds out threat of resignation, I think the Colonial Secretary will come down.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I rise in an effort, possibly not a very hopeful effort (*An Honourable Member* : "Perhaps a hopeless one"), to pour oil on waters that have been troubled with the stirring speeches which have been made. Let my old friend, Dr. Gour, camouflage his battery as he may please with the veil of Imperial Conferences and principles of reciprocity—(a veil which my equally great friend, Rao Bahadur Rangachariar, sought to thicken) and with the zig-zag painting of muzzled eloquence; the House needs no great perspicacity to see that every gun of that battery was laid and aimed and fired at the decision of the Imperial Conference on the Kenya question. (*Dr. H. S. Gour* : "The Imperial Parliament has not decided it.") I mean the Imperial Government, the Imperial Cabinet. The speech of the Honourable Mover urged not general reciprocity but immediate and strong resentment. Sir, the future attitude

of India with regard to the Kenya question is a matter of vital importance to the Indian settlers in Kenya, and it is for this House, as the constitutional representative and custodian of the interests of the whole of India, to lead India in regard to that attitude. Let there be no doubt as to this fact that we are at the parting of the ways. Two courses are open to us and India. One is to regard the Imperial Cabinet's decision as a complete set-back, and to make a wild and furious rush at the opposing forces, with the irregular fire of recrimination and retaliation. The other course is to regard the Imperial decision as a partial victory, and to consolidate and strengthen the positions gained into a base from which a further strategical advance can be made. In other words, I ask, shall India be led by this House to behave like children indulging in a most mischievous resentment—cutting their noses to spite their faces—because they have been refused a part of what they wanted; or to behave as men of wisdom and discretion who recognize that political progress was in the beginning, is now, and ever shall be slow and arduous, that each step is to be fought, and position after position won and consolidated before the main citadel can be reached.

Sir, Indians are not wanting in patience under delay, in courage under defeat, and in the political astuteness necessary to win to-morrow what they have failed to win to-day. Let us consider the effect of following each of these courses. We can suspect the reality and thoroughness of the support given by the Government of India. We can also suspect the allegation that the Secretary of State fully supported the claims of the Indians. We can charge the Imperial Government with betrayal and with racial preference upon the principle of blood being thicker than water. We can carry that resentment further and make it a racial question between European and Asiatic; and finally we can also not merely feel resentment—I do not deny the justification of the feeling—but make a world-wide proclamation,—the wisdom of which I do deny—of that resentment against the white settlers in Kenya. Now let us consider the results of this course. The immediate results will be a sense of gentle gratification at anger and resentment having let loose, a sense of patriotism vindicated, and a sentiment of duty performed. Those are the immediate results: very pleasing to the large body in this country who resent this decision on Kenya, but results of a passing ephemeral character. What are the prospective results of that course? A disappointed Government of India that has done its best for us; a discouraged Secretary of State who, I for one believe implicitly, has done his best for us; a possibly disillusioned Imperial Cabinet; and a stronger, and now justifiably hostile, band of European settlers in Kenya. Now how will this weakening of our supporters and strengthening of the opposing forces help, not us, but those Indians in Kenya who are to-day struggling for the political freedom which has been achieved in India? I say that these Indian settlers, when they think of the matter, will be certain to feel and to say, 'God help us from our friends in India.' We have no business to indulge our feelings of resentment at the expense of those people. The Cabinet decision has not gone entirely against India. I am as discontented as anybody else in this House (*Hear, hear*); the Honourable the Home Member has declared the decision on the points ruled against us to be galling; you could hardly

[Colonel Sir Henry Stanyon.]

have a stronger word than that from a tactful, politic spokesman of the Government of India. But we realize,—I do at all events,—that this is not the time for us to indulge in wild threats of recrimination and retaliation. Let us be as discontented as we like, but make that discontent the base only of a determination to go on, and fall and get up, and go on and fall and get up again and again—a hundred times if necessary,—until we win through. That is my recommendation to this House. I say to this House—it may possibly be my swan song—I say to this House, with a feeling of a very sincere desire to help forward the House as a Legislature and the interests of India as a whole, that this is a time when we require to proceed with the utmost care and caution. Let not anger and impulse carry us away. Let us play the game with a political astucy and patience which Indians possess second to none. Let us use that patience; let courage come to the rescue and keep it standing upright; and let the day come to which I look forward when the white settlers of Kenya themselves, so hostile to-day, will realize, what we Europeans have realized in India, that Indians and Europeans can be happy together with equal rights.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhamadan Rural) : Sir, I do not wish to intervene in this debate and express any opinion upon the merits of the proposal which has been made by the Home Minister that we should take time for considering this proposal. I only wish to bring one matter to the notice of the House. Half an hour ago the Home Minister asked us whether we have any evidence of the opinions and the sentiments of the Indian settlers in Kenya and elsewhere. By a strange coincidence, a cablegram has just been handed to me from the Kenya Indian Delegation in London, which I beg the leave of the House to read to it. The cablegram is dated the 26th :

“Imperial Government's decision unacceptable all points except segregation. Involves subjecting Indians to permanent status inferiority, violating constitutional pledges equality within Empire and Resolutions Imperial Conference and Joint Parliamentary Committee. Sovereign's pledges treated as scraps of paper. Such breach of faith cannot restore co-operation and good-will but must perpetuate and aggravate racial bitterness and hostility. This definitely anti-Indian settlement made under threat of violence of white settlers places premium on methods of violence. Decision combined with Smuts provocative proposal segregation couched in language grossly offensive Indians inevitably creates impression white races determined reduce Indians in Africa to position utter humiliation. Nothing but strongest immediate action by Government of India can save situation. Strongly urge recall delegates to Imperial Conference. Futile and humiliating sending delegates if Imperial Government flouts decisions Conferences. India should also refuse participation Empire Exhibition and proceed institute all possible measures retaliation. Indians otherwise left without least hope for establishment equality of status without which they can have no place in Commonwealth. Kenya Indian Delegation.”

Khan Bahadur Abdur Rahim Khan (North-West Frontier Province : Nominated Non-Official) : Sir, some time back I was reading in a book :

“When the heart is full few are the words to utter and when honour is at stake, there is no other alternative but to try and fight like a soldier on the field of honourable death.”

I must say that as an Indian I feel the insulting treatment meted out to our brethren in the Colonies and elsewhere has convinced us that though

men have sufficiently advanced, they have not altogether ceased to be partial and bigoted. I have full sympathy with the Bill moved by my Honourable friend, Dr. Gour. But at the same time I think I will be justified if I offer some observations for his consideration in particular and for this learned Assembly in general. I think it will be better if we wait for some time and if it is circulated, we will be in a position to know what will be its effect. (Voices : “No, no.”) Some gentlemen say ‘No, no.’ I say ‘Yes.’ Will you kindly listen to me? If it is circulated, you will get all the public in different provinces prepared to back you, to support you, and you will all be in a position to speak with one voice and one heart. Local Governments also will be in a position to strengthen the hands of the Government of India if the Government of India is going to take steps in the matter and it must take steps. I think it is better that we should wait. What will be the result? Even if this Bill is taken into consideration now, it could not be passed, because the Council is not going to sit further. It will take some time. Why should not we have some time to consider the position? We will then have a cool mind and that would be the proper step to help our brethren. I quite agree with all the speakers that the insult is intolerable and I think no human being can tolerate it. But at the same time I think it would be in the interests of our brethren in the Colonies that we should do something with cool heads and patience. Our ultimate aim should be to stand by them or fall by them but not to do anything in such a hurry which may injure them instead as is proposed by my Honourable friend Dr. Gour. I think we are responsible people here. We should not feel excited and do anything rash in showing the resentment. I request Dr. Gour to accept the amendment moved by the Honourable Sir Malcolm Hailey. I think it will be in the interests of our brethren in the Colonies and also it will be for the good of the country here. With these remarks, I strongly support the amendment moved by the Honourable Sir Malcolm Hailey.

(Several Honourable Members : “The question may now be put.”)

The Assembly then adjourned for Lunch till Fifteen Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Fifteen Minutes to Three of the Clock, Mr. President in the Chair.

Rai Bahadur Bakshi Sohan Lal : Sir, I rise to support the motion of Dr. Gour to take the Bill into consideration at to-day's meeting. Before the introduction of this Bill by Dr. Gour, we had no restrictions in our laws, regulations or ordinances against the entry, etc., into India of any British subjects, white or coloured. But the white populations of Crown Colonies and self-governing Dominions have, at least since the conclusion of the great war, at every moment been introducing and passing legislative measures in the form of ordinances, etc., restricting the rights of British Indians, not only as regards their immigration, but also their rights as free citizens for the franchise, the purchase of landed property and the carrying on of trade in competition with the European settlers. So far as

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Kenya and East African Colonies are concerned, it was owing to the previous presence of His Majesty's British Indian subjects in Kenya and in East Africa that Kenya was made a Crown Colony. What does Sir John Kirk, the First Consul-General of the East Coast of Africa, say on this subject :

"But for the Indians, the British would not have been in East Africa at all. At this early stage the most useful part played by India was the provision, at the earliest possible moment, whenever danger threatened, of munitions, stores, supplies and military forces, which were hurried from India again and again whenever native risings and rebellions occurred in that part of Uganda which now forms Kenya."

During the last great European war all parts of British East and South Africa were overspread by the Indian Army and Indian official and non-official machinery for carrying on railways, telegraphs and the post offices, and for military and civil administration, not only to defend British lives and British hearths in the Crown Colonies and Dominions, but also for the acquisition of the German Colonies. Not less than 50,000 Indian soldiers actively participated in the East African war theatre alone, of whom more than 5,000 lost their lives. The Indian settlers of the Crown Colonies, including the Colony of Kenya, were conscripted for military service in the war. Why was it so if Indians in those Colonies had not equal status or equal political rights of citizenship with the European settlers? What is the reward for all these patriotic and national services of Indians in the Crown Colonies and the dominions? Since the termination of the war and the signing of the Armistice, the European settlers of Kenya and South Africa have at every moment been introducing and carrying out legislative measures restricting the rights of Indians in the Colonies and supplanting Indians in the public service by recruiting Europeans. The European settlers of Kenya seem to have forgotten the historical facts about the Kenya settlement, or have been quite ungrateful for the Indian help to the European settlers in Kenya. It is well known that, long before any European had put his foot in any African Colony, the Indian had already fully settled there. (*The Honourable Sir Malcolm Hailey* : "Any African Colony?") In 1497, when Vasco de Gama the first European landed in Natal, he discovered all along the African coast flourishing Indian settlements, and especially mentioned that he had met at Mombassa Hindus from Calicut and from the Gulf of Cambay. Major Pearce in his book on Zanzibar and East Africa shows a close relation of the West coast of India with the East coast of Africa in the 15th century, and thus verifies that large merchant vessels from India harboured at Mombassa in the 15th century, as found by Vasco de Gama. From the earliest day, and for many years, the whole policy of the British Government was directed towards connecting East Africa in every possible way with India. Administrators from the Indian Civil Service were sent over from India to East Africa in order to build up the administration of the country on Indian lines and the Indian model. The Indian Penal Code and other Indian laws were introduced in these colonies at a very early date, and the Indian rupee and other coins were adopted as the coinage for these colonies. It was clearly understood from the administrative and legislative measures introduced in these colonies that the closeness of the East African coast to the West Indian coast, as well as the similarity of

climate and other conditions, made these colonies to be an inevitable and natural connection with India. Far-seeing British statesmen of early days saw clearly that the new British territory in East Africa would be regarded as a legitimate field for immigration from India, and was more suitable for Indians than for Europeans for residential purposes. Independent European testimony has been recorded that one of the strongest arguments advanced for the recommendation to build the Uganda railway was to provide an outlet for settlement from the congested districts of India. With this object in view, certain efforts were made to direct the stream of Indian immigration towards these shores.

The British Indian subjects are entitled to be treated in British Crown Colonies and self-governing dominions in the same manner as we treat in India the Europeans of those Colonies and Dominions. We have provided no restrictions in any of our laws and regulations and ordinances against any European British subjects domiciled in any part of the British Empire, including the colonies and dominions, in the matter of entry, franchise, right to hold and acquire landed property, right to carry on any trade, occupation or industry, and their eligibility for any public service in India, equally with Indians. We allow European settlers of the British Crown Colonies and Dominions to be appointed in India as our Governors, Executive Councillors, High Court Judges, and to hold any post in any service open to an Indian, and treat them on an equal footing in every respect. We do not however understand why the European settlers of the British Crown Colonies and Dominions should not accord similar reciprocal treatment to us in those Colonies and Dominions. They have led us to change our attitude towards them and to treat them in India in exactly the same manner as they treat us in the Colonies and Dominions in order to make them feel our own sentiments and feelings, as well as the feelings and sentiments of our Indian brethren in the Dominions and Colonies. With these few remarks I support the Bill.

Some Honourable Members : "The question may now be put."

Mr. M. S. D. Butler (Secretary, Department of Education, Health and Lands) : Sir, I am placed in a difficult position towards the House. The arrangement come to was that my friend the Honourable the Home Member should move for the circulation of this Bill and that the Honourable Sir Narasimha Sarma, the Member in charge of the Department concerned, should deal more with the merits of the decision which has just been come to. There was no intention that I should take part in this debate. But circumstances have intervened and, as the Members of the House are aware, my Honourable Chief has been called away to the other House on account of developments which have taken place there. (*Mr. K. Ahmed* : "Ask for an adjournment.") No one will regret this more than he does. It was hoped that he would have been here in his place when the House re-assembled after the luncheon interval, and he was confidently looking forward to putting the case for Government before the House. Well, Sir, only half an hour ago, I received an S. O. S. message that it was unlikely that he would be able to get here in time and, consequently, it has fallen to my lot without, I am afraid, adequate preparation, to offer a few remarks on behalf of the Department on this motion. I am the more reluctant to intervene in

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this debate as I see from the demeanour of the House that they are anxious to get to a division. But I trust that the House will give me the indulgence which it usually gives to a comparatively new speaker and will let me say my little say in this matter.

Well, Sir, I regret that it should have fallen to me to make these remarks both on the grounds which I have stated and also because a European, speaking on a question of this sort, speaks in what I may call an atmosphere of suspicion. It has already been urged by one speaker that the Europeans who have spoken cannot envisage this question from the point of view of the Indian. Well, Sir, I suppose there is some truth in that, and that we cannot look on things exactly alike. It is not that we see differently as to the results that we want to achieve, but that we view the whole question, possibly unconsciously, from a different point of view. Therefore, I should much have preferred that my Honourable Chief should have spoken here as an Indian to Indians, and that it should not have fallen to me to do so. (*An Honourable Member* : "Advise him to resign.") Personally I do feel that I look at this question from the Indian point of view, and I want so to look at it, but, if the House detects in me an attitude which is not the Indian attitude, I hope they will none the less believe in the sincerity with which I have been dealing with this problem ever since I was appointed to the Department which deals with this matter. And, believe me, there may be two ways of looking at questions, and it may not be a bad thing, and may even help the Indian cause, especially when your opponents are Europeans, if you do not reject European assistance. Sir, I know that all Europeans on the Government Benches here, as the Honourable the Home Member has already said, do really feel with Indians in this matter. For the best part of our lives we European officials have eaten the salt of India, and we have tried to the best of our abilities, some better, some worse, but all to the best of our abilities, to give to India the best that is in us. We do feel, and we do understand, the resentment which I cannot but notice prevails amongst Indian Members, indeed all Members in the House to-day.

So, Sir, with these preliminary remarks, I will come to the matter before the House. What I want to take up and to combat, if possible, is the feeling which has been expressed that all is lost. That feeling has been expressed very definitely in the telegram which was read to us by my friend Sir Sivaswamy Aiyer; it has been expressed in the speeches of other Indian Members who have addressed the House to-day. But I never believe that all is lost. Even when the clouds are darkest, I believe, as Sir Henry Stanyon has said, that, if you stick to it, you will find that all is not lost. I was in England on that fateful day when the news came over—it was a Sunday—that the Germans had swept over the Allied troops and were swarming down on to Paris. There were then those at that time who said "all is lost." But the heart of the people was sound and they refused to recognise that all was lost and they girt their armour on, and everybody went forth to the call. For months, nay for years, the issue was in doubt; but the cause was good, and every member of the Empire, not forgetting India,

rallied to the cause, and in the end that cause prevailed. Well, Sir, in this case as well I believe, first of all, that all is not as dark as has been painted, and secondly, even if it were as dark, that, if we stick to it, we shall prevail. Why, Sir, not only have we not lost all. There is actually much that we have won. Very few Members, I have noticed, have referred in their speeches to the actual terms of the decision which has been arrived at by His Majesty's Government. Now I have been watching this case for months and, believe me, I know what it was we were faced with and what we have escaped. There was, to begin with, the claim of the white settlers in Kenya to self-government. That meant in effect that the Government should be handed over to the white settlers, that Dominion status should be conceded, and that, thereupon, all the consequences should ensue which flow from Dominion status. Now, what has been the decision of His Majesty's Government in this matter? I will read from Reuter's summary:

"His Majesty's Government cannot but regard the grant of responsible Government" that is to say, *Dominion status* "as out of question within any period of time which need now be taken into consideration; nor indeed would they contemplate yet the possibility of substituting an un-official majority of Council for Government official majority. Hasty action is to be strongly deprecated and it will be necessary to see how matters develop, especially regarding African representation, before proposals for so fundamental change in the constitution of the Colony can be entertained."

Well, Sir, that is no mean victory to have achieved. Had Dominion status been conceded, then the Kenya Dominion would have obtained all the rights which the Dominions claim, and our position would have been far worse than it is to-day. But as it is we have got this momentous decision from His Majesty's Government that within no measurable space of time will such rights be given.

Then, Sir, there is the question of segregation. Well, I do not know quite what Indians feel in this matter, but I have always felt that, if I were an Indian in a Colony or a Dominion, the thing which would be most distasteful to me, which would humiliate me more than anything else, would be to be segregated as unfit to associate with my fellow creatures. I do not know if that is the feeling in this House, but it does seem to me a very notable advance that we have got from His Majesty's Government a declaration that there is to be no segregation. I quote from Reuter's summary again:

"Regarding the question of segregation, His Majesty's Government have decided that segregation between Europeans and Asiatics in townships must be abandoned."

Then, Sir, there is the question of immigration. The claim which was made was that Indians as such should be barred from entry into the colony and we had to face that. We had to face a very definite movement to stop the immigration of Indians as such into the colonies. Well, Sir, what is the decision on this point? We first have a statement of principle from His Majesty's Government which runs as follows:

"His Majesty's Government cannot countenance the introduction of any legislation designed to exclude from a British colony immigrants from any other part of the British Empire."

Sir, that is a valuable declaration of principle, and it is one for which we have fought; it is one on which we have succeeded, and it is one which comes as a definite loss to the other party in this dispute. True it is that some form of immigration restriction does appear to have

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been approved by His Majesty's Government. What they say is that the consideration which should govern immigration policy in Kenya should be purely economic. Strict regard must be had to the interests of Africans :

"It is evident to His Majesty's Government that some further control over immigration in the economic interests of the natives of Kenya is required....."

"With this object the Colonial Government must weigh the effect on native interests of admission to the Colony of would be immigrants of any race. No information"

—mark these words—

"is yet available to show what number of immigrants following a particular occupation the Colony can absorb..... Some arrangements must be devised for securing strict and impartial examination of applications for entry into Kenya, possibly by a Board on which the various communities, including the native, will be represented. There will therefore be instructions to the Governor of Kenya to explore the matter further on his return."

Now, Sir, I do not disguise from myself or from the House that there is cause for anxiety about the position ; but it is not so much a question of principle which is involved. The principle that the Africans of the Kenya Colony have the first claim on His Majesty's Government, and that, if their interests so demand, steps must be taken to prevent immigration into the Colony of any person, whether European, Indian or Asiatic, who will damage their interests, is a principle on which all parties in England, both the Kenya deputation, the Indian deputation and the European deputation, have all agreed. It is in the application of that principle that there is ground for anxiety. We have had experience in many parts of the world of treatment which makes us suspicious as to how the principle of the restriction of immigration will be applied. It is possible always in applying the principle of restriction, even without specific reference to Indians, to direct the actual measures against Indians. But that is a matter of application and not of the principle itself ; and that was why this morning, in the answer I gave to Mr. Seshagiri Ayyar, I laid stress on the difference between the principle and the application of the principle. It may be that we shall not be able, or not desire, to contest the principle of the rights of Africans in the Kenya Colony to first consideration ; but it does rest with us, with the Government and with the House and with the people of India also, to see that in the application of that principle, Indians as such shall not be made to suffer. But that is a point on which no decision has as yet been come to. As the House will have noted, the order says that no information is yet available as to the need for the protection of African interests, and that the Governor must explore the matter further. It is in this respect that the Government proposes to make a representation to the Secretary of State, and it is this matter which we have got to watch now carefully, and in which we have got to press the rights of Indians and the cause of Indians ; and in so doing we desire to carry the House with us and the people of the country as before.

Well, then, Sir, I turn to the other matters. We have lost undoubtedly in the matter of the highlands. That goes without saying.

We have not got our will about a common electoral roll. In place of a common electoral roll His Majesty's Government, for reasons stated, have decided on a communal franchise. Well, Sir, I do not wish to enter into the vexed question of the merits and demerits of a communal franchise. They are fairly familiar to this House, and when they were discussed here the other day a difference of opinion manifested itself. But just because we have not got our way as to a common electoral roll, and we have been asked to put up with a communal franchise, I say, although we may regret it, it is not right to come here and say, "All is lost." And even with that communal franchise, I would ask the House to note that His Majesty's Government have allotted Indians five seats in place of the four seats which they had before. (*Dr. H. S. Gour* : "What generosity !!") Well, Sir, I do attach importance to this increase of numbers, because it has always been found, both in India and elsewhere, that the stronger the minority is the more effective it is. It is not only the actual voting strength which tells, but it is the moral support which each member gives to the other and the sense of solidarity which larger numbers always give (*Mr. N. M. Samarth* : "Where is the African native in this show ?")

Well, Sir, I have endeavoured to show that, although we have lost in certain respects, respects which I regret as much as anybody else, yet that all is not lost, and that we have won on certain very important particulars. I have also tried to show that really the crux of the whole thing lies in the application of principles which on the face of them are not so much open to exception, and I said that we want in the negotiations which must ensue to carry the House with us. Well, Sir, the position now is that the Bill, as drafted, is open to very serious objections, objections not only of drafting but of meaning and substance. As the Honourable the Home Member pointed out, under the Bill as it stands an Indian born and domiciled in South Africa, who finds his lot there too hot for him, and who wishes to return to his own country, will be kept out of India except under the same terms as are applied in South Africa to Indians there—an intolerable position. Again the Bill as drafted, as pointed out also by the Honourable the Home Member, would not enable us to take any action against the very white settlers of Kenya if they came to India, because they have a British domicile ; and again there are innumerable difficulties in connection with seamen of various countries coming into our ports. Well, all these reasons, not very big in themselves, but cumulatively of importance, make it quite impossible for the Government to accept the Bill exactly as it stands ; and they therefore suggest that it be circulated ; and with this object, that they may not be driven into the position of being at variance with the House. If the Government is defeated on the motion to circulate this Bill to that extent the House will weaken our authority and we shall be hampered in the efforts, which are before us, to secure that in the application of the principles enunciated India does not suffer. I attach considerable importance, therefore, to carrying the House with us in this respect, so that when the session ends, and the legislature is dissolved, there will be, not a disunited body—Government one way and members the other—but the Government and the members working together as before to see that the principles, which have been laid down, are applied as they ought to be applied ; and, Sir, I am encouraged in the belief that the House will do well to trust to the Govern-

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ment in this matter (*Dr. H. S. Gour* : "We cannot trust you any more") from what has occurred here this morning. There was a time when with regard to Turkey and Islam the cry was that all was lost ; there was a strong party in India which said "All is lost ; let us oppose the Government at every turn ; do not let us trust to the guidance of the Government in any matter, but let us run out on our own and see what we can do to embarrass the Government." Well, the great body of sane Muhammadan opinion stuck to the Government in this matter, and what has been the result ? After an up-hill fight, continued for many months and years, we have at last got peace, and it was only this morning that this House recorded its appreciation of the Government for having steered the ship of state through all the rocks and shoals and brought it safe to land. Sir, I believe firmly, as I have said before, in the justice of our cause, and I believe that, if we hold together and pursue our way with unity of purpose and trusting each other in this matter, we shall prevail.

Dr. H. S. Gour : Sir, I shall very briefly reply to the several speeches that have been addressed to this House from the Government Benches. In the first place, I thank the Honourable the Home Member for the expression of his sympathy with the members of this House. But I am sure we in this part of the House would have appreciated that expression of sympathy more if it had been coupled with a desire to further the progress of this Bill. Well, Sir, the circulation of this Bill for the purpose of eliciting public opinion thereon is practically to kill it, and I wish to ask the Honourable the Home Member what object will be served in circulating this Bill for the purpose of eliciting public opinion thereon. The Imperial Conference has declared the principle and this Bill embodies that principle. That is my reply to my friend, the Honourable Sir Henry Stanyon, who delivered a very long speech—but I should be glad to have known what it was all about. He asked this House not to feel resentment at the recent decision of the British Cabinet. He further said that this Bill is the outcome of that resentment. Now, if any misapprehension could arise in the minds of Honourable Members, let me disabuse them of it ; the facts is that this Bill was drafted and sent to the Government of India five weeks ago with the request that it should be immediately published in the *Gazette of India* so as to dispense with the formality of its formal introduction in this House. The Government of India consequently had been in possession of the Bill for five weeks ; they must have addressed the Secretary of State and they must have formulated their own views on the principle and policy underlying this Bill. Consequently, I submit this is a measure which will not brook delay. It is not merely a question of Kenya. I have pointed out to this House the innumerable sufferings of our fellow-countrymen in the whole of the South African Union. I have given instances after instances of the policy of squeezing out that has been determined upon by the white settlers there.

What answer has the Government of India to give to this long sustained persecution of our fellow-countrymen in South Africa ? In 1918, five years ago, the Imperial Government decided to embark on a policy of reciprocity. They said 'give us time'. They have had five years time. What have they done during these five years to vindicate the honour of the

people of this country to discharge the trust which they say is imposed upon them by the British Parliament for the good Government of this country ? What answer can they give of that stewardship and trust which they assume for the benefit of the people of India ? For five years we have waited, and after that when we find that the Government of India rest content with making humble submissions to the Secretary of State and telling us that "We shall now see to the application of the principle which the British Cabinet have enunciated", and when asked what is the principle, we were told—Government must await receipt of the white Book. I feel despondent, and I know that Members of this House have been pressed with a feeling of great disappointment at the attitude now adopted of appealing and applying to the Secretary of State for intervention by the British Cabinet. Here I find my Honourable friend, Mr. Butler saying "all is not lost ; take courage ; be of good cheer". Well, Sir, we have been taking courage. We have been waiting for years past. What have you done during all these years ? You have done nothing. The condition of the people of India overseas has been deteriorating steadily and steadfastly till to-day it is one of strained relationship and degradation, a fact which the Honourable the Home Member was constrained to admit. I say, therefore, Sir, we cannot possibly wait a moment longer now and allow the Government to elicit opinion on the Bill. We shall place upon the Statute Book this Bill as our last contribution from the people of India.

The Honourable Sir Malcolm Hailey : How will you do it ?

Dr. H. S. Gour : How we shall do it, I shall help the Honourable the Home Member to understand, if this Bill is taken into consideration. I ask, therefore, Sir, that every one who feels for the people of India, every member who feels the condition of his fellow countrymen overseas, will cast his vote against the amendment of the Government and in favour of my Bill being taken into consideration.

The Honourable Sir Malcolm Hailey : I thought the Honourable Member was going to tell us how he was going to pass the Bill this Session.

Mr. President : The original question was :

"That the Bill to regulate the entry into and residence in British India of persons domiciled in other British Possessions be taken into consideration."

Since which an amendment has been moved :

"That the Bill be circulated for the purpose of eliciting opinions thereon."

The question I have to put is that the Bill be circulated.

The Assembly divided :

AYES—34.

Abdul Hamid Khan Khudada Khan,
Mr.
Akram Hussain, Prince A. M. M.
Amjad Ali, Maulvi.
Ansorge, Mr. E. C.
Ayyangar, Mr. R. Narasimha.
Bardwell, Mr. H. R.
Barnes, Mr. H. C.
Blackett, Sir Basil.
Bray, Mr. Denys.

Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chadwick, Mr. D. T.
Chatterji, Mr. P. C.
Chatterjee, Mr. A. C.
Faridoonji, Mr. R.
Ghulam Sarwar Khan, Chaudhuri.
Graham, Mr. L.

Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Ibrahim Ali Khan, Colonel Nawab
Mohd.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.

Nabi Hadi, Mr. S. M.
Palin, Lieut.-Colonel R. H.
Percival, Mr. P. E.
Richey, Mr. J. A.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanyon, Colonel Sir Henry.
Yamin Khan, Mr. M.

NOES—50.

Abdul Majid, Sheikh.
Abdul Quadir, Maulvi.
Abdulla, Mr. S. M.
Abul Kasem, Maulvi.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Aiyer, Sir P. S. Sivaswamy.
Asjad-ul-lah, Maulvi Miyan.
Ayyangar, Mr. K. S. R.
Ayyar, Mr. T. V. Seshagiri.
Barua, Mr. D. C.
Basu, Mr. J. N.
Bhargava, Pandit J. L.
Cotelingam, Mr. J. P.
Das, Babu B. S.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.
Ikramullah Khan, Raja Mohd.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.
Joshi, Mr. N. M.
Lakshmi Narayan Lal, Mr.
Latthe, Mr. A. B.

Majumdar, Mr. J. N.
Man Singh, Bhai.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Mukherjee, Mr. T. P.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rajan Bakshi Shah, Mukhdum S.
Ramayya Pantulu, Mr. J.
Rangaebariar, Mr. T.
Reddi, Mr. M. K.
Roy Choudhury, Mr. S. C.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Shukla, Mr. D. P.
Sinha, Babu Adit Prasad.
Sinha, Babu Ambica Prasad.
Sinha, Mr. D. P.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.
Venkatapatiraju, Mr. B.

The motion was negatived.

Sir P. S. Sivaswamy Aiyer : Sir, I beg to move certain amendments with the object of remedying the defects of drafting to which reference has been made in the course of the discussion.

The first amendment that I propose is this :

"In clause 2 (a), in the definition of British Possession, after the word 'Dominions' in the second line, for the words 'exclusive of' substitute the words 'other than India and'."

The object of this amendment is to make it clear that the persons, with respect to whom this legislation is desired to be made, are persons other than the residents of the United Kingdom and of India itself. I do not think it necessary to labour the point. You must exclude India as well as the United Kingdom.

Mr. L. Graham (Secretary, Legislative Department) : Sir, as a sub-amendment to that amendment, I put it to the House that we should say "British India" as we are not entitled to legislate except for British India.

Mr. President : Further amendment moved :

"To insert the word 'British' after the word 'than'."

The motion was adopted.

Mr. President : The question is :

"That in clause 2 (a), for the words 'exclusive of' the words 'other than British India and' be substituted."

The motion was adopted.

Sir P. S. Sivaswamy Aiyer : The next amendment which I beg to move is :

"That after the words 'which are' in line 4 in clause 2 (a), the words 'or may be' be inserted."

It is for the purpose of including any territories which may hereafter also be administered by a Dominion as a mandatory.

The motion was adopted.

Sir P. S. Sivaswamy Aiyer : My next amendment is :

"That for the words 'under the mandate of' the words 'as a mandatory on behalf of' be substituted."

The reason for the amendment is this. The mandates under which these territories are administered were not issued by the League of Nations but were issued by the Allied Powers. But, though the mandates were issued by the Allied Powers, the Powers vested in the mandatories are to be exercised by them under article 22 of the Covenant of the League of Nations as mandatories on behalf of the League of Nations. So the correct phrase would be "as mandatories on behalf of the League of Nations" which follows the language of article 22 of the Covenant of the League of Nations.

The motion was adopted.

Mr. L. Graham : Sir, there is one important point in clause 2 (a) which has just been decided. The United Kingdom no longer includes Ireland and I think that is a point for the consideration of this House. With your permission, Sir, I move that after the words "United Kingdom" the words "and Ireland" be inserted. (*An Honourable Member* : "the Free State of Ireland.") Well, that is a point which I should like to decide finally in another place.

Mr. President : Further amendment moved :

"In clause 2 (a), after the words 'United Kingdom,' the words 'and Ireland' be inserted."

The question I have to put is that amendment be made.

The motion was adopted.

Sir P. S. Sivaswamy Aiyer : The next amendment is this :

"To omit the definition of the word 'domicile'."

The reason is this. The word "domicile" is a highly technical term and it is rather difficult to compress the definition of it into such a small compass as has been attempted in the Bill; and one of the results of this definition would be that a white African settler who has given up his permanent abode there and wants to come down and settle

[Sir P. S. Sivaswamy Aiyer.]

in India cannot be prevented from settling in India, because he has no permanent abode in Africa and will therefore satisfy the definition. But what we want is to exclude a person who has in law an African domicile and has not yet acquired a fresh domicile. The word "domicile" is a well understood term in the English law and the law of domicile is dealt with at some length in the sections of the Indian Succession Act. It is unnecessary for us to attempt a definition here of the word "domicile". It is sure to be interpreted according to the sense in which it is understood in the English law. The definition as it stands is not satisfactory.

Mr. L. Graham : Sir, I should like to support this amendment. In the Bill which my Honourable friend Dr. Gour has taken as the model for drafting, the definition of the word "domicile" was left blank. Dr. Gour has not been so timorous. I am reminded of a familiar proverb which I would adapt in the form :

"Gours rush in where Sinhas fear to tread."

The objection to this definition is that it is an entirely inaccurate definition and it professes to define what is covered by the law of domicile. You have a domicile of origin, which my learned friend entirely ignores, and you have a domicile of choice. Domicile of choice is achieved when you leave your domicile of origin and settle in a country and by your actions you make it perfectly clear that you have settled there and mean to make it your residence for good and all. Now, as pointed out by my learned friend Sir Sivaswamy Aiyer, the effect of this definition is not to produce a definition of a domicile of choice. All that is said is : "Domicile" means the permanent abode of a person. Many of us have no permanent abode at all and when we abandon a permanent abode it ceases to be our permanent abode. If you take the case of a settler in South Africa who, for one reason or another, has failed and who sells up his farm and comes to India to start growing coffee, that is a man with no permanent abode at all, and any rules made under this Bill will not be able to touch him. The only safe thing to do is to rely on the English rulings on the law of domicile. These have been collected into a number of sections in the Indian Succession Act ; and had there been a definition, we would have borrowed it ; but the provisions are spread over a number of sections. Therefore, I support this amendment as the only way of getting a sound application of the law of domicile.

Dr. H. S. Gour : Sir, I accept the amendment.

The amendment* was adopted.

Clause 2, as amended, was added to the Bill.

Maulvi Abul Kasem (Dacca Division : Muhammadan Rural) : Sir, I beg to move :

"That in clause 3 for the word 'shall', where it first occurs, substitute the word 'may'."

Dr. H. S. Gour : Sir, from the cryptic way in which this amendment has been moved, I discern a certain half-heartedness on the part of the

mover, because if he had descended into the arena of speech and explained to this House why he wants to alter the word "shall" to "may", he would have found that it would make a complete mess of the whole Bill ; (*The Honourable Sir Malcolm Hailey* : "Impossible.") and I shall explain to the House the reasons for it. If his amendment is carried, the section would read thus :

"The Governor General in Council may make rules for the purpose of securing that persons domiciled in any British possession, etc., shall have certain rights."

It merely says that it shall be lawful to the Governor General in Council to make rules, but it does not place an obligation on the Governor General in Council to make them. Now, if I take aright the sense of this House, it is that it wants the Governor General in Council to make rules, and I therefore submit that the amendment which my friend Mr. Abul Kasem has formally and somewhat reluctantly moved should be negatived.

The Honourable Sir Malcolm Hailey : I wonder how Dr. Gour, whose Bill has already been severely dealt with by his lawyer friends here—dealt with so severely as to show that it is certainly faulty in drafting—could imagine that the substitution of the word "may" for the word "shall" in this section can "make a further mess of it." He re-read the section to us, and so far from injuring the sense, the amendment alters the clause in the very direction that I have no doubt Maulvi Abul Kasem desired, namely, that the Bill instead of being mandatory should be permissive. Here Maulvi Abul Kasem has our full support. Do you desire to force the Governor General in Council to take immediate action or are you going to leave the decision in the hands of the Executive ? It is true that there is a commencement clause, which gives some latitude to the Governor General in Council as regards the time in applying the Bill. But, even though that commencement clause exists, the fact remains that the Bill as framed would render action obligatory, and the implication in the mind of the public would certainly be that there rested on the Governor General in Council an obligation to take early action to carry out retaliatory measures. This morning I suggested a doubt whether it was advisable to take such steps at this moment, and in the circumstances now prevailing. I was speaking then on a motion of a restricted scope, and merely tendered advice on the question of circulation. Let me now go into the main question a little further. Dr. Gour, calling attention to the undoubted and admitted disabilities suffered by Indians in the Dominions, and pointing to the long history of wrongs which they have suffered in the past, recalled that in 1918 the principle of reciprocity was agreed to. What, he asked, had the Government of India done since then ? The state of Indians in the Dominions had gone from bad to worse, and we have done nothing at all to remedy it. But what would this Bill do to effect a remedy ? There come to India in the course of the year a few Colonials and a considerable number of indigenous Africans in the service of ships and the like. Suppose that we put into action the terms of this Bill. The indigenous Africans, who have not offended in any way against India would be subjected to disabilities in regard to entry, and certain of the Colonials, if they are admitted at all, I presume, be segregated. The rules contemplated under the Bill will provide that a South African

*Clause 2, omit sub-section (b).

[Sir Malcolm Hailey.]

coming to Simla shall live somewhere beyond Summer Hill. If he desires to trade he will have to take out a license—an embarrassing measure in a country where as a rule there are no licenses required for trading. That is the type of measure that we should be applying if we were forced to make the rules which the Bill obviously has in contemplation. And so having done nothing for 5 years, and allowing things to go, as we are told, from bad to worse, we are to attempt to right the position by this heroic measure, which will have not the smallest effect on the Colonials mainly concerned. I ask Honourable Members to consider what the effect would be. From the first the House has realized—they admitted it when we discussed the Racial Distinctions Bill—the House has known, as we have known, that the real effect of a Bill of this kind disappears at the very minute that you carry it into operation. It is not effective in action; it may be effective as a threat. It may be that in dealing with the colonies or the dominions, it is advisable that we should have in our hands a weapon of this nature, which is useful as an instrument of negotiation just in so far as the possibility of its use may dissuade the colonies or dominions from adopting any further measure against Indians. It would be a proof of alienation on the part of India from other partners in the Empire which might reasonably cause the Dominions to hesitate before committing themselves to further action affecting Indians. That is the only effect which a measure of this kind can promise, and it is therefore one to be used with the utmost caution and used exactly at the right season. I ask if this is the right season to use it. The point is one which must be considered in circumstances which allow of a more dispassioned judgment; and the House should not, in its desire to satisfy what may in themselves be quite justifiable feelings of resentment, endeavour to make it obligatory on the Governor General to carry out at once a measure the value of which is not absolute but strictly conditioned by the circumstances in which it is applied. I put this to the House, that the attempt to enter on a course of retaliation at this particular moment is ill-advised in the highest degree. I use the word retaliation advisedly because it was represented this morning that we have in this Bill only the affirmation of a principle which has been recognised since 1918; this Bill, we were told, has been on the anvil a long time, and it might have been passed at any time in the last four years. As a statement of fact that is perfectly true; yet at the same time we must recognize that a Bill of this nature, passed to-day in these circumstances, and mandatory in its terms, does become a retaliatory measure and nothing else, especially when it is supported by arguments calling for retaliation not only in respect of the matters dealt with in the Bill, but in other matters affecting the Empire generally and India's place in it. We are about to have a meeting of Premiers in London. India, through its Legislature, will have given a sign of alienation or even, if these other proposals are carried out, of disassociation from the Dominions. It is that and nothing less; a clear indication of a desire to express disassociation from the Dominions. You cannot belong to the British Empire and retain association only with the United Kingdom; if you are to make good your partnership in the British Empire, you must also be in association with the Dominions, whose influence

in shaping the policy of the Empire and direction its destinies is daily becoming of greater importance. It is perfectly true that our relations with some of the Dominions have become clouded by many regrettable incidents. Nevertheless, we have to consider whether resentment at these incidents can be allowed to overcloud our judgment on the larger issue; and I ask therefore if it is wise at this stage to give so open a sign of immediate disassociation from the Dominions? That is the problem I put to the House when I ask it to view this situation with a balanced judgment; the Dominions and the outside world will view this as retaliation and nothing else, and India will have to face the consequences. India will have to face the charge that while claiming to be a full partner of the Empire she does not hesitate to advocate retaliation against her other partners; and Indians resident in the Dominions will have to face the consequences, which for all we know may be highly prejudicial to them, of such a demonstration. I feel so strongly the possible danger to them, that at the risk of repetition I emphasize once more that this Bill will not be viewed as the mere assertion of a principle, but at the time, in the circumstances in which it has come forward, it will be viewed as the commencement of a series of acts of retaliation which can have but one meaning and one meaning only, a desire to disassociate yourselves....

Dr. H. S. Gour : Who is responsible for it? The British Cabinet.

The Honourable Sir Malcolm Hailey : The British Cabinet? Is this Bill then a demonstration against the British Cabinet for its action in Kenya? It was argued as a measure of reciprocity against the Dominions. Let us know where we are. But in all truth if you mean it as a demonstration against the British Cabinet, is it seriously believed that by such a measure, so puny in its effect, you will be able to revise the decision of the British Cabinet? But I must conclude; I urge again that if this measure is to be passed at all, and I believe in the circumstances it is an inadvisable measure to pass, it should be permissive and not obligatory.

Colonel Sir Henry Stanyon : I beg to support this amendment and save the House from legislating—I say it with all respect—nonsense. Part (2) of the first clause provides that this enactment shall come into force on such date as the Governor General in Council may notify in the Gazette of India, and clause 3, as now drafted, says that the Governor General in Council shall make rules. What is the sum total of it? It says to the Governor General in Council, you shall make rules, but you may make them whenever you please, and I say that is nonsense. I strongly support the amendment.

The Honourable Sir Narasimha Sarma (Education, Health and Lands Member) : Let me in the first place apologise to the House for not having been present to take part in the earlier discussions of this measure owing to there being no other representative of my Department in the other House where a similar question had to be discussed. I would ask the House to dispassionately and calmly consider the consequences of passing a measure of an obligatory character. No one can feel more than I do the indignities to which our countrymen are being subjected in some parts of the Dominions, and it has been my painful duty to

[Sir Narasimha Sarma.]

have to read whether I am willing or not some of the speeches made in the Houses of Parliament of various Dominions. So it is not because I do not understand the position or that I do not feel for my countrymen residing abroad, that I do not feel as an Indian ought to feel the indignity to which our countrymen are subjected in some parts of these Dominions, it is not because I do not feel this that I am asking you to consider this measure dispassionately and calmly at this moment to see whether you are likely to achieve the result you have in view in trying to place on the Statute Book, at any rate as far as this House is concerned, a Bill which would leave the Government no option but to retaliate or to bring into force a principle of reciprocity, whichever way you put it, against all the Dominions, irrespective of the attitude which those Dominions may severally be taking with regard to the position of Indians settled in their territories. You want to make a gesture; you want to indicate to these Dominions that it will be no longer possible for you to put up patiently with any indignities that may be sought to be further imposed upon your countrymen in these Dominions. Well, you will have succeeded in that object, if you agree to the amendment. In accepting the amendment which has been moved by Mr. Abul Kasem, you are empowering the Government of India to take steps to vindicate the dignity and the self-respect both of that Government and the people over whom that Government rules; you authorise them to take measures as they may consider appropriate and in the right season for the purpose of safe-guarding the interests of our countrymen abroad.

Well, Sir, I cannot say that we have been successful in actually getting reduced into practice many of the promises which have been made in 1921 or, at any rate, held out as likely to be fulfilled. Still, a perusal of the report of the Right Honourable Srinivasa Sastri would show that the position of the Indians settled in Canada, Australia and New Zealand, apart from the question of constitutional rights and privileges which they do not enjoy, does not leave much to be desired; there is not much for them to be discontented with at least in some parts of the Empire. I have already stated that, with regard to the constitutional position, we hope to be able by persuasion, by perseverance, by continually pressing upon those Dominions the desirability of further strengthening the links binding the Empire together and the ties subsisting between the various component parts thereof, in time to induce them to assimilate their Indian subjects for all purposes with the other sections of the population resident therein. In some parts they do possess the parliamentary privilege; in other parts they do not. But cannot we in India recognise that prejudices of long-standing, however deplorable they may be in their results, however indefensible they may be in the abstract and judged by the standard of right principles, however much they may have been denounced by all religious and social reformers, still linger? Cannot we realise for a moment that it is difficult for those passions, for those prejudices, to die speedily? Are we to interfere rudely and frustrate the hope that we may still entertain about bringing these various Dominions, where there are at present no social disabilities whatsoever inflicted upon our countrymen, where they do possess, in some places all, in some places partial, parliamentary privi-

leges, into line? Are we to include all of them and put them in one category and say this Bill should be applicable to all of them irrespective of their tendencies? I think, Sir, it would be disastrous for us not to differentiate between Dominion and Dominion, although, with regard to the right of entry, all their laws may unfortunately at present be such as we may have a just reason to complain of. But, Sir, those that have followed the literature on the subject and the feeling regarding the grant of self-government to India must have noticed how keenly sympathetic, I will not say the whole population but a large section of the liberal-minded portion of the populations of these Dominions, has been towards the advancement of self-government in India. Are we to alienate those friends by bringing in a measure of this description, which would not in effect be of much use but which would only tend to strengthen the animosities and prejudices which unfortunately do exist at the present moment to the great detriment of the solidarity of this Empire? I therefore hope that you will refrain in time from asking this House to put its seal upon a measure which would make it obligatory upon the Government of India to frame rules of a retaliatory character.

I know that the House is sorely exercised with regard to the measures that are proposed to be adopted in South Africa. I know that there is nothing to be said in defence of them, and I hope that the statesmen at the helm of affairs in South Africa will realise in time that posterity, that the various sections of the Dominions, may have cause to lay at their door the wreckage of an Empire to which the world may justly look for the establishment of the traditions and principles of fair play, and justice, and self-government (*Dr. H. S. Gounr*: "and selfishness") which are cherished nowhere else so deeply as in the United Kingdom. But, Sir, there again those who have traced the history of this unfortunate prejudice in South Africa would have perceived that the Boer element had a continuous fight for hundreds of years with the native population in trying to secure suzerainty and, as a result, it has been impossible for them to shake off the prejudices that they have contracted. I am not trying for a moment to justify the attitude of the South African Ministers and speaking on the floor of this House I would appeal to them not to be the wreckers of the Empire. And what has been the tradition of India? Has India in the past tried to conquer the world by the doctrine of love or by the doctrine of hate? What has been the essential principle of our religion and the religions of the East? We had spread our religion throughout Asia. We have spread the gospel of love throughout the world and it is accepted everywhere. It may not have had the same effect upon all the races, which differ temperamentally from one another, but still we have conquered the whole world. Are we to say that we will have on the Statute Book a principle of retaliation, which is nothing but the principle of an eye for an eye and a tooth for a tooth? (*Mr. T. V. Seshagiri Ayyar*: "What about the Sermon on the Mount?") We should be proud of our religions and let us try to spread the true gospel amongst those gentlemen who think that they possess a higher civilisation than ourselves; but let us show them that we are truly of a higher civilisation and that in our civilisation we have nothing to be ashamed of by shewing by a concrete example and when there is an opportunity that we shall still give them

[Sir Narasimha Sarma.]

some time to repent, to relent and to reform. Sir, we are negotiating with His Majesty's Government and through His Majesty's Government with the Union of South Africa to see as to whether they should not in their own interests and in the interests of the Empire retrace their steps and not put upon the Statute Book a measure which would set the seal of further racial discrimination. But I think, if you do this, if you make it obligatory upon the Government—the Government may or may not be able to accept it—but, if you make it obligatory upon the Government, what would be the position?

Honourable Members who have preceded me have already told you that, apart from the question as to whether you will succeed or not, the sufferings of our countrymen abroad may be multiplied tenfold and they may not be so grateful for your assistance as you think they will be by the passing of an Act of this obligatory character. I think in the interests of the measure which Dr. Gour wishes to promote, without committing the Government to any particular line of action, I would suggest that it would be easier for me to induce the Government to agree to a measure of reciprocity if he leaves some discretion as to when and how effectually to achieve the object which all of us have at heart rather than by his displaying a spirit which I can very well understand at present, saying that now we happen to be in a majority we shall try to exercise our power and insist that this shall be an obligatory measure.

I therefore ask you to reconsider the position and not to make it impossible for your measure being really carried into effect. As a practical man I would tell you that you will be able to secure more by making your gesture and at the same time telling the Colonials: "You have been boasting of your civilisation; let it be a real boast. We had the power to exercise rights which might or might not have been effective in practice—still we had those rights and yet we refrained because our religion forbids us to do so. We are a patient people and we still think we shall be able to win you to right ways." Now I think that would be the right course for this House to adopt and I ask that this amendment be accepted.

Sir P. S. Sivaswamy Aiyer : Sir, I am afraid that the fire and thunder from the official benches have largely proceeded from a misconception as to the effect of the section as proposed to be modified by the amendments of which a copy has been handed over to the Home Member. The criticism might possibly have been justified by the original language of clause 3. Let me read out to the House the clause as it will stand after the amendments I propose. It will read thus :

"The Governor General in Council may (or shall) make rules for the purpose of securing that persons domiciled in any British Possession shall have no greater rights and privileges as regards entry into and residence in British India than are accorded by the law and administration of such possession."

The result of the clause as amended will be that if according to the law of any British Colony or British possession there are any restrictions imposed upon Indians, we shall be entitled to impose restrictions no greater in extent and no more severe than what they have imposed—that is, imposed in the Colony against which we wish rules to be made.

The object of the clause as amended would be not to hit against all Colonies because South Africa may have offended us, not to hit at Austrasia because Canada may have offended us, but to hit only the subjects of those Colonies which have passed rules and regulations restricting the rights of entry into, and residence in, those Colonies, of Indian subjects. To use the language of General Smuts, I do not see how any person in those Colonies which have offered provocation in this way can reasonably resent such rules and regulations. It seems to me that the clause as amended would not be open to the criticism which has been levelled against it. At the same time I would rather be disposed to vote in favour of Maulvi Abul Kasem's amendment for this reason. Up to this time the Government of India have always acted in accordance with the wishes of the Legislature. There has been perfect unison on this matter between the Executive Government and the Legislature. We have no reason to distrust their declarations of sympathy. I think it would be more graceful and dignified, if we trust the Government and leave it to them to introduce the necessary rules and regulations, whenever they may be required. It may be said that it vests an undue amount of discretion in the Executive. I am not disposed to think so. If the Executive does not take the action which the Legislature requires, we have means open to us by bringing forward Resolutions or otherwise to bring pressure to bear upon the Government and induce them to make the necessary regulations whenever they may be required.

For these reasons, rather than for the reasons advanced on the other side, I am disposed to vote in favour of Maulvi Abul Kasem's amendment.

(Several Honourable Members : "The question be now put.")

Mr. Devaki Prasad Sinha (Chota Nagpur Division : Non-Muhammadan) : Sir, whatever desire there was among the Members of this House for accepting the amendment moved by Maulvi Abul Kasem, I think, must have disappeared after the speeches delivered by the Honourable Sir Narasimha Sarma and the Honourable Sir Malcolm Hailey. Sir, if Government had come forward and candidly told us that, whenever they find that their suggestions are not acceptable, whenever they would find that they will not be able to persuade the authorities to take the necessary action, they would bring this measure into force and would introduce it and make rules accordingly—I think, Sir, that if any such assurance had come from Government, this House would have very willingly accepted this amendment. But what has happened to-day is a very sorry spectacle.

After the humiliation that we have suffered, Sir, we had expected that the Honourable Member in charge of this Department—the Honourable Sir Narasimha Sarma—would have resigned his post as a protest and come over to this side of the House. But instead of that, what a sorry spectacle we have here ! Instead of giving the lead to the non-official Members, he has come forward to justify the position in a half-hearted way by preaching the old and outgrown doctrines of love and patience. Sir, he asks us to have patience. We have been patient long enough. The advice to be patient in the mouth of a weak man is nothing but a confession of failure. If we had the power, if we had with us the instruments whereby we could compel the authorities, the

[Mr. Devaki Prasad Sinha.]

Colonial Governments, to respect our wishes, and then if we had exercised patience, it would have amounted to something. But here we find that we are being kicked again and again. For anybody at this time to talk to us about patience, is exceedingly nauseating, and this advice, coming as it does from the mouth of an Indian, is, I think, positively intolerable. Sir, it has been said that "may" in clause 1 and "shall" in clause 3 do not fit in. My contention, Sir, is that we have already given the Government the option to bring this law into force whenever they like. Now what is attempted through this amendment is to give them a second option. Whenever there is a crisis, they might bring the law into force, but they would postpone the making of rules to some other time and to wait for further agitation. That would mean that action under this Act would be further postponed, it may be, indefinitely postponed. In view of these facts, Sir, and in view of the attitude taken up by Honourable Members representing Government, I think it is the duty of the House to say in unmistakable terms that we do not want to leave any option in the hands of Government; that we do not believe any longer in the policy of negotiations and petitions. We have had enough of that policy and we want direct action now. It is for this reason that I think a measure of retaliation is necessary. People here are fighting shy of the word "retaliation," but I do not see anything distasteful in it. If we do not want to retaliate at a moment like this, then my submission is that we are not human beings at all.

Before I sit down I would again ask the Honourable Sir Narasimha Sarma if he is prepared to give us a guarantee that in case he finds that his efforts by way of negotiations and petitions are of no avail, he will immediately and without any further consideration bring this law into force and frame rules in order to satisfy the wishes of the people? If he gives this assurance to the House, then I think the non-official Members might consider the desirability of accepting this amendment. Otherwise my respectful submission is that we must say an emphatic "No"!

Mr. L. Graham : Sir, before the question is put to the House, I should like to remind them that the amendment moved by my Honourable friend, Maulvi Abul Kasem, carries out the avowed intention of the Mover of this Bill. I look for the avowed intention of the Mover of this Bill in the Statement of Objects and Reasons, attached to the Bill, and there I find the following passage. After describing the proceedings of the Imperial Conference, and the action of the Union Government of South Africa, the statement proceeds to say :

"In the circumstances it is necessary that the Indian Legislature should arm the Government of India with the power to enforce the principle of reciprocity."

Now, Sir, that is exactly what the amendment does. It is exactly what the Bill does not do, and I put it to the House that we should help Dr. Gour to carry out his avowed intentions.

(Some Honourable Members : "The question may now be put.")

The motion that the question be put was adopted.

The amendment was adopted.

Sir P. S. Sivaswamy Aiyer : The amendment I beg to propose is this :

"In line 3 of clause 3 after the word 'persons' insert the words 'not being of Indian origin'."

We do not want to prevent Indians who have settled in South Africa from coming back to India.

The amendment was adopted.

Sir P. S. Sivaswamy Aiyer : The next amendment is this :

"After the word 'Possession' in line 4 of clause 3, omit the words 'Protectorate or Mandated Territory administered by a dominion'."

The reason is that the definition renders these words unnecessary.

The amendment was adopted.

† **Sir P. S. Sivaswamy Aiyer :** The next amendment, Sir, is this :

"In line 6 of clause 3 for the words 'the same' substitute the words 'no greater' and for the word 'as' in line 7 substitute the word 'than'."

As it is, the clause seems to evidence an anxiety that people belonging to those possessions should have the same rights. If I interpret Dr. Gour's wishes aright, his anxiety is rather that they should have no greater rights than what they accord to Indians in their respective possessions. It seems to me that the wording that I propose would carry out the intention of the Mover of the Bill much better.

Dr. H. S. Gour : I accept the amendment, Sir.

Rao Bahadur T. Rangachariar : Sir, it will be an improvement upon the section as originally drafted in this sense : they may have a test there in some Colony in which English dictation and knowledge of English may be insisted on ; here what is the good of prescribing dictation in English for an Englishman ? We must prescribe dictation in Tamil or Telugu or some other Vernacular language before the Colonial is allowed to land. Therefore, Sir, we must have the words 'no greater rights' instead of 'same rights.'

Mr. L. Graham : Before this amendment is put to the House, Sir, I would like to move an amendment to complete it by moving that for the word 'possessions' in line 9 the word 'possession' in the singular may be substituted.

Sir P. S. Sivaswamy Aiyer : I was going to propose it myself.

The amendments were adopted.

Sir P. S. Sivaswamy Aiyer : I move

"That in line 9 the word 'possession' in the singular be substituted for the word 'possessions,' and to omit the words 'Protectorates or Mandated territories'."

because they are unnecessary on account of the definition of 'possession'. The singular is substituted for the plural so as to avoid any possible

*In clause 3 to substitute the word "may" for the word "shall", in line 1.

† Some mistakes in this amendment were subsequently corrected, vide page 5087.

[Sir P. S. Sivaswamy Aiyer.]

ambiguity or misconception of the kind that seems to have been felt on the opposite benches.

Dr. H. S. Gour : I accept it.

The amendments were adopted.

Mr. L. Graham : On a point of order, Sir, may I ask for which 'as' the word 'than' is substituted? The word 'as' occurs both in line 7 and in line 8, and the amendment was intended to be in line 8.

Mr. President : The Honourable Member had better move it.

Mr. L. Graham : I move the amendment.

The amendment to substitute the word 'than' for the word 'as' in line 8 of clause was adopted.

Mr. President : The question is that clause 3, as amended, do stand part of the Bill.

Colonel Sir Henry Stanyon : Sir, in this unfortunate clause 3 there is yet another word which seems to present some difficulty. We have just accepted that 'domicile' in this Act shall be domicile as understood more or less in the Indian Succession Act and in the published decisions in England. Now, this clause 3 is made applicable to "persons of Indian domicile." If this is intended to have reference to Indians who are settled in Kenya or settled in any of the Colonies it will not reach them; because presumably their domicile of choice will be the domicile of the colony where they are settled. Therefore, Sir, the application of this Bill will present great difficulties if we keep to the words "accorded by the law and administration of such possessions to persons of Indian domicile". *Prima facie*, it will apply only to those persons domiciled in India who visit the Colonies.

Clause 3, as amended, was added to the Bill.

The Honourable Sir Narasimha Sarma : Sir, I would ask the House to omit this clause 4. We are grateful for the confidence which the House has reposed in the Government in changing "shall" into "may" in clause 3, and we ask the House to repose the same confidence in the Government in respect of the rules which have to be framed under this clause. I would also suggest a very good reason for omitting it, because if the Government really wish to appear to make rules and at the same time desire the contrary, it would facilitate the accomplishment of their wishes. One House may suggest an amendment in the rules framed by the Government and pass it. It is taken to the other House, and that House does not approve of the amendment. Then there is no rule which is approved by both Houses, and therefore no rule need or can be framed. It is true that if such a process is brought about under the Indian Emigration Act, no emigrants can go. But that is not the object which is aimed at here. Therefore, if the desire of the Honourable Mover is that no rules shall be framed under this Bill by reason of any disagreement between the two Houses on any question, then I think the procedure prescribed in clause 4 would be eminently suitable to carry out that object. (*A Voice* : "Joint sitting".) There is no such procedure provided, Sir. Consequently, I think it would only frustrate the object which the Honourable Member has in view, and you may take it that when you define the limits within which

the rules have to be framed and the objects and purposes for which the rules have to be framed, the rules which are to be framed by the Government of India will have to be in consonance with those objects and they will have to effectuate those objects; therefore, I do not see any reason why it should be obligatory to place the rules before the two Houses. In the first place, please continue the confidence that you have reposed when you have changed "shall" into "may"; secondly, you have limited the objects for which rules have to be made; and thirdly, the very object which the Honourable Member has in view and the House has, possibly in view would be frustrated if the Government or any person so minded were to block a motion by creating disagreement between the two Houses. For these reasons, Sir, I suggest that the House should omit this clause because it does not further the object in any way whatsoever.

Clause 4 was put and the Assembly divided :

AYES—32.

Abdul Majid, Sheikh.
Abul Kasem, Maulvi.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Aiyer, Sir P. S. Sivaswamy.
Asjad-ul-Jah, Maulvi Miyan.
Ayyangar, Mr. K. S. R.
Ayyar, Mr. T. V. Seshagiri.
Basu, Mr. J. N.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.
Joshi, Mr. N. M.
Lakshmi Narayan Lal, Mr.

Majumdar, Mr. J. N.
Man Singh, Bhai.
Mudaliar, Mr. S.
Mukherjee, Mr. T. P.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Ramayya Pantulu, Mr. J.
Rangachariar, Mr. T.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Shukla, Mr. D. P.
Sinha, Mr. D. P.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Venkatapatiraju, Mr. B.

NOES—47.

Abdul Hamid Khan Khudadad Khan
Mr.
Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Amjad Ali, Maulvi.
Ansonge, Mr. E. C.
Ayyangar, Mr. R. Narasimha.
Bardswell, Mr. H. R.
Barnes, Mr. H. C.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Blackett, Sir Basil.
Bray, Mr. Denys.
Budge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Calvert, Mr. H.
Chadwick, Mr. D. T.
Chatarji, Mr. P. C.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Cotelingam, Mr. J. P.
Das, Babu B. S.

Faridoonji, Mr. R.
Graham, Mr. L.
Gwynne, Mr. C. W.
Haigh, Mr. P. B.
Hailey, the Honourable Sir Malcolm.
Holme, Mr. H. E.
Ikramullah Khan, Raja Mohd.
Latthe, Mr. A. B.
Misra, Mr. B. N.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Palin, Lieut.-Colonel R. H.
Percival, Mr. P. E.
Pyari Lal, Mr.
Rajan Baksh Shah, Mukhdum S.
Richey, Mr. J. A.
Sim, Mr. G. G.
Singh, Mr. S. N.
Stanyon, Colonel Sir Henry.
Subrahmanayan, Mr. C. S.
Ujagar Singh, Baba Beili.
Yamin Khan, Mr. M.

The motion was negatived.

Maulvi Abul Kasem : Sir, I beg to move :

“ That in clause 5, for the word ‘ shall,’ where it first occurs, the word ‘ may ’ be substituted.”

I do it without any speech because I do not think any is necessary and I am not anxious to hear my own voice.

The Honourable Sir Malcolm Hailey : May I suggest that, in view of the fact that we always appoint Standing Committees to deal with important questions such as immigration, it is unnecessary to provide in the law that we should appoint such a Committee. The House knows that the Standing Committee on Emigration is consulted on all important questions by the Honourable Member in charge of the Department. Why then should we provide in the law for the institution of another Standing Committee ? I propose that the clause be omitted.

Mr. President : The Honourable Mr. Abul Kasem has moved an amendment.

Maulvi Abul Kasem : Another has been moved that the clause be omitted.

Mr. President : The procedure is that, under the Standing Orders, it is held that a motion has been moved that the clause stand part when I called clause 5. Does Mr. Abul Kasem wish to withdraw his amendment ?

Maulvi Abul Kasem : Yes.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is that clause 5 stand part of the Bill.

The motion was negatived.

Clause 6 was added to the Bill.

Sir P. S. Sivaswamy Aiyer : I beg to move :

“ That in clause 7 for the words ‘ the British Possessions other than British India ’ the words ‘ any British Possession ’ be substituted.”

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Mr. President : The question is that clause 1 stand part of the Bill.

Clause 1 was added to the Bill.

The Title was added to the Bill.

Sir P. S. Sivaswamy Aiyer : With regard to the Preamble, Sir, I beg to move :

“ That in line 2 of the Preamble, the word ‘ regulating ’ be inserted after the word ‘ for ’.”

The motion was adopted.

Sir P. S. Sivaswamy Aiyer : I beg to move :

“ That in lines 3 and 4 of the Preamble, the words ‘ portions of the British Empire other than the United Kingdom ’ be omitted in order to insert the words ‘ the British Possessions ’.”

The Preamble ought to be co-extensive with the substantive portion of the Act and the words “ British Possessions ” having been defined, this substitution is desirable.

The motion was adopted.

The Preamble, as amended, was added to the Bill.

Dr. H. S. Gour : I move, Sir, that the Bill, as amended, be passed.

The Honourable Sir Malcolm Hailey : Before a vote is taken I desire once more to make clear our attitude on the subject of this Bill. It was stated to us first as a mere assertion of principle. I endeavoured to make it clear to the House that, although its original intention may have been an assertion of principle, yet, brought forward as it is to-day, in circumstances with which we are so well acquainted, and to which I need not refer again, it is undoubtedly—and undoubtedly will be interpreted to be,—a measure of retaliation, and perhaps the first of a number of measures of retaliation. I see that my Honourable friends opposite consider that I have correctly gauged their intentions. It is clear, then, that the arguments which we heard to-day regarding the necessity of passing into legislation a principle affirmed by the Imperial Conference, now fall to the ground ; they may be true in terms ; they do not constitute in any way the real object of the proposers of this measure. They intend, I say, that it should be viewed outside India as the first of a number of measures of retaliation. If that is their intention, we, on our side, have to envisage it in the same light. Had it been merely the assertion of a principle, obviously Government could have had no objection to bring against it. The principle had already been affirmed ; and there could be no objection to passing it into legislation. The Bill as now amended bears a somewhat better aspect than when it was laid before us, in that it is no longer mandatory ; discretion is left to the executive to carry out any provisions comprised in it, and we present to the world a measure which, if in its object and intention is retaliatory, is still not one which must be carried immediately into action. Nevertheless, I put this to the House, that the importance of this Bill lies not in the steps that may be taken in pursuance of its provisions, but in the circumstances and the intention of its passing. It has far more of the character of a demonstration of policy than of an act of effective legislation. Deeply as we all must feel the cause which has produced the desire for this demonstration of feeling, I deprecate at this moment the passing of any Act of retaliation, because I think that it will be taken not as the exhibition of a calm and balanced judgment, but as an act of pique. Now we, in the United Kingdom, have some knowledge of century long conflicts with powerful adversaries, conflicts in which at times we have seemed to stand almost alone against a hostile world. The memory of these conflicts teaches one lesson ; if we have in our long career been not unsuccessful as a nation, it is because of two things. In the first place, we refuse to admit defeat, and in the second place, we

[Sir Malcolm Hailey.]

endeavour to keep a calm judgment in circumstances which seem for the moment entirely adverse to us. If that is the lesson of the history of the United Kingdom, I commend it to India, which is new to conflicts in which her pride or her interests as a nation are involved. Here we have a situation in which you have recently received an admitted blow, by the decision in regard to Kenya and the announcements made in the Union Parliament regarding South Africa. Your Legislature proceeds at once to pass a Bill, the terms of which can hardly fail to be criticised by serious students of our proceedings as hastily and improperly considered. You proceed with that Bill at a time when its passing can hardly fail to be regarded merely as an exhibition of resentment, for admittedly it can in itself have hardly any constructive value. It is for that reason that I deprecate its being pressed for consideration now, and I deprecate the strong intention of the House to pass it. The curtain is now falling on the drama of three years of legislation; and what scene do we present? I would fain desire that we could leave to history the picture of a united Legislature which, realizing that it is engaged in a conflict which may be long and may be laborious, refuses to be disturbed in its judgment because in some of the earlier stages of that conflict it has met with rebuff, a Legislature strong in the conviction of its cause and determined finally to achieve victory, but equally determined in the meanwhile not to give way to hasty action coloured by feelings of resentment. But do we present that picture? The House knows that we do not. The House knows that the closing scene of this drama will be one which can hardly add lustre to its record.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : I am very sorry, Sir, that the Leader of the House has made this last speech. I understood from his opening remarks that he was in entire sympathy with the principle of the Bill; only, he asked that the Bill be circulated for opinion, as he considered that the Bill did not carry out all that it should. Now, he uses the word "retaliation" because some of my friends stated that it is also one of the motives that actuated them in the matter, and says we should not act on this principle of retaliation; and as this will be the first step in retaliation, we should not pass it. Sir, we are accustomed, lawyers are accustomed, to read the language and to interpret the language and not to dive into the motives which have led the Legislature to pass a measure. I ask this House simply to look at the language. The language of the measure makes it clear that it is for the purpose of enabling the Government to bring in reciprocity measures wherever they find that there has been a similar measure in the Dominions. That is the real object of this measure. It may be that some of us are actuated by a feeling of retaliation having regard to what has taken place in England. But you should not read that into the measure and thereupon condemn it. Sir, if it is true that the Government have been acting as advocates of the rights of the people of this country, if that is the true and correct reading of the mind of the Government, they should not stand in the way of this Bill being passed into law. We feel very keenly upon this matter and we think that this very mild measure of reciprocity should be welcomed by the Government so that the Government may take action

upon it whenever it considers desirable; we have made it clear that it is not obligatory on the Government. Therefore it seems to me that the position taken up by the Leader of the House and the advice he has given to his followers—not to pass this Bill—is very much to be regretted both in the interests of the Government and in the interests of the people.

Rao Bahadur T. Rangachariar : Sir, I wish to ask the Honourable the Home Member to take this view of the question. Here the united demands of this Government and of the people of this country are being ignored. What are we doing by this legislation? We are merely arming the Government of India with power when circumstances demand that they should take steps to enforce their demand. Now, their requisitions go without a sanction behind and that is why their requisitions are ignored. But if the Dominions know that the Government of India are equally powerful as themselves to make rules just as they do, they will hesitate before embarking upon such galling distinctions as have been referred to. Why does not he take this dispassionate view of the question? As I have stated already, it is a pure accident that we are considering this Bill to-day. I do not deny for a moment that it is intended also as a measure of retaliation. It will be affectation on our part to say that only some of us think it is a measure of retaliation. I think I will carry the House with me when I say that all Indians intend that this is also a measure of retaliation. Otherwise we will not be Indians. It is all very well for my Honourable friend Sir Narasimha Sarma to preach the gospel of love. That is what Gandhi preached when we all laughed at him. He is not a practical man. We are practical men. We want to carry our affairs home. We want to carry on the administration of this country in the same way as other people do. Love does not pay always. We are human beings after all. All nations are composed of human beings. Therefore I ask the Government to take that view of the question. Let them not deprecate this measure and let them also co-operate in passing this measure. I appeal to them most earnestly that this is a measure which has long been overdue. In fact Lord Sinha had given the Government a draft Bill on these lines, and it is the fault of the Government that they have not introduced the Bill. Therefore I ask them to take this view of the question and not to oppose this motion.

Colonel Sir Henry Stanyon (United Provinces : European) : Sir, I have a very few last words to say. My friend Mr. Seshagiri Ayyar has said that we should look, not at the motives behind this Bill, but at the language of it, and it has further been now openly admitted that from the Indian point of view this is a measure purely of retaliation. (*Rao Bahadur T. Rangachariar* : "Not purely.") Mainly of retaliation. (*Rao Bahadur T. Rangachariar* : "Not mainly, partly.") Partly of retaliation, very well, a measure partly of retaliation. The best retaliation that could possibly go forth to the world is the evidence which the debate to-day has presented of the immense feeling of resentment which has been engendered by the decision in the Kenya case. But what will this Bill effect? Nothing. It will hurt no one except ourselves. Look at clause 7.

If any person alleged to be domiciled in a British possession other than British India, raises the plea that he is not so domiciled, the

[Sir Henry Stanyon.]

burden of proving a different domicile lies on him. Therefore, if an Indian merchant, who has been settled for four generations in the Colony of Natal, wishes to come to India, the onus will lie upon him to show that his domicile is not Natal when he comes to India. The rules will subject him to the same restrictions that are imposed on whom? By the law and administration of Natal, to persons of Indian domicile, that is, persons who go from India to Natal. Let Members think over an illustration of that kind in an attempt to realise, if possible, with sober judgment—putting aside for one moment the upset of cold reason which a very natural and proper resentment (with which I wholly sympathise) has caused—let them put an illustration of that kind before themselves and they will see that the retaliatory effect of a measure of this kind will fall on nobody except the Indians for whom it is intended to be a weapon of offence or defence. This is the last enactment which this Legislature, as now constituted, has to pass, and I beg the House to think over it in sober judgment and not to put it as the final seal upon our reputation.

Sir Deva Prasad Sarvadhikary : Sir, English not being a language of our own, though many of us may have been handling it all our lives, very serious difficulties sometimes present themselves. We have been hearing a great deal to-day about reciprocity and retaliation. What is reciprocity, that received high sanction five years ago and to the exercise of which India was declared to be entitled? Is it not doing that unto you as you do unto us? Retaliation in active use is an ugly term. It all depends upon what meaning you attach to a word for a passing purpose. Now and again in the course of debate here and elsewhere angry feelings have found expression, sentiments of resentments, with which the Government have shown sympathy—actually shown sympathy—and Members of the Government have told the world that, what has happened is as galling to them as to us. But does that turn reciprocity into retaliation? This Bill was in readiness on the 22nd of June. It ought to have been in readiness, through other than non-official agencies, long ago, if what was laid down in that Conference was to be carried into effect. Because of what other nationals do India was declared to be entitled to do, it was not the fault of this Legislature that the armoury had not been replenished in that direction earlier. The plot has been thickening since and those who felt that the Government of India does require, not a reminder, but arming, thought of this Bill and brought it forward. In the course of the concluding speech of the Honourable the Home Member I should have expected that what this Assembly has done in the way of meeting the Government wishes would have been better appreciated for Government views have been met all along the line. We for ourselves are grateful that the Government has assisted in shaping out this Bill as well as possible in the exigencies of the day so that it is devoid now of some of the objectionable features that we had to start with. I do not want to take credit on behalf of those of our friends on this side of the House who have assisted in that process, for what they have done is bare duty. Government like us should naturally be anxious to present to the world an Act which should be free of as many objections as possible,

and they have taken their share in reshaping the Bill. Therefore one should have naturally wished that, when finally enacting it, this House should not have parted with recrimination such as has been gratuitously indulged in. I should have wished that when the curtain was falling greater unanimity and friendliness and mutual appreciation should have prevailed between the Government and the other side of the House. We have always thought together on this matter and acted together in other matters as far as possible, and the parting criticism should have been friendlier. Now as a matter of necessity when we applied for leave to press the desirability of this on the Government, I should have thought that from the Government benches a note of discord at all events should not have been struck, for legislation that might have been thought gratuitous before has now become unavoidable. The Governor General in Council is free to act as he will in the exigencies of the circumstances and if he does not act as may be necessary from our point of view, the responsibility will be his. It would not be open to anybody to say that we had failed to supply that armament which had been contemplated long ago. And having done that, our duty ends and we should leave and should part as friends.

Mr. L. Graham : Sir, I have no wish to take part in the general discussion on this Bill, but as the result of the amendments passed on the second reading, certain consequential amendments are required to be made, with your permission I propose to move them. The first is this :—

In clause 2 (a) as amended, after the words “British India” which were inserted by my Honourable friend’s amendment, the word “and” be struck out. The reason for that is that after the words “United Kingdom” we have inserted the words “and Ireland.” Therefore the first “and” becomes superfluous. I move that that word “and” be struck out.

Mr. President : Amendment moved :

“In clause 2, sub-section (a), to omit the word ‘and’ after the words ‘British India.’”

The motion was adopted.

Mr. L. Graham : The next amendment is a purely formal one. On the motion of my friend Sir Sivaswamy Aiyer the definition of the word “domicile” forming sub-clause (b) of clause 2 was struck out. Consequentially on that we should re-letter sub-clause (c), the definition of entry, as sub-clause (b).

Mr. President : Clause 2, to re-letter sub-clause (c), sub-clause (b).

The motion was adopted.

Mr. L. Graham : Sir, the next amendment concerns clause 3. Owing to somebody not being able to count we made an amendment altering “as” to “than” in line 7 of the clause instead of in line 8. To get that right, we have to make the following motion :

“That in line 7 for the word ‘than’ the word ‘as’ be substituted.”

Mr. President : The question is :

“That in clause 3, line 7, omit the word ‘than’ and insert the word ‘as.’”

The motion was adopted.

Mr. President : The question is :

“That, as a consequential amendment, clauses 6 and 7 be renumbered 4 and 5.”

The motion was adopted.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) :

Sir, it seems as if it was only yesterday that this House was started on its career with benedictions from most exalted quarters. Standing here to-day, perhaps for the last time in this Chamber, I am reminded of the words of hope and encouragement that were uttered on that occasion by the then Viceroy and His Royal Highness the Duke of Connaught. We had a glorification of the idea of the Empire on that day, and we fondly hoped that we had secured an honourable place in the British Empire and that we were steadily marching on to our goal, namely, a position of equal partnership in the British Empire. Sir, it is a strange irony of fate that, while we started on our career in these optimistic circumstances, the first chapter of the reformed Legislature should close with a measure of this kind. Sir, the Honourable Sir Malcolm Hailey has just stated that this, the last measure of the reformed Assembly, will not add to its lustre. I take it to be the parting kick from Government to this House. Having made use of us for the last three years, the Honourable the Home Member finds it convenient to-day to indulge in this sort of condemnation and sneer. Now, Sir, I submit that the measure that we are placing on the Statute Book is not at all a retaliatory measure, unless and until the Government themselves will it to be so. For what are we doing to-day? We are merely placing a legislative arm in the armoury of the Government of India to be used when necessary; and it will be absolutely for the Government to decide when and where to make use of it. Sir, in these circumstances I do not think that the Honourable the Home Member was at all justified in making the observations that he has made. It is these exhibitions of petulance, if not perversity, that add fuel to the non-co-operation movement. Sir, when we entered this House, three years ago, we did it against the wishes of a very large section of the people of India; and the confession is being wrung out of me to-day that perhaps they were right and we were wrong.

(Several Honourable Members : “The question be now put.”)

The Honourable Sir Narasimha Sarma : Sir, I have just a few words to add to this concluding debate. Mr. Neogy seems to have clearly misunderstood the position of the Government in this matter. All that the Government have stated is that it is undesirable in the interests of India, in the interests of this House, that it should appear to the world at large that they have enacted any piece of legislation, which, however justifiable it may be under other circumstances and at other times, would be construed as an Act enacted in haste and indignation and under the influence of passion. They have been obliged to warn the House in that regard, not because they have not appreciated and do not appreciate the good work that has been done by this Assembly, not because they are unsympathetic to any of the aspirations of the Indian community, but because they wish it were possible to save, according to their lights, the reputation of the Assembly for calm judgment and for deliberation. (Mr. N. M. Samarth : “What about its

self-respect?”) I shall not prolong this controversy. I am only explaining that the attitude of the Government has not been in the slightest degree unsympathetic in this respect and that some of the remarks were necessitated by speeches, which spoke in season and out of season of retaliation. I would ask my Honourable friend Mr. Rangachariar, as a true and devout follower of Vishnu, as to what the tenets of his sect have always been. (Sir Deva Prasad Sarvadhikary : “What about Narasimha, the lion man?”) It would be shown in action, it would be shown that a man may possess courage but it is not necessary to exhibit it in season and out of season. But, Sir, I shall not be dragged into any personalities here. Therefore, it was that the Government deprecated any idea of associating the measure with the principle of retaliation. I do still think that my Indian friends who may vote for this measure are voting for it because they think in their judgment that it is right that they should arm the Government with such powers and not because they think that they should enact it whether it is right or wrong, because they wish to show their displeasure at the decision of His Majesty's Government. I, therefore, think, Sir, that the Honourable Sir Malcolm Hailey, as the Leader of the House, as a gentleman who has been interested in closely watching and safe-guarding the reputation of this House, should, in his solicitude for its reputation, have made remarks which might be construed as somewhat bitter in some quarters, but which were really meant in the interests of the Indian community, whose interests he has at heart as much as any Indian can. It is only in that sense and in that view that the Government have asked for some sort of consideration before they proceed to the final stage of placing the Bill on the Statute Book.

(Several Honourable Members : “I move that the question be now put.”)

The Honourable Sir Malcolm Hailey : Although I am aware that the House desires to proceed to a division on this Bill, yet I think it is usual to grant some latitude to a Member who has been the recipient of criticisms such as that to which I have just been subjected.

It has been my fate in the course of my association with this House to have come frequently under criticism, and to have received from those with whom I have at different times been at friendly variance a considerable variety of epithets, illustrative of the many defects from which I suffer. But among that great variety, it is for the first time I think that I have been labelled with the brand of “perverse”, and while I add that epithet to my collection with humility and without resentment, I feel that I can appeal to my friends in this House to bear witness that in the three years in which I have been associated with them I have in reality done little to deserve it. (Hear, hear.) I have throughout taken only one motive as my guide—a genuine solicitude for the reputation, the performances and the achievements of this House; and if I have deprecated this Bill to-day, it is because, as the Honourable Sir Narasimha Sarma has said, I felt that a Bill of this nature was unfortunate in the time at which it was brought forward and that the House instead of passing it, would have been well advised to have sent it out to the country and have allowed opinions to gather on it, in order that the Legislature might be under no suspicion that

[Sir Malcolm Hailey.]

it was acting in haste and without due consideration, as a result of the announcements of the last two days. I further proceeded, and I think I was justified in so doing in view of the many criticisms directed against the Bill, not from this side but from the opposite side of the House, to say that the Bill was not by itself one which would add greatly to our reputation. That is the extent of my criticisms.

This is the last occasion on which the Assembly meets. I should indeed be grieved if there were any feeling between myself and my friends in this House (*Voices* : "No, no"). We on our side have attempted to work loyally with you ; if at times we have differed, yet I think that we have achieved much together. Criticism, if honest and well intentioned, should be resented by nobody, and this House I think is too broadminded to feel umbrage at speeches which are honestly meant, not to arouse passion, or prejudice or ill-feeling, but as well considered advice to the House. (Hear, hear.) Remember, that we stand here as the spokesmen of a very small body against a large non-official majority. We cannot control it ; sometimes perhaps we can persuade it ; but in the last resort, all we can do is to advise it. We offer that advice honestly and for what it is worth. We ask the House to take it in the spirit as that in which we offer it,—and to believe that our one desire is to help in establishing the reputation of this House and to achieve something for India.

Sir P. S. Sivaswamy Aiyer : Sir, I should like to assure the Honourable Sir Malcolm Hailey that we have never misunderstood or misinterpreted his motives in making the appeal to us which he did to postpone the passing of this Bill. Whether we agree with him or differ from him, we have never had any doubt that his advice to us was inspired by one and only one motive and that was the credit of this Assembly.

I for one agree with him that however grave and sudden may be the provocation given, whether by the Government at Home or by the conduct of the Colonies, it would be desirable for us to preserve a dignified attitude in our legislation. But I differ from him in thinking that this legislation amounts to the abandonment of that attitude of propriety which ought to characterise this legislation. I do not concede that this is a measure of retaliation. Of course the words "reciprocity" and "retaliation" may be applied by different people to the same thing. What we have done by this measure is not to retaliate here and now against the Colonies who may have offended us, but merely to arm the Government with a power of intervention whenever necessary—with a power to assert the principle of reciprocity whenever it may be necessary to protect our interests. There is a saying that if you want to hang a dog, you have only to give it a bad name. If you call a principle by the name of reciprocity it sounds alright ; but if you call it by the name of retaliation it bears a very ugly look. Now the principle which is embodied in this Bill is a principle to which adhesion has been given by the Imperial Conference itself and by various other authorities. There is nothing intrinsically objectionable in the principle of reciprocity ; but the gravamen of the objection to the passing of this Bill is that under the circumstances under which the Bill is now sought

to be passed, it may savour of retaliation. Now I have already pointed out that we are not now taking any immediate steps to retaliate. We are merely arming the Executive with a power to be used in the future as and when it may be necessary for the safeguarding of our rights and interests. It seems to me that taking the measure as a whole it is no more than a mild assertion of the principle of reciprocity. It has been said that this juncture is peculiarly inopportune because it was only yesterday that the Imperial Government decided against us. But supposing we had proposed to pass this Bill sometime ago, would it not have been said to be premature, and would not the Honourable the Home Member have adjured us to put off passing such a Bill until we knew what the result of the negotiations with the Home Government was ? We should have been told that it was premature, that it would be very ungracious and provocative to pass any measure of this kind before any occasion or necessity for it arose. When are we to pass it then ? Some time hence ? How long are we to wait ? And then consider the position in which we are now placed. The objection to the taking the Bill into consideration was quite legitimate. But when the motion for postponement has been negatived and the House has considered all the provisions of the Bill and put it into shape, what is the attitude that we ought now to take ? Are we to stultify ourselves by saying—"No, all that we did is wrong ; we shall not now pass the Bill." If we do not now pass the Bill, is it with the intention of abandoning the Bill or passing it at a later date ? I do not believe that anyone who has been a party in this House to the consideration of the Bill and to the attempt to put it into shape will agree to any suggestion to abandon it. If it cannot be abandoned, is there any advantage in postponing it ? If the passing of the Bill at this moment is likely to lay us open to the suspicion of being actuated by a desire of retaliation, will the fact of its being passed later on free the Bill from the charge of having been initiated at a time when we were freshly smarting under a great provocation and a keen sense of grievance ? I am afraid that this objection to the Bill on the ground that it has been brought forward at a time when we were smarting under the treatment meted out to us by the Home Government, will be available to the opponents or critics of the Bill as much at a later time as it is at the present moment. I do not think it is possible for us to adopt any other course than to vote in favour of this motion unless we wish to stultify ourselves.

The motion that the Bill, as amended, be passed, was adopted.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Secretary of the Council of State :

"I am directed to inform you that the Council of State has at its meeting held on the 27th of July 1923 agreed without any amendments to the following Bills which have been passed by the Legislative Assembly :

- A Bill further to amend the Land Acquisition Act, 1894, for certain purposes.
- A Bill further to amend the Indian Ports Act, 1908.
- A Bill further to amend the Indian Electricity Act, 1910.
- A Bill to amend the Charitable and Religious Trusts Act, 1920.
- A Bill to make provision for the better management of Wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties."

CLOSING REMARKS BY MR. PRESIDENT.

Mr. President : Gentlemen of the Legislative Assembly, before adjourning the House for the last time I desire to say a word about the proceedings of this House. We have come now to the end of the first, and perhaps on looking back in after years it may prove to be the most important stage in the development of new political institutions in India. This is neither the time nor the place, nor am I the person, at all events at present, to estimate the exact value and significance of all that has passed within these walls during the past three years. All I wish to do to-day is to invite you to adopt one of the pleasantest practices of the House of Commons. In the past three years we have been in the habit of following the good practices and eschewing the bad habits of that great institution. It is one of the pleasant practices of the House of Commons that at the end of every Parliament Members come and shake hands with Mr. Speaker. Whatever that may portend at Westminster, I think I am justified in saying that in inviting you to adopt that practice to-day, as the last act of the Indian Legislative Assembly, I am inviting you to an act which perhaps, has more significance here than it has at Westminster. I take it, for myself at all events, as a sign of the unfailing amity and co-operation with which all parties and all persons in this House have engaged with the Chair in establishing a parliamentary tradition which is not the least of the political possessions of modern India. (Cheers) I hope I may add that I take it, and that you will take it, as a symbol of that friendship which has reigned over the proceedings of this House even at the stormiest moments in the strife of tongues.

I now invite Sir Malcolm Hailey, because even in moments when he is in a minority he is recognised as the Leader of the House, to lead the procession to my right which will file round on my left.

The Members then shook hands with the President.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 28th July, 1923.

LEGISLATIVE ASSEMBLY.

Saturday, 28th July, 1923.

SPEECH DELIVERED TO THE COUNCIL OF STATE AND THE LEGISLATIVE ASSEMBLY BY HIS EXCELLENCY THE VICEROY.

His Excellency the Viceroy having arrived in procession with the Presidents of the Council of State and the Legislative Assembly took his seat on the Dais at Eleven of the Clock.

His Excellency the Viceroy : I am here to-day to address you on what must be generally recognised to be a most important occasion. This is the last day of this Session of the Legislature and the last day of the last Session of the first Legislative Assembly constituted under the Government of India Act of 1919. The close of this Session marks a stage in the working of those reforms. We have reached the end of a definite part or chapter in that gradual development of self-governing institutions in the Indian administration which is the declared policy of the British Parliament. We have advanced one step forward, an important step, in the progressive realisation of responsible government in British India as an integral part of the Empire. I pause to dwell on this point. I desire others to realise, as I do, what the end of this period means for India. It began by a momentous declaration of policy by His Majesty's Government who determined it to be necessary to give effect to this policy by successive stages and forthwith to take substantial steps in that direction. Since that announcement we have been travelling on that road, and we have now almost reached the halfway-house on that journey. We in India at this time will naturally desire to pause and appraise our achievement ; but this stage holds interest not only for us—though it must have a special and intimate importance for us—but for a wider public. Of necessity at the close of this Session the British Parliament, upon whom lies the responsibility for the welfare and advancement of the Indian people, must look back and take stock, in the words of the preamble of the Act, “ of the co-operation received from those on whom new opportunities of service have been conferred ”.

There is another aspect of the question. Our constitution enacts that on the expiration of 10 years after the passing of the Act of 1919 a Statutory Commission shall be appointed to inquire into the working of the system of government, the growth of education and the development of representative institutions in British India and all matters connected therewith, and to report thereon. In effect at the time stated the progress and achievement under the reforms are to be weighed in the balance for the purpose of determining the degree and extent of the next move forward. They are to be tested in the crucible for the alchemist to decide of what metal they consist and whether they ring true. I remind you that time is passing and that we have almost reached the moment when

half that statutory period will have elapsed. The achievement of the Indian Legislature, and especially of the first Legislative Assembly in these circumstances, assumes a special importance. The work they have accomplished, the influence they have exercised, the example and experience they bequeath to their successors, all contribute to that atmosphere of success or failure which will surround the Reformed Constitution when the Mother of Parliaments sends her representatives to inquire into the working of the system of government.

To-day we are bringing to a conclusion the proceedings of the first Indian Parliament under the Reforms and we are assisting at the obsequies of our first Legislative Assembly ; it is therefore meet and proper that we should review past action as we pronounce its funeral oration ; but we are also at the stage which precedes and heralds the birth of a second Assembly ; and we may for this reason also fitly assess our experience and hand on its fruits for the benefit of our successors.

I have spoken of the special interest which our proceedings to-day have for ourselves and for the British Parliament. They are also keenly watched by a larger public. No one can have failed to note the great growth of interest in the proceedings of the Indian Legislature which has been a prominent feature of the British Press in the last two years. Time was when the notices of Indian affairs in the British Press were few and intermittent. That day has passed with the reforms. Time was at the outset of the reforms, when a section of the Indian Press professed to ignore the deliberations of the Indian Legislature except for occasional and brief outbursts of malicious depreciation. Those days are gone. You may have your detractors ; you may have your critics ; but you have now everywhere created and sustained a vivid and living interest in your actions. You have made the Indian Legislature the mirror of events in India. All matters of importance to India are reflected in your questions and Resolutions. Before I pass to your achievements in the working of the reforms, I will examine the political situation regarding the reforms. Those who are opposed to the true interests of India and are blind to her position in the British Empire and to the mutual protection and strength those ties assure, have not been slow to allege that the reforms are of a transitory nature ; that they were the outcome of the political complexion of a moment ; that they have neither substance nor permanency ; that you live in short in a fool's paradise whose palaces and gardens will vanish in the twinkling of an eye like the passing of a mirage. Nothing could be more untrue. I came to India immediately after the initiation of the Reformed Constitution, pledged to carry on that constitution and entrusted with special and new responsibilities by His Majesty as Governor General to that end. On me was the charge laid that it was His Majesty's will and pleasure that " the plans laid by our Parliament for the progressive realisation of responsible government in British India as an integral part of our Empire may come to fruition to the end that British India may attain its due place among our Dominions." A solemn declaration of policy had been made by His Majesty's Government to the same purport ; the legislation had been passed with the assent of all political parties in England. Since then there has been no change and there will be no

change in the announced policy. It is the recognised policy of the British Government however constituted. There have been changes in Prime Ministers, changes of parties in power in England, changes in the personnel of the Secretary of State for India ; but the fundamental policy as regards Indian reforms has remained unaltered ; and it is the unshaken determination of the British Government to carry out those reforms not only in letter but in spirit.

There has been criticism of the illusory nature of the reforms. Those who wish to hinder the progress of India along her settled path have charged the reforms with being an empty shell without a core. They have termed them a dress giving only the trappings of reality to a dead body which had neither life nor force.

The achievements of the Indian Legislature have been decried. Their position and privileges have been ridiculed ; their motives have been misinterpreted. Their sincerity and patriotism have been attacked. Let history be their judge. I am confident that no difficulty will be found in sweeping aside those travesties of their earnest and constructive labours ; but this is not all. The Assembly itself has been at times despondent. There have been moments in this House when voices have been uplifted crying on the Reforms as a niggardly gift and a sham. My sympathy at all times is with laudable desires for constitutional advance and longings for a wider horizon ; but when I examine the position the Legislative Assembly has attained, the use it has made of its opportunities, the effect and dignity with which it conducts its debates and the broader aspect of its powers upon the policy of the Government of India, I cannot but feel that the Assembly at times takes far too narrow and restricted a view of its potentialities and real influence ; and I must suspect that sentiment on occasion tends to obscure reason and dims the vision of those solemn promises of the British Government and of the Charter of Indian liberties of which the Government of India Act is the repository. Weigh for a moment the influence and power of the representative element of this House against that of its predecessor, the Imperial Legislative Council. Compare the realities of its responsibilities with pre-existing conditions. Reflect on the establishment on a firm basis in this House of Parliamentary traditions and on their incalculable effect on the future.

I do not desire to enter upon a catalogue of the legislative achievements of the Legislature or to enumerate in detail those Resolutions or questions or recall those debates which have produced material results on the executive action of the Government. I prefer to recapture for a moment the atmosphere and the state of political feeling in India when I assumed my office and to ask you to judge how far this has changed and how far your influence and action have contributed to this change. When I first came to India I was at pains to get into touch with political thought, to hear grievances and study the Press so that I might acquaint myself with those matters which appeared to be a subject of general complaint. My impressions of the burning questions of the day in Indian opinion as gathered from those sources was as follows. In the first place, there was a deep tide of resentment regarding curtailment of liberties. The more progressive considered the statutory restrictions on the freedom of the Press to be unnecessary, unduly restrictive and incompatible with the spirit of reforms. The same exception was taken to a number of special enactments restrictive of certain aspects of political agitation and known as

the Repressive Laws, and particularly included the Rowlatt Act. Strong views were expressed to me as regards the number of British troops employed in India, the strength of the Indian Army and the burden of military expenditure. The military position was represented as showing a total want of confidence in India and as strangling the material expansion of the country by weight of army expenditure. Though Indianisation had begun in the Civil Services, the absence of any regular scheme of Indianisation of the Army was quoted as a proof of the mistrust of Indians by the British element and as designed effectually to prevent the ultimate realisation of responsible self-government in India. A like suspicion was alleged to be at the root of the failure to associate elected representatives of the people in advisory capacities with the problems coming before the Departments of the Executive Government.

India was represented as dominated in fiscal matters by the British Government and by the economic interests of Great Britain. The stores policy of India was said to be dictated to stifle the expansion of industry in India, and accusations were levelled that its main purpose was to place the maximum amount of orders with British manufacturers. Finally, the bureaucratic Government were charged with having established for the perfection of their own ends an unduly complex and expensive administrative machine and with having expanded its activities in directions not desired by the Indian public and out of proportion to India's resources.

I need hardly recall to you how the case now stands in regard to those subjects. For I know that you count the measures, which have been adopted by my Government on the strength of your representation of public opinion in those matters, among the most priceless pages in your annals; you may perhaps feel that the policies you advocated are not yet in all cases fully accepted, but when you leave this House you may assuredly point to many grievances, which were the cause of much bitterness and suspicion, checked by you in their early growth and now lying strangled on the open road you have left behind you.

These achievements arrest immediate attention; but there are other matters to be mentioned, particularly as they relate to activities of a more constructive character which will, I trust and believe, have an important and beneficial effect upon the future interests of India. In the Indian Factories Amendment Acts, the Indian Mines Act and the Workmen's Compensation Act, the Legislature has placed on the Statute-book measures destined to protect labour and has taken a progressive view of that great responsibility which rests on its shoulders as the representative of a vast labouring population. The Indian Emigration Act deals with the difficult problem of safeguarding the interests of Indians who may emigrate to find a livelihood abroad; and a striking feature of this legislation is that the final decision of measures for their protection has been vested in the Legislature itself. No measure before you was hedged about with such special difficulties as the law to abolish racial distinctions; but no rift occurred in the delicate web of compromise and good-will; and the Statute is now with us—a permanent monument of mutual desire to work together

to a common understanding. In the Criminal Procedure Amendment Act the Legislature brought to a successful conclusion a task of great magnitude and complexity which had occupied the energies of our draftsmen for nearly a decade. It will fall to few Legislatures to have to dispose of a measure of such difficulty and importance in the domain of the criminal law.

While at times sentiment has run high and some event has found the Assembly and the Executive Government apparently at opposite poles, these differences have seldom been perpetuated and friendly and frank discussions have frequently led in the end to better understanding.

Some differences unfortunately have remained. It was perhaps scarcely to be expected that at the present stage of the constitution every divergence of opinion between the Government and the Legislative Assembly would be composed by discussion. Often my Government has accepted the views of the Legislature notwithstanding that these did not coincide with those of the Executive. But a special responsibility has been laid by the constitution upon the Governor General in certain cases and in my judgment special powers are essential to the discharge of the duties of the Executive in the present state of constitutional development in India. Nevertheless the occasions of the use of these special powers should be and, I am happy to observe, have been rare. The most recent and notable instance of their exercise was in connection with the necessity for balancing the budget. The reasons for the action which I felt it incumbent upon me to take at that time have been published. My action provoked criticisms; I have no intention of reopening the discussion save that I will add that in my opinion subsequent events have tended to confirm the wisdom of my original decision. The responsibility was grave and the decision rested with me alone. I trust that those in the Assembly who have felt and expressed themselves strongly on the subject will leave this House without any feeling of bitterness, holding to their opinion as their consciences may dictate and acknowledging the same liberty to others who may differ from them, among whom I count myself.

My Government have to acknowledge a continuous and solid measure of support in times of disturbance and agitation from the Legislature, and in general a steady influence exerted for the maintenance of law and order. I have said enough, I trust, to establish beyond controversy the real advance accomplished and to place beyond the power of depreciation the disciplined efforts to increase the well-being of the people of India which have characterised this, the first Indian Legislature.

Before I part from the Legislative Assembly I wish to pay a tribute to Sir Frederick Whyte who, with a knowledge and experience brought from the British Parliament and imbued with the ancient traditions of that House, has presided over your deliberations. I know that you would wish to be associated with me in offering a meed of appreciation of the technical knowledge, sympathy, patience and fairness of mind which have characterised his association with your Assembly.

For me as Governor General the first Legislative Assembly under the reforms and in my term of office must necessarily hold special ties of

interest, and I must view its dissolution with no small measure of regret. My feelings on its disappearance are however tempered by the knowledge that I still retain without change the valuable services of the Council of State ; and I am sustained by the thought that I can continue to rely on the sobriety of judgment of this Chamber of Elders which with this Assembly formed part of the first Indian Legislature and on their support of the best interests of India in all matters that closely touch her well-being.

I had intended to confine myself to-day to a survey of the work of the Indian Legislature over the period of the life of the first Legislative Assembly and not to dwell on matters of recent occurrence too near to us to be judged in their proper perspective ; but before I pass to another part of my subject, I feel it my duty to make some observations about Kenya which is at the moment uppermost in my thoughts and yours. The news of the decision regarding Kenya came to me and to my Government no less than to you as a great and severe disappointment ; for India had made the cause of Indians in Kenya her own. As His Majesty's Government has stated, this decision conflicts on material points with the strongly expressed views of my Government as laid before the Cabinet by the Secretary of State for India. India's representations were fully placed before His Majesty's Government and received most patient and careful consideration ; but we must record our deep regret that His Majesty's Government did not feel justified in giving greater effect to them. We are conscious that there were important aspects, perhaps not sufficiently understood by us, which His Majesty's Government were called upon to weigh and determine, and we fully appreciate and acknowledge their whole-hearted efforts to arrive at a fair and equitable conclusion. They have announced their decision and the Government of India must consider it and arrive at its conclusions. If submission must be made, then with all due respect to His Majesty's Government it can only be under protest.

We do not fail to realise the great difficulties in which His Majesty's Government were placed. They were faced with a conflict between two powerful interests. The deputations with great vehemence urged two completely divergent points of view. Between these two there appeared to be no ground for agreement on any point ; and besides there lay on His Majesty's Government the grave responsibility for considering the unchampioned and inarticulate interests of the native population which form the great majority in the Colony. It is not easy in India with strong feeling for the Indian side of the cause to appreciate with real detachment the considerations which His Majesty's Government had to bring to bear on the difficult problem. Attention in India is naturally concentrated on the rights and claims of Indians, while His Majesty's Government have a larger field to cover and wider responsibilities to exercise ; and we must remember that although the decision has disappointed us, yet on some points to which we were strongly opposed, but to which the settlers party attached great weight, the decision is against them. On three important points decisions favourable to the Indians have been pronounced. His Majesty's Government have declared against the grant of responsible government within any period of time which need now be taken into

consideration. Further, they have refused to countenance the introduction of legislation designed to exclude from British Colony immigrants from any other part of the British Empire. In addition they have definitely rejected the principle of segregation. On the question of the future control of immigration no final conclusion has been reached. The principle stated is unexceptionable and as a declaration of policy it will be welcomed by Indians. We are, however, uncertain as to the precise method by which immigration is to be controlled, and how the control will affect Indians ; but you may rest assured that I and my Government will use every effort to impress our views on this subject without delay upon His Majesty's Government.

It is unfortunate that the last days of the first Legislature should have been overclouded by events regarding the treatment of Indians overseas. Yesterday the Legislative Assembly passed a Bill enabling the Governor General in Council to frame rules, if and when he considers it desirable, to regulate the entry into and residence in British India of persons domiciled in British Dominions and Possessions other than the United Kingdom. The principle of reciprocity had already been accepted by the Imperial Conference, and therefore a Bill conferring powers on the Governor General in Council in his discretion to make rules for the purpose of enforcing reciprocity is in itself unobjectionable ; but the moment selected for this legislation may in some quarters be regarded as unfortunate, especially when accompanied by speeches in favour of retaliatory measures. It is but natural that there should be a desire in your mind publicly to express your determination to befriend and support Indians overseas to the best of your ability, but I must express serious doubt whether your object will be effected by these means. Will their position be improved politically and materially by steps in the nature of retaliation ? May it not have an opposite effect and make their situation more difficult ? Have they been consulted ? Is it their wish ? Apart from other considerations, will it help India ? I shall not dwell upon the subject. The Bill cannot reach the other Chamber this Session and meanwhile there will be opportunity for further information and reflection.

I have paused to-day to examine the progress of the first Legislature and the position it has attained. In the face of vehement and sometimes bitter opposition you elected to give your services to your country and became Members of the Legislature, determined to devote your powers to attaining your aims and ideals by constitutional methods. You may not have accomplished in the short period all that you had hoped. You may perhaps find the pace of progress too slow, but can you point to greater achievements for India during so brief a period of time ? Would other means have accomplished as much ? There are those who have set other ideals before them. Destruction not construction is their avowed aim. They would wreck the Reforms. What have they accomplished for India ? What blessings have they brought to her people ? Have they brought harmony ? Have they brought security ? Have they brought peace ? What goal have they set before them ? By what road are they to attain to it ?

You need not meddle with uncertainties or speculate on the unknown. You know the port to which your ship is sailing. You have set your

course ; the star by which you steer shines bright before you. The first stage of your passage lies behind you in your wake. You have learnt to work your craft. Whatever storms or dangers may lie before you, you are confident in this knowledge and by the help of Providence you will bring your ship in safety to its journey's end. It is in this spirit that I ask those who have the interests of India in their hearts to use their influence in the coming elections to help India forward by the only secure road to the attainment of her cherished desires.

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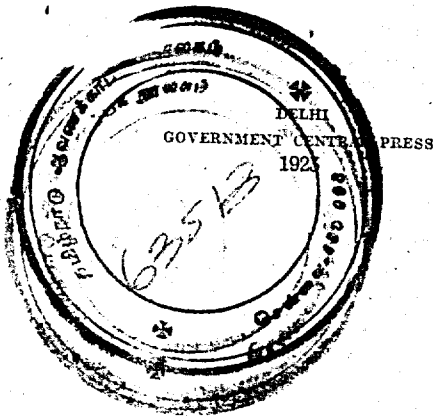
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