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Council of State.

President :

THE HONOURABLE SIR HENRY MONCRIEFF SMITH, KT., C.I.E.

Panel of Chairmen :

THE HONOURABLE SIR MANECKJI DADABHOY, KT., C.I.E.

THE HONOURABLE SIR ZULFIQAR ALI KHAN, KT., C.S.I.

THE HONOURABLE SIR ARTHUR FROOM, KT.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY, KT., C.I.E.

Secretary :

MR. L. GRAHAM, C.I.E., I.C.S.

Assistants of the Secretary :

MR. R. B. MILNE, I.C.S.

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

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

Committee on Petitions :

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY, KT., C.I.E.,
Chairman.

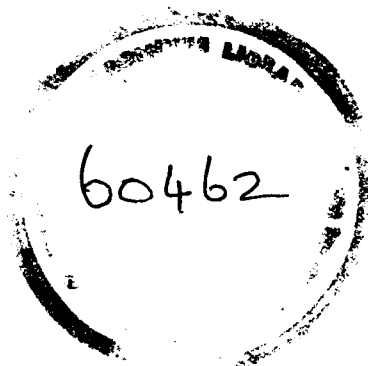
THE HONOURABLE SARDAR JOGENDRA SINGH.

THE HONOURABLE MR. R. P. KARANDIKAR.

THE HONOURABLE SAIYID RAZA ALI.

THE HONOURABLE MR. G. S. KHARDE.

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THE
COUNCIL OF STATE DEBATES

(Official Report)

VOLUME VI

SIXTH SESSION

OF THE
COUNCIL OF STATE, 1925



SIMLA
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1925



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

VOLUME VI
SECOND VOLUME OF SESSION 1925.

COUNCIL OF STATE.

Thursday, 20th August, 1925.

The Council met in the Assembly Chamber at Eleven of the Clock, being the first day of the Sixth Session of this Council, pursuant to section 63D (2) of the Government of India Act.

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

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

H. E. THE VICEROY : Gentlemen of the Indian Legislature, after a considerable separation from you—a separation on this occasion to be measured not only in point of time, but also by distance in space—it gives me special pleasure to meet you, the Members of the Indian Legislature, once more and to welcome you to the labours of another Session. My first endeavour must be to gather up the threads of administration in India and to mention a few of the topics which have been engaging attention during my absence, or which are likely to occupy your interest in the immediate future. It is a source of gratification to me that in my absence no anxious crisis arose in India, and that the administration was carried on smoothly and efficiently under the capable guidance of His Excellency Lord Lytton.

But though the Ship of State has been sailing in calm waters, the hand of death has lain heavy in recent months on the friends of India,

[H. E. the Viceroy.]

both English and Indian. Within the last year, and within a few months of each other, two Englishmen—Mr. Montagu and Lord Curzon—whose names will endure conspicuous in the roll of the great English statesmen who have loved India and devotedly served her—one as Secretary of State, the other as Viceroy—have passed away. They approached Indian problems not always from the same angle of vision. I had the advantage of many discussions with them before I left for India. They were of the greatest assistance in preparing me for the duties of my office. They were the last to bid me good-bye when I first set out for India. Alas! they were both absent from the circle of friends to greet me on my return. More recently the death of two distinguished Indian political leaders—Mr. Das and Sir Surendranath Banerjea—both men of marked personality, intellectual capacity and energetic patriotism, though of different views, has left India in mourning. We have to mourn too the death of the Maharaja Scindia of Gwalior, one of the greatest of Indian Princes, a wise ruler and a true patriot whom I was proud to count among my friends. I pay also my tribute of regret for the death of two Members of the Legislature—Khan Bahadur Shams-uz-Zoha and Sir Leslie Miller.

And last I must mention the loss which has befallen me and my Government—nay more, India and the Empire—in the sudden and tragic death of the late Lord Rawlinson, one of the most eminent soldiers who have served this country in the high office of Commander-in-Chief. There is no need for me to repeat to you on this occasion the story of his military achievements; his fame as a soldier, both in peace and war, is far extended and will long endure. But it is fitting that I should take this opportunity of commemorating the special service which Lord Rawlinson rendered to my Government, and to India, through his qualities of sympathy and breadth of outlook, and through his prudent and efficient administration of the military services of this country. Members of both Houses of the Legislature will moreover recall many occasions on which they received at his hands the most distinguished consideration. It was ever his desire to satisfy their interest in, and increase their knowledge of, the Army and Army Administration. It is especially true to say that in all his work as Commander-in-Chief and as Member of my Executive Council his constant aim was to secure that which he sincerely believed to be the best both for the India of the present and the India of the future. I deeply mourn the loss of a personal friend and comrade.

“Souls of the righteous are in the hands of God,

There shall no torment touch them.”

When Lord Rawlinson died, his successor, Field-Marshal Sir William Birdwood, though already designated, was not in India, and in such a situation my Government were fortunate in that they could for the time being command the services of General Sir Claud Jacob, of whom it is sufficient to say that his fitness to fill the breach rested upon 42 years' service in the Indian Army, the high reputation as a Commander of troops which he gained during the Great War, his still recent experience as Chief of the General Staff in India, and last but not least upon the respect and confidence in which he is deservedly held throughout the Army in India. To-day it is my privilege and pleasure

to extend a cordial welcome to Sir William Birdwood who in the last few days has returned to India and assumed his high office. He is the first Commander-in-Chief in India to hold at the same time the exalted military rank of Field-Marshal, a distinction which he has earned by services to the Crown of an exceptionally high order, both in India and elsewhere. Sir William Birdwood is, however, so well and widely known as to stand in no need of further recommendation from me. I welcome him also as a colleague in my Council and wish him good fortune and good guidance in the discharge of the responsible duties upon which he has entered.

Gentlemen of the Legislative Assembly, in pursuance of the provisions of the Government of India Act, you have been called upon, for the first time, to elect your President on the 22nd day of this month, and it is therefore fitting for me on this occasion to express my own and my Government's appreciation of the services which have been rendered, not only to the Assembly, but also to the Provincial Legislative Councils throughout India, by the first President of the Legislative Assembly. The Legislative bodies as established under the Government of India Act were so different in their composition from those set up under earlier Acts of Parliament that it was thought right to make provision for a President who should be indubitably independent of the Government, a person clear of all possible suspicion of being even unconsciously biased in favour of Government. At the same time it was recognised that on the standard set by the first Presidents of the different Legislative bodies, and more particularly on the standard set by the first President of the Legislative Assembly, the future of the Assembly and of the Legislative bodies in the Provinces would greatly depend. It was essential that the first President of the Assembly should be a man liberally versed not only in the written rules, but also in the unwritten tradition of the Mother of Parliaments, so that, in the time allotted to him by the Statute, he might establish in this Assembly a high standard of public order, a true appreciation of the dignity and responsibilities of the Chamber, and a perfect confidence in the rigid impartiality of the Chair, and further that he might foster in every Member of the Assembly a deep sense of regard not only for the rights, but also for the feelings of every other Member of the Chamber, a sense of regard which should remain unaffected even in the extreme heat of party controversy. Gentlemen, to my great regret it has not been my privilege to attend your proceedings in person, but in addition to your printed proceedings, a daily report reaches me of your doings, and alike from these sources and from the testimony of official and non-official Members of this Assembly and also of the distinguished visitors from many parts of the world who have witnessed your proceedings, I am able to say with confidence that Sir Frederick Whyte has discharged to the utmost the very heavy responsibilities laid upon him as first President of the Legislative Assembly, and I welcome this opportunity of tendering to him my thanks and the thanks of my Government for his very notable achievement. If I may be allowed to offer advice to his successor, it is that he hold fast to the tradition which has been established for your Chamber by your first President, and to this end I ask you gentlemen of the Assembly to give to your new President in his difficult task the generous co-operation which you have always accorded to your first President.

[H. E. the Viceroy.]

I pass now to a brief review of the affairs of India. I am glad to say that our relations with neighbouring States remain cordial and that no questions of importance are outstanding. I wish I could report an equal absence of controversial matter in regard to the position of Indians in South Africa. At the moment I should not be well advised to say more than that my Government is watching the situation closely and is still in communication with the Government of South Africa.

In internal affairs we have been faced recently with some industrial depression. Fortunately this has not been associated with any failure of Indian harvests, and exports have been well maintained. The depression in Indian industries appears to be a phase of a world-wide movement. Throughout the world industries are experiencing the difficulties of adjusting themselves to the new post-war conditions. India could not expect to escape. India has in fact been fortunate that this change has not come to her so quickly or so severely as in many other countries, and owing to a succession of good harvests there is a reserve of buying power in the country. Nevertheless the process of adjustment is difficult and the condition of several of these industries will come before you. Public attention has recently been directed to the great cotton mill industry which after a period of unexampled prosperity and expansion is now experiencing a reaction. My Government has been watching the position closely, and I have consented to receive a deputation early next week from the Mill-owners of Bombay and Ahmedabad. In the circumstances I will reserve any further observations. Four reports by the Tariff Board, marked by that thoroughness which I have learned to expect from its work, have been published, and the conclusions of my Government on three of them have been made public. A fifth report dealing with steel has just been received and proposals in regard to it will be placed before you in the course of the Session. You will also be asked to consider a Coal Grading Bill framed on the recommendations of the Coal Committee and designed to rehabilitate Indian coal in overseas markets.

My Government, while giving due attention to industries in the restricted sense of the term, are determined, so far as circumstances permit, not to neglect the interests of what is really the greatest of all Indian industries, namely, agriculture. I know from my discussions with the Secretary of State that my Government can rely upon his most cordial support of this policy. The direct responsibility of the Government of India for agricultural development in the Provinces ceased with the inception of the Reforms. In view, however, of the paramount importance of agriculture as the basic industry of the people of India, of the improbability of Provincial Governments being in a position to undertake research on the scale required and of the necessity for co-ordinating activities in the wide field of agricultural development, the Central Government must continue to play an important part in agricultural progress. Their present agricultural policy is mainly directed to fostering research and undertaking work which is outside the normal ambit of Provincial activities by reason of its all-India character. With the improvement this year in our finances we have been able to increase very considerably our activities in the sphere of agriculture. The Agricultural Institute at Pusa is expanding its work of research, which is the basis and condition of all progress. That work has already borne

remarkable fruit. New varieties of crops (I would instance sugarcane and wheat)—the product of careful research and experiment in our laboratories and experimental farms—have added within the past few years crores of rupees to the wealth of the agriculturist, and these achievements point the way to still more wonderful possibilities. Agriculture in India must in the main depend on cattle for its motive power, and what is of vital importance is not an increase in the numerical strength of cattle, but an improvement in quality. This problem is being steadily attacked from more than one angle in the cattle-breeding and dairy farms under the Government of India.

But apart from direct activities I conceive that one of the most important functions of a Central Government in respect of a great all-India interest is to facilitate the co-ordination of Provincial effort. My Government have for some time past had under consideration a proposal for the establishment of an all-India agricultural organisation which would help towards co-ordinating the activities of the various Provincial Departments of Agriculture, promote research, agricultural education, co-operation and other established aids to agriculture and serve as a medium for agricultural propaganda throughout the country. With the object of obtaining the views of representative and responsible authorities from all parts of the country before a definite scheme is formulated, it has been decided to refer this proposal to the Board of Agriculture at its next meeting, which will be held at Pusa in December of this year. It is hoped that, in addition to the regular Provincial representatives, Ministers of Agriculture of the various Provinces will also be able to attend on this important occasion.

The action taken by my Government on the report of the Civil Justice Committee presided over by Mr. Justice Rankin will be a matter of interest to you. I have no doubt that many of you have studied that report and recognise the wide extent of the ground it covers. Many of the recommendations can be put into effect by Local Governments, High Courts and the presiding officers of the Courts of justice throughout the country. In some cases we have decided to reduce the proposals of the Committee to the concrete form of Bills which will come before you during this Session. In others we have addressed Local Governments and High Courts, and shall prepare Bills for your consideration after we have received their opinions. I have mentioned before the great importance which I attach to the work of this Committee and the value of the reactions which must follow on improvements in the machinery for the administration of civil justice. I wish now to express my high appreciation of the work which has been performed by the Chairman and members of the Committee and by the co-opted members, non-official as well as official.

Last January I announced that, in view of the opinion expressed in the Assembly regarding the need of an economic inquiry, my Government had decided to appoint a small Committee to report on the material which exists for holding an inquiry into the economic conditions of the people of India, the feasibility of instituting an inquiry of this character and the manner in which it could be carried out. This Committee has been at work during the last few months under the Chairmanship of Sir M. Vishveshvaraya, and has just completed its report which is now in the press. It is the intention of Government to publish the report at an early date, and the Committee's recommendations will be examined without delay.

[H. E. the Viceroy.]

I must express my appreciation of the expedition with which the Committee have dealt with this complicated subject.

When I addressed you last I dwelt at some length on the difficult questions of currency and exchange, and I announced the intention of Government to appoint an authoritative Committee to consider the subject of the rupee exchange as soon as world economic factors appeared sufficiently stable to justify formulation of a new policy. Since that time, although conditions are in some respects still obscure, there has been one event in this field of outstanding importance, namely, the return of England to the gold standard. With the return of sterling to a parity with gold there is fulfilled one of the most important conditions requisite for a fruitful re-examination of our Indian problems.

The position has been considered in consultation with the Secretary of State, and I am now able to announce that His Majesty the King has approved the appointment of a Royal Commission on Indian Currency. The terms of reference to the Commission will be—

“To examine and report on the Indian exchange and currency system and practice; to consider whether any modifications are desirable in the interests of India, and to make recommendations.”

It will be seen that the terms of reference are wide enough to admit the consideration of all important questions of currency policy, and that the membership of the Commission also ensures adequate representation of Indian opinion. I am glad to inform you that the Right Honourable Hilton Young will act as Chairman, and the following gentlemen have consented to serve as members of the Commission :—

Professor J. C. Coyajee,
Sir Maneckji Dadabhoy,
Sir Reginald Mant,
Sir Rajendra Nath Mukherji,
Sir Alexander Murray,
Mr. W. E. Preston,
Sir Henry Strakosch,
Sir Purshotamdas Thakurdas, and
Sir Norcot Warren.

The Joint Secretaries will be Mr. Aiyar of the Indian Finance Department and Mr. Baxter of the India Office. It will be apparent that every care has been taken to obtain an independent and impartial examination of this important subject. The Commission will, it is expected, commence work next October.

There is one other important inquiry to which I must refer. The Government of India recently appointed a Committee which has come to be known as the Indian Sandhurst Committee. The investigations of the Committee will embrace, not only the whole subject of the best and most suitable means of training Indians to hold worthily and efficiently His Majesty's Commission, but also the question of what measures should be adopted in order to attract the best type of Indian youth, in greater numbers than are at present forthcoming, to a military career. I attach

great importance to the enterprise upon which the Committee are embarking. If they are successful, it may be said that they will, to the extent of their achievement, help India forward in the path of progress. The Committee is widely representative of different branches of Indian opinion, and I am glad to note that in this important inquiry we shall have the assistance of the leader of the Swarajist Party. I must express gratification that he is prepared to contribute to the elucidation of the problems involved, but I should not think of seeking to press the implication of his action further than he himself wished. His own statement of the reasons for the course he has adopted should in my judgment preclude any more extended inferences.

The establishment of a Public Service Commission is being actively pursued in correspondence with the Secretary of State, and I have every hope that it will shortly be possible to make an announcement detailing its functions, its constitution and its *personnel*. I am aware that great importance is attributed to the Commission both by the public and the members of the Public Services. I believe that it will confirm for the Services that sense of security in the conscientious discharge of their duties to which they are justly entitled, and that it will provide an independent and impartial tribunal for the examination of grievances. I believe also that it will be a visible and concrete guarantee of the principle, on which all good government is founded, that the ultimate object of administration is the interest of the State and the service of the public.

Among other matters of importance with which my mind was naturally much pre-occupied at the time of my departure for England, though even then I recognised and welcomed tendencies of a happier augury, was the situation relating to the religious endowments of the Sikh community, and the various issues connected with it; and during my absence I watched the progress of events with keen and sympathetic interest. It is a matter of great gratification to me that, on my return, I find that the hope of improvement in the situation has been realised or is in a fair way to be realised. During the whole course of the events and controversies which have engaged public attention and sometimes, I regret to say, disturbed the public peace in the Punjab, the Government of the Punjab and my own Government have been animated by a constant and single desire to promote by every means in our power a stable, an equitable and a friendly settlement of all the matters in issue, which shall do justice to the claims of all the interests legitimately concerned and which, in particular, shall restore the traditional relations of good understanding and mutual confidence between Government and the Sikh community. It is my belief that those relations, glorious in war and “no less renowned” in peace, whatever misunderstandings have arisen and whatever unfortunate incidents have occurred have never in truth suffered more than a partial and temporary disturbance, and I welcome every prospect of their complete renewal and consolidation.

The immediate and tangible fruit of these changed conditions has been the enactment of a measure by the Punjab Legislative Council, on the motion of a private member belonging to the Sikh Community, and in the formulation of which the Punjab Government rendered assistance which has been warmly acknowledged, to regulate the management of the Sikh religious endowments. This measure has received so large, and I may say, so overwhelming a preponderance of support from the interests

[H. E. the Viceroy.]

directly or indirectly concerned as to leave no doubt of its general acceptance, and it has received the assent of the Governor General. The Government of the Punjab have taken the opportunity of the passing of this measure to make a generous offer to those persons under detention in that Province for certain offences arising out of the agitation, and I trust that wise counsels will prevail in regard to it.

I count as one of the palpable signs of a hopeful and auspicious future, the recent conclusion, with the co-operation and assistance in the necessary arrangements of the authorities of the Nabha State, of the ceremonial reading of the Sikh scriptures at the Gangsar Gurdwara in that State. The policy scrupulously observed by Government has been to interpose no obstacle, there or elsewhere, to the free observance of religious ceremonies in such manner as not to conflict with other well established rights and liberties. I will say no more on a subject which might revive old controversies than that I have every hope and confidence that, with the conclusion of the ceremony I have referred to and the release of persons detained in the Nabha State, we may all now unite to treat this incident as a closed chapter.

A Bill will be laid before you in the course of the present Session, the object of which is to validate such of the provisions of the Punjab Act as are beyond the competence of the local Legislature, and I am confident that a measure which offers so fair a prospect of a practical and equitable settlement of a momentous and complex issue and which is supported by so weighty a body of public opinion will receive also your ratification and endorsement.

Much has been achieved, and we may survey with legitimate satisfaction the progress recorded, rendering due acknowledgments to the sympathetic consideration and the indefatigable labours of His Excellency Sir Malcolm Hailey and the Government of the Punjab, and to the common-sense, mutual forbearance and public spirit of all concerned which have made it possible. I trust that your deliberations will complete a legislative act which will not only afford a just and satisfactory solution of the matters it expressly contemplates, but will also contribute powerfully to the re-union and reconciliation of diverse aims in other spheres of interest which we all have equally at heart. If we persevere and redouble our efforts in the path of mutual forbearance and understanding, I have every confidence that the future will crown our labours.

This concludes my observations on a review of affairs in India as I find them on my return. My main purpose in requesting your attendance to-day was in order that I may address you specially upon the events connected with my visit to England. When I received the invitation from His Majesty's Government to return to England, I gladly availed myself of it. I had been in India over four years and had seen several changes of Government in England during this short period. A General Election in the Autumn had just installed a new Government in office—the fifth with which I have had the privilege of serving. It seemed to me eminently desirable, in the interests of India, that I should take the opportunity for the first time afforded to one holding my high office. During my stay in England I had many conferences and discussions with the Secretary of State, and I also had the great advantage of representing the situation in India, as I conceived it, to the Prime Minister and also

to the Cabinet. Towards the end of my visit the Secretary of State made an important pronouncement in the House of Lords upon Indian affairs. The speech undoubtedly aroused unusual interest in Parliament and the country. It was the first review by the Secretary of State of the general situation in India since he had assumed his high office, and it had been deferred until after the conclusion of the conferences with me. In addition, it possessed a special attraction by reason of the forceful personality and intellectual capacity of the Secretary of State. You will have observed that His Lordship was careful to state that he was not announcing, or purporting to announce, decisions or conclusions. Nevertheless, it cannot be doubted that his survey of the situation formed an important event in the history of political development in India. It was made after careful study of the problems and after full consideration of the views which I had presented in numerous conferences as the result of my experience in India. The speech in the House of Lords was followed almost immediately by a debate in the House of Commons. I do not know whether many of you have had the opportunity of studying the report of the debate, which was of special interest to India. It showed, as it appeared to me, a growing appreciation and a sympathetic understanding of the complexities and difficulties of Indian political problems. You will have gathered from the Parliamentary reports that the general lines of the pronouncement were not seriously challenged in the British Parliament. I confess that I have therefore been somewhat disappointed, on a perusal of reported speeches of political leaders in India and of articles in the public Press, to find that the speech has been received in some quarters in so critical a spirit. The impression on my mind is that its importance and value to India have not been sufficiently appreciated. I look upon the Secretary of State's address as a message of sympathetic encouragement to India, at least to those who are desirous of advancing to responsible self-government within the British Empire. It is an emphatic indication that political opinion in England stands firm upon the declarations made in 1917 and in 1919 without distinction of political parties.

I shall endeavour to place before you a survey of the situation as it presents itself to me to-day. I trust I am not too optimistic in my belief that a temperate examination of the problems in an atmosphere free from suspicion and prejudice may lead to more earnest and sincere co-operation and good-will from Indian politicians. I cannot hope to convince all sections of those who take an interest in public affairs. But if we are to advance towards a solution of our problems, we must get rid of the elements of bitterness and suspicion, which breed their evil progeny alas! too rapidly, and try whether the spirit of good-will may not prove a solvent for difficulties which have hitherto seemed to defy solution.

I would ask those who may differ from me to bend their minds for a moment towards me, and to weigh observations based upon the experience of a life-time and applied to Indian affairs by one who claims to be devoted to India and her interests.

I came to India charged with the duty of helping to establish the Reformed Constitution and of assisting the country along the road of advance mapped out in the declaration of August 1917. The first great measure in pursuance of the new policy had been embodied in an Act of Parliament. It was unfortunate that this new system was launched at a period when the atmosphere was charged with bitterness and animosity. It is unnecessary to recapitulate the difficulties it encountered from the

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moment of its birth. They are still fresh in our minds. It suffices for the moment to recall that it met with determined opposition from certain sections of the community, directed at first from without the Councils and latterly also from within. Remember that this was a newly-fashioned Constitution—indeed a constitutional experiment without precedent—designed to meet the peculiar complexities of the situation in India. It had no doubt its imperfections, but it was the product of deep thought and the outcome of a genuine desire on the part of the British Parliament to give effect to the patriotic aspirations of Indian political leaders and to initiate a system of self-governing institutions. Much of the criticism directed against the Constitution was clearly in the nature of a protest against the refusal to grant complete self-government at one step. But the ranks of the critics were also swelled by those who argued that the system did not fulfil the intentions of its authors and suffered from obvious defects which should be removed. These charges deserved examination, and after three years' experience of the new Constitution my Government, with the approval of His Majesty's Government, decided that inquiry should be made not with a view to altering the structure, but for the purpose of determining whether any measures could be devised whereby the system might work more smoothly and efficiently. These problems were examined by the Reforms Inquiry Committee, to whose labours both my Government and all those who are interested in the working of the Constitution owe a debt of gratitude. I regret that the members of the Committee were unable to come to unanimous conclusions. The Majority have made a series of recommendations which taken broadly appear to be acknowledged as suggesting improvements on the existing practice. They are fashioned with a genuine desire to improve the present machinery. I do not of course claim for them infallibility or deny that they must be examined in detail with some care. My Government are prepared to accept in substance the view of the Majority that the Constitution should be maintained and amended, where necessary, in order to remove defects in its working on the lines recommended by them. My Government cannot at present commit itself to all individual recommendations or to the form or method by which they should be carried into effect, inasmuch as there has not been sufficient time for full consideration of them with the authorities concerned, or even by me with my Council. An opportunity will be afforded to the Legislature for debating this policy, and every consideration will be given to the views presented to us before final conclusions are reached.

The Minority, consisting of gentlemen whose views are entitled to receive, and have received, the most careful examination of myself and my Government and—let me add—of Lord Birkenhead, have stated that they have no objection to many of the proposals of their colleagues, but they were unable to accept the report of the Majority because they desired to progress more rapidly and by different methods. In their opinion no substantial results will be produced by the process of amendment of defects recommended by the Majority. Briefly, the Minority ask whether the Constitution should not be put on a permanent basis with provisions for automatic progress in the future, and they are in favour of a system of Provincial autonomy. They press for an early inquiry with a view to fulfilling these aspirations. To the subject of Provincial autonomy I shall return later. It is sufficient to say at this stage that the Minority, mindful

of the terms of reference, do not present it as a practical and fully considered scheme, but content themselves with putting it forward as an ideal. The steps for its attainment clearly demand further investigation. In effect therefore the recommendations of the Minority amount to a demand for an early and authoritative inquiry with a view to a revision of the Constitution. The issue at the moment between them and the Government of India is largely one of time for the appointment of a Commission. It has been laid down in the Government of India Act that in 1929, that is in four years from the present time, there must be a full inquiry into the Constitution such as the Minority desire. But the Minority say that they wish the inquiry to take place at an early date. I understand their impatience, but my Government and I, after most carefully weighing their views, have reached the conclusion that the moment for an inquiry has not yet arrived.

The inquiry contemplated by the Act will be a genuine and an impartial inquiry. Nothing will be prejudged. It will proceed upon the facts of the situation as ascertained upon the evidence produced to the tribunal. And here I must remind you of the words of the preamble to the Government of India Act, which have already been quoted by the Secretary of State: "And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility." If those are to be the principles to guide the Commission to its judgment, I cannot think, as a friend of India, that it should commence its inquiries immediately. If the judgment of the British Parliament were to be pronounced upon the present evidence, I fear that it could but result in disappointment. I have not abandoned hope that as the days proceed evidence of a spirit of co-operation may yet be forthcoming from that large section of political opinion which has hitherto stood aloof, and that it may be manifested that the political attitude of those who have hitherto declined to shoulder any responsibility may undergo a change. I know that there is a school of thought in India which preaches incessantly that nothing is to be won from England save by force or threats. Believe me, that is a profound mistake, and if persisted in, cannot but embitter the relations of the two countries. The Reforms took their origin in England in a spirit of good-will, not of fear, of optimism, not of opportunism. The history of the last few years has damped the hopes and dimmed the expectations of many of those in England who wish India well. But those hopes can be rekindled, those expectations can be recreated, if India shows the hand of friendship instead of menace.

But while I am sure that the present would be a most inappropriate moment to hold the statutory inquiry, I wish to re-emphasise what was made abundantly plain by the Secretary of State in his speech that there is no special sanctity attaching to the year 1929. The re-examination of the Constitution may take place at any time, not later than 1929, when the British Government are persuaded that there has been genuine co-operation of the responsible Indian political leaders in working the existing Constitution, and when sufficient experience of these new and still largely untried conditions has been gathered to form the basis of a considered judgment and to enable proposals for the future to be made with some confidence. Is it not worth while to make a real attempt to

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wipe out past controversies and to unite in an effort to test the system at present established? In the Secretary of State's words—"We desire and request good-will, nor shall we be niggardly bargainers if we meet with that generous friendship which is near and dear to our hearts." The desire to help India along the road indicated remains unchanged throughout General Elections and new Administrations. I had opportunities of discussion with many leaders of political thought in England of varied political views. Throughout I was impressed on the one hand by the sympathetic good-will manifested towards India and Indians generally, and, on the other, by the determination not to be hurried by threats into premature concessions. I have long been confident that it is through friendly co-operation alone that India will advance to the ultimate goal desired. The events of the recent years and my visit to England have served to confirm this view. I most earnestly commend it as a policy to the Legislature and to the country.

I believe that the present moment is specially favourable for a combined effort to work the Constitution. Since the Committee reported, two new factors have supervened which should be an encouragement to a new departure, and are well worthy of your consideration. Among the many handicaps under which the new system has suffered, none perhaps was greater than the financial stringency which dogged its early years. In administration a policy without resources is barren. Too often the Ministers found that from lack of money they could not give effect to their ideas in the field of government transferred to their charge. Hampered by financial difficulties they were exposed to the criticism of having achieved nothing. Fortunately, the period of financial stringency, the legacy of the War, seems to be passing away. This year my Government has been able to make a notable beginning in the remission of Provincial contributions, and thereby to place at the disposal of various Provinces additional resources, a large part of which it may be hoped will be available for the amelioration of social conditions and for nation-building activities—in short for those branches of the administration which have been transferred to popular control. I trust that these new resources will strengthen the position of Ministers.

There is one other change of importance which I must not omit to mention. I confess I have been surprised to find that so little public attention has been directed to one of the proposals of the Lee Commission, the practical effect of which will soon begin to make itself felt. It had been one of the complaints of Ministers that the organisation of their superior services through which their departments were administered lay not in their hands, but in those of the Secretary of State. It was the latter who recruited them, and who determined their rates of pay and their numbers. We are now taking steps to give effect in this respect to the principle laid down by the Joint Select Committee of Parliament, that Ministers should have the fullest opportunity of managing that field of government which was entrusted to their care. Recruitment by the Secretary of State for the Indian Educational Service, the Indian Agricultural Service, the Indian Veterinary Service, the Buildings and Roads Branch of the Indian Service of Engineers and in Bombay and Burma for the Indian Forest Service has ceased. In these important branches of the administration the Ministers will be authorised to start building up by new recruitment their own Provincial Services, subject

only to such restrictions as experience shows to be necessary for safeguarding the integrity, the independence and the efficiency of Public Services. The problem presented by the Indian Medical Service is more difficult, but here too the principle of establishing Provincial Medical Services has been accepted, subject to certain conditions which are still under consideration. The combined effect of these changes will become increasingly apparent every year, and I am sure that what seems to me at present to be an inadequate appreciation of their importance will rapidly disappear. I cannot pass from these observations on the future of the Services without placing on record my high appreciation of the loyal assistance which has been rendered by the members of the Services and will, I am convinced, continue to be rendered in the working of the new Constitution. Without their help, difficulties already serious enough would have been stupendous, if not insuperable.

For the reasons indicated above, I believe that the system of Dyarchy will be found to work in future more efficiently and smoothly, and Ministers will in these respects no longer have the semblance of ground for complaint that the power and responsibility entrusted to them are impaired by other influences. In any event, I have no doubt it is too early yet to pronounce a final verdict as to failure or success. On a careful survey of the whole situation and study of the reports of the Local Governments, I come to the conclusion that Dyarchy, whatever its deficiencies may be, has so far proved more successful in its operations than some of its friends and most of its critics could have expected. We shall be in a far better position and in a comparatively short time to form a final judgment, if the system is worked in the future with general good-will and co-operation.

In a notable passage in his speech Lord Birkenhead disclaimed on behalf of the British Parliament any monopoly in the art of framing Constitutions, and he invited Indians to contribute, if they could do so, their own solution. He invited them—to quote his words—"to produce a Constitution which carries behind it a fair measure of general agreement among the great peoples of India". He gave the assurance that such a contribution to our problems would nowhere be resented, but would on the contrary be most carefully examined by the Government of India, by himself and by the Commission whenever that body may be assembled. The time which may elapse before re-examination of the Constitution, whenever that may happen, could not be better occupied by public men in India than by devoting serious practical thought to these problems. The British people, working on their own experience, have set up institutions in India based on Western models. The aspirations of Indian politicians, as I understand them, are directed towards the establishment of responsible self-government within the Empire as the ultimate goal. Responsible self-government based on Parliamentary institutions is the product of Western thought and experience. It is often contended that we are seeking to arrive at the final destination by imposing ideas on India which are alien to its genius. We are not wedded to our own particular methods of attaining our object. Whatever may be proposed will be the subject of most careful examination by the Government of India, and eventually by the Commission before it is submitted to the British Parliament. The Commission should know whether there is any general consensus of opinion among the various classes and communities of India as to the direction in which the development of self-government within the Empire should be sought. Should we persevere in our proposed course

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or is there an alternative line of advance which would be more in accordance with Indian ideas and would receive the support of the numerous interests concerned? If any alternative methods are to be suggested, much hard thinking is required. Constitutional problems are not solved by a phrase. Account must be taken of unparalleled complexities—diversities of race, diversities of religion, striking diversities of intellectual development and a social organisation which separates classes with a rigidity unknown in any other great country. It must be kept steadily in mind that it is a primary duty of Government to provide security against external aggression and to preserve peace and order within its territories, and in India it is imperative that adequate means should be devised for the protection of Minorities. No greater problem in self-government has ever been set before a people. No problem has ever more assuredly required accurate and practical thinking.

There are many in India at the present moment who hold the solution lies in Provincial autonomy. The principle that local affairs should be administered by Local Governments is one that commands general acceptance. But if we are to avoid disintegration—a danger that the history of India constantly emphasises—there must, in my judgment, be a strong Central Government capable of exercising a legitimate degree of supervision and control. The relations of such a Government to a number of so-called autonomous Provincial Governments have not yet been thought out. It can scarcely be contemplated even by the most ardent friends of Provincial autonomy that there should be nine or more, and as some contend many more, separate and independent Provincial Governments entirely free in all directions from supervision and control. Before any scheme of Provincial autonomy could be established, the functions that should be entrusted to them and the degree of supervision and control to be exercised over them must be explored with patience. Here is an unlimited field of work waiting for those who, like the Minority of the Reforms Inquiry Committee, believe that the present Constitution must be radically amended. Meantime close contact with the practical working of the present machine will provide a useful corrective against too great an obsession with theory, which history shows to be a danger ever lurking in wait for the drafter of Constitutions.

Before I close I would draw attention to an attitude not uncommon among politicians that the programme and conditions of advance laid down in the preamble of the Government of India Act are a humiliation to India in that the prescription of successive stages and the testing of each stage by results is a reflection on the capacity of Indians. Be it remembered that we are engaged on a problem new to India and new also to the British Parliament. I think the nature of the problem as it presents itself to the British people is not fully appreciated by those who express themselves as humiliated. They assume that the path to self-government lies along a broad metalled road, and that if they could only be freed from the impediments and restrictions imposed by the present form of government, they could run safely, rapidly and directly to their goal. To my mind the problem presents itself under a different figure. I think rather of a man picking his way through unexplored regions towards his destination which glimmers faint, but clear in the distance. He halts on firm ground and seeks the next spot to which he can safely entrust himself.

A rash step may engulf him or delay his progress indefinitely. His advance may not be rapid, but it is well and surely planned. As he advances, experience teaches him to distinguish more certainly and quickly the firm ground from the treacherous surface. And so he wins to his ultimate goal.

Gentlemen, if I may strike a personal note, the natural term of my period of office is rapidly approaching, and my future opportunities of addressing you, the Members of the Indian Legislature, must necessarily be few. I have spoken to you to-day from the conviction of my heart—I trust without rousing a tinge of bitterness or animosity. I have expressed to you the thoughts of one who, whatever mistakes or errors he may have committed, has a warm affection for India and a deep devotion to her interests. For these reasons I have been desirous of carrying you with me along the only avenue which, in my judgment, can lead to the Promised Land—to the proud heights of India's destination. It is my earnest prayer that India, with the co-operation of all of us—of every race, community and interest—that wish her well, may avoid the pitfalls that beset her path and win through to the goal to which her face is set.

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COUNCIL OF STATE.

Tuesday, the 25th August, 1925.

The Council met in the Council Chamber at Viceregal Lodge at Eleven of the Clock, the Honourable the President (Sir Henry Moncrieff Smith, Kt., C.I.E.) was in the Chair.

MEMBERS SWORN :

His Excellency Field-Marshal Sir William Birdwood, Bart., G.C.B. G.C.M.G., K.C.S.I., C.I.E., D.S.O., (Commander-in-Chief in India); the Honourable Mian Sir Fazl-i-Husain, Kt., (Education, Health and Lands Member); the Honourable Mr. Manmohandas Ramji (Bombay : Non-Muham-madan); the Honourable Sir William Crawford Currie, Kt., (Bengal Chamber of Commerce); the Honourable Mr. A. A. L. Parsons (Industries Secretary); the Honourable Mr. J. P. Thompson, C.S.I., (Political Secretary); the Honourable Mr. E. G. L. Laird-MacGregor (Bombay : Nominated Official); the Honourable Mr. Birendra Chandra Sen (Bihar and Orissa : Nominated Official), and the Honourable Mr. K. C. Roy (Bengal : Nominated Non-Official).

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

PANEL OF CHAIRMEN.

THE HONOURABLE THE PRESIDENT: I have a Message from His Excellency the Governor General. The Message runs :

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

In the first place, the Honourable Sir Maneckji Dadabhoy,

In the second place, the Honourable Sir Zulfiqar Ali Khan,

In the third place, the Honourable Sir Arthur Froom, and

Lastly, the Honourable Dr. Sir Deva Prasad Sarvadhikary.

(Sd.) *READING,*

Viceroy and Governor General."

COMMITTEE ON PETITIONS.

THE HONOURABLE THE PRESIDENT: Under Order 76 of the Council of State Standing Orders I am required at the commencement of each Session to constitute a Committee on Petitions consisting of a Chairman and four

Members. The following Members have at my request kindly consented to preside over and serve on the Committee. I accordingly have much pleasure in nominating as Chairman of the Committee the Honourable Dr. Sir Deva Prasad Sarvadhikary and as Members the Honourable Sardar Jogendra Singh, the Honourable Mr. R. P. Karandikar, the Honourable Saiyid Raza Ali, and the Honourable Mr. G. S. Khaparde.

QUESTIONS AND ANSWERS.

PIECE SYSTEM IN THE GOVERNMENT OF INDIA PRESSES, SIMLA, DELHI, CALCUTTA AND ALIGARH.

1. The HONOURABLE MR. G. S. KHAPARDE: Does the piece system obtain at present in the Government of India Presses in Simla, Delhi, Calcutta and Aligarh?

The HONOURABLE MR. A. A. L. PARSONS: The piece system is in force in the presses at Calcutta and Delhi, and to a small extent at Simla and Aligarh.

NUMBER OF PIECE-WORKERS IN THE GOVERNMENT OF INDIA PRESSES.

2. The HONOURABLE MR. G. S. KHAPARDE: (a) What was the number of piece-workers in each of the Government of India Presses in Simla, Delhi and Calcutta in 1921 and what is their number now in each of the said presses?

(b) Into how many classes were the piece-workers in each of the presses divided in 1921, and into how many classes are they divided now?

(c) What was the average income of each class in each of the said presses in 1921 and what is it now?

(d) What was the number of hours they worked in each of the presses in 1921 and what is it now?

(e) What changes, if any, have been made in their leave and allowances between 1921 and 1925, both inclusive?

(f) Is casual leave granted to piece-workers? If so, on what conditions?

The HONOURABLE MR. A. A. L. PARSONS:

(a)		1921,	1924-25.
Simla	.. .. .	231	32
Delhi	.. .. .	281	136
Calcutta	.. .. .	1,176	518

(b) Twenty in both years.

(c) The information is not available and its collection would entail labour out of all proportion to its value.

(d) The average number of hours worked monthly by piece-workers in each press in 1921 and now are as follows:—

	1921.	1924-25.
<i>Simla—</i>	Hrs.	Hrs.
Compositors	179	<i>Nil.</i>
Distributors	179	<i>Nil.</i>
Pressmen	186	178
<i>Delhi—</i>		
Compositors	205	198½
Impositors	222	199
Distributors	201	187
Pressmen	195	184½
<i>Calcutta—</i>		
Compositors	186	196
Impositors	194	194
Distributors	182	191
Press and Machinemen	199	205
Binders	196	198

(e) and (f). Piece-workers are now allowed payment at class rates for 16 days (including the King Emperor's birthday) each year, to cover absences on account of holidays, sickness or leave, provided the worker has been in regular employment for the previous 12 months. As a result of this concession, 15 days' winter leave previously allowed to piece-workers in the Simla Press has been reduced to 8 days.

WORKS COMMITTEE OF THE DELHI PRESS.

3. The HONOURABLE MR. G. S. KHAPARDE: (a) Is the Works Committee of the Delhi Press still in existence and does it hold its meetings? If so, how many meetings did it hold in each of the years 1922, 1923, 1924 and 1925?

(b) If no meetings were held in all or any of the years mentioned in (a), will the Government be pleased to state why they were not so held?

The HONOURABLE MR. A. A. L. PARSONS: (a) and (b) The Works Committee of the Delhi Press is no longer in existence, as no desire for its retention was shown by the men. The second part of the question does not arise.

AMOUNTS SANCTIONED FOR WAITING TIME FOR PIECE-WORKERS IN GOVERNMENT PRESSES.

4. The HONOURABLE MR. G. S. KHAPARDE: (a) What amount was sanctioned in each of the years 1922, 1923, 1924 and 1925 for waiting time to be allowed to the piece-workers in each of the presses at Calcutta and Delhi?

(b) How much of it was spent in each of the presses in each of the years mentioned in (a)?

The HONOURABLE MR. A. A. L. PARSONS: (a) No specific amount is sanctioned for waiting time. The amount is always paid out of the grant for payments to piece-workers.

(b) The amounts actually paid for waiting time in 1922-23, 1923-24 and 1924-25 have been :—

		1922-23.	1923-24.	1924-25.
		Rs.	Rs.	Rs.
Delhi	.. .. .	6,055	Nil.	1,876
Calcutta	.. .. .	489	43	Nil.

RENT FOR QUARTERS OF SALARIED HANDS AND PIECE-WORKERS COMPOSITORS IN GOVERNMENT PRESSES.

5. The HONOURABLE MR. G. S. KHAPARDE: Is it a fact that rent for quarters is charged equally to the salaried hands and piece-workers compositors at one uniform rate, though furniture is supplied to the former and not to the latter?

The HONOURABLE MR. A. A. L. PARSONS: No. Some of the quarters provided are furnished and they are available both for salaried hands and for piece-workers.

PROVIDENT FUND FOR GOVERNMENT PRESSES.

6. The HONOURABLE MR. G. S. KHAPARDE: With reference to the answer given to my question No. 47 of 3rd February 1925, will the Government be pleased to state why the scheme of Provident Fund has not been brought into operation in Government Presses?

The HONOURABLE MR. A. A. L. PARSONS: The question of a Provident Fund for the press employees is part of the larger and complicated question of a State-aided Provident Fund for Government employees holding non-pensionable appointments generally, which is still under consideration.

CLOSING OF THE EAST INDIAN RAILWAY OFFICES ON MUHAMMADAN FESTIVALS.

7. The HONOURABLE HAJI CHOWDHURI MUHAMMAD ISMAIL KHAN: (a) Will the Government be pleased to state whether the offices under the East Indian Railway remain closed on all the Muhammadan festivals?

(b) Is it a fact that the office of the Agent, East Indian Railway, was not closed on the last *Id-ul-Zuha* festival? If so, why?

The HONOURABLE MR. D. T. CHADWICK: I propose to answer this question and the two following questions together:—

7. (a) The offices of the East Indian Railway Co. remain closed on all Muhammadan gazetted festivals.

(b) It is correct that the Agent's office was not closed on the *Id-ul-Zuha* festival in 1924 and this was due to a misunderstanding owing to the Bengal Chamber notice not having been received.

8. The rule is that Muhammadan employees are allowed to leave office at 4 P.M. during the month of *Ramzan* if they desire to do so.

9. Does not arise.

CLOSING OF THE EAST INDIAN RAILWAY OFFICES AT 4 P.M. DURING "RAMZAN."

8. The HONOURABLE HAJI CHOWDHURI MUHAMMAD ISMAIL KHAN: Is it a fact that the Muhammadan employees under the East Indian Railway are not allowed to leave office at 4 P.M., during the month of *Ramzan*, in spite of the standing order of Government?

[See reply to Question No. 7.]

GOVERNMENT ACTION IN CONNECTION WITH THE NON-OBSERVANCE OF MUHAMMADAN HOLIDAYS ON THE EAST INDIAN RAILWAY.

9. The HONOURABLE HAJI CHOWDHURI MUHAMMAD ISMAIL KHAN: As regards questions serial Nos. 7 (b) and 8, if the Government reply is in the affirmative, what steps do Government propose to take?

[See reply to Question No. 7.]

PERCENTAGE FOR MUHAMMADAN EMPLOYMENT UNDER THE EAST INDIAN RAILWAY.

10. The HONOURABLE HAJI CHOWDHURI MUHAMMAD ISMAIL KHAN: Is there any fixed percentage for Muhammadan employment under the East Indian Railway? If not, do Government propose to take any steps in the matter?

The HONOURABLE MR. D. T. CHADWICK: The policy to be followed in this matter is expressed in the Resolution passed by the Assembly on March 10th, 1923. The Agent of the East Indian Railway Company was asked to give effect to this policy and the Government do not doubt that he is doing so.

GRANT OF LEAVE TO MUHAMMADAN EMPLOYEES OF THE EAST INDIAN RAILWAY FOR THEIR JUMMA PRAYERS.

11. The HONOURABLE HAJI CHOWDHURI MUHAMMAD ISMAIL KHAN: Are the Muhammadan employees of the East Indian Railway allowed to say *Juma* prayers on Fridays?

The HONOURABLE MR. D. T. CHADWICK: The Honourable Member is referred to the reply given to question No. 16 asked on the 22nd January 1925 in the Legislative Assembly. The Government will recommend to the Railway Administration that the same practice should be followed on the East Indian Railway.

FILLING UP OF VACANCIES IN THE 2ND SELECTION GRADE OF POSTMASTERS FROM DECEMBER 1920 TO JUNE 1925.

12. The HONOURABLE MR. CHANDRADHAR BOROOAH: (a) Will the Government kindly lay on the table a statement showing the number of vacancies which occurred in the 2nd selection grade (Rs. 175 to Rs. 225) in the Postmasters' line, from December 1920 to June 1925, and showing separately the number of such vacancies filled by the men of the 3rd selection grade (Rs. 145 to Rs. 170) and by Inspectors and Superintendents' Head Clerks (Rs. 100 to Rs. 175)?

(b) Is it a fact that the Inspectors and the Superintendents' Head Clerks, who have been promoted to the 2nd selection grade of the Postmasters, were junior to the Postmasters of the 3rd selection grade whose claims have been superseded, both according to pay and length of service?

(c) Is it a fact that these Inspectors and Superintendents' Head Clerks once before superseded the claims of the 3rd selection grade men while both were in the clerical cadre and the former were taken as Inspectors or Superintendents' Head Clerks on higher pay irrespective of their juniority?

(d) Are the Government aware of the discontent prevailing among the Postmasters of the 3rd selection grade for the supersession of their claims again and again by the men of the combined cadre of Inspectors and Superintendents' Head Clerks?

The HONOURABLE MR. A. A. L. PARSONS: (a) A statement is laid on the table.

(b) In certain instances Inspectors and Superintendents' Head Clerks who were junior both in pay and in length of service to some Postmasters of the 3rd selection grade have obtained promotions to the 2nd selection grade. The principles for determining the relative seniority of the two classes of officials for the purpose of promotion to the second selection grade are laid down in the Director-General's General Letter No. A. X.-127, dated the 2nd December 1922, a copy of which is laid on the table.

(c) No. All officials in the clerical line had and still have the same chances of being selected for the special cadre of Inspectors and Superintendents' Head Clerks, the selection depending on the qualities which they display and on their success in the prescribed departmental examination.

(d) Government are not aware of any general discontent. Certain postmasters from three out of the nine Postal Circles submitted representations to the Director-General. These representations were rejected mainly on the ground that no change in the prescribed procedure for filling up vacancies in the second selection grade was necessary or desirable.

Postal Circle.	Number of vacancies in the Rs. 175—10—225 grade of Postmasters from December 1920 to June 1925.	Number filled by officials in the Rs. 145—10—170 grade of Postmasters.	Number filled by officials in the cadre of Inspectors of post offices and Head Clerks to Superintendents of post offices on Rs. 100—5—175.	REMARKS.
1. Bengal and Assam	54	42	12	* One was formerly a Probationary Superintendent. † One was formerly a Probationary Postmaster.
2. Bihar and Orissa ..	10	7	3	
3. Bombay ..	30	28	2*	
4. Burma ..	13	9	4	
5. Central ..	9	5	4	
6. Madras ..	17	9	8†	
7. Punjab and N.-W. F.	42	23	19	
8. United Provinces ..	21	6	15	
9. Sind and Baluchistan	13	6	7	
Total ..	209	135	74	

LETTER FROM THE DIRECTOR-GENERAL OF POSTS AND TELEGRAPHS, TO ALL POSTMASTERS-GENERAL AND THE DEPUTY POSTMASTER GENERAL, SIND AND BALUCHISTAN, NO. AX.-127, DATED DELHI, THE 2ND DECEMBER 1922.

SUBJECT:—*Promotion of Inspectors and Head Clerks to Superintendents of post offices to the Selection grades.*

With reference to your reply to this office letter No. Ax.-127, dated the 21st April 1922, I am directed to say that the Director-General considers that a definite method should be prescribed on the subject of promotion of Inspectors of Post Offices and Head Clerks to Superintendents of Post Offices in the time-scale of Rs. 100—5—175 to the Selection grades. He has accordingly decided that with effect from the 1st December 1922 the following revised orders should be acted upon in supersession of all previous orders issued on the subject.—

- (i) In the event of an Inspector or Head Clerk to a Superintendent being reverted or voluntarily reverting to the general line, he will be given the position in that cadre that he would have held if he had never been appointed to the rank of Inspector. For his purpose Postmasters-General should keep a note of the proper position of each Inspector in the general line. It will not be necessary to publish this information in Circle gradation lists.
- (ii) Inspectors and Head Clerks to Superintendents are eligible for promotion to the second selection grade of Rs. 175—10—225 along with officials in the general line according to their seniority to be determined in the following manner:—
 - (a) Inspectors and Head Clerks to Superintendents who attained this position *before the introduction of the revised scale of pay* will be ranked with the officials in the general line according to the dates of entry into their respective grades of Rs. 100—5—175 and Rs. 145—5—170. If the dates happen to be the same seniority should be reckoned by the position held prior to the entry into those grades.
 - (b) Inspectors and Head Clerks to Superintendents who attained this position *after the introduction of the revised scales of pay* will be ranked with the officials in the general line according to the date on which they reach the Rs. 145 stage of pay in their own respective cadres.

NUMBER OF ASSAMESE SUPERINTENDENTS OF POST OFFICES, POSTMASTERS AND POSTAL INSPECTORS.

13. The HONOURABLE MR. CHANDRADHAR BOROOAH: (a) Will the Government be pleased to state separately the number of Superintendents of Post Offices, Postmasters and Postal Inspectors, who are natives of the Province of Assam?

(b) Is there any bar to the direct recruitment to these posts? If there is none, was the process ever tried, with a view to get a fair representation of the people of Assam in these posts?

The HONOURABLE MR. A. A. L. PARSONS : (a) One Postmastership and one Inspectorship are at present held by natives of Assam ; no post of Superintendent is at present so held.

(b). Postmasterships and Inspectorships are not filled by direct recruitment, but by promotion from the ranks of the Department. Half the vacancies in posts of Superintendent are filled by direct recruitment of probationary Superintendents from among qualified candidates, and natives of Assam can and do become candidates for these appointments.

NUMBER OF CLERKS OF POST OFFICES ALL OVER INDIA AND BURMA PROMOTED TO THE 3RD SELECTION GRADE.

14. The HONOURABLE MR. CHANDRADHAR BOROOAH : (a) Will the Government be pleased to state the total number of clerks of the Post Offices all over India and Burma promoted to the 3rd selection grade (Rs. 145—5—170) from the 1st January 1921 to the 30th June 1925?

(b) How many of them have since retired and on what actual pay? Of the remaining, how many, in the ordinary course, are expected to reach the 2nd selection grade before retirement?

The HONOURABLE MR. A. A. L. PARSONS : (a) 466.

(b) 62 have retired *viz.*, 3 on Rs. 145, 14 on Rs. 150, 19 on Rs. 155, 16 on Rs. 160, 8 on Rs. 165 and 2 on Rs. 170. 131 are expected to receive promotion to the selection grade of Rs. 175—10—225.

DEPRESSION IN THE COTTON MILL INDUSTRY.

15. The HONOURABLE MR. MANMOHANDAS RAMJI : Will Government be pleased to state :

(a) whether their attention has been drawn to the depression in the cotton mill industry, and

(b) if so, whether they intend to take any steps to meet the situation?

REMISSION OF EXCISE DUTY ON COTTON.

16. The HONOURABLE MR. MANMOHANDAS RAMJI : Will Government be pleased to say :

(a) whether they have considered remission of excise duty as a possible remedy, and

(b) whether they propose remitting excise duty up to the time of the next Budget?

The HONOURABLE MR. D. T. CHADWICK : I will answer questions Nos. 15 and 16 together.

The depression in the cotton industry has received the careful attention of the Government of India and they have considered the remedy suggested in the Honourable Member's question. For the rest, I refer the Honourable Member to the reply from His Excellency the Viceroy which he heard last evening, a full copy of which is appearing in the Press.

The HONOURABLE MR. K. C. ROY : May I know whether Government have noticed the suggestion made by Mr. N. M. Joshi about the appointment of a Committee to inquire into the crisis in the mill industry of Bombay and whether they will be in a position to announce the remission of the cotton excise duty after the six-monthly estimate has been prepared in November?

The HONOURABLE MR. D. T. CHADWICK : I saw the suggestion of Mr. Joshi in the Press reports last night. It will be seen from His Excellency's speech the kind of inquiry which was suggested to the mill-owners; I think there is no hope of Government being able to remit the cotton excise duty two months hence, which I infer was the second portion of the Honourable Member's question. The time for considering future taxation or remission of taxation is in connection with the Budget when the future commitments and revenues of the year are known.

The HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Is it not a fact that Government were prepared to remit the duty to a certain extent last year and the consummation did not come about because there were differences of opinion amongst the members from Bombay themselves?

The HONOURABLE MR. D. T. CHADWICK : I am in no better position to draw inferences from the debates which took place in the Legislative Assembly last March than is the Honourable Member himself.

STATEMENT SHOWING RECOMMENDATIONS AND CONVENTIONS PASSED AT INTERNATIONAL LABOUR CONFERENCES.

17. The HONOURABLE MR. MANMOHANDAS RAMJI : Will Government be pleased to lay on the table a comparative statement showing recommendations and conventions passed at International Labour Conferences and ratified and put into effect by India and Japan, respectively?

The HONOURABLE MR. A. A. L. PARSONS : Up to the end of 1924, seventeen Draft Conventions had been approved at International Labour Conferences. Of these, India has ratified nine and Japan six. I place on the table a statement giving the details. Recommendations are not capable of ratification.

Conventions of the International Labour Conference.

Subject.	RATIFIED BY	
	India.	Japan.
1. Hours of work	X	..
2. Un-employment	X	X
3. Child birth	..	..
4. Night work for women	X	..
5. Minimum age (industry)	..	..
6. Night work for young persons	X	..
7. White phosphorus*	X	X
8. Minimum age at sea	..	X
9. Unemployment indemnity (sea)	..	..
10. Employment for seamen	..	X
11. Minimum age (agriculture)	..	X
12. Rights of Association (agriculture)	X	..
13. Workmen's Compensation (agriculture)	..	..
14. White Lead	..	..
15. Weekly rest (industry)	X	..
16. Minimum age (trimmers and stokers)	X	..
17. Medical examination of young persons at sea	X	X

*A Berne Convention forming the subject of a recommendation.

THE HONOURABLE MR. MANMOHANDAS RAMJI: Has Japan ratified the hours of labour Convention?

THE HONOURABLE MR. A. A. L. PARSONS: No, Sir.

TREATIES BETWEEN GREAT BRITAIN AND JAPAN.

18. The HONOURABLE MR. MANMOHANDAS RAMJI: Will Government be pleased to lay on the table any treaties which may be in force at present between Great Britain and Japan?

THE HONOURABLE MR. D. T. CHADWICK: The only treaty or convention regulating the fiscal relations between India and Japan is the Commercial Convention of 1905 which has already been laid on the table of this House and is printed on pages 370 and 371 of the Proceedings of the Council of State for September 1922. The Honourable Member is referred to it.

LORD BIRKENHEAD'S SPEECH IN CONNECTION WITH THE REFORMS.

19. The HONOURABLE SIR DEVA PRASAD SARVADHIKARY: (a) Would the Government please state whether its attention has been called to the speech of the Right Honourable the Secretary of State in the House of Lords in which His Lordship states that the Indian Legislative Assembly will be consulted about the various matters referred to in the speech?

(b) Would the Government please state whether it is proposed to consult this Council also regarding these matters?

(c) If so, when and in what shape?

THE HONOURABLE MR. J. CRERAR: (a) and (b) As the Honourable Member has already been informed by His Excellency the Viceroy an opportunity will be afforded to this Council to discuss the report of the Reforms Inquiry Committee.

(c) Government propose to move an official Resolution on the subject, but I cannot say at present when it will be moved.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is the Honourable Member in a position to give the House an idea of the reasons of the omission of the Council of State from reference in the speech of the Secretary of State and a similar omission on the last occasion?

THE HONOURABLE MR. J. CRERAR: I can only infer, as the Honourable Member himself is equally at liberty to infer, that the omission if correctly reported was due to a *lapseus lingue* or a *lapseus memoriæ*.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: I refer to the repetition of the omission by the Secretary of State which makes the Honourable Member's explanation inapplicable. On a previous occasion I had to call attention to a similar omission and I received an answer somewhat of the kind received to-day. But the same omission was repeated months later by another Secretary of State.

EXPORT OF BONES AND BONE-DUST.

20. The HONOURABLE LALA SUKHBIR SINHA: Will Government be pleased to state the total amount of bones and bone-dust exported out of India within the last three years?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: 2,51,253 tons.

POSTPONEMENT OF THE ALL-INDIA AGRICULTURAL CONFERENCE.

21. The HONOURABLE LALA SUKHBIR SINHA: Why has the All-India Agricultural Conference been indefinitely postponed?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: The object of the proposed Conference was chiefly to discuss a suggestion for an all-India organisation for the advancement generally of agriculture in India. It was not found possible to hold this conference but the question of establishing such an organisation will be discussed at the next meeting of the Board of Agriculture in December at which it is hoped that in addition to the regular Provincial representatives, Ministers of Agriculture of the various Provinces will also be able to attend.

DEVELOPMENT OF AGRICULTURE IN INDIA.

22. The HONOURABLE LALA SUKHBIR SINHA: With reference to the recent announcement of Lord Birkenhead in the House of Lords on the development of agriculture in India, what steps do Government propose to take?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: As the Honourable Member is aware, Agriculture being a transferred subject, the problem of

agricultural development is one primarily for the Provincial Governments. But the Government of India, who are fully alive to the importance of this question, are now considering, how, subject to the limitations imposed by the Devolution Rules, they can best assist and further this development. The remarks on the subject of agriculture made in His Excellency the Viceroy's opening speech on the 20th August, to which the Honourable Member is referred, indicate generally the lines upon which action is at present contemplated.

FLOW OF GANGES WATER BELOW NARORA.

23. The HONOURABLE LALA SUKHBIR SINHA : With reference to a resolution passed in this Council in February last, regarding the Ganges question at Narora in the United Provinces, do Government propose to appoint the Committee recommended in the Resolution and if so, when ?

The HONOURABLE MR. A. A. L. PARSONS : The Government of India do not propose to appoint a Committee for the purpose mentioned in the Resolution.

The HONOURABLE SIR DEVA PRASAD SARVADHIKARY : Are the Government prepared to take any steps with regard to the matter ?

The HONOURABLE MR. A. A. L. PARSONS : No, Sir.

PERCENTAGE FOR HIGHER ADMINISTRATIVE POSTS IN INDIA BY PROVINCES FOR MUHAMMADANS.

24. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI : Will the Government be pleased to state if they propose to introduce a percentage for higher administrative posts in India by Provinces for the Muhammadans ? Will the Government be pleased to state if their attention has been drawn to the speech of Dr. Zia-ud-din Ahmed, M.L.C., of Aligarh, with regard to this matter in London ?

The HONOURABLE MR. J. CRERAR : Appointments to most of the administrative posts in Provinces are made by the Local Government without reference to the Government of India, and the Government of India have no intention of restricting the powers of Local Governments in the manner suggested by the Honourable Member. The attention of Government has not been drawn to the speech by Dr. Zia-ud-din Ahmad and I regret I have not been able to procure a copy of the speech.

APPOINTMENT OF OFFICERS BY DEPUTY POSTMASTERS GENERAL.

25. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI : Will the Government be pleased to state whether the Deputy Postmasters General in the Provinces have the power of appointing any officer under their administration without the sanction of the Postmasters General ?

The HONOURABLE MR. A. A. L. PARSONS : Deputy Postmasters General attached to the larger Circles in order to assist Postmasters-General have no independent powers of appointment. Deputy Postmasters-General in charge of Railway Mail Service Circles and of the minor postal Circles of Sind and Baluchistan have such powers.

CONSTRUCTION OF CHITTAGONG-BURMA RAILWAY.

26. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI : Will the Government be pleased to state if there is any chance of the Chittagong-Burma Railway being opened within five years ?

The HONOURABLE MR. D. T. CHADWICK : The Government are unable to indicate any date for the construction of this railway at present as it is difficult to see how it can give a remunerative return on the capital cost of its construction.

NUMBER OF MUHAMMADANS IN STATE RAILWAYS DRAWING RS. 100 AND UPWARDS.

27. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI : How many Muhammadans are there in the State Railways drawing a salary of rupees one hundred and upwards and what is the proportion they bear to other Indians and non-Indians ? What policy do the Government follow in filling up the vacancies occurring in this Department of Government ? What administrative control does the Railway Board have over the guaranteed Railways ?

The HONOURABLE MR. D. T. CHADWICK : As regards the first part of the question the Honourable Member is referred to the statistics given in Chapter V of the Report by the Railway Board on Indian Railways for 1923-24 showing the numbers by Departments of superior and subordinate staff on State-owned Railways classed under European, Anglo-Indian, Muslim and non-Muslims. Government have no further statistics and do not propose to call for them in any greater detail.

As regards the second part of the question, while seniority is given due weight in the filling of vacancies, the main consideration is efficiency and in accordance with the undertaking given by Sir Malcolm Hailey in March 1923, Government endeavour to correct marked communal inequalities, wherever this is practicable. As regards Company-worked Railways the filling of vacancies rests with the Agents and their Boards of Directors who are aware of the general policy of Government in such matters.

NUMBER OF MUHAMMADANS IN THE IMPERIAL SECRETARIAT AT SIMLA AND DELHI DRAWING RS. 100 AND UPWARDS.

28. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI : How many Muhammadans are there in the Imperial Secretariat at Delhi and Simla, drawing a salary of rupees one hundred and upwards ? Do the Government propose to give a definite share to the Muhammadans in the appointments in the Imperial Secretariat in both the upper and lower divisions ?

The HONOURABLE MR. J. CRERAR : There are 121 Muhammadans in the Imperial Secretariat who are drawing pay of Rs. 100 and upwards.

Government are considering the question whether the policy which has been adopted to secure a measure of communal representation in certain

superior services can suitably be applied to the Government of India Secretariat offices.

MUSSALMAN COLLECTORS OF CUSTOMS.

29. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI: How many Collectors of Customs are there in India and how many of them are Mussalmans?

The HONOURABLE MR. A. C. MCWATTERS: The superior Customs Service consists of 5 Collectors and 30 Assistant Collectors. Of the former appointments none, and of the latter two, are held by Mussalmans.

MUHAMMADAN CONSERVATORS OF FORESTS.

30. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI: How many Conservators of Forests are there in India and how many of them are Muhammadans?

The HONOURABLE MIAN SIR FAZL-I-HUSAIN: There are at present 31 Conservators of Forests in India including Burma, none of whom is an Indian.

MUHAMMADAN EXECUTIVE ENGINEERS AND P. W. D. SUB-DIVISIONAL OFFICERS.

31. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI: Will the Government be pleased to state how many Executive Engineers and P. W. D. Sub-Divisional Officers there are in the various provinces of India and how many of them are Muhammadans?

The HONOURABLE MR. A. A. L. PARSONS: The information required is given in the statement laid on the table.

Statement.

Province.	EXECUTIVE ENGINEERS.		SUB-DIVISIONAL OFFICERS.			
			Assistant Executive Engineers.		Assistant Engineers.	
	Total.	Muham-madans.	Total.	Muham-madans.	Total.	Muham-madans.
Madras	47	..	23	1	67	..
Bombay	67	2	25	1	124	1
Bengal	22	..	16	..	38	1
United Provinces ..	64	5	27	2	92	11
Punjab	96	5	56	6	112	14
Burma	34	..	37	..	63	1
Bihar and Orissa ..	20	..	8	3	13	1
Central Provinces ..	18	..	18	1	49	1
Assam	14	1	2	..	20	1

ADOPTION BY PROVINCES OF THE WAKF ACT OF 1923.

32. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI: Will the Government be pleased to state which of the provinces have adopted the Wakf Act of 1923?

The HONOURABLE MR. J. CRERAR: The Act has been brought into force, with the exception of section 6, in the Punjab and without exception in the United Provinces, and in six districts in Burma, namely, Rangoon including the town of Rangoon, Mandalay, Amherst, Bassein, Akyab and Prome. In the Bombay Presidency the Act has been brought into force except in respect of *wakfs* established for the benefit of the Dowoodi Borah community. The Bihar and Orissa Government propose to apply the Act shortly to the whole province. The Act has not however been brought into force in any other province.

MUHAMMADAN RESIDENTS IN INDIAN STATES.

33. The HONOURABLE KHAN BAHADUR MOULVI AMAN ALI: Will the Government be pleased to state how many Residents there are in the Indian States and how many of them are Muhammadans? Do the Government make these appointments or the States themselves?

The HONOURABLE MR. J. P. THOMPSON: The number is approximately 23. None of those is a Muhammadan. The appointments are made by Government.

DENIAL TO THE DEPRESSED CLASSES OF ACCESS TO POST AND TELEGRAPH OFFICES IN THE MADRAS PRESIDENCY.

34. THE HONOURABLE MR. V. RAMADAS PANTULU: (a) Are the Government aware of the fact that, in certain rural parts in some Districts of the Madras Presidency, members of certain communities called depressed classes, including their representative in the local Legislature like Mr. Virian R., M.L.C., are denied free access to Post and Telegraph Offices situated in localities inhabited by caste Hindus and that they are driven to the necessity of transacting their business through the agency of caste Hindus?

(b) Will the Government be pleased to state whether it proposes to take such steps as it may deem effective to remove this hardship?

The HONOURABLE MR. A. A. L. PARSONS: (a) Yes. Since January 1924 the Postmaster-General has received eighteen complaints with respect to extra-departmental offices and two with respect to departmental offices. Eight of these complaints were found to be groundless; in respect of nine the offices have been removed to accessible localities. The three remaining complaints are still under inquiry.

(b) The question of the inaccessibility of rural offices to the depressed classes came to the notice of the Postmaster-General, Madras, in May 1916. The Postmaster-General issued orders to Superintendents of Post Offices in 1916 and again in 1917 to have all such offices removed to accessible localities. As a result one hundred and three rural offices were removed to accessible localities and, as stated in my reply to (a), nine others have now also been removed.

COLLECTION OF INCOME-TAX BY TWO INSTALMENTS IN THE MADRAS PRESIDENCY.

35. THE HONOURABLE MR. V. RAMADAS PANTULU: (a) Are the Government aware of the fact that the system of collecting income-tax in two instalments in the Madras Presidency was replaced by a system of single payment?

(b) Will the Government be pleased to state whether it will consider the desirability of reverting to the old system of collecting by two instalments?

The HONOURABLE MR. A. C. McWATTERS: (a) Yes. Before the passing of the Income-tax Act, 1922, the system of payment of tax by instalments was in force only in Madras and the United Provinces, but since that Act was passed, a uniform set of rules and instructions has been issued for all Provinces.

(b) On the information before them the Government do not consider it necessary to revert to the old system in Madras.

GRANT OF INCREASE OF PAY IN LIEU OF OVERSEAS ALLOWANCES TO INDIAN OFFICERS IN RAILWAY SERVICE.

36. THE HONOURABLE MR. V. RAMADAS PANTULU: Will the Government be pleased to state—

(a) whether, when the new scale of pay was for the first time introduced in 1919-20 along with overseas allowance, it was ruled with regard to Indian officers, already in Railway Service at the time, that they should get increase of pay in lieu of overseas allowance to the same extent as officers of European domicile in corresponding grades;

(b) whether it was not the intention that this privilege should be extended to existing Indian officers in respect to the higher grades to which they might have subsequently been promoted;

(c) whether this rule is being observed in practice on all Company-worked lines on which there had been previously no distinction in scales of pay between European and Indian officials;

(d) whether it is a fact that this rule is not being observed by the South Indian Railway Administration?

The HONOURABLE MR. D. T. CHADWICK: (a) Yes, to officers of certain departments of the State Railway Revenue Establishment only.

(b) No. The overseas pay was confined to officers of Assistant and Executive ranks only.

(c) and (d). Government have no information nor do they propose to call for it.

REDUCTION OF THE DUTY ON SALT USED FOR FISH CURING.

37. THE HONOURABLE MR. V. RAMADAS PANTULU: (a) Will the Government be pleased to state whether the use of salt-earth for curing fish was prohibited on sanitary grounds?

(b) Will the Government be pleased to state the terms on which owners of fish curing yards on the West and East Coast of Southern India are supplied with salt necessary for the industry?

(c) Will the Government be pleased to state the amount of the duty levied on such salt and whether it is a fact that the duty was enhanced from 10 annas to Rs. 1-4 per maund since April 1924?

(d) Will the Government be pleased to state the reason for such enhancement when the duty on edible salt was reduced from Rs. 2-8-0 to Rs. 1-4-0?

(e) Will the Government be pleased to take steps to remove the hardship caused to the industry by this enhanced duty?

The HONOURABLE MR. A. C. McWATTERS: The information asked for by the Honourable Member is being obtained and will be furnished to him in due course.

ANNUAL CLASSIFICATION IN THE PIECE WORK ESTABLISHMENT OF THE GOVERNMENT OF INDIA PRINTING, CALCUTTA.

38. THE HONOURABLE MR. G. S. KHAPARDE: With reference to the answer given to my question No. 45, dated the 3rd February 1925, will the Government be pleased to state—

(a) whether the new scheme mentioned therein is ready and has been brought into operation;

(b) if so, since when; and

(c) what are the modifications made thereby in the present system?

The HONOURABLE MR. A. A. L. PARSONS: (a) The answer is in the negative.

(b) and (c) Do not arise.

PROVIDENT FUNDS IN GOVERNMENT PRESSES.

39. THE HONOURABLE MR. G. S. KHAPARDE: With reference to the answer to my question No. 47 of 3rd February 1925, will the Government be pleased to state—

(a) why a Provident Fund has not been brought into operation in the Government of India Printing Presses; and

(b) what is the provision for piece-workers who, by some mishap or otherwise, get incapacitated for further work after 10 or 15 years' regular work in the Press?

The HONOURABLE MR. A. A. L. PARSONS: (a) The Honourable Member is referred to the reply given by me to his question No. 6.

(b) A piece-worker who is incapacitated for further work after 10 or 15 years' service is entitled to a pension in accordance with the Civil Service Regulations.

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METHOD OF PAYMENT TO PIECE-WORKERS IN THE BOOK-BINDING DEPARTMENT
OF THE CALCUTTA PRESS.

40. THE HONOURABLE MR. G. S. KHAPARDE: (a) With reference to the answer given to my question No. 316 of 3rd September 1924, will the Government be pleased to state whether in the book-binding department of the Government of India Printing Press at Calcutta, piece-workers, who make up plates, plans, diagrams, etc., are still paid by the hour?

(b) Is it a fact that, since 5th June last, they are paid not by the hours but by rates? If so, why?

The HONOURABLE MR. A. A. L. PARSONS: (a) No.

(b) Yes. When hour rates were paid the men worked so slowly that it was found necessary to adopt the piece rate system under which they are remunerated strictly in accordance with the amount of work done.

MAKING OVER CHARGE OF THE GOVERNORSHIP OF ASSAM BY SIR JOHN KERR.

41. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: (a) Would the Government please state the reasons that necessitated Sir John Kerr having to go to Shillong from Calcutta to make over charge of the officiating Governorship of Assam to Sir William Reid prior to going on leave?

(b) Is it not a fact that this involved considerable expenditure of time and public money?

The HONOURABLE MR. J. CRERAR: (a) In order to remove any doubts as to whether the Warrant appointing Sir John Kerr to be Governor of the Province of Assam was still in force after his tenure of the appointment of Acting Governor of Bengal, it was considered advisable to issue a new Warrant of Appointment, and Sir John Kerr had in consequence to proceed to Shillong to be installed as Governor.

(b) The point involved has been noted for consideration when the Government of India Act is next amended.

PHILIP DUFF COMMISSION'S REPORT.

42. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: (a) Would the Government please state what action has been taken on the Philip Duff Commission's Report regarding the amalgamation of the Ooria-speaking tracts of India in one administration?

(b) If no action has been taken, would the Government please state what and how soon action will be taken?

The HONOURABLE MR. J. CRERAR: The Government of India have recently received the reply of the Madras Government and this is under active consideration. They are unable to make any further announcement at present.

AMOUNT OF EXTRA POSTAGE REALISED YEARLY ON BOOK AND OTHER PACKETS
WHEN REDIRECTED.

43. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: (a) Will the Government please lay on the table a statement showing the amount of extra postage realised yearly on book and other packets when redirected?

(b) Would the Government please state why such extra postage is collected?

The HONOURABLE MR. A. A. L. PARSONS: (a) No extra fee is levied for the redirection of packets. A fee has been levied since the 1st July 1924 for the redirection of parcels and this fee brought in about Rs. 28,000 from July 1924 to June 1925.

(b) Unlike other postal articles the work involved in dealing with a re-directed parcel is just as great as for first transmission. The expense incurred in handling and transmitting parcels is also much greater than with other articles. The differential treatment between the former and latter classes of articles is also recognised in International Postal Regulations.

The HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is the Honourable Member in a position to define what a packet and a parcel is, and whether a packet of books sent by the Government here to Honourable Members, which comes back to them redirected here or elsewhere, would come under the term parcel, entailing a levy of extra postage?

The HONOURABLE MR. A. A. L. PARSONS: I understand that a packet is a parcel which is open at both ends, and that a parcel is a packet which is closed at both ends.

The HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Will some Honourable Member belonging to the Government take steps to see that bundles of papers sent to Honourable Members are kept open at both ends and do not entail the levy of extra postage?

INTRODUCTION OF COUPÉ COMPARTMENTS ON RAILWAYS.

44. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: (a) Will the Government please state what steps have been taken for the introduction of coupé compartments on the different Railways?

(b) Will the Government also please state when a larger introduction of lower class coupé compartments will be effected?

The HONOURABLE MR. D. T. CHADWICK: The Honourable Member will find information concerning the steps taken by Railways to introduce coupé compartments in Volume I of the Report by the Railway Board for 1924-25 which it is hoped will be published very shortly.

STATEMENT LAID ON THE TABLE.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I lay on the table the Convention and Statute on the International Regime of Maritime Ports and Protocol of Signature ratified on behalf of India.

Ratified on behalf of India.

C-823 M.-312 VIII, 1923.
[C. G. C. T.-36.]

LEAGUE OF NATIONS.

SECOND GENERAL CONFERENCE ON COMMUNICATIONS AND TRANSIT.
(NOVEMBER 15TH—DECEMBER 9TH, 1923.)

CONVENTION AND STATUTE ON THE INTERNATIONAL REGIME OF MARITIME
PORTS AND PROTOCOL OF SIGNATURE.

(As this Convention is to remain open for signature until October 31st, 1924, the names of the countries and of their plenipotentiaries will be inscribed on that date in alphabetical order.)

* * * * *

Desirous of ensuring in the fullest measure possible the freedom of communications mentioned in Article 23 (e) of the Covenant by guaranteeing in the maritime ports situated under their sovereignty or authority and for purposes of international trade equality of treatment between the ships of all the Contracting States, their cargoes and passengers;

Considering that the best method of achieving their present purpose is by means of a General Convention to which the greatest possible number of States can later accede;

And whereas the Conference which met at Genoa on April 10th, 1922, requested, in a resolution which was transmitted to the competent organisations of the League of Nations with the approval of the Council and the Assembly of the League, that the International Conventions relating to the Regime of Communications provided for in the Treaties of Peace should be concluded and put into operation as soon as possible, and whereas Article 379 of the Treaty of Versailles and the corresponding articles of the other Treaties provide for the preparation of a General Convention on the International Regime of Ports;

Having accepted the invitation of the League of Nations to take part in a Conference which met at Geneva on November 15th, 1923;

Desirous of bringing into force the provisions of the Statute relating to the International Regime of Ports adopted thereat, and of concluding a General Convention for this purpose, the High Contracting Parties have appointed as their plenipotentiaries

[Here follow the names.]

* * * * *

who, after communicating their full powers, found in good and due form, have agreed as follows:—

Article 1.

The Contracting States declare that they accept the Statute on the International Regime of Maritime Ports annexed hereto, adopted by the Second General Conference on Communications and Transit which met at Geneva on November 15th, 1923.

This Statute shall be deemed to constitute an integral part of the present Convention

Consequently, they hereby declare that they accept the obligations and undertakings of the said Statute in conformity with the terms and in accordance with the conditions set out therein.

Article 2.

The present Convention does not in any way affect the rights and obligations arising out of the provisions of the Treaty of Peace signed at Versailles on June 28th, 1919, or out of the provisions of the other corresponding Treaties, in so far as they concern the Powers which have signed, or which benefit by, such Treaties.

Article 3.

The present Convention of which the French and English texts are both authentic, shall bear this day's date, and shall be open for signature until October 31st, 1924, by any

State represented at the Conference of Geneva by any Member of the League of Nations and by any States to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Article 4.

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify their receipt to every State signatory of or acceding to the Convention.

Article 5.

On and after November 1st, 1924, the present Convention may be acceded to by any State represented at the Conference referred to in Article 1, by any Member of the League of Nations, or by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Accession shall be effected by an instrument communicated to the Secretary-General of the League of Nations to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to every State signatory of or acceding to the Convention.

Article 6.

The present Convention will not come into force until it has been ratified in the name of five States. The date of its coming into force shall be the ninetieth day after the receipt by the Secretary-General of the League of Nations of the fifth ratification. Thereafter, the present Convention will take effect in the case of each Party ninety days after the receipt of its ratification or of the notification of its accession.

In compliance with the provisions of Article 18 of the Covenant of the League of Nations, the Secretary-General will register the present Convention upon the day of its coming into force.

Article 7.

A special record shall be kept by the Secretary-General of the League of Nations showing, with due regard to the provisions of Article 9, which of the Parties have signed, ratified, acceded to or denounced the present Convention. This record shall be open to the Members of the League at all times; it shall be published as often as possible, in accordance with the directions of the Council.

Article 8.

Subject to the provisions of Article 2 above, the present Convention may be denounced by any Party thereto after the expiration of five years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the Secretary-General of the League of Nations. Copies of such notification shall be transmitted forthwith by him to all the other Parties, informing them of the date on which it was received.

A denunciation shall take effect one year after the date on which the notification thereof was received by the Secretary-General, and shall operate only in respect of the notifying State.

Article 9.

Any State signing or acceding to the present Convention may declare at the moment either of its signature, ratification or accession, that its acceptance of the present Convention does not include any or all of its colonies, overseas possessions, protectorates, or overseas territories, under its sovereignty or authority, and may subsequently accede, in conformity with the provisions of Article 5, on behalf of any such colony, overseas possession, protectorate or territory excluded by such declaration.

Denunciation may also be made separately in respect of any such colony, overseas possession, protectorate or territory and the provisions of Article 8 shall apply to any such denunciation.

Article 10.

The revision of the present Convention may be demanded at any time by one-third of the Contracting States.

In faith whereof the above-named plenipotentiaries have signed the present Convention.

DONE at Geneva the ninth day of December, one thousand nine hundred and twenty-three, in a single copy which shall remain deposited in the Archives of the Secretariat of the League of Nations.

[Here follow the signatures.]

STATUTE.

Article 1.

All ports which are normally frequented by sea-going vessels and used for foreign trade shall be deemed to be maritime ports within the meaning of the present Statute.

Article 2.

Subject to the principle of reciprocity and to the reservation set out in the first paragraph of Article 3, every Contracting State undertakes to grant the vessels of every other Contracting State equality of treatment with its own vessels, or those of any other State whatsoever, in the maritime ports situated under its sovereignty or authority, as regards freedom of access to the port, the use of the port, and the full enjoyment of the benefits as regards navigation and commercial operations which it affords to vessels, their cargoes and passengers.

The equality of treatment thus established shall cover facilities of all kinds, such as allocation of berths, loading and unloading facilities, as well as dues and charges of all kinds levied in the name or for the account of the Government, public authorities, concessionaries or undertakings of any kind.

Article 3.

The provisions of the preceding article in no way restrict the liberty of the competent Port Authorities to take such measures as they may deem expedient for the proper conduct of the business of the port provided that these measures comply with the principle of equality of treatment as defined in the said article.

Article 4.

All dues and charges levied for the use of maritime ports shall be duly published before coming into force.

The same shall apply to the by-laws and regulations of the port.

In each maritime port, the Port Authority shall keep open for inspection by all persons concerned a table of the dues and charges in force, as well as a copy of the by-laws and regulations.

Article 5.

In assessing and applying Customs and other analogous duties, local octroi or consumption duties, or incidental charges, levied on the importation or exportation of goods through the maritime ports situated under the sovereignty or authority of the Contracting States, the flag of the vessel must not be taken into account, and accordingly no distinction may be made to the detriment of the flag of any Contracting State whatsoever as between that flag and the flag of the State under whose sovereignty or authority the port is situated, or the flag of any other State whatsoever.

Article 6.

In order that the principle of equal treatment in maritime ports laid down in Article 2 may not be rendered ineffective in practice by the adoption of other methods of discrimination against the vessels of a Contracting State using such ports, each Contracting

State undertakes to apply the provisions of Articles 4, 20, 21 and 22 of the Statute annexed to the Convention on the International Regime of Railways, signed at Geneva on December 9th, 1923, so far as they are applicable to traffic to or from a maritime port, whether or not such Contracting State is a party to the said Convention on the International Regime of Railways. The aforesaid articles are to be interpreted in conformity with the provisions of the Protocol of Signature of the said Convention. (See Annex.)

Article 7.

Unless there are special reasons justifying an exception, such as those based upon special geographical, economic, or technical conditions, the Customs duties levied in any maritime port situated under the sovereignty or authority of a Contracting State may not exceed the duties levied on the other Customs frontiers of the said State on goods of the same kind, source or destination.

If, for special reasons as set out above, a Contracting State grants special Customs facilities on other routes for the importation or exportation of goods, it shall not use these facilities as a means of discriminating unfairly against importation or exportation through the maritime ports situated under its sovereignty or authority.

Article 8.

Each of the Contracting States reserves the power, after giving notice through diplomatic channels, of suspending the benefit of equality of treatment from any vessel of a State which does not effectively apply, in any maritime port situated under its sovereignty or authority, the provisions of this Statute to the vessels of the said Contracting State their cargoes and passengers.

In the event of action being taken as provided in the preceding paragraph, the State which has taken action and the State against which action is taken, shall both alike have the right of applying to the Permanent Court of International Justice by an application addressed to the Registrar; and the Court shall settle the matter in accordance with the rules of summary procedure.

Every Contracting State shall, however, have the right, at the time of signing or ratifying this Convention, of declaring that it renounces the right of taking action as provided in the first paragraph of this article against any other State which may make a similar declaration.

Article 9.

This Statute does not in any way apply to the maritime coasting trade.

Article 10.

Each Contracting State reserves the right to make such arrangements for towage in its maritime ports as it thinks fit, provided that the provisions of Articles 2 and 4 are not thereby infringed.

Article 11.

Each Contracting State reserves the right to organise and administer pilotage services as it thinks fit. Where pilotage is compulsory, the dues and facilities offered shall be subject to the provisions of Articles 2 and 4, but each Contracting State may exempt from the obligation of compulsory pilotage such of its nationals as possess the necessary technical qualifications.

Article 12.

Each Contracting State shall have the power, at the time of signing or ratifying this Convention, of declaring that it reserves the right of limiting the transport of emigrants, in accordance with the provisions of its own legislation to vessels which have been granted special authorisation as fulfilling the requirements of the said legislation. In exercising this right, however, the Contracting State shall be guided, as far as possible, by the principles of this Statute.

The vessels so authorised to transport emigrants shall enjoy all the benefits of this Statute in all maritime ports.

Article 13.

This Statute applies to all vessels, whether publicly or privately owned or controlled.

It does not, however, apply in any way to warships or vessels performing police or administrative functions or, in general, exercising any kind of public authority, or any other vessels which for the time being are exclusively employed for the purposes of the Naval, Military or Air Forces of a State.

Article 14.

This Statute does not in any way apply to fishing vessels or to their catches.

Article 15.

Where, in virtue of a treaty, convention or agreement, a Contracting State has granted special rights to another State within a defined area in any of its maritime ports for the purpose of facilitating the transit of goods or passengers to or from the territory of the said State, no other Contracting State can invoke the stipulations of this Statute in support of any claim for similar special rights.

Every Contracting State which enjoys the aforesaid special rights in a maritime port of another State, whether contracting or not, shall conform to the provisions of this Statute in its treatment of the vessels trading with it and their cargoes and passengers.

Every Contracting State which grants the aforesaid special rights to a non-Contracting State is bound to impose, as one of the conditions of the grant, an obligation on the State which is to enjoy the aforesaid rights to conform to the provisions of this Statute in its treatment of the vessels trading with it and their cargoes and passengers.

Article 16.

Measures of a general or particular character which a Contracting State is obliged to take in case of an emergency affecting the safety of the State or the vital interests of the country may, in exceptional cases, and for as short a period as possible involve a deviation from the provisions of Articles 2 to 7 inclusive; it being understood that the principles of the present Statute must be observed to the utmost possible extent.

Article 17.

No Contracting State shall be bound by this Statute to permit the transit of passengers whose admission to its territories is forbidden, or of goods of a kind of which the importation is prohibited, either on grounds of public health or security, or as a precaution against diseases of animals or plants. As regards traffic other than traffic in transit, no Contracting State shall be bound by this Statute to permit the transport of passengers whose admission to its territories is forbidden, or of goods of which the import or export is prohibited, by its national laws.

Each Contracting State shall be entitled to take the necessary precautionary measures in respect of the transport of dangerous goods or goods of a similar character, as well as general police measures, including the control of emigrants entering or leaving its territory, it being understood that such measures must not result in any discrimination contrary to the principles of the present Statute.

Nothing in this Statute shall affect the measures which one of the Contracting States is or may feel called upon to take in pursuance of general international conventions to which it is a party, or which may be concluded hereafter, particularly conventions concluded under the auspices of the League of Nations, relating to the traffic in women and children, the transit, export or import of particular kinds of articles such as opium or other dangerous drugs, arms, or the produce of fisheries, or in pursuance of general conventions intended to prevent any infringement of industrial, literary or artistic property, or relating to false marks, false indications of origin or other methods of unfair competition.

Article 18.

This Statute does not prescribe the rights and duties of belligerents and neutrals in time of war. The Statute shall, however, continue in force in time of war so far as such rights and duties permit.

Article 19.

The Contracting States undertake to introduce into those conventions in force on December 9th, 1923, which contravene the provisions of this Statute, so soon as circumstances permit and in any case on the expiry of such conventions, the modifications required to bring them into harmony with such provisions, so far as the geographical economic or technical circumstances of the countries or areas concerned allow.

The same shall apply to concessions granted before December 9th, 1923, for the total or partial exploitation of maritime ports.

Article 20.

This Statute does not entail in any way the withdrawal of facilities which are greater than those provided for in the Statute and which have been granted in respect of the use of maritime ports under conditions consistent with its principles. This Statute also entails no prohibition of such grant of greater facilities in the future.

Article 21.

Without prejudice to the provisions of the second paragraph of Article 8, disputes which may arise between Contracting States as to the interpretation or the application of the present Statute shall be settled in the following manner:

Should it prove impossible to settle such dispute either directly between the Parties or by any other method of amicable settlement the Parties to the dispute may, before resorting to any procedure of arbitration or to a judicial settlement, submit the dispute for an advisory opinion to the body established by the League of Nations as the advisory and technical organisation of Members of the League for matters of communications and transit. In urgent cases a preliminary opinion may be given recommending temporary measures, including measures to restore the facilities for international traffic which existed before the act or occurrence which gave rise to the dispute.

Should it prove impossible to settle the dispute by any of the methods of procedure enumerated in the preceding paragraph, the Contracting States shall submit their dispute to arbitration, unless they have decided or shall decide, under an agreement between them, to bring it before the Permanent Court of International Justice.

Article 22.

If the case is submitted to the Permanent Court of International Justice, it shall be heard and determined under the conditions laid down in Article 27 of the Statute of the Court.

If arbitration is resorted to, and unless the Parties decide otherwise, each Party shall appoint an arbitrator, and a third member of the arbitral tribunal shall be elected by the arbitrators, or, in case the latter are unable to agree, shall be selected by the Council of the League of Nations from the list of assessors for Communications and Transit cases mentioned in Article 27 of the Statute of the Permanent Court of International Justice; in such latter case, the third arbitrator shall be selected in accordance with the provisions of the penultimate paragraph of Article 4 and the first paragraph of Article 5 of the Covenant of the League.

The arbitral tribunal shall judge the case on the basis of the terms of reference mutually agreed upon between the Parties. If the Parties have failed to reach an agreement, the arbitral tribunal, acting unanimously, shall itself draw up terms of reference after considering the claims formulated by the Parties; if unanimity cannot be obtained, the Council of the League of Nations shall decide the terms of reference under the conditions laid down in the preceding paragraph. If the procedure is not determined by the terms of reference it shall be settled by the arbitral tribunal.

During the course of the arbitration the Parties, in the absence of any contrary provision in the terms of reference, are bound to submit to the Permanent Court of International Justice any question of international law or question as to the legal meaning of this Statute the solution of which the arbitral tribunal at the request of one of the Parties, pronounces to be a necessary preliminary to the settlement of the dispute.

Article 23.

It is understood that this Statute must not be interpreted as regulating in any way rights and obligations *inter se* of territories forming part of or placed under the protection of the same sovereign State, whether or not these territories are individually Contracting States.

Article 24.

Nothing in the preceding articles is to be construed as affecting in any way the rights or duties of a Contracting State as Member of the League of Nations.

ANNEX.

Text of the articles of the Statute on the International Regime of Railways and of the provisions relating thereto contained in the Protocol of Signature :

Article 4. Recognising the necessity of granting sufficient elasticity in the operation of railways to allow the complex needs of traffic to be met, it is the intention of the Contracting States to maintain unimpaired full freedom of operation while ensuring that such freedom is exercised without detriment to international traffic.

They undertake to give reasonable facilities to international traffic and to refrain from all discrimination of an unfair nature directed against the other Contracting States, their nationals or their vessels.

The benefit of the provisions of the present article is not confined to traffic governed by a single contract ; it extends also to the traffic dealt with in Articles 21 and 22 of the present Statute subject to the conditions specified in the said articles.

Article 20. The Contracting States, recognising the necessity in general of leaving tariffs sufficient flexibility to permit of their being adapted as closely as possible to the complex needs of trade and commercial competition retain full freedom to frame their tariffs in accordance with the principles accepted by their own legislation, provided that this freedom is exercised without detriment to international traffic.

They undertake to apply to international traffic tariffs which are reasonable both as regards their amounts and the conditions of their application, and undertake to refrain from all discrimination of an unfair nature directed against the other Contracting States, their nationals or their vessels.

These provisions shall not prevent the establishment of combined rail and sea tariffs which comply with the principles laid down in the previous paragraphs.

Article 21. The benefit of the provisions of Article 20 shall not be confined to transport based on single contracts. It shall extend equally to transport made up of successive stages by rail, by sea or by any other mode of transport traversing the territory of more than one Contracting State and regulated by separate contracts, subject to the fulfilment of the following conditions :

Each of the successive contracts must specify the initial source and final destination of the consignment ; during the whole duration of carriage the goods must remain under the supervision of the carriers and must be forwarded by each carrier to his successor direct and without delay other than that necessary for the completion of the transport operations and the Customs, octroi, police or other administrative formalities.

Article 22. The provisions of Article 20 shall be equally applicable to internal, as well as to international, traffic by rail as regards goods which remain temporarily at the port without regard to the flag under which they have been imported or will be exported.

Protocol of Signature. It is understood that any differential treatment of flags based solely on the consideration of the flag should be considered as discrimination of an unfair nature in the sense of Articles 4 and 20 of the Statute on the International Regime of Railways.

PROTOCOL OF SIGNATURE OF THE CONVENTION ON THE INTERNATIONAL REGIME OF MARITIME PORTS.

At the moment of signing the Convention of to-day's date relating to the International Regime of Maritime Ports, the undersigned, duly authorised, have agreed as follows : —

1. It is understood that the provisions of the present Statute shall apply to ports of refuge specially constructed for that purpose.

2. It is understood that the British Government's reservation as to the provisions of Section 24 of the " Pilotage Act " of 1913 is accepted.

3. It is understood that the obligations laid down in French Law in regard to ship brokers shall not be regarded as contrary to the principle and spirit of the Statute on the International Regime of Maritime Ports.

4. It is understood that the condition of reciprocity laid down in Article 2 of the Statute on the International Regime of Maritime Ports shall not exclude from the benefit of the said Statute Contracting States which have no maritime ports and do not enjoy in any zone of a maritime port of another State the rights mentioned in Article 15 of the said Statute.

5. In the event of the flag or nationality of a Contracting State being identical with the flag or nationality of a State or territory which is outside the Convention, no claim can be advanced on behalf of the latter State or territory to the benefits assured by this Statute to the flags or nationals of Contracting States.

The present Protocol will have the same force, effect and duration as the Statute of to-day's date of which it is to be considered as an integral part.

In faith whereof the above-mentioned plenipotentiaries have signed the present Protocol.

DONE at Geneva, the ninth day of December, one thousand nine hundred and twenty-three, in a single copy, which will remain deposited in the archives of the Secretariat of the League of Nations ; certified copies will be transmitted to all the States represented at the Conference.

[Here follow the same signatures as those appearing at the end of the Convention.]

FINAL ACT OF THE SECOND GENERAL CONFERENCE ON COMMUNICATIONS AND TRANSIT.

The second General Conference on Communications and Transit, convened in accordance with the Rules of Procedure for General Conferences adopted at the Barcelona Conference, and in execution of the resolutions adopted by the Council of the League of Nations on April 19th, 1923, met on November 15th, 1923, at the seat of the Secretariat of the League of Nations at Geneva.

The Conference discussed the Agenda prepared by the Advisory and Technical Committee for Communications and Transit. In particular, it considered a Draft Convention and Statute on the International Regime of Railways, a Draft Convention and Statute on the International Regime of Maritime Ports, a Draft Convention and Statute relating to the Transmission in Transit of Electric Power, and a Draft Convention and Statute relating to the Development of Hydraulic Power affecting more than one State.

The Council of the League of Nations appointed

M. Ettore CONTI, Senator of the Kingdom of Italy, as President of the Conference.

The Secretarial work was entrusted to the following members of the Communications and Transit Section of the Secretariat of the League of Nations :—

M. R. HAAS (Secretary-General of the Conference) ;

Mr. T. A. HIAM ;

M. J. M. F. ROMEIN.

The following States participated in the Conference, and for this purpose appointed the Delegations, whose members are set out below :

[Here follow the names of States and their Delegates.]

The Conference met from November 15th until December 9th. The Conference adopted the four Draft Conventions submitted to it for discussion.

The Conference also adopted the following recommendations :—

“The Conference recommends the Contracting States to encourage the conclusion of special Conventions, in the sense of Articles 21 and 38 of the Statute on the International Regime of Railways, with a view to providing for the carriage by rail, or other means of transport, of goods which cannot be consigned on a single contract and which are therefore forwarded by successive contracts and remain, throughout the whole duration of carriage, under the charge of the carrier.”

* * * * *

“With a view to ensuring the widest possible extension of the principles of freedom of communication, of equality of treatment and of reciprocity, which are the basis of the Convention and Statute relating to the International Regime of Maritime Ports adopted by the Conference held at Geneva on December 9th, 1923, and which govern, in accordance with the principles of the Covenant and also in conformity with the resolution of the Economic Conference held at Geneva in 1922, the rights laid down in the above-mentioned Statute ;

“Considering that the critical conditions in all countries are due, among other causes to restrictions affecting passenger and goods traffic which have come into being and have recently become accentuated ;

“The Conference recommends that all States, including those which are not members of the League of Nations, should accept the fundamental principles of the above-mentioned Statute, and should refrain from inequitable economic measures such as, in particular, an abusive extension of the conception of maritime coasting trade ;

“More especially, the Conference recommends to States signatories of the Convention relating to the International Regime of Maritime Ports, or adhering thereto, which are under the same sovereignty as other States whose territory is situated overseas or which have such territories under their sovereignty or authority, to apply, in all circumstances, in their ports or in the ports of such territories, and, under the conditions laid down in Articles 2, 5 and 6, to ships of their nationality carrying on trade between their territories and such States or territories overseas, and to their cargoes and passengers, the same treatment as is applied to the ships of other Contracting States utilising the aforesaid ports and carrying on other trade than the trade specified above.”

* * * * *

“The Conference expresses the hope that the Contracting States will endeavour to ensure the widest possible application of the provisions of the Convention on the Regime of Maritime Ports, the Convention on the Regime of Railways, the Convention relating to the Transmission in Transit of Electric Power and the Convention relating to the Development of Hydraulic Power, in the colonies, overseas possessions, protectorates and overseas territories placed under their sovereignty or authority, unless special circumstances render this impossible, and meanwhile that, in particular as regards the Convention of the Regime of Maritime Ports, they will grant equitable treatment to the vessels, passengers and cargoes of the other Contracting States and maintain the facilities existing at present in the chief colonial ports open to international traffic.”

* * * * *

“The Conference notes the recommendation made by the Central Commission for Rhine Navigation which is as follows :

‘The Commission hopes that the competent organisations of the League of Nations will consider the best method of assuring collaboration between waterways and railways.’

“Considering that the question raised by the Central Commission is of a highly complicated character and calls for full and careful investigation,

“And, in view of the great importance of the question,

“The Conference refers the matter to the Secretary-General of the League of Nations and requests him to instruct the competent organisations of the League to carry out this investigation with a view to the making of such recommendations as may appear desirable.”

In faith whereof the Delegates have signed the present Act.

DONE at Geneva the ninth day of December, one thousand nine hundred and twenty-three, in a single copy, which shall remain deposited in the Archives of the Secretariat of the League of Nations.

[Here follow the signatures.]

GOVERNOR GENERAL'S ASSENT TO BILLS.

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

The Indian Merchant Shipping (Amendment) Act, 1925.

The Indian Paper Currency (Amendment) Act, 1925.

The Workmen's Breach of Contract (Repealing) Act, 1925.

The Indian Soldiers (Litigation) Act, 1925.

The Indian Income-tax (Amendment) Act, 1925.

The Legislative Assembly (President's Salary) Act, 1925.

The Cantonments (Amendment) Act, 1925.

The Obscene Publications Act, 1925.

The Indian Ports (Amendment) Act, 1925.

The Cantonments (House Accommodation Amendment) Act, 1925.

The Indian Merchant Shipping (Second Amendment) Act, 1925.

The Cotton Ginning and Pressing Factories Act, 1925.

The Indian Finance Act, 1925.

The Indian Tariff (Amendment) Act, 1925.

The Indian Stamp (Amendment) Act, 1925.

The Indian Income-tax (Second Amendment) Act, 1925.

The Prisons (Amendment) Act, 1925.

The Indian Cotton Cess (Amendment) Act, 1925.

DEATHS OF LORD RAWLINSON, SIR SURENDRA NATH BANERJEA AND MR. C. R. DAS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member) : Sir, let me, on behalf of the House, discharge a very pleasing duty of extending a cordial welcome to the new Members who have taken their oaths of office this morning. I feel sure that their accession to our ranks will lend considerable weight and prestige to our deliberations.

[Sir Narasimha Sarma.]

I next proceed to the sad task of recounting a melancholy tale of the losses which this country and the House in particular have sustained since the Delhi Session was closed in March last. Honourable Members will remember how towards the close of the March Session they found one morning suddenly missing from their midst the stately and stalwart figure of His Excellency the then Commander-in-Chief, Lord Rawlinson, who adorned these Benches for upwards of four years. All of us recorded a fervent and tearful prayer and expressed a devout hope that Lord Rawlinson might be restored to us again in the full vigour of his health, but alas it was willed otherwise, and the cruel hand of death has snatched away from us a distinguished soldier-statesman, one to whom India and the Empire looked forward eagerly for a continuance of the eminent services which he had rendered to the Empire both in times of peace and war. The unique demonstration of affection and gratitude which followed and the poignant grief with which all classes of the population and all parts of the Empire mourned his sudden death are proof positive of the immense loss which the country and this House sustained in Lord Rawlinson's disappearance from the ranks of the fighters in the country's cause.

I have had exceptional opportunities of watching what Lord Rawlinson had been attempting to do on behalf of India. I did not always see eye to eye with him, and I have had occasions to repent my folly in pressing several points on his attention: and let me therefore assure my countrymen that in Lord Rawlinson they had a friend who would have placed this country on a firmer foundation where progress was possible in all directions. Efficiency, economy and self-dependence were his mottos, and he succeeded in an eminent degree in fulfilling those objects. But, alas, we are all creatures of circumstances: and if he did not do more, if he could not do more, it was not for lack of will or lack of determination to help India but owing to other causes. But we need not weep in vain. Nature knows no void, she does not permit it, and we are grateful that His Majesty has been pleased to permanently appoint as Lord Rawlinson's successor a soldier no less distinguished in war, a Field Marshal, whom we can welcome in an even greater degree as being associated with India and the Indian Army, one whose family has been connected with India for generations past. We welcome him, and we feel assured that under his able guidance the Indian Army will make even more rapid progress towards efficiency and economy, and that India will be placed firmly on the path by which she can become self-dependent.

But the tale of woe and suffering of India does not end in a recital of the premature death of our Commander-in-Chief. Yama has always been impartial, is known to be impartial, and he has asked us to spare, for his company, two of our most ardent patriots. India and Bengal alike mourn the loss from their midst of Sir Surendra Nath Banerjea and Mr. C. R. Das. But India has always been known to be a land of sacrifices, and she cannot grudge Yama the company of these two distinguished men. Both were men of great intellectual eminence and considerable emotional feeling. These two virtues, these two qualities, were combined in their personalities in varying degrees and varying proportions. I had the honour and privilege of a longer acquaintance with Sir Surendra Nath than with Mr. C. R. Das. I remember,—as

if it occurred only yesterday—how 37 years ago at the third Indian National Congress held in Madras in the year 1887 I had the privilege of listening to the magnificent eloquence which always distinguished Sir Surendra Nath. He and I were both delegates. I was a mere youth who, drawn by the political glamour of the advancement of his country, joined the ranks of the Congress so far back as 1887. Sir Surendra Nath lived to see the partial fruition of his endeavours, of his unremitting labours on behalf of his country, which extended over a period of fifty years and more. He had the satisfaction that the reforms which he pleaded for over a period of 40 years had been introduced partially, slowly, gradually, but certainly—and I could mark a note of satisfaction, a warmth of feeling towards the British connection in which he believed lay the best chance of progress for India, and he felt optimistic, he felt hopeful that that union was being consolidated on firm foundations. He has been truly described as the father of Indian nationalism. If he was not the sole father of Indian nationalism, he was certainly its foster parent also. No one did more towards consolidating national unity than did that eminent statesman. I can well remember the immense sacrifices that he had made on behalf of his country, the distinguished services he had rendered both in and out of the Parliaments of India, and, lastly, as a Minister of the Crown. His wise guiding hand has disappeared just at the moment when it was being lifted again for the benefit of his countrymen. Mr. C. R. Das could lay equal claim to patriotic fervour, to undoubted self-effacement and self-sacrifice in the nation's cause: and the energy and the fervour which in the case of Sir Surendra Nath Banerjea were spread over a period of fifty years found aggressive expression—spread over a very much shorter period and naturally with greater intensity—in Mr. C. R. Das. He was possessed of great ability as a lawyer and of considerable intellectual powers, but I should think, though my acquaintance with him had not been very long, he possessed the emotional faculty, deep emotional feeling in even greater abundance than Sir Surendra Nath, and hence the difference in the careers of these two eminent personalities. Mr. Das's pent-up emotions and his energies were suddenly brought into activity at an acute phase in the country's development of political ideals.

I remember how we sat facing him at one of the Committee meetings of the Congress where some of us could not appreciate the logic of his arguments, and I remember the flash of fire from his indignant eyes when he brushed aside logic and arguments as of no moment in these large questions we were discussing and I sat cold and unmoved, it is true, but still could appreciate what was moving that patriot and how that emotional fervour was gaining adherents daily to his view point. Alas, we have lost him just at the wrong moment, at a moment when his richly earned claim to a following and his dearly bought experience were inducing him to make his activities run into new and fruitful channels. Just at that time when India could ill spare him, when his guiding hand and the guiding hand of Sir Surendra Nath Banerjea might have been of inestimable use in moulding and shaping the current of popular feeling, he has been snatched away from us. India's loss, Bengal's loss, have been great indeed. Sir, he lived too intensely. His generous impulses appealed to a nation which always looked upon asceticism as one of the highest ideals

[Sir Narasimha Sarma.]

of man and there is no doubt that he floated on the wave of this enthusiastic national feeling and headed its course and might have moulded that current into channels which would have fructified the country's energies in useful directions. Sir, our loss has been great. Greater has been the loss of those who have been nearly and dearly connected with him. Lady Rawlinson deserves our sympathy. I think Sir Surendra Nath's son, B. S. Banerjea, and Mrs. Das are equally entitled to an expression of our sympathy. May I, Sir, on behalf of the House, ask you to convey to them an expression of our heart-felt sympathy in the bereavement which has overtaken them.

The HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): We associate ourselves, with a heavy heart, with the expressions of sorrow on the tragically sudden and unexpected death of that great soldier and good man, our late Commander-in-Chief. Beloved was he not only of the Army, literally whose idol he was, but of all who came in contact with him in any way. His memory will be long cherished and revered by them all. Lord Rawlinson's efforts towards Indianisation of the Army, necessarily limited as they were in scope, and His Excellency's keen endeavours to place the military training of Indian youth on a solid basis and sound foundation, are additional claims to the gratitude of the people which is willingly conceded.

I feel sure that good work in this direction, so well and so sincerely begun will be continued and expanded by Field Marshal General Sir William Birdwood, the friend of the Indian Army and the Indian people, whom we welcome as a Member of this House.

I had your permission, Sir, for which I am grateful, to mention to the House, the other lamentable deaths—colossal national bereavements—regarding which the Leader of the House has anticipated me. This anticipation—against what smaller minds may call precedents—is in itself a fine tribute and compliment to the memory of the great departed, for he speaks here in advance, not in his private and individual capacity, but as the Leader of the House and therefore on behalf of Government. The attitude of Government demonstrated by this delicate anticipation is a significant sign of the times upon which they are to be congratulated.

The death of two of the greatest Sons and Leaders of India that has been referred to has plunged the country and the people into profound grief. The removal of Deshabandhu Chitta Ranjan Das and Sir Surendra Nath Banerjea within a few days of one another, following with tragic swiftness upon the death of Babu Aswini Kumar Dutt, Sir Ashutosh Chaudhury, Sir Ashutosh Mukherji and Mr. Bhupendra Nath Basu has been a heavy and exacting toll, which few countries with depleted resources all round, could afford and survive. Never were their services worse needed by their country than now, when from every point of view, it has arrived at a parting of the ways. Both come from good old Vikrampur stocks, the salt of Bengal life, though it is not generally known that Sir Surendra Nath in his origin was an East Bengal man, which probably lent additional vigour to the anti-partition campaign. Sir Surendra Nath, who was long the bulwark of his country's

cause in the Central Legislature before its division into two Houses, died literally in harness, though well within view of reaching four score of years. Full of years and though debilitated in health, he resshouldered the heavy burden and the thankless task of leading Moderate India and died full of honour and glory that such leadership connoted. The forward movement that he initiated half a century ago and which was the foundation and beginning of later day social, political and economic activity in India, for good or evil, will have the credit for all that is achieved in the promised "spacious" day. The whirl-wind campaign of agitation and national awakening in Northern, Northern-Western, Western and Southern India that he organised gave the other provinces life that had rich fruition later on and that made Mr. Gokhale say that what Bengal thinks to-day all India will think to-morrow. That is Bengal's rich reward, though in the nature of things it is not in the ascendant in the sister Provinces to-day. Well indeed has Sir Surendra Nath been claimed as the father—and I call him the father-founder—of Indian Nationalism, a claim that all sections of political thought have readily and generously conceded. The present and the late leader of the Swaraj party imbibed their initial inspiration at his feet.

The late Leader of the House used lovingly to call him Guruji, which was more than an idle compliment, and the present Leader has told this House what his relation with Sir Surendra Nath was. His and Deshabandhu Das's career are a romance and evolution in Nationalism that will make thoughtful students of politics think deeper.

Deshabandhu Das, separated from Sir Surendra Nath by the span of a quarter of a century in age, came under Sir Surendra Nath's influence like myself in the early student association days but drifted away from politics to which he returned with rebounding vigour towards his waning years. How startlingly eventful, though short and intensive, that career was is now a matter of history. He had also a literary, professional, and social service career that marked him out as a towering personality, apart from his later political career. After notable vicissitudes Mr. Das died almost unexpectedly when in sight of richer fruition of his labours, with changing views about responsive co-operation, which he did not hesitate to adumbrate shortly before his death, in spite of assured unpopularity with some of his own Party. That did not daunt him, but nevertheless told on his health and spirit and probably hastened the end. He of all men could alone have carried into successful operation the revised programme of his Party, which would bring him soon closer to other schools of political thought, without real and reasoned union and unity among whom no tangible advance in our remarkably mixed polity would be conceivable in the near future. His premature death is therefore a double calamity, a keen sense of which, as well as high appreciation of his unique self-sacrifice and powers of organization, evoked spontaneous outbursts of tribute from all parts of the country and all sections of the community, including the highest officials here and in England, even though they wholly disagreed with his political methods and objectives. Demonstrations at his funeral, the like of which had never been seen, nor heard of, staggered imagination. It will make thoughtful people—officials and otherwise—pause and ponder on its significance and possibilities.

[Dr. Sir Deva Prasad Sarvadhikary]

Sir Surendra Nath Banerjea, the Moderate of Moderates of the day, had been looked upon as the rankest of Extremists of yesterday. He had suffered imprisonment, arrest, fine, and public ignominy and narrowly escaped deportation and detention, not so very long before he was called upon to take up a responsible Minister's portfolio. I vividly remember the hard task I and other friends had in convincing a Ruler of Bengal of his steadfast loyalty to the country, the constitution and the Government, and it was only at the last moment that his name was taken off from the contemplated list of detenus. And shortly after his imprisonment another Ruler of Bengal, who has just made his mark as Viceroy and officiating Governor General, offered Deshabandhu Das the Minister's portfolio, which for party reasons and passing political phases, he was unable then to accept. The Magistrate's Court that sentenced Deshabandhu Das to imprisonment echoed with eloquent and sincere tributes to his memory and Government offices and Courts—again against all precedent—were closed in his honour and the highest officials, from the officiating Governor downwards, readily helped to contribute to the remarkable success of the funeral demonstrations. Both Mr. Das and Sir Surendra Nath were denied the opportunity of serving the country through the medium of Government service, by itself no mean service to the motherland. Both suffered prosecution and imprisonment, both earned obloquy at the hands of authority. Yet both were loyal, faithful and life-long servants of the people and the country in their own individual way, to whose memory willing homage has been paid by the people and the authorities alike. Sir Surendra Nath had to force his way into the service after invoking the aid of the Queen's Court, and when he found himself dismissed, he was refused admission to the Bar. He had to fight every inch of his way in life and politics afterwards, but he was never embittered against law, order and authority, but was their staunchest friend right on to the end. It was bad government that he opposed and not Government.

The lives and death of two such men afford lessons for serious consideration of the people and the Government alike, contemplation of which would now and here be impossible. A mourning people has voiced its grief on many platforms and in the Press and has also voiced hopes and aspirations, as an unavoidable corollary of their unparalleled devotion, sacrifice and "energetic patriotism", as His Excellency Lord Reading was pleased to put it, in referring to their services. Those undying services cannot end with their death, and it must be our pious hope to see them continued to their rational and legitimate consequences. The void created by their removal from our midst will be impossible to fill and for many a long year Bengal and India would be signally the poorer by their death. May God give their souls rest and peace and grace untold.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, in a very few words, on behalf of the non-official Europeans of the Council of State I wish to associate myself with the remarks which fell from the Leader of this House in mourning the loss, first of all, of the late Commander-in-Chief. In his sudden and tragic death the British Empire has lost a distinguished and gallant soldier and in his sudden and tragic departure from among

us we have lost in this Council not only a gallant soldier, but a friend of all of us. The House will remember how sympathetically the late Lord Rawlinson used to deal with the numerous questions which were hurled at his head in connection with the Army. I do not think I ever recollect his acting hastily when he had to answer questions which were put to him relating to the Army. He could not in his high office reveal all the secrets which were entrusted to him, but he promised that he would reduce the cost of the Army in India as far as he could. But beyond a certain point he would not go. For this, I think, we all admired him. The Army was in his care and he refused to take any step which would in any way endanger its efficiency. The late Lord Rawlinson endeared himself to us all not only by our knowledge of the way he worked hard, but also by the knowledge of the way he played hard. On the polo field he was a great expert. He was a difficult man to beat at tennis, as I had occasion to know personally. I think this goes to build up a big man, a man who will not spare himself in his work and who knows how to play as hard as he works. Sir, if it is given to those who have gone before us to look back for a brief moment, I think that the late Lord Rawlinson would find some consolation in the fact that the Army he loved so well, the soldiers both British and Indian he loved so well, have now passed into the hands of one who is not a stranger to us. And we know full well that the well-being and the welfare of the soldier will be looked after with an equal keenness by the successor to the late Lord Rawlinson, I refer of course to Field Marshal Sir William Birdwood.

Sir, I should also like to associate myself with the remarks that fell from the Honourable the Leader of the House in his regret at the deaths of Sir Surendra Nath Banerjea and Mr. C. R. Das. I will not detain the Honourable Members at length here because the speaker before me gave a most interesting review of the work of these two distinguished gentlemen. I had the pleasure of meeting Sir Surendra Nath Banerjea some years ago in the old Legislative Council of His Excellency the Viceroy, and we all recognised him as an earnest patriot. I think the same designation can be attributed to Mr. C. R. Das, who was not only a patriot, but a strong man, a strong man because he changed his opinions. It takes a strong man to change his opinion. It is an obstinate man who does not.

Sir, I would also like to associate myself with the suggestion of the Leader of the House that a suitable message of sympathy should be sent to Lady Rawlinson and also to the relatives of the late Sir Surendra Nath Banerjea and Mr. C. R. Das.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadian): Sir, I beg to associate myself with all that the Leader of the House has said regarding the death of the late Lord Rawlinson. My acquaintance with His Lordship was very brief as a Member of this Council, but I will never forget the very kindly way in which he asked me whether I had ever had a ride in an aeroplane and whether I would like a ride in Delhi when he was giving an exhibition to the Members of the House. He very greatly impressed the Members of this House, and when I was introduced to him, he

[Mr. V. Ramadas Pantulu.]

treated me most kindly, and from that I can guess what a kind soldier and statesman he was.

The next in order of time was Mr. C. R. Das, whose death the country had to mourn. Many striking references were made to the great qualities of that leader, but to me, Sir, it seems that the note which His Excellency Lord Reading struck the other day in his speech was the truest. His Excellency singled out the "energetic patriotism" of Mr. C. R. Das for special mention. Indeed he was an energetic fighter. It was this feature of his life that made the greatest impression on me when I had the privilege and the pleasure of his intimate acquaintance and association during his tour in my province in the summer months of 1923. He addressed a very large public meeting, advocating the lifting of the boycott on Council entry. On that occasion a No-changer disturbed the meeting by shouting at Mr. C. R. Das that he was destroying the authority of the Congress by rebelling against it. Mr. Das promptly and sternly replied that the charge was true, that he was a born rebel, and that he rebelled against the authority of every institution which impeded the progress towards freedom of his country. That silenced opposition and the meeting proceeded placidly. His personal magnetism, his forceful advocacy and his keen powers of reasoning made him almost irresistible as a fighter. He devoted all these great gifts of his to the service of his country. He made stupendous sacrifices, and his sacrifices added lustre and glory to his political teachings. He gave away all his worldly possessions and went to jail to vindicate his political faith. As a man he was generous to a fault. He spent little upon himself from the magnificent income he commanded at the Bar, and spent almost the whole of it for the benefit of his needy countrymen. I may mention to you one small instance, which will appeal to this House, for it only shows the nature of the man. We were travelling in a railway compartment and a barber came to shave him, and he put his hand into his pocket to find what he could, and the smallest change he had was a ten-rupee note and he gave it to this barber. A smile by way of protest drew the remark that it was all right, "It is a trifle to us, but it is a fortune to him." That showed the nature of the man. As a man of letters I understand his position among literary men of Bengal was very high. His Sagarsangit and other works are works of outstanding merit. His achievements on the constructive side of public life are also worthy of our attention. The way in which he captured the Corporation of Calcutta and became its first Mayor and ran the affairs of the City, having been elected to that responsible position by the almost unanimous and spontaneous choice of his fellow citizens, compelled the admiration even of his opponents. In all his activities he was only guided by one motive, namely, the desire for the freedom of his country. I believe with most of his countrymen that he spoke the truth, the whole truth and nothing but the truth when he mentioned from his death-bed to Mahatma Gandhi, that if he survived his illness, he lived for Swaraj, and if he succumbed to his illness, he died for Swaraj. That was the key-note of the man's life. The Indian nation manifested, in the only way in which it could do so outwardly, its love and reverence to him by according to him a funeral such as the greatest of the world's rulers might envy.

The next in turn was Sir Surendra Nath Banerjea, whose death followed in quick succession to that of Mr. Das. He was an equally great patriot. The history of modern Indian nationalism is intimately bound up with the life history of this great man. We knew him as an intrepid and brave fighter in Bengal. As students we used to call him by the nickname *Surrender-not*. Those who knew of his activities in connection with the anti-partition agitation of Bengal knew what a fighter he was. He was always on the side of peaceful and non-violent and orderly progress. I should say he contributed to the progress of Bengal by setting his face against terrorism and violence in Bengal. Mr. C. R. Das did the same. Both these patriots, although they pursued different methods had the same aims, and we feel keenly our loss of these two great patriots in succession. I am very thankful to the Leader of the House for the very generous way in which he has referred to them, and I join with him in the request that you, Sir, may be pleased to convey the expression of the feelings of this House to the members of their families.

THE HONOURABLE THE PRESIDENT: I desire to associate myself and the House at large in the first place with the welcome that has been extended by the Honourable the Leader of the House to those Members who have taken their seats to-day, and in the welcome which he extended to His Excellency the Commander-in-Chief on his return to the seat which he occupied with such distinction a year ago. I have been asked to convey to the bereaved relatives of the late Lord Rawlinson, Sir Surendra Nath Banerjea and Mr. C. R. Das messages of sympathy and condolence on the great losses they have sustained. It is apparent, I think, from the speeches delivered from both sides of the House that the propositions put to me meet with the unanimous approval of the House, and I unhesitatingly assure the Council that I shall without delay give effect to their wishes in this matter. When this Chamber was last sitting, Lord Rawlinson was a Member though we were deprived of his presence at the last meetings. One of the last things we did in the Council before we adjourned at Delhi was to give public utterance to our prayers for his speedy and complete recovery; and it was a great shock to learn so very soon afterwards that he had passed away. His death occurred within a very few hours of the Council being adjourned, and many of us were thereby enabled to pay our last tribute of respect to his memory by attending the splendid memorial service which was held in Delhi at the end of March. It is no common place to say, as has been said already, that by his death the Empire has lost a brilliant and a gallant soldier and a distinguished administrator, and we in this Council have lost a valued colleague, and I think I may venture to say, a friend, whose sympathetic utterances in debates on military affairs rarely failed to still the voice of controversy, and whose charming personality endeared him to all those with whom he came in contact. We may hope that our message to Lady Rawlinson may prove some small consolation to her in her loneliness.

Neither Sir Surendra Nath Banerjea nor Mr. C. R. Das was a Member of this Council. Indeed, the latter never had any connection with the Central Legislature. I personally had not the privilege of his acquaintance, and I think it is possible that many of us here are in the same position. On the other hand, Sir Surendra Nath Banerjea was for a considerable time a Member

[The President].

of the Indian Legislative Council, and in that capacity many here knew him as a true and ardent patriot, as a brilliant orator and as a friend. He and Mr. C. R. Das in their political life both set one goal before them, one and the same goal, and that goal was the welfare of their beloved motherland. The roads by which they sought to reach that goal were at times wide apart—sometimes so divergent that to the onlooker it seemed almost impossible that they should ever lead to the same destination. But we cannot doubt their sincerity of purpose. They were true friends of India; they loved India, and India loved them, and mourns for them, and it is fitting that we should share her sorrow at their death.

INDIAN SUCCESSION BILL.

PRESENTATION OF REPORT OF THE JOINT COMMITTEE.

THE HONOURABLE SIR HENRY MONCRIEFF SMITH: I beg to present the Report of the Joint Committee on the Bill to consolidate the law applicable to intestate and testamentary succession in British India.

INDIAN SUCCESSION (AMENDMENT) BILL.

PRESENTATION OF REPORT OF THE JOINT COMMITTEE.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I beg to present the Report of the Joint Committee on the Bill to amend the provisions of section 27 of the Indian Succession Act, 1865.

RESOLUTION *RE* PIECE-WORKERS IN THE GOVERNMENT OF INDIA PRESSES.

THE HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, the Resolution which I wish to move reads as follows:

"This Council recommends to the Governor General in Council to appoint a Committee of official and non-official Members of both the Houses of the Indian Legislature to determine the effect of the changes introduced in consequence of the report of the Committee appointed in 1921 in the interests of the piece-workers in Government of India Presses, and to make recommendations."

Sir, this Resolution has a history and a rather long one. In 1920 there was trouble in the Government presses both in Simla and elsewhere, and unfortunately there was a strike also, and these people used to wander about the whole of Simla, and somehow they came to me and I felt sympathy for them, and then I brought forward a Resolution on the 14th September 1920. That Resolution was unfortunately opposed by the Honourable Sir Thomas Holland, and I made a long speech and he also in his turn made a still longer speech and in the end my Resolution was rejected. I remember one thing in connection with that Resolution, and that is very important to-day, and with your permission, Sir, I shall read out only a few lines which are of great use to us to-day. Sir Thomas Holland said:

"I have told the people repeatedly that if the terms sanctioned in the Government of India Resolution of the 15th July do not demonstrate that they would get higher wages

for shorter hours of work, I would tear up the Government of India Resolution and I would revise the rates and again revise them until the men would *acknowledge*."

I suppose this is what he meant though he did not use this word—

"that they were able with these terms to earn a decent living by working during decent hours."

That was the pronouncement made on behalf of Government by the Honourable Sir Thomas Holland. I took that assurance, and I waited for one year and after waiting for one year I found that there was no change. So I brought up another Resolution on the 30th September 1921. That Resolution met with a better fate. It was accepted by Government, and a small Committee was appointed, and I also had the honour to have a seat. We met and we made various investigations, and ultimately the Report came out, but unfortunately our Chairman was in bad health and he died soon afterwards. It came therefore to be "my opinion against the higher opinion of the Member for Government on that occasion." Ultimately the Report was signed by Sir Vithaldas Thackersey; therefore, that became the Majority Report, and mine went to the limbo of the Minority Report, and there the matter ended. Well, then, I waited for four years more to see how things would turn out, and I put some questions in the meantime to keep up the subject and to keep it alive; and then on the 3rd September 1924, after waiting for nearly four years, I put a question, and this was my question:

"Will the Government state whether all the recommendations of the Piece-Workers' Committee's Report have been given effect to?"

The reply given by the Honourable Mr. Ley was as follows:

"The recommendations of the Piece-Workers' Committee have been given effect to in full subject to the following provisos, namely, that the distinction between permanent and temporary establishments has been abolished only so far as to give temporary hands the same right to pension as permanent hands. Secondly, the proposal to condone 16 days' absence in each year with retrospective effect entitling them to qualifying service for pension has been accepted."

Except these two small matters, we were told that all the recommendations made in the Majority Report of the Committee, in which I was a minority, had been carried out. I have great respect for my friend, Mr. Ley, both privately as a friend and publicly as an officer. With due deference to him I think this answer was given under a misapprehension. Either my question was not clear or it was interpreted differently. It has been said that the recommendations, with two small exceptions, have been carried out. But as a matter of fact we find now—and it is acknowledged and there will be no difficulty in proving it—that many of the recommendations have never been carried out at all. How that misconception arose I cannot imagine, but it did arise and therefore now it becomes necessary to bring a further Resolution, and this is the further Resolution with which I approach this Honourable House. I said that it was a misconception, because we know that the provident fund which was promised in one of the Majority Report paragraphs was never brought into operation. We know that many of the matters that were pressed in paragraphs 21, 22, 15 and 13 etc., have not been carried out. So there must have been a great misconception here. I shall point it out later on in my speech. Therefore, at this initial stage I do not propose to dwell on it much further.

[25TH AUG. 1925.]

[Mr. G. S. Khaparde.]

The present Resolution, as it will be seen, is intended to appoint a Committee to examine the changes and to make recommendations. The reason is this. First of all these piece-workers should be converted into Government servants. Let there be one system all through. Let there be no trouble about it. But that was opposed by Sir Thomas Holland and the opposition has to this day continued in some shape or other. I knew that there was no hope of ever converting them into Government servants. Therefore I said that the best thing is to get a Committee which will make inquiries and make recommendations. I still hope that if such a Committee is brought into existence a recommendation will be made for converting the piece-workers into Government servants. It looks very unusual that I should make this recommendation and that I should talk about it. The reason is this. The Government of India Presses at Simla, Delhi and Calcutta reproduce to a certain extent the whole of the Government of India in its very crude form, in its undeveloped form. The gentleman who is the Controller of all these may be compared to the Viceroy and the Superintendents of these places may be compared to the Local Governments, and the salaried servants in these places may be compared to the superior service; and then there are others who come under the inferior service and the piece-workers for whom I speak this afternoon are very poor people, non-descripts. You cannot classify them with anybody. They are paid according to the work that they do. If they work for one hour, they are paid so much. In that way the piece-workers are a sort of contractors. But the piece-worker is not a contractor, because after a certain amount of service you give him a little pension, which is never given to contractors. So they are servants; they are not servants, because there is no fixed pay given to them. There is no allowance given to them. These people are not entitled to these leave rules and other concessions that are given to Government servants. I call them non-descripts; they are servants and they are not servants. They get leave and they do not get leave. The whole thing is a difficulty. In fact the whole trouble arose in 1920 out of this. In that year on the 15th of July 1920, a new circular came out. I may say that these piece-workers came into existence as early as 1875. How the rates were settled and what was done and how they were paid I have been unable to discover, because probably they are very old papers. Either they have been stored away somewhere about which nobody knows anything or perhaps they have been destroyed. I could not discover on what basis their pay and all that was settled. That system continued till 1920; and about the 15th July 1920 a circular came out and that circular was either misunderstood or probably it was brought out under some misconception. Now, that led to a great deal of trouble and that led to a strike; and I remember the days on which the Government Gazette could not come out in proper time, because there were no persons to put the copies together. I remember one evening, about midnight, the Honourable Member in charge then and a few of his assistants were going about and trying to put the Gazette together and they brought out the Gazette a few days later. That was the circumstance. What was the circular of 15th July 1920 that caused so much stir? It made certain changes in the system which has been going on from 1875 to 1920. Probably the people did not understand. I also studied that matter and I thought

that the people were right. I sympathised with the people and I said that this circular is not right. It should have been gradually brought about. The old system had worked very well. There were no complaints and there was no reason why it should not have been continued. On that point there was difference of opinion; and then it was in consideration of that difference of opinion that Sir Thomas Holland made that promise. He said "You wait for one year; let this system work; at the end of the year I will put all the papers at your disposal and the whole Council will see what benefit I have done. Then they will themselves acknowledge that they have been benefited and if they do not do so, if you find that their condition has not been bettered, then I shall tear up this Resolution or that circular of 15th July 1920." I accepted it and I waited for one year. In the meantime many changes took place and Sir Thomas Holland went home, but still the matter remained, and we went on. In the inquiry that was held under the auspices of the Committee that was appointed, unfortunately the evidence taken has not been recorded. All that we have of that Committee is my dissenting minute and the majority report. Be that as it may, it came about that in those paragraphs that I shall now mention specifically certain grievances of the piece-workers were acknowledged. The inquiry began with a statement of about 15 grievances and 13 of them were admitted. In the inquiry that we held we found that some 13 of those grievances were real and they had to be put right. Of those 13 grievances some were held to be irremediable, because of the system. One of the grievances, I may tell you, was beyond remedy. The central pivot of the new system was like this. We shall begin with the life of the piece-worker in the morning. He comes to his factory or his place of business. The first person that he has got to see is what is called a section holder; that is to say, the section holder is an officer who issues all the work that has to be printed; he calls each of the compositors and says to one, "Look here, you go and get this done", and to another "You do this." He distributes the work in that way. He is called the section holder. The man to whom the work is given does the work. Sometimes it is complicated kind of work; sometimes it is called original work, or merely block work, or table work, or display work. There are various kinds of work. Taken all of them together, when the work is done by the man, he comes and the section holder asks him to make out a bill. He says that he worked at this question for one hour or two hours and he would charge so much for it and so on. Then this man has got to deal with another person who is called the computer. This man looks at his work and asks if it was given to him. He asks him how much time he took in doing it. This man says: "I took two hours." Then the computer looks at the work and says: "This work ought not to take two hours at all. This could be done in one hour or even half an hour." This dispute has to be settled by a third person called the checker. This man says: "Oh, yes." Generally the superior man is right and the inferior man is wrong: "You had better do it in half an hour." So the piece-worker gets payment only for half an hour. It is just like the old Greek story in which a man has got to roll up a stone to the top of the hill. As soon as he gets to the top, the stone somehow slips and comes to the bottom of the hill. The same is the case with this poor piece-worker. I suppose like all human beings even this section holder has got his likes and dislikes. Probably he likes some

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people better than others and so on. The better-liked people get easier work. This unfortunate man—supposing we take him to be an ill-favoured man—gets all the work and he does it. Then there is the checker who has got something to do with his work. In fact, there is a large number of things which have got to be gone through. At the end of the day this poor man finds that he has been rolling the stone as far as he possibly could up to the top of the hill, but the stone has got back to the bottom. That is an unfortunate life to lead. However good the section holder may be and however honest other people may be, still in the mind of the piece-worker there is a rankling feeling of injustice being done to him and he never goes home satisfied or pleased with himself. I objected to this portion of the system. I said that he has worked. After all 30 years ago this sort of work had to be done by copyists who were employed in the Secretariat. I do not think that the copyists had this thing given to them. At that time the papers came to the Head Clerk, who distributed them and the thing went on as usual. There was nothing very bad about it. But somehow that system got changed. I know the history, but it is not necessary for me to tell it here. But after all what is the difference between a compositor and a copyist? A copyist takes his pen and copies out the paper before him. The compositor, instead of using his pen, collects so many types and produces a copy which is more legible and easier to read. Barring this difference, these poor people are as good as a copyist. There is a proverb in Persian which says: *Naqal Nawis Aqal na darad*. When translated into English it means that a copyist has no wisdom. I do not know how they came to this conclusion, but that is the proverb. Before the copyists were separated they were looked upon as respectable people. From among them some rose to higher posts and so on. With these changing conditions, these poor people have been debarred from all promotions. A man who begins his life as a compositor remains a compositor up to the end of his life. In the beginning when he is paid by the hours he gets a little sum, which is subsequently increased by pies. In the beginning he gets about 3 pies and then gradually he receives 9 pies and so on. It goes on increasing as the time goes on. Formerly they used to give him pension by calculating his average income during the last six years of his service. The last six years generally are of bad service because the man gets old. His hand loses its cunning; his eyes do not see clearly and he can turn out very little work. In the middle of his age he may have earned Rs. 50 a month, but towards the end he is incapable of earning more than Rs. 30 and it was on this sum that the pension used to be calculated. He suffered a great deal of injustice and the Committee admitted that there was something wrong and they promised to do what they could. The trouble really begins with the section holder. He is the pivot of the whole system which they do not want to change. So it is still retained in the same form. Then there are the checkers and the computers. There used to be a fourth officer. He has got a very unpronounceable name, so I will let him alone. They said: "We have done some good". But I should like to know what is the good they have done. I tried to ascertain it. I made a sort of tabular list for all these things. It will take too long to detail to you all the grievances that were put forward, but I may tell the House that, excepting

two, I put forward 15 grievances. Thirteen grievances were accepted and something was to be done for the piece-workers. One of the things they said was to provide these poor men with some pension. The general provision about pension is that if a salaried man after 10 years' service gets incapacitated or is unable to do further work, he gets a certain proportion of his pay as his pension. In the case of these poor piece-workers it was provided that they must put in 25 years approved service in order to be eligible for pension. If a man puts in 24 years' service and gets incapacitated, he does not get any pension. They said that it was a great hardship and therefore they said that they would provide these men with a provident fund. I said: "All right; that is something". Five years have elapsed and the provident fund is not yet in sight. So I made inquiries. They said: "Oh, it is a very difficult thing and it requires a great deal of calculation. Actuaries will have to be employed and a great deal has got to be done." I said: "Quite so. But five years is a long period and during this time all these actuarial calculations could have been made. Many of the workers have died and got nothing. Who is responsible for this injustice?" They said: "Still it is a big thing and it will come on gradually". So it is still coming on like honey, but the honey is to be found nowhere. That is how these things are going on.

Another thing they said was that they shall establish what is called a Works Committee. I asked: "What is this Works Committee?" They said: "The piece-workers will elect a certain number of persons and they will also elect a Secretary and the Superintendent of the Press will be the President of that Committee. Any complaints which these piece-workers may have will be brought before that Committee and the Committee will submit a report on those complaints to the Controller of the Press, who, in turn, will submit it to the Government of India Secretariat." I said that it was a very good idea and it was a step towards the beginning of a democratic government. But I am sorry to say that this Committee has not yet come into existence. Although five years have elapsed, we know nothing more about this Committee than we knew in 1921. I put a question about this Works Committee. They said that it has not come into existence. People do not like to talk about it. It is just like what happened to a fish called the eel. In the old days they used to skin the eel alive. They caught it alive and skinned it alive. Then everybody said: "It is very cruel. You should not skin an animal while it is alive". When this complaint was going on, a certain gentleman said: "But does the eel object to its being skinned while it is alive? No eel came to me to complain". So the position of these poor piece-workers is something like this. They have appointed a Committee, but the Committee does not meet. They said that people do not appreciate it and that is the end of the whole matter. It is really very unfortunate that because the eel does not come to complain, it is being skinned alive. Therefore, there is no complaint on that ground.

Similarly, I have got with me a number of things. In fact, I can keep you here the whole day telling you the history of these things. But it is no use detaining you. Perhaps I might tire your patience.

All that I say now is, as Sir Thomas Holland said, if I demonstrate to you and if these people agree that their condition has been improved and that they

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get by working decent hours, a decent sum, enough to maintain them, what we ordinarily call a living wage, then it is all right, if not I say tear up this circular of 15th July and inquire into these changes which have been introduced and which have been the cause of these troubles. I hold Government to that promise which was made on behalf of the Government. That previous Committee acknowledged all these things, but did not provide a remedy. They said it was inherent in the system, but expressed their opinion that the Superintendents should be more sympathetic, and that the people should see to their own interests and agree with each other and not fight with one another. These pious expressions are all right in their proper place, but they do not work; they generally end in what is said. So I hold Government to their promise. If it is demonstrated that these people are better off now than they were before 1920, and that they have got a living wage, that is to say they earn enough to live comfortably by working a decent number of hours and not having to slave from morning to evening, if they do that, then the system stands. If however that is not the case, that is to say, if I am able to show that these people have got longer hours of work than before; if I can show you that their earnings are less than they used to be; if I can show you that the same trouble exists as did before, or that where no trouble existed before now trouble has been created; if I succeed in showing you that these poor people are worse off than before then this system must be changed. The Resolution means that the system will be changed, and what that change will be will be a matter for the future. In my dissenting minute I proposed two schemes. I showed that economies could be effected and that a scheme could be made better and more efficient, but naturally, being in the minority, my Minority Report did not receive any attention at all. So these are the many questions of fact that will have to be determined, namely, what the men's earnings are, are they better off than before, what their hours are, what provision is made for them to retire, are they able to do their work better and more easily now than they used to do before, all these five or six questions will have to be determined, and evidence brought to show the facts. Just as in our Courts we have assessors, Judge and jury, similarly Government may appoint a Committee in which their officers will be present and can speak from their experience and can take evidence into consideration. I have mentioned both Houses because in the other House there are Members who have devoted all their time to the consideration of improving the conditions of workmen. They have studied this subject, I suppose, independently of other subjects, and as we send them annually to the International Labour Conference, we recognise their position, the Government recognise their position. So, if this Resolution is accepted, on this Committee I expect there will be Government officers having experience in that branch; some of our Members here would be elected, I for preference. I hope I will not be omitted because I have taken some trouble about this matter. Then from the other House those who have interested themselves in these labour questions will be called in and a beginning will be made in order that labour questions may be settled as soon as they arise. It is no use trying to suppress them, and throw them back, because throwing them back only makes matters worse and makes them more troublesome than before, as the old saying tells us, "a stitch in time saves nine." So they would settle these questions as they arose and they would be

settled easily and they will not become so troublesome as they have become elsewhere in the British Empire. We know that lately the Prime Minister of England had to give a sort of a concession to some of the workers and pay so much money to keep an industry going while he worked out a scheme. I am anxious that India should be saved from these things. We can profit by the experience which they have had on the Continent and in England, and these things should be settled before and then it will not lead to these complications. I hope I have said enough to induce Honourable Members to believe that this is the proper time to make an inquiry as to whether the promise made by Sir Thomas Holland has been carried out, and whether the improvement which he expected has really come about, and if it has not come about, then it is time for a Committee to sit and devise means for carrying out either his promise, or substituting for it a new Committee that will arrive at conclusions, which will come before these two Houses and will be carried out by Government.....

THE HONOURABLE THE PRESIDENT: The Honourable Member's time is exhausted.

THE HONOURABLE MR. G. S. KHAPARDE: Time up, thank God! Sir, I am only finishing. I recommend my Resolution to the consideration of the Council. I have tried to compress my remarks as much as I could, and I think I have said enough to recommend the Resolution to Honourable Members.

THE HONOURABLE MR. A. A. L. PARSONS (Industries Secretary): Sir, it is a matter of some personal regret to me that my first speech in this House should be one opposing a motion of perhaps my oldest friend in the House, the Honourable Mr. Khaparde. And I have a friendly complaint against him in that after he had his Committee in 1921,—and I am afraid was unable to persuade his colleagues of the value of the panacea for the grievances of piece-workers which he had put forward,—he waited for four years before bringing up the subject again. Had he not been so patient it would have fallen to some one other than me to reply to him. I do not wish to detain the House long; and I should like, if I may, to take the two parts of his Resolution, as he has himself done, separately. He wishes this House to appoint a Committee, first of all to determine the effect of the changes introduced in consequence of the report of that Committee of 1921. Now I want to be as brief as I can; to run through the recommendations of this Committee—there are a round dozen of them—as rapidly as possible; to show what changes were introduced, and to show what the effect of these changes has been. If I can do so successfully, if I can prove to Mr. Khaparde that the Government have given full information to this House, I am sure Honourable Members will agree that there is no reason for the appointment of a Committee to elicit this information. As a matter of fact a very large part of it has already been elicited by the answers which I gave to questions put to me this morning and by other answers given before this Session to questions put in this House.

I think perhaps I can most easily make the position clear, if I try to group the recommendations of the Committee and do not take them in the order in which they were made. There are, to start with, two very important recommendations for the better organisation of the presses. They were, first, that we should go in very much more for machine composition instead of

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hand composition, and secondly, that we should introduce a Printing Clearing Office. Now both these changes have been introduced. They were accepted by the Government and they have had a marked effect on the fortunes of piece-workers. The increased use of machinery is largely, though not wholly, responsible for a very notable decrease in the number of piece-workers in our presses; it is almost entirely responsible for a still more noticeable change in the proportion that piece-workers bear to salaried hands. I gave certain figures to the Council this morning in reply to a question; I will now give a few more. In 1922 we had 1,144 piece-work compositors and distributors in the presses at Calcutta, Delhi and Simla: we now have only 317. On the other hand our salaried hands employed on monotype and linotype machines, which I take to be the classes most suitable for this comparison, have risen from 100 to 167. And if we take all hands employed, at the time the Committee were holding their meetings there were 60 per cent. piece-workers and 40 per cent. salaried men; there are now 55 per cent. salaried men and only 45 per cent. piece-workers. I hope Honourable Members will give due weight to these statistics, because they do show that the dimensions of the problem have altered very materially since that Committee reported. The Central Printing Office, as the Printing Clearing House is called, has also played a large part in the reduction of the number of piece-workers. It has not only led to a great reduction of Government printing as a whole, with a consequent reduction of establishment, but it has regulated the distribution of work to presses, so that we now no longer have, as we used to have, conditions in which one press has not enough work to do while another press is working long hours. In this way one of the grievances which came before the Committee of 1921 found its remedy, the grievance about idle time. The piece-workers generally complained that the superintending staff in their efforts towards economy would not give them payment for idle time, and the Committee were only able to recommend that Government should draw the attention of the supervising staff to the existing orders on the matter. That was of course done. But as a matter of fact the more scientific distribution of work has made it quite unnecessary now to keep men idle except in very exceptional cases, and as a result the payments which Government have had to make for idle time have dropped from Rs. 19,000 in 1922 to about Rs. 2,500 last year.

Those are three of the recommendations which the Committee of 1922 made. There is another group of recommendations dealing with the grievances of piece-workers, not so much against the Government or its orders, as against their fellow-labourers in the press, the section workers and so on. One grievance concerned favouritism on the part of section holders. To prevent this as far as possible the Committee recommended closer supervision by officers and the starting of tabular statements which the manager of the press could examine every month and from which he could discover whether any particular compositor seemed to have been ill-treated by being given too much work of a difficult type. This recommendation was accepted by Government; but as a matter of fact with the increase of mechanical composition there is only one type of composition work which is now done in any quantity by the

piece, namely, correction work, and so section holders have now no longer the opportunities for favouritism which they chiefly exercised by giving one man an easy type of work and another whom they did not like a difficult type. There were also complaints made by the compositors against distributors, that because distributors were on time work they did their work quickly and inefficiently, and the work of the compositors was thereby impeded, or their earnings reduced. The Committee, I think I am right, found that there was a good deal in that complaint. They were unable however to recommend that all distributors should be put on time work; and they therefore proposed that compositors should be allowed to do their own distributing. Government accepted this proposal. What was the result? Not a single compositor has I am told attempted to, or expressed any desire to, do his own distributing, and not a single complaint against the distributors has subsequently come to notice.

I now turn to the recommendations for further concessions by Government. There was one minor one, that Government were not able to accept, namely, that the 16 days' absence now allowed on class rates to all press hands should with retrospective effect be allowed to count for pension. Government were unable to accept that proposal, for it would have benefited men who had not been regular workers in the past, as against regular workers. They could not give this retrospective effect, but otherwise all the recommendations were accepted. Temporary hands equally with permanent hands now get superannuation pension; and as my Honourable friend referred to it, I had better explain what I understand the position with regard to pensions to be. I have not got exact figures, but I understand that about 55 per cent. of the piece-workers are now classed as permanent, the balance being classed as temporary. When a man first comes in, he ordinarily comes in as a temporary man. After he has been in for some time, as vacancies occur and if his work is all right, he is promoted to the permanent staff. He then gets pension under the Civil Service Regulations, and I believe that as a general average the sort of time which a piece-worker may expect to take before he becomes permanent is from 15 to 18 years' service. That is the position; and so at present they have, as I say, generally good prospects of becoming permanent hands. The other recommendations of the Committee have all been accepted. The older hands are put on light work. In all presses, except at Delhi, the hours of work are now regulated according to the wishes of the men. In Delhi the men could not come to an agreement and the Controller had to step in and arbitrate. Section holders are now appointed alternately from assistant section holders and senior compositors, and so on. It is only in one respect that Government have not been able to give effect to the recommendations as yet, and that is in the establishment of a State-aided Provident Fund; and I sincerely hope that it will soon be introduced, not only because it will do away with all this trouble about pensions, but also because I know how irksome it must be to the men to possess their souls in patience. But it is a very intricate matter, the starting of a provident fund of this character. It means the careful collection and sifting of a lot of statistics. You have got to be on sure ground before you can announce the terms of the Fund, and I do not see how we can expect to curtail the laborious processes of the actuary. But I am hopeful—as a matter of fact

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I have seen the papers myself during the last few days—that it will not take very long now—anyhow not another three or four years—before it is introduced. I think I have now mentioned all the changes introduced as a result of the Committee's recommendations and I have also explained their effect. If I have overlooked any, it is purely by inadvertence, and if a question is put to me, I shall try to answer it. I hope I have also answered most of the points raised by my Honourable friend Mr. Khaparde.

I will now turn to what is really the important part of this Resolution. Have we or have we not done all that we should for these piece-workers? Now, the position is as follows. Before 1920 I understand that piece-workers worked from 10 to 12 hours a day on the average and sometimes as much as 15 or 16 hours a day. They had to work for so many hours to earn a decent wage. In order to meet their grievances, the altered terms contained in the Resolution of 1920 were specifically devised, but, as Mr. Khaparde has explained, there was trouble and the Committee, of which Mr. Khaparde was a member, examined the question. The finding of that Committee was as follows:

“There has been an almost invariable decrease in the actual hours of work. There has been an invariable increase in the average earnings of each class, in some cases to the extent of 50 per cent., while the increase in earnings per hour has increased to a still greater extent.”

They also found that under the new system piece-workers worked 212 hours a month for an average pay of Rs. 56, while in private presses the men worked 225 hours a month for an average pay of Rs. 36. Our piece-workers were in fact being paid between 50 and 60 per cent. more than the salary paid to corresponding men in private presses for considerably fewer hours of work. The position has not changed since. The figures I gave this morning show that there is now only one class of men who do over 200 hours work a month, namely, the pressmen and machinemens of Calcutta. The rest of our piece-workers work less than 200 hours a month, that is to say, less than 8 hours a day, for 25 days in the month. So far as working hours are concerned, their position has improved and has not deteriorated since Sir Vithaldas Thackersey's Committee reported.

Now, about rates of pay. I will take the Calcutta Press because as a whole they are the least favourable to my argument, the hours of work there have not dropped so much as elsewhere. In Calcutta in 1922-23 the average earnings of compositors were Rs. 41 a month; last year they were Rs. 51. The average earnings of distributors were Rs. 25 a month; they are now Rs. 38. The average earnings of pressmen were Rs. 32 and they are now Rs. 40. Binders' average earnings were Rs. 51 a month; they are now Rs. 52. In all cases there has been an increase; and I may say that that applies to Delhi and Simla as well, though I will not trouble the Council with figures for the Delhi and Simla presses. They also show that there has been an increase in wages. I do hold therefore that the conditions which Sir Thomas Holland mentioned in 1920 have been realised under these new rules; piece-workers are able in less working hours to earn a larger wage than before the Resolution of 1920 issued; they then secured wages far in excess of those of salaried hands in

private presses, and their wages are now still higher. But if this is so, is there any ground whatsoever for holding an inquiry into their conditions of service? I would add that since I had notice of this Resolution I have made such inquiries as I could as to the contentment of the workers in our presses generally, and I am assured by the Controller of Printing that the men are contented. There are of course occasional grumbles, that is only natural, but on the whole the men are at present contented. If we set up this Committee, what shall we be doing? We shall merely be disturbing the contentment of the men, a contentment which there is no reason to believe to be either placid or pathetic.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhammadan): Sir, I rise to support the Resolution that is before the Council. My object is to have a thorough inquiry made into the grievances of those people who must have approached the Honourable Mr. Khaparde with such real grievances as they had. I am not afraid of disturbing the contentment which appertains to the services generally, as it might be said with truth, with reference to any Committee that may be appointed on particular questions. It is an argument in a circle. We want to ascertain if there is contentment. The Honourable Mr. Khaparde says that it has been represented to him that there is no contentment. On the other hand, we find it represented to us that there is contentment. It is just the reason why a Committee is needed. I do not find that the points made out by the Honourable Mr. Khaparde have been so successfully answered. One thing that struck me was that the information which was elicited or tried to be elicited by the Honourable Mr. Khaparde through his questions should have been furnished in this Council only this morning. I pity the situation. I myself do not know when the Honourable Mr. Khaparde sent his questions in. Possibly if he was late in sending the questions, the Department is not responsible. But if the questions had reached the Department sufficiently in time to enable the Department to frame the answers, I do not know if the rules stood in the way of Mr. Khaparde having the information earlier than this morning....

THE HONOURABLE MR. A. A. L. PARSONS: If I may interrupt, Sir, for one moment, the questions reached the Department in time for information to be given as a matter of courtesy to the Honourable Mr. Khaparde; and I spoke to Mr. Khaparde and understood that he was coming round to see me, so that I could give him all the information he required. The information he required was not merely the information for which he had asked in his questions; in fact much of the information which I have now given was not actually covered by the terms of his questions. There was a misunderstanding between Mr. Khaparde and myself. He thought he was going to be sent the replies to his questions and I thought he was coming in to see me.

THE HONOURABLE MR. R. P. KARANDIKAR: I am thankful for the explanation which has been elicited by the few remarks of mine. We members who are not furnished with similar information beforehand are placed in a very difficult position in dealing with the Resolution. The Resolution is replied to on behalf of Government and the information is supplied this morning. Possibly it may be that, in consequence of the information, the Resolution needs no acceptance by this House. But, as I find now, there has been a diver-

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gence of opinion and there is nothing lost in appointing a Committee, I do really hope that this House will accept the Resolution as it is before the Council.

THE HONOURABLE MR. G. S. KHAPARDE: Fortunately, Sir, it is not necessary for me to speak much or at any great length because I touched only upon a few points to make out that it was necessary to have an inquiry. As to my Honourable friend's argument that these people get more now than they used to get before, I will read out a circular that has been recently issued. Government sanctioned the higher rate to be 8 annas. I do not know how they have made out that it should be 6 annas. And this is the letter that has been written.

"I am directed to refer to paragraph 10 of the Board of Industries and Munitions Resolution No. 431, dated 15th July 1920, in which sanction was accorded to piece-workers in the Government of India Presses being paid according to their class rates if during normal working hours they had to remain idle for lack of work. Arrangements for the supervision and regulation of work in the presses have since been made and the Government of India are of opinion that the need for this concession has ceased to exist."

The reason given in the report is that the rates are so munificent and so good that no last allowance should be paid. Now that the work has been scientifically corrected, last time could not be paid. In every case last time is not to be paid. That is the end of the matter. There is a reclassification made in every year so that those who have taken more pains on their work may get more afterwards in the reclassification by being put on the higher class. But this reclassification was never carried out and I put questions and I will read out to you the order that has only recently been issued. This order is dated 15th July 1925. It runs as follows:

"Orders have been received from the Controller of Printing and Stationery that reclassification may be proceeded with subject to the maximum rate of 6 annas per hour for any compositors who may....."

Government sanctioned 8 annas; but they say that they can only go up to 6 annas. That is the way in which the thing is being worked out. Formerly there was a reclassification every year and the men in the lower class got into the higher class and got paid a little more. Eight annas was to be the rate per hour sanctioned by Government, but they do not want to let it go beyond 6 annas. Under what order these sort of things are being done, it is difficult for an outsider like me to discover. I think, therefore, that a Committee will bring a number of these things to notice and then you will be able to see how promises are made to the ear and broken to the heart. They always say that they are doing this and that but they give it on one side and take it away by the other side.

Statistics are no doubt a very good and useful thing, but they are equally deceptive. A student used to tell his friend: "I am first in my class." His friend told him: "You always stand first in your class. How many boys are there?" He replied: "Only one." So in a class of one he is always the first. That kind of thing will not do. These are deceptive things. As I said, statistics are very good but one has got to go behind them to find out how the truth stands. My friend Mr. Parsons just now said that the number

of piece-workers has been very much reduced. That is all the more reason why everybody should be brought under one rule. If there were a larger number of people among the piece-workers, then it might have been necessary to have, separate rules and separate orders for them. But as they are only a few, they should be governed by one rule. Similarly, last time has been abolished. It was abolished without my knowledge and without the knowledge of the people concerned. The percentage of pay has been increased but the reclassification has never been carried out. In fact, if I were to speak on this matter in detail it will really take a much longer time than is permitted to me by the rules. I believe I have said enough and have showed enough. After all an inquiry does not hurt anybody. I shall be glad if these poor people get a few annas more and live in a better style. Where is the harm? Why should Government oppose an inquiry? I can understand that they may not like the proposals of the Committee, but there can be no objection to the inquiry. It will bring the truth out. With these words, Sir, I commend my Resolution to the acceptance of the House.

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

"This Council recommends to the Governor General in Council to appoint a Committee of official and non-official members of both the Houses of the Indian Legislature to determine the effect of the changes introduced in consequence of the report of the Committee appointed in 1921 in the interests of the piece-workers in Government of India Presses, and to make recommendations."

The Council divided:

AYES 17.

Akbar Khan, Major Nawab Muhammad.	Manmohandas Ramji, Mr.
Aman Ali, Khan Bahadur.	Mitter, Dr. D. N.
Amiruddin Ahmad Khan, Nawab Bahadur Sir.	Moti Chand, Raja.
Boroah, Srijit Chandradhar.	Ramadas Pantulu, Mr. V.
Harnam Singh, Raja Sir.	Ram Saran Das, Rai Bahadur Lala.
Ismail Khan, Haji Chowdhuri Muhammad.	Sarvadhikary, Dr. Sir Deva Prasad.
Karandikar, Mr. R. P.	Vedamurti, Mr. S.
Khaparde, Mr. G. S.	Wacha, Sir Dinshaw.
	Yamin Khan, Mr.

NOES—21.

Abbot, Mr. E. R.	MacWatt, Major-General Sir Charles.
Chadwick, Mr. D. T.	McWatters, Mr. A. C.
Charanjit Singh, Sardar.	Parsons, Mr. A. A. L.
Commander-in-Chief, H. E. the.	Roy, Mr. K. C.
Crerar, Mr. J.	Sarma, Sir Narasimha.
Currie, Sir William.	Sen, Mr. B. C.
Dadabhoy, Sir Maneckji.	Singh, Maharajadhiraja Sir Rameshwara.
Dutt, Mr. P. C.	Tek Chand, Diwan.
Fazl-i-Husain, Mian Sir.	Thompson, Mr. J. P.
Froom, Sir Arthur.	Zahir-ud-din, Khan Bahadur Saiyid.
Laird-MacGregor, Mr. E. G. L.	

The motion was negatived.

RESOLUTION *RE* REFORMS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, before we proceed to the next Resolution on the agenda, I have a request to make. The Government intend bringing in a Resolution dealing with the Reforms Inquiry Committee's recommendations, and it will be convenient both to the House and the Government if this Resolution No. 2 be considered along with that, or some little time after that Resolution is dealt with. There is a connected Resolution dealing with the Reforms question put in by Sir Deva Prasad Sarvadhikary tabled for the 27th. I have suggested to Sir Deva Prasad Sarvadhikary that it might be agreeable to him to take up these two Resolutions some time after the Government Resolution, and I hope, Sir, he will be able to comply with our request that these two Resolutions should be dealt with later, or along with the other Resolution. The Government promise a definite time, either on that day or a succeeding day for Sir Deva Prasad Sarvadhikary's Resolutions.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, subject to what you may be pleased to rule, I have myself no objection to comply with the Government request in the matter, so long as it is quite understood that I retain my place and right with regard to this Resolution as well as the Resolution of the 27th, which is likely to be more connected with any Resolution that the Government may move. I should be delighted if it was, but I cannot imagine that the Government are going to table a Resolution that will cover or even practically cover my Resolution tabled for to-day. If that is so, I shall be delighted to come in with necessary amendments; but that is not likely to be. Therefore I suggest and submit that my Resolution should stand intact and be taken up on such date as by mutual agreement between the Honourable the Leader of the House and myself can be arranged. As regards the Resolution fixed for the 27th instant, I realise that this is likely to be more connected with the proposed Government Resolution. With regard to that, the right I should like to reserve would be either to move my Resolution as it stands and as framed for the 27th instant, or to bring it in in some shape as an amendment to the Government Resolution when it is tabled. With these observations, and subject to what you may rule in the matter, I place myself in the hands of the Government.

THE HONOURABLE SIR NARASIMHA SARMA: I appreciate the view that this Resolution may stand on an absolutely independent footing and I undertake that this may be treated as such if Sir Deva Prasad Sarvadhikary wishes that that should be done. With regard to the second, he may move an amendment in the shape he may require or an independent Resolution. That also is understood.

THE HONOURABLE THE PRESIDENT: In view of what has fallen from the Honourable the Leader of the House, I think the Honourable Member may rest assured that his position is secure. If in respect of the first Resolution the Government Resolution does not satisfy him, and he is unable to draft his Resolution as an amendment to that, Government will, I understand, find time, if necessary, for a discussion thereof. And the position is

very much the same in regard to the second one. Therefore in any case the Honourable Member's Resolution stands, as I have not called him to move it, and he has not been required to move it or withdraw it.

FILLING OF A VACANCY ON THE EXTERNAL CAPITAL COMMITTEE.

THE HONOURABLE THE PRESIDENT: I have received notice from the Honourable Mr. McWatters of a motion he desires to make to-day and which was not received in time to put on the agenda paper for to-day. It is a more or less formal matter. It deals with the filling of a vacancy on the External Capital Committee, and as that Committee is sitting at the moment, the Government desire apparently to fill the vacancy as early as possible. I therefore permit Mr. McWatters to move the motion, though it is not on the paper for to-day.

THE HONOURABLE MR. A. C. MCWATTERS (Finance Secretary): Sir, I move:

"That a member be elected to fill the vacancy created in the External Capital Committee by the resignation of Mr. J. W. A. Bell."

After what you have said, Sir, it is not necessary for me to say much more about this motion. The External Capital Committee contains three members elected by this House and four, I think, elected by the other House. The Committee has lost by resignation Mr. W. S. J. Willson in the other House and the Honourable Mr. Bell in this House, depriving it therefore, as they realise, of very valuable experience of a particular kind. It is therefore at the desire of the Committee, which met the other day, that I am making the motion which I have just read out. The natural course perhaps would be, if I may so suggest, that the election should fall upon the Honourable Member who has taken Mr. Bell's place, and who happens, curiously enough, to bring with him exactly the same experience as the Honourable Mr. Bell; but that of course is for the House to decide. The urgency of the matter has been explained to you. The Committee desire to hold their next meeting on Saturday, if possible, and therefore it is important that this election should be disposed of as quickly as possible, if the House agrees to my motion.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: In connection with the motion which has just been adopted by the House, I fix 11 o'clock to-morrow morning as the hour up to which nominations will be received to fill the vacancy. If the House adopts the suggestion just put forward by the Honourable the Finance Secretary, and decides to elect the Honourable Sir William Currie in the place of Mr. Bell, then an election will be avoided. If not, a further date will be fixed for the election. Nominations will be received up to 11 o'clock to-morrow morning.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: May I inquire whether there will be any business on the 27th? The only item on

[Dr. Sir Deva Prasad Sarvadhikary.]

the paper for the 27th is my motion, which, as arranged already, will stand over. It will perhaps be convenient for yourself and the House to know in advance whether there will be a meeting.

THE HONOURABLE SIR NARASIMHA SARMA : There will be no other business on the 27th.

THE HONOURABLE THE PRESIDENT : That being so, there will be no meeting of the House on the 27th, the day after to-morrow.

The Council then adjourned till Eleven of the Clock on Wednesday, the 26th August, 1925.

COUNCIL OF STATE.

Wednesday, 26th August 1925.

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

ELECTION OF THE HONOURABLE SIR WILLIAM CURRIE AS A MEMBER OF THE EXTERNAL CAPITAL COMMITTEE.

THE HONOURABLE THE PRESIDENT : The nominations to fill the vacant place on the External Capital Committee closed at 11 o'clock this morning. I have received one nomination only, that is, the name of the Honourable Sir William Currie, nominated by the Honourable Dr. Sir Deva Prasad Sarvadhikary. I therefore declare the Honourable Sir William Currie to be duly elected.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

THE SECRETARY OF THE COUNCIL : Sir, two messages have been received from the Legislative Assembly. The first message runs as follows :

"I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly at their meeting on the 25th August, 1925, and to request the concurrence of the Council of State in the recommendation contained therein, namely :

That this Assembly do recommend to the Council of State that the Bill to amend the law with respect to the carriage of goods by sea be referred to a Joint Committee of this Assembly and of the Council of State, and that the Joint Committee do consist of 14 Members."

The second message runs as follows :

"I am directed to inform you that the further amendments which were made by the Council of State in the Bill to amend and consolidate the law relating to Government and other Provident Funds were taken into consideration by the Legislative Assembly at their meeting of the 25th August, 1925, and that the Legislative Assembly have agreed to the amendments."

ODDH COURTS (SUPPLEMENTARY) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary) : Sir, I move for leave to introduce a Bill to supplement the Oudh Courts Act, 1925.

As Honourable Members will observe, this is a formal measure and at this stage I do not propose to add anything to the Statement of Objects and Reasons.

The motion was adopted.

THE HONOURABLE MR. J. CRERAR : Sir, I introduce the Bill.

CRIMINAL TRIBES (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce a Bill to amend the Criminal Tribes Act, 1924.

This Bill is designed to remove doubt or to express more clearly the law on a small administrative point relative to the working of the Criminal Tribes Act. The particular point involved is a somewhat technical one and is fully explained in the Statement of Objects and Reasons to which at the present stage I do not propose to add anything.

The motion was adopted.

THE HONOURABLE MR. J. CRERAR: Sir, I introduce the Bill.

COTTON TRANSPORT (AMENDMENT) BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I move for leave to introduce a Bill to amend the Cotton Transport Act, 1923.

The object of this Bill is to remove a small difficulty which has occurred in the working of the Act and has been reported by the Government of Bombay. The alteration is also recommended by the Central Cotton Committee and at this stage I do not think I need say any more.

The motion was adopted.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I introduce the Bill.

REPEALING AND AMENDING BILL.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, I beg leave for the introduction of a Bill to amend certain enactments and to repeal certain other enactments.

The Statement of Objects and Reasons fully sets out the reasons for the amendments suggested and the repeals proposed. They are of a purely formal and non-controversial character. I would invite the attention of Honourable Members to the amendments proposed in the Indian Mines Act. The original intention of the Act has been carried out by the substitution of the punishment proposed in section 4 of the Act of 1889 in lieu of the punishment, which is a little more severe, provided for in the Repealing Act of 1923. This is certainly in favour of the subject. I have no further remarks to offer at this stage.

The motion was adopted.

THE HONOURABLE SIR NARASIMHA SARMA: Sir, I introduce the Bill.

MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce a Bill to supplement certain provisions of the Madras

Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924.

As Honourable Members will observe these three Provincial enactments provide that in certain cases orders made by a Presidency Magistrate or by a Court of Session under the provisions of these Acts are appealable to the High Court. These provisions affect the jurisdiction of the High Courts concerned and therefore require the validation of the Indian Legislature.

The motion was adopted.

THE HONOURABLE MR. J. CRERAR: Sir, I introduce the Bill.

INDIAN PORTS (AMENDMENT) BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I move for leave to introduce a Bill further to amend the Indian Ports Act, 1908.

At present section 31 (4) of the Indian Ports Act exempts from the provisions of sub-section (1) of that section certain vessels in the port of Bombay. The object of this Bill is to allow similar exemptions to be given in other ports where that seems desirable. The matter has been brought up by the Karachi Port and the Bombay Government.

The motion was adopted.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I introduce the Bill.

CARRIAGE OF GOODS BY SEA BILL.

REFERENCE TO A JOINT COMMITTEE.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:—

“That this Council do agree to the recommendation of the Legislative Assembly that the Bill to amend the law with respect to the carriage of goods by sea be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of fourteen members.”

This is an invitation from the Assembly to the Council of State to appoint seven of its Members to serve on a Joint Committee to consider the Bill for the amendment of the law regulating the carriage of goods by sea. This Bill deals with bills of lading, and is at the present moment under the consideration of the Assembly. As it has not been before this Council before, it is only right and proper that I should explain briefly its scope and what has been done in regard to it.

The House is aware that commercial goods in maritime trade are mostly carried on bills of lading which are negotiable instruments in which the ship owners or the carriers, the shippers, bankers, insurance agents and also merchants who purchase goods whilst afloat are alike interested. For many years these different sections of commerce have been conferring together in an attempt to reach some definition of the liabilities which should attach to carriers of goods by sea, in other words, to regulate the conditions which might reasonably

[Mr. D. T. Chadwick.]

be attached to bills of lading. That subject has been an extremely difficult one. It has been discussed among these different sections of commerce not only in each country but also at International Conferences, and after many years an agreed set of rules has been arrived at. The last International Congress, a conference not of Government Officials, but of business men interested in each portion of these trades, namely, as carriers, merchants, bankers or insurance agents, agreed to this set of rules and also recommended that all countries with considerable maritime trade should embody those rules in their legislation. Therefore, Sir, the rules are a compromise, if you like, but yet they form a set of rules agreed to by those business men most concerned with these affairs. As such they have been already brought into force in the United Kingdom and also in Australia, and other countries have undertaken to legislate in the same sense.

With that object, in the last Delhi Session a Bill was introduced in the Legislative Assembly. That Bill was circulated to all parts of India for commercial opinion and the opinions of the Local Governments and High Courts. The opinions of all sections have been practically unanimous—I may say absolutely unanimous—in favour of these rules, and, therefore, I claim that this Bill is not merely a purely commercial Bill affecting commercial interests only, but it is also non-controversial. There is a little point in regard to one portion of it which would require discussion in Committee, but that is all. For this reason the Assembly has thought it advisable to refer it to a Joint Committee in which business interests will be well represented. It would save the time of this Council and it would be an expeditious and business-like way of disposing of this Bill if this Council agreed to the invitation of the Assembly and agreed to the appointment of a Joint Committee, which would consist of fourteen members, seven of whom will be elected or nominated by this House.

The motion was adopted.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

“That the following Members of the Council of State be nominated to serve on the Joint Committee to consider and report on the Bill to amend the law with respect to the carriage of goods by sea, namely:

the Honourable the Law Member;
the Honourable Sir Dinshaw Wacha;
the Honourable Sir William Crawford Currie;
the Honourable Sir Maneckji Byramji Dadabhoy;
the Honourable Mr. Manmohandas Ramji;
the Honourable Mr. Ramdas Pantulu; and
myself.”

THE HONOURABLE THE PRESIDENT: The motion made by the Honourable Member does not correspond with that in my hand; I do not find the name of the Honourable Mr. Ramdas Pantulu. The name on my list is that of the Honourable Rai Bahadur Lala Ram Saran Das.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I owe you an apology for not having explained this at the time. In order to get this Bill through in this Session, it is desirable to hold the meeting of this Joint Committee before the end of this week, probably on Friday afternoon; and while the Honourable Lala Ram Saran Das expressed his pleasure, if it were possible, to serve on this Committee, he explained that he would be absent from Simla for the week end; and in his place this morning I invited the Honourable Mr. Ramdas Pantulu who accepted the invitation. I trust I have your permission, Sir, and the permission of the House to substitute the name of the Honourable Mr. Ramdas Pantulu for that of the Honourable Rai Bahadur Lala Ram Saran Das.

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE THE PRESIDENT: Has the Honourable the Leader of the House any information to give to the Council as to the future course of business in this Session?

THE HONOURABLE SIR NARASIMHA SARMA (Law member): Sir, the business ballotted for the non-official meetings to be held on the 1st, 3rd, 8th, and 10th September has been communicated to Honourable Members. As regards official business, motions will be made on Monday next for the consideration and passing of the Bills introduced to-day.

On Wednesday, the 2nd September, you, Sir, will, I understand, move that the Bill to consolidate the law applicable to intestate and testamentary succession in British India be taken into consideration and passed, and time will be given to the Honourable Sir Arthur Froom to make a motion with regard to his Bill to amend the provisions of section 27 of the Indian Succession Act, 1865.

The further course of official business will depend on events elsewhere.

THE HONOURABLE THE PRESIDENT: I may inform the House that I intend to make the motion to which the Honourable the Leader of the House has referred on Wednesday next—the motion in regard to the Indian Succession (Consolidation) Bill.

The Council then adjourned till Eleven of the Clock on Monday, the 31st August 1925.

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COUNCIL OF STATE.

Monday, the 31st August, 1925.

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

QUESTIONS AND ANSWERS.

ABOLITION OF THE SUPER-TAX AND REDUCTION OF THE INCOME-TAX.

45. THE HONOURABLE LALA SUKHBIR SINHA : With reference to my suggestion made in my Finance Bill comments on the 20th March 1925 for the abolition of super-tax and reduction of income-tax rates, will the Finance Member please state what he is going to do in the next year's Budget and whether he is prepared to make any such remission or reduction ?

THE HONOURABLE MR. A. C. McWATTERS : I am not in a position to make any statement about the next year's Budget.

THE HONOURABLE MR. PHIROZE C. SETHNA : Will Government consider the suggestion in regard to exempting from assessable amounts the amounts paid as profits to Life Insurance policy-holders, as is the case in the United Kingdom of late ?

THE HONOURABLE MR. A. C. McWATTERS : I shall be pleased to have the suggestion considered.

THE HONOURABLE MR. K. C. ROY : May I ask whether the question of income-tax as well as of super-tax is now before the Taxation Inquiry Committee, and will the Honourable Mr. McWatters give an assurance to the House that an opportunity will be given for the Taxation Inquiry Committee's report to be discussed in this House before any orders are passed ?

THE HONOURABLE MR. A. C. McWATTERS : I am not sure whether that arises. The question of abolition of super-tax or reduction of income-tax can hardly be said to be before the Taxation Inquiry Committee. Whether they will make any recommendations in regard to these taxes I am not in a position to say. With regard to the second part of the question, I am not in a position really to make any statement. I have no doubt that any important recommendations of that Committee will be open to discussion in both Houses.

ASSESSMENT TO INCOME-TAX OF HINDU JOINT FAMILIES.

46. THE HONOURABLE LALA SUKHBIR SINHA : With reference to the same speech, will the Finance Member please state whether he has considered the joint Hindu family question that I raised therein about the assessment of income-tax, and what he is going to do in the matter ?

THE HONOURABLE MR. A. C. McWATTERS : As I have explained to the Honourable Member who put this question, there has been some delay in getting the reply and I should be glad if it could be put down for a later date.

EXCLUSION FROM THE AMOUNT OF INCOME TO BE ASSESSED TO INCOME-TAX OF TAXES PAID TO LOCAL BODIES.

47. **THE HONOURABLE LALA SUKHBIR SINHA :** Is it a fact that, in the assessment of income-tax, the taxes paid to the local bodies, such as house-tax, professional tax, circumstances and property tax and similar other taxes, are not deducted from the amount of income to be assessed ?

THE HONOURABLE MR. A. C. MCWATTERS : The Honourable Member's attention is invited to paragraphs 44 and 49 of the Income-tax Manual.

DEVELOPMENT OF THE SUGAR INDUSTRY.

48. **THE HONOURABLE LALA SUKHBIR SINHA :** With reference to the Resolution, passed in the Council meeting of 12th March 1924, on the establishment of pioneer sugar factories, will Government be pleased to state what additional funds they have provided for the extension of research work for the development of the sugar industry and what action the Provincial Governments have taken since then to improve and extend sugar cultivation in the country ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : The Sugar Cane Research Station, Coimbatore, which is engaged on work of all-India importance, has been taken under Imperial control and made permanent with effect from the current financial year, and an extension of its activities has also been sanctioned involving, during 1925-26, an additional expenditure of Rs. 1,03,600 including a capital expenditure of Rs. 90,000. The necessary provision for this additional expenditure has been made in the budget of the Imperial Department of Agriculture for the current financial year.

A copy of the Resolution referred to by the Honourable Member, which was adopted by the Council of State on the 12th March 1924, regarding the development of the sugar industry, was forwarded by the Government of India at the end of March 1924 to all Local Governments and the North West Frontier Province Administration for information and such action as might be considered necessary, with the request that the Government of India might be kept informed of any developments. So far, only the Governments of Bombay and Assam have reported the progress made in those provinces in the matter of the improvement and extension of sugarcane cultivation. A copy of their letters and of the replies of other Local Governments on receipt, will be placed in the Library.

BUSINESS DONE IN INDIA BY MARINE INSURANCE COMPANIES.

49. **THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY :** (a) Would the Government please state the amount of annual business done in India during the last five years by Marine Insurance Companies, brokers and underwriters having their offices outside India and the methods of their business done in or in respect of India ?

(b) Is it a fact that these companies and agencies do not issue policies but issue only cover notes and risk notes and certificates ?

(c) Is it a fact that these documents are not stamped in any way and these companies and agencies do not pay an income-tax on such business ?

(d) If the answer be in the affirmative would the Government please state what the loss of public revenue is on account of such omission ?

(e) Do these companies and agencies keep any deposits with the Government of India ?

(f) If not, why not ?

(g) Do these companies and agencies invest any portion of their income in India or in Indian securities ?

(h) If so, what is the extent of such investment ?

THE HONOURABLE MR. D. T. CHADWICK : (a) and (b) Government have no information.

(c) and (d) The information required by the Honourable Member is being collected and will be communicated to him in due course.

(e) Inquiries are being made and the result will be communicated to the Honourable Member in due course.

(f) Under the new Insurance Bill it is proposed to require Marine Insurance Companies to keep a deposit with the Government of India.

(g) and (h). No information is available.

THE HONOURABLE MR. PHIROZE C. SETHNA : In regard to part (a) of this question, will Government be pleased to say if they propose to introduce any provision in the new law whereby brokers carrying on insurance business of any kind will be required to take out licences so that many of the difficulties which now exist might be removed ?

THE HONOURABLE MR. D. T. CHADWICK : The new Bill was circulated for opinion in the beginning of July and any suggestions in regard to it which the Honourable Member may make will be welcomed and carefully considered.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Is it not a fact that the sea-borne trade of Bengal itself during 1924-25 was valued at 283 crores and the sea-borne trade of other ports is more or less valuable. Is not the interest of the Government involved very large and will not Government take steps to have the matter looked into before the passing of the Insurance Act ?

THE HONOURABLE MR. D. T. CHADWICK : I did not follow the Honourable Member. I do not challenge his figures of the volume of sea-borne trade, but the inquiries I promised about (c) and (d) of his question are not dependent upon the passing of the new Act.

REPORT BY KUNWAR MAHARAJ SINGH ON HIS DEPUTATION TO MAURITIUS.

50. **THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY :** Would the Government please state what action is proposed to be taken and when, on the report on Indian emigration to Mauritius by Kunwar Maharaj Bahadur Singh ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : The detailed examination of the Report is now in progress, but Government are not yet in a position to say what action will be taken and when final decisions will be arrived at.

THE HONOURABLE MR. G. A. NATESAN: Will the Government be pleased to state whether, before any action is taken, they will place this matter before the Standing Committee on Emigration?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: I shall have that suggestion considered before coming to any decision.

ODDH COURTS (SUPPLEMENTARY) BILL.

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

"That the Bill to supplement the Oudh Courts Act, 1925, be taken into consideration."

As I have already had occasion to inform the House, this is a measure of a purely formal character. An enactment has been passed by the Legislative Council of the United Provinces raising the status of the Court of the Chief Commissioner of Oudh to that of a Chief Court. Certain provisions, however, of the local enactment are beyond its competence and require the validation of the Indian Legislature. It is to grant that validation that the present Bill is now submitted to the House. I move, Sir, that the Bill be taken into consideration.

The motion was adopted.

Clause 2 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That this be the Schedule to the Bill."

THE HONOURABLE DR. DWARKANATH MITTER (West Bengal: Non-Muhammadan): Sir, I beg to move:

"That in column 4 of the Schedule after entry (2) of the entries relating to the Code of Civil Procedure, 1908, the following entries be added:—

'(3) In clause 2 (a) of section 123 after the words 'High Court' the words 'or Chief Court' shall be inserted.

(4) In clause 2 (d) of section 123 after the words 'High Court' the words 'or Chief Court' shall be inserted.

(5) In section 124 after the words 'High Court' wherever they occur the words 'or Chief Court' shall be inserted.

(6) In section 126, clause (b), after the words 'High Court' the words 'Chief Court' shall be inserted."

The clauses are a necessary consequence of the amendment which has been suggested and which is required to be validated with reference to sections 122 and 123 of the Civil Procedure Code.

They follow as a necessary consequence. If I may just ask the attention of the Honourable Members to the amendments which are sought to be enacted in section 122 of the Code of Civil Procedure, as it now stands, the wording of section 122 is,

"High Courts established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, may, from time to time after previous publication, make rules regulating their own procedure and the procedure of the Civil Courts....."

The words which are sought to be added after the words "Government of India Act, 1915" are "or the Chief Court of Oudh"; that is, the rule-making power is given to the Chief Court of Oudh. In section 123 we have:

"A Committee, to be called the Rule Committee, shall be constituted at the town which is the usual place of sitting of each of the High Courts."

The amendment proposes to add the words "or of the Chief Court" after the words "High Courts". Then comes sub-clause (2) which states:

"Each such Committee shall consist of the following persons, namely:

(a) Three judges of the *High Court* established at the town at which such Committee is constituted...."

And my amendment desires to put the words "or Chief Court" after the words "High Court". It may be said in this behalf that the words "High Court" there may be interpreted with reference to the provisions of the General Clauses Act of 1897, which stands thus:—

"'High Court' used with reference to civil proceedings shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates."

Now, "civil proceedings" do not include and cannot include the rule-making power which is given by the Civil Procedure Code to the Judges of the High Courts. Civil proceedings ordinarily mean proceedings in the nature of suits, appeals, applications, and revision petitions, or if they are not suits, section 141 of the Code suggests proceedings in the nature of probate proceedings, or proceedings in the nature of guardian and ward proceedings under the Guardian and Wards Act. But they cannot possibly refer to the function which is given by the Code of Civil Procedure to the Judges of the High Court for adding or altering the rules; that is a legislative function, that is a function not in connection with civil proceedings which mean proceedings in a Civil Court either in the nature of suits as I have stated, or in the nature of those miscellaneous proceedings which are referred to in section 141 of the Code. It may be said also that those words "3 Judges of the High Court" have stood for so long in the Code since 1908 when the Civil Procedure Code was enacted. But with reference to that I have to draw the attention of Honourable Members to the fact that up till now, although the Code has been in existence for about 17 years, the rule-making committee under clause (2) has not yet been constituted in the High Court of my Province, that is, in Bengal, and I am not aware if it has been constituted in any other Province at all. That is why attention has not been drawn to the difficulty which might arise when a rule-making committee has to be constituted. For the purpose of making my position clear I desire that further addition shall be made of the words "or Chief Court" in clause 2 of section 123. That the Chief Court was not outside the scope of sub-section (2) would appear also if you look at the proviso to section 123 which says:—

"Provided that, if the Chief Justice or Chief Judge elects to be himself a member of the Committee...."

That is, the proviso to sub-section (3). So that it was not the intention of the Legislature when they framed this section that the Chief Court should be outside the scope of this section. I therefore submit that it is a necessary consequence of the amendment to section 122 and section 123 (1) that these words "or Chief Court" should be inserted after the words "three Judges of the High Court." Similar arguments or reasons....

THE HONOURABLE THE PRESIDENT: I think it is better that we take the amendments one by one. It does not necessarily follow that if one amendment is accepted that the others will be accepted, or if one is rejected the others also will be rejected.

THE HONOURABLE DR. DWARKANATH MITTER: I have just one word to say. With regard to civil proceedings by way of illustration, I may just refer this House to section 115 of the Code which is the ordinary revision section which says:

"The High Court may call for the record of any case...."

and interfere in revision. There the words "High Court" will certainly be governed by the provisions of the General Clauses Act, but it could not have been the intention, when the Legislature enacted clause (2) of section 3 of the General Clauses Act and used the words "High Court" with reference to civil proceedings, to include the law-making or the rule-making power given to Judges under section 121 or 122. That was with reference to proceedings pending in courts of civil jurisdiction. I move:—

"That in column 4 of the Schedule after entry (2) of the entries relating to the Code of Civil Procedure, 1908 the following entry be added:

(3) In clause (2) (a) of section 123 after the words 'High Court' the words 'or Chief Court' shall be inserted."

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): This Bill has been introduced into the Council for giving validity to section 49 (7) of the Oudh Courts Act and we have followed exactly the line which has been taken by the Legislature in Oudh. Section 49 (7) of the Oudh Courts Act runs as follows:—

"The enactments mentioned in the First Schedule are hereby amended, or, as the case may be, shall be deemed to be amended, to the extent and in the manner specified in the fourth column thereof. The enactments mentioned in the Second Schedule are hereby repealed...."

We have nothing to do with the repealing provision.

Now, the enactments which have been amended under this Act with reference to the Civil Procedure Code which we are considering are sections 122 and 123. They are exactly the sections in respect of which the words "and the Chief Court" are to be inserted after the words "High Court." Inasmuch as the Legislature of the United Provinces of Agra and Oudh has not the requisite power of affecting the jurisdiction of the High Court we have had to bring in this Bill here, and we have followed exactly the course adopted in the United Provinces Legislature and are amending those sections which have been referred to in the Oudh Courts Act. I shall next deal with the wider aspect of the question which has been referred to by my Honourable friend in order to show that the amendments that he has suggested are unnecessary. Part X of the Civil Procedure Code deals with the rule-making power of the High Courts and draws a distinction between one class of High Courts and another for the purpose of making these rules, the distinction being, as to whether those rules should only be made after the constitution and report of the rule-making committee or otherwise.

The Chief Court which has been now constituted in Oudh is a High Court within the meaning of the General Clauses Act. The Chief Courts of Rangoon and the Punjab, when they existed as such, were also High Courts within the meaning of the General Clauses Act. That has to be borne in mind when we are dealing with these sections in Part X. They are High Courts because,

with reference to the areas over which they have jurisdiction, they are the highest Courts with reference to civil proceedings, the highest Civil Courts of appeal in the part of British India in which the Act or Regulation contained in the expression operates. Although they are High Courts the reason why these Chief Courts have been specifically referred to in sections 122 and 123 and not in the other sections is that the High Courts and Courts referred to in section 122 can proceed only after the appointment of committees. That I shall make clear by referring to these two sections. Section 122 runs as follows:—

"High Courts established under the Indian High Courts Act, 1861, or the Government of India Act, 1915"—

and we propose to add also Chief Court of Oudh—

"may from time to time after previous publication make rules regulating their own procedure and the procedure of the Civil Courts subject to their superintendence and may by such rules annul, alter or add to all or any of the rules in the First Schedule."

That is the rule-making power given to these Courts. Section 123 says:—

"A Committee to be called the Rule Committee shall be constituted."

there is no option there—

"at the town which is the usual place of sitting of each of the High Courts...."

We are concerned with the Chief Court of Oudh here. Turning to section 124, Honourable Members will see that it says:—

"Every Rule Committee shall make a report to the High Court established at the town at which it is constituted on any proposal to annul, alter or add to the rules in the First Schedule or to make new rules and before making any rules under section 122 the High Court shall take such report into consideration."

So, High Courts constituted under the High Courts Act of 1861 and the Government of India Act of 1915 and the Chief Court of Oudh will have to appoint rule-making committees and they will have to take the report of such committees into consideration before the rules are framed, whereas in the case of the other High Courts the constitution of a rule-making committee is not compulsory before rules are made. That is provided for by section 125 which runs as follows:—

"High Courts other than the Courts specified in section 122 may exercise the powers conferred by that section in such manner and subject to such conditions as in the case of the Judicial Commissioner of Coorg, the Governor General in Council, and, in other cases, the Local Government, may determine."

So High Courts other than those referred to in section 122 have got the power of making rules equally with them but they have to make them subject to such conditions and limitations as may be imposed by the Local Government or the Governor General in Council. So, Honourable Members will see that the Judicial Commissioner of Coorg and the High Courts similarly situated will be High Courts which need not appoint rule-making committees within the meaning of this part. That is the reason why we have to insert the words "Chief Court" in sections 122 and 123 in order to make the constitution of a rule-making committee compulsory in the case of Oudh. Dr. Mitter suggests that it is also necessary that we should add the words "or Chief Court" after the words "High Courts" wherever they occur in sections 123, 124 and 126.

[Sir Narasimha Sarma.]

Let us take 123. I submit that the addition is absolutely unnecessary for this reason. Section 123 (2) (a) which is sought to be amended runs thus:—

“Each such Committee shall consist of the following persons, namely:

three Judges of the High Court established at the town at which such committee is constituted.”

The High Court, with reference to civil proceedings is the Chief Court of Oudh in the present case and the expression “three Judges of the High Court” will mean “three Judges of the Chief Court” because that is the highest Court in Oudh. Therefore there is absolutely no necessity for adding the words “or Chief Court” in clause 2 (a). Then clause (d) refers to a judge of a Civil Court subordinate to the High Court. Here again the Chief Court of Oudh is the High Court of Oudh under the General Clauses Act. Therefore, a judge of a Civil Court subordinate to the High Court means a judge subordinate to the Chief Court of Oudh, where Oudh is concerned. My Honourable friend referred to the use of the words “Chief Justice” or “Chief Judge” as helping his construction, but the words “Chief Justice” and “Chief Judge” are put in there in order to draw a distinction between the titles conferred upon the principal presiding officers of these Courts. I may state that with regard to the other sections also the position is exactly the same. The distinction between a civil proceeding and the power of legislation to which my Honourable friend referred has no reference at all to these particular clauses. Section 122 confers the power of making rules and we amend it by specifically including the Chief Court of Oudh. I therefore suggest to the House that it is absolutely unnecessary to insert these words in the other places. This question, as I have already said, has been considered by the Legislature in 1908, in 1919 and I think also in 1923 when the Act was amended and on several previous occasions. It has given rise to no difficulty. I believe there is a rule-making committee in Madras, and there are possibly others in some other provinces. It is not quite accurate to say that this power has not been exercised in actual practice by the constitution of rule-making committees.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): It appears that there is no difference of any substance between the Honourable Dr. Dwarkanath Mitter and the Honourable the Law Member. After carefully listening to the speech of the Honourable Sir Narasimha Sarma I gather that according to him the amendment involved a question more or less of drafting and he proceeded to argue that having regard to the amendments which are going to be made in sections 122 and 123 it would not be necessary to amend sub-section (2) (a) of section 123 or any of the remaining two sections, namely, 124 and 126.

Now the question is a purely legal one, and to me it appears that as there has been no difficulty about the interpretation of these sections action under which has been taken by some of the High Courts including the High Court of Allahabad, there is no likelihood of any very great difficulty arising in the future. Yet this much I must say for the consideration of the official Benches that since we are going to amend sections 122 and 123 and we are

going to invest the Chief Court of Oudh with the same rule-making powers with which the High Courts established under the Act of 1861 or the Act of 1915 are invested, I do not think there will be any harm done if, to further elucidate the point, we accept the amendments of the Honourable Dr. Mitter. If it is clearly made out that those amendments are unnecessary, then no doubt redundant words should not be added to any sections. But the very fact that these two sections are going to be amended, and that further it will not perhaps be possible to accept for this purpose that definition of the High Court which is given in the General Clauses Act, I think it would be safer to have these amendments. In fact, as has been conceded by both the combatants, under section 115 of the Code of Civil Procedure and other sections there is no difficulty, inasmuch as the Chief Court is included in the High Court in the definition given in the General Clauses Act. But I am not quite free from doubt in my mind as to whether the same definition of the High Court can be accepted under Part X of the Civil Procedure Code, especially when you are going to amend two of the sections, namely, 122 and 123. I do not urge that there is no force in the argument placed before the Council by the Honourable Sir Narasimha Sarma, but at the same time I must say that since we are legislating and giving the Chief Court of Oudh rule-making powers, it will be better if we take all the precautions that are necessary and make our meaning quite clear by accepting the Honourable Dr. Mitter's amendment. Coming to the very point, Sir, which according to your ruling is under discussion, it appears that if a High Court is to appoint a Committee, three of its Members should be Judges of the High Court or Chief Court. Dr. Mitter's amendment only makes that point quite clear, whereas according to the Honourable the Law Member, the point is included in the amendment of section 122, namely, if a Committee is to be appointed, three of its Members should be the Judges of the Chief Court of Oudh; I believe that is the argument of my Honourable friend....

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): No. The words used are “three Judges of the High Court established at the town”. My suggestion is that the High Court there includes, or is, the Chief Court of Oudh. So the words “three Judges of the High Court” mean three Judges of the Chief Court of Oudh under the General Clauses Act. It is absolutely unnecessary to amend as proposed.

THE HONOURABLE SAIYID RAZA ALI: I am afraid, Sir, I was not quite able to follow the last words of my Honourable friend. The point is this. Will it be necessary, assuming Dr. Mitter's amendments are negatived, or will it not be necessary, for the Chief Court to appoint a Committee three of the members of which should be Judges of the Chief Court?

THE HONOURABLE SIR NARASIMHA SARMA: Yes, it will be.

THE HONOURABLE SAIYID RAZA ALI: If that is so, no doubt much of the wind is taken out of the sails of Dr. Mitter's amendment. But, I submit, since we are legislating, I would rather like to be on the safer side, and on that ground alone I support the amendment proposed by the Honourable Dr. Mitter.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, when doctors in the law disagree, I feel that it is a great presumption on my part

[Mr. J. Crerar.]

to intervene in this debate at all. As Honourable Members have discovered, the point before them is purely a point of draftsmanship. Draftsmanship is an exceedingly technical and abstruse art in which I for one cannot claim to be an expert; but it may perhaps be of some use to Honourable Members who are in the same predicament as myself if I endeavour to put the issue before the House in the perspective in which it should present itself to an ordinary lay mind. It is, I say, purely a point of draftsmanship, and the question is whether the draftsmen who have operated on these particular provisions of the Civil Procedure Code have discharged their duties correctly. Now for my own part, I have been much impressed by the point which was raised by the Honourable the Law Member. He explained that these very provisions of the Civil Procedure Code had been in point in the year 1908. It is therefore a fair presumption to suppose that the language used was then very carefully considered. They were once more in point in the year 1919 when the Chief Court of the Punjab was raised to the status of a High Court. They were in point for the third time when the Chief Court of Lower Burma was raised to the status of the High Court of Rangoon. They were in point for the fourth time when the Act we are now to supplement was in the hands of the draftsman of the Government of the United Provinces, and again when this Bill was examined by the Legislative Department of the Government of India. They were in point for the sixth time when the provisions of the present Bill were before the draftsman of the Government of India. I submit, therefore, that as this point has been in question all along, it is only a reasonable presumption for us to make that it has been very carefully considered by almost six generations of draftsmen. Now I fully recognise that the purpose of my Honourable and learned friend opposite is to help the Government to improve this Bill: and I desire to make my warmest acknowledgments of that intention, but I must nevertheless associate myself with the opposition to the amendment, because I think that my Honourable and learned friend, with all his learning and all his experience, is nevertheless in this respect in a minority of one to six. I should also like to refer to one other point, a point of substance, raised by the Honourable Dr. Mitter. The whole matter really turns on the reference required in section 123 and the other sections to the general provision of law laid down in the definition of a High Court in the General Clauses Act. That really is the whole substance of the case. Now that definition is as follows. I do not wish to intrude on the delicate ground of legal technicalities, but once more I merely wish to put a plain issue as it presents itself to a plain man. The definition is as follows:—

“‘High Court’ used with reference to civil proceedings shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates.”

The Honourable Dr. Mitter is asking the House to draw a distinction in the matter of civil proceedings, between what I think I may roughly call judicial proceedings and administrative proceedings, and it is necessary for his argument to find that distinction either expressed or implied in the definition, and on this his whole case rests. Now, I venture to think that the definition is drawn in very wide terms indeed and that the real distinction is the very much broader distinction between a High Court engaged in civil proceedings

and a High Court engaged in criminal proceedings. In short, in order to establish my Honourable friends contention, he has to show that a High Court engaged in making rules which are to regulate civil proceedings is not acting “with reference to civil proceedings”. It seems to me—my brain is not perhaps sufficiently instructed or sufficiently subtle to see and fully apprehend the point—but it seems to me that the distinction relied on by the Honourable Member is a distinction so extremely fine that it has presented itself as absolutely impalpable to six generations of learned draftsmen.

I now turn to the remarks made by my Honourable and learned friend from the United Provinces. I confess I am still in doubt whether he supports or opposes the amendment, and I find it somewhat difficult to make any concrete reply to his observations. So far as I comprehend him, what is said is this. He is very doubtful whether the Honourable Dr. Mitter's amendments are necessary. Indeed, at times, he was very much inclined to think that they were unnecessary. But, above all things, he advises caution. He says, “Do not let us leave any loophole in the Act which will impair the powers which we intend to confer upon the Chief Court of Oudh.” Well, Sir, we do hear a great deal in legal discussions about “greater caution,” but I venture to think that this is a caution much greater than what the occasion either demands or justifies. It is really a question of draftsmanship and I think my Honourable and learned friend will agree that superfluity or redundancy is one of those errors which a conscientious draftsman will be particularly anxious to avoid. I venture to take my case a little bit further than that. Caution is all very well, but caution in a matter of this kind may defeat its own end. If you have a general rule of law which is recognised as governing a particular set of circumstances, and if you proceed to legislate and set up certain specific and particular provisions, one consequence is, in accordance with the well known maxim *generalia specialibus excluduntur*, that you may to some extent impeach the credit of the legislation, and therein, I venture to suggest, lies the danger into which we might fall if we accept this amendment. We may, consciously or unconsciously, impeach the credit of that definition of a High Court, which as Honourable Members know,—and it is a very familiar fact to lawyers—governs a very large number of enactments and affects the powers of a considerable number of Courts in India. I submit these considerations by way of caution myself, and, in conclusion, I shall merely turn once more to the consideration which as a layman I venture to address more particularly to the laymen of this House. We all have the greatest respect for Dr. Mitter's legal attainments and experience. We have on frequent occasions—and I myself in particular—derived very great advantage from his contributions to debate. But really, in this case, you have Dr. Mitter against, as I have said, six successions of draftsmen. It is not for me to endeavour to appraise the individuals, because many of them are to me anonymous. But as a layman it seems to me that we are more likely to be correct if we follow the views of six generations of draftsmen and decline to be led, possibly astray, by the amendments which have now been laid before us.

The HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, my support of Dr. Mitter's amendments will not be equivocal like that of the Member, hailing from the town which

[Dr. Sir Deva Prasad Sarvadhikary.]

is the seat of the Court which we are considering. It is unfortunate but it is a fact that legal subtleties are now more in the ascendant than in the past, and Honourable Members would not and ought not to be surprised if a subtle mind like that of my Honourable friend who has moved the amendments were some day to call into question the validity of the rules framed by the Oudh Chief Court, because of the doubts and difficulties that to a mind like his present themselves and that have been voiced but unheeded. I should like to borrow my Honourable friend Saiyid Raza Ali's argument in favour of caution now that we have the opportunity, caution which is needed from more than the mere technical point of draftsmanship. Referring to any standard annotated text-book on the Civil Procedure Code, Honourable Members will find with reference to section 124 of Part X that although doubts, such as are now suggested, did not present themselves to the mind of the legislator, the commentator had to consider the question whether the rule-making power of section 122 did apply to the Chief Court of Burma so long as it was not a High Court, and one school of commentators did hold in the light of the wording of the General Clauses Act that such powers did apply. The commentator had however to intervene in the matter with notes attempting to clear up what to some at least appeared doubtful. I am not aware, as Dr. Mitter has informed the House, that any real question has yet been raised in any of the High Courts with regard to the matter. The reason is obvious. Even a High Court like that of Calcutta, which is always on the look out for all the powers, in addition to their inherent powers, that they can take under the rule-making powers, has, as Dr. Mitter pointed out, and I should like to bear that out, not yet invoked the assistance of a rule-making committee, although the power has been in existence for 17 years. But that is no reason why the rule-making committee should not come into existence any day they think necessary. The Oudh Court might think it necessary to invoke the assistance of a rule-making committee soon, and when it does, it will be only by implication and not by an overt enactment, implication under clause (3) of section 123, to which the Honourable the Law Member has referred, as affording some power. It will be by implication that their Chief Judge will be appointing the 3 members mentioned in the clause. Where is the harm, I ask, in making the matter absolutely clear and beyond doubt? It will be no reflection on the six generations of draftsmen that have been spoken of and that have preceded. These questions are now beginning to be live questions and should be set at rest in advance. Sir, my Honourable friend Mr. Crerar has gratuitously apologised for the Home Department for intervening in law matters. The Home Department has been enjoying a very considerable monopoly with regard to law matters in this House and elsewhere, and therefore, no such apology is necessary. If complete reliance was to be placed upon the wording of section 3 of the General Clauses Act for the purpose and in the way now mentioned, I might have opposed the introduction of any of the amendments proposed by the Honourable Mr. Crerar. What is the wording of that section?

"'High Court,' used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates."

I should ask, and I think that I should ask with some force, why you are

bringing forward this Bill at all to-day. There is the General Clauses Act which says that "High Court" means any Highest Court of Appeal and therefore the Chief Court of Oudh is included in that and you do not want to protect the interests of the Chief Court by any further legislation. I see my Honourable friend Mr. Crerar shaking his head and quite rightly. I should have shaken my head also, if I was not going to be super-subtle with regard to the matter. But lawyers have a method of discovering difficulties which often do not exist in the lay mind and upon which they thrive. I want to guard myself against the evil day when my Honourable friend Dr. Dwarkanath Mitter or some one like him should raise the question if he was permitted by the Bar that is represented here by the Honourable Saiyid Raza Ali, whether the rules were rightly framed considering that the rule-making power was given by implication and not by legislation. From all these points of view the amendment appears to be more than superfluous and I think that that piece of legislation will be all the better for it.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadian): When the Honourable the Law Member and the Honourable Mr. Crerar spoke I thought that a case for amendment was not made out, but after consideration of some sections of the Code I feel that the amendment is necessary. Section 122 of the Code of Civil Procedure says:—

"High Courts established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, may, from time to time after previous publication, make rules."

So, the "High Courts" which can make rules are High Courts established under the Indian High Courts Act and the Government of India Act.

THE HONOURABLE SIR NARASIMHA SARMA: And the Chief Court now. We are adding it.

THE HONOURABLE MR. V. RAMADAS PANTULU: In section 122?

THE HONOURABLE SIR NARASIMHA SARMA: Yes.

THE HONOURABLE MR. V. RAMADAS PANTULU: Therefore, the section as it was did not give power to the Chief Court of Oudh to make rules as it was not a "High Court". Similarly, sub-section (1) of section 123. I think it necessarily follows that the words "Chief Court of Oudh" should be added in later sub-sections.

THE HONOURABLE SIR NARASIMHA SARMA: We are going to add it. That is one of our amendments. We are adding it.

THE HONOURABLE THE PRESIDENT: The Honourable Member will find that both the amendments to which he refers are in the Schedule to the Bill, last column. They are not the amendments moved by the Honourable Dr. Dwarkanath Mitter.

THE HONOURABLE MR. V. RAMADAS PANTULU: I know it. But what the Honourable Dr. Dwarkanath Mitter wants is that in clause (a) of sub-section (2) of section 123 also the words "or Chief Court" should be inserted. My argument is that when you inserted those words in section 122 and sub-section (1) of section 123 there will be room for doubt unless they are inserted in section 123 (2) (a) also. My point is that if those words were found to be necessary in the earlier portions to which I have referred, it becomes

[Mr. V. Ramadas Pantulu.]

equally necessary that the words should be added also in section 123 (2) (a). The very fact that they are being added to sections 122 and 123 (1) is an argument in favour of Dr. Mitter's amendment. If the Legislature, that is those who were responsible for framing the sections, thought that the words "High Courts" included also the "Chief Court" it did not matter, but so long as they did not think so, and the words "Chief Court" were being added in order to give the rule-making power to the Chief Court of Oudh, it followed as a matter of corollary that, unless those words were added in the places indicated by Dr. Mitter, the difficulty would not be removed. I really do not see how the difficulty raised by my Honourable friend Dr. Mitter is got over by adding those words only in those places where they were added and not in the places wanted by him. Therefore I think in order to obviate the difficulty pointed out by Dr. Mitter and in order to guard against the contingency of some lawyer raising the question that the rules made by the Chief Court of Oudh are *ultra vires*, it would be safer to add those words in the places indicated by Dr. Mitter.

THE HONOURABLE THE PRESIDENT: The question is:—

"That in column 4 of the Schedule after entry (2) of the entries relating to the Code of Civil Procedure, 1908, the following entry be made:

(3) In clause (a) of sub-section (2) of section 123 after the words 'High Court' the words 'or Chief Court' shall be inserted."

The motion was negatived.

THE HONOURABLE DR. DWARKANATH MITTER: Sir, as the first of my amendments is lost I do not think it will be desirable to press the others.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill be passed.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): On behalf of the people of Oudh I rise to give my hearty support to the motion that the Bill be passed. This, Sir, is no occasion to go into the history of the judicial administration of Oudh, but let me say this much that, though administratively the United Provinces of Agra and Oudh, as the very name indicates, comprise Oudh as well as the districts which used to be known as the North-Western Provinces, for the purposes of judicial administration we have got two High Courts within the meaning of the General Clauses Act, namely, the High Court situated at Allahabad and the Judicial Commissioner's Court situated at Lucknow. The people of Oudh have been sore over the point that they were relegated in the matter of judicial administration to an inferior Court and their aspirations from the early seventies have been in the direction of their highest Court being converted into a High Court. Unfortunately the time is not yet ripe when those aspirations can be fulfilled. This is mainly due to the small size of Oudh which consists of 12 districts only. Yet, I must acknowledge on their behalf their sense of deep gratitude to Government who have taken action in the direction of giving them, if not

the best, at any rate the second best, that can be given, namely, a Chief Court at Lucknow. Sir, feelings in the past have run high. The ideal of both the provinces has no doubt been a united High Court for the entire United Provinces. The time is not unfortunately yet when steps can be taken to bring about that amalgamation; but I am very glad and indeed grateful to Government that the traditions which the judicial system of Oudh inherited from its predecessors in the early sixties have continued up to the present time, namely, that no efforts have been made to take away the separate Court which has been the unique pride of the people of Oudh for the past 50 years and more. As I have submitted they are deeply grateful and look forward to the time when the Chief Court which is going to be set up in Oudh within the next two months will be raised to the status of a chartered High Court. The difficulty, at which I hinted, namely, the smallness of the province, need not, after all in the fulness of time, offer any formidable obstacles, as it will be possible to evacuate from the Agra province some of the western districts and amalgamate them with Oudh and give the amalgamated area a united chartered High Court at Lucknow.

THE HONOURABLE THE PRESIDENT: The question is:
"That the Bill to supplement the Oudh Courts Act, 1925, be passed."
The motion was adopted.

CRIMINAL TRIBES (AMENDMENT) BILL.

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

12 NOON. "That the Bill to amend the Criminal Tribes Act, 1924, be taken into consideration."

This is a small measure necessitated to cure a small imperfection or at any rate ambiguity in the existing Act. Honourable Members, whose attention has on two or three previous occasions been drawn to our legislation relating to criminal tribes will remember that, when Local Governments find it necessary to notify a tribe or individual members of a tribe as being a criminal tribe or members of a criminal tribe, thereafter they have several courses open to them. If the tribe or the individuals of the tribe concerned are a very serious danger to public security under section 11 of the Act, they may be restricted in their movements or settled in another place of residence. If action is taken under this section to settle the tribe or the members of a tribe in a place of residence elsewhere than within the jurisdiction of the province that originally made the notification, it is already provided in the Act that the provisions of the Local Government within whose jurisdiction the tribe or the members thereof have been settled shall apply as if that Government had originally taken action. But there are certain minor forms of restraint provided for. Under section 10, the Local Government may have decided only to direct the registered members to report themselves and to notify any changes of residences or absence of residences. If action is taken under section 10(b), all that is obligatory upon the member of the criminal tribe is to notify his residence. He may change his residence without obtaining permission. He is only required to notify. It is obviously necessary in order to give complete effect to the intention of this section that if a member of a criminal tribe,

[Mr. J. Crerar.]

for example, moves from the Punjab to the United Provinces, he shall while, in the United Provinces, be required to notify his residence to the authorities in that province duly constituted and appointed for the purpose. That is the sole purpose of the Bill and I think Honourable Members will readily perceive its necessity and its utility.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR : I move that the Bill be passed.

The motion was adopted.

COTTON TRANSPORT (AMENDMENT) BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary) : Sir, I beg to move : —

“That the Bill to amend the Cotton Transport Act, 1923, be taken into consideration.”

This is a very small Bill, which I bring to the notice of the House. There is actually only one point of substance. I hesitate to say it has anything to do with drafting. It is intended to deal with a small difficulty which has arisen in the practical working of what has proved to be a very useful and very beneficent Act which was passed by this Council only two years ago. Perhaps the House will remember that, as a result of one of the recommendations of the Indian Cotton Committee, power was vested in Local Governments to control and restrict the transport of raw cotton, cotton waste, *kupas* and other forms of raw cotton which the Committee found were being transported from many parts of the country for the sole purpose of mixing with better types of raw cotton. After much consideration in the country, after full debates here and in the Assembly, the Cotton Transport Act was passed. It has been put in force in parts of Bombay, and its working has generally been extremely well reported upon. But in that Act most sections deal with the control of the transport of cotton by rail. That is a central subject and beyond the purview of Local Governments. The Act conferred full powers on the Local Governments to make what rules they considered feasible and necessary for the control of the transport of cotton by road, river or sea.

The Cotton Committee itself was doubtful whether the cotton transported by road could be effectively controlled. However, the Act left that point entirely to the Local Governments. Yet as the Act left the Assembly and the Council of State, section 3(7) read as follows :—

“The Local Government may for the purpose of maintaining the quality or the reputation of the cotton grown in any area in the province by notification in the local official Gazette prohibit the import of cotton or a specific kind of cotton into that area save under a license.”

The effect of a notification under this section is to prohibit entirely the import of cotton into a protected area by all means of transport, i.e., whether it be by rail, road, river or sea. The House will see that such a prohibition is absolute and complete—it leaves the Local Government no discretion, no option. A Local Government, if it notifies an area, has to control every form of transport of cotton. That has proved a difficulty : and the suggestion that we now put before the House in this Bill is to insert into the clause which I have just read some words allowing the discretion to Local Governments to prohibit by notification the import of cotton or a specified kind of cotton into an area by rail, road, river and sea or by any one or more of such routes. This is the operative part of the Bill. The remaining clauses are merely consequential upon that amendment. I commend the motion to the House.

The motion was adopted.

Clauses 2, 3, 4, 5 and 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK : Sir, I move that the Bill be passed.

The motion was adopted.

REPEALING AND AMENDING BILL.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member) : Sir, I beg to move :

“That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration.”

I have already stated that this Bill is a purely formal one when asking for leave to move for the introduction of the Bill. The only point of substance, is the amendment in the Indian Mines Act which would carry out the intentions of the Legislature by making it clear that the shorter term of imprisonment which was provided for in the Act of 1887 is to be retained instead of the heavier sentence which is provided for in the Act of 1923. That is clearly in favour of the subject and carries out the real intention of the Legislature. There is nothing else to add, and I ask that the Bill be taken into consideration.

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The First and Second Schedules were added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE SIR NARASIMHA SARMA : Sir, I beg to move that the Bill be passed.

The motion was adopted.

MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) BILL.

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

“That the Bill to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act 1924, be taken into consideration.”

The immediate point for consideration is, as Honourable Members will observe, really speaking small, and I do not therefore propose to detain the House very long. Incidentally, it invites their attention to what I think Honourable Members will all unanimously agree is a very notable advance made in three of the provinces of India in the direction of social legislation for the protection of children. It needs no words of mine to commend that body of legislation to the House. Among the provisions in these three Provincial Acts there is a provision which will also commend itself to this House, which is that the Act places certain children under the control of Courts or empowers certain Courts to inflict sentences for offences committed in connection with children, and it also provides that in respect of such orders, if they are passed by Presidency Magistrates or a Sessions Court, an appeal shall lie to the High Court. Well these penal enactments, as I am sure Honourable Members will agree, are very salutary, but Local Governments are probably well advised in insisting that in certain circumstances an appeal ought to lie to the High Court. They included those provisions in their enactments, but as they affect the jurisdiction of the High Courts concerned, they require the sanction of the Indian Legislature. It is for that sanction that I now ask the House.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, in giving my support to this motion I desire on behalf of my province to associate myself very whole-heartedly with what has fallen from the Honourable Mr. Crerar. We have long been trying to place social legislation on sound lines, and it is after long and painful struggles that we have succeeded in doing so. Temperance societies, purity societies, the Vigilance Association and various other such bodies have often been looked upon as these bodies are apt to be looked upon in certain quarters, as so many faddists and hot beds of hobbies, and it has been more than hinted that it is no business of theirs to intervene in the province of legislation. That day is now gone by, and a fresh era of social service as well as social service legislation, without which we are frequently and rightly told that no real political advance or economic improvement is possible, is dawning. Our regret, Sir, is that we cannot take matters any further than legislation. We want homes for these children, we want proper places for education and training and not “reformatories” for these children if they are to grow up into useful and innocent citizenship. For the present it is a matter for thanks that some legislation has been achieved, and let us hope that as a necessary corollary institutions of the kind that have been suggested will come into existence early to make full fruition of legislation possible.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: I move that the Bill be passed.

The motion was adopted.

INDIAN PORTS (AMENDMENT) BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary):

Sir, I beg to move:

“That the Bill further to amend the Indian Ports Act, 1908, be taken into consideration.”

Under section 31 (1) of the Indian Ports Act, the Government can notify that no vessel of not less than 200 tons measurement shall enter, leave or be moved in any specified port without having on board a pilot, harbour master or assistant of the Port Officer or harbour master. That power is obviously very necessary and useful. However, there are ports and ports. Some ports are restricted in water space. In some ports like Bombay there is a fair amount of room. Therefore, the Act as constituted at present says that this section shall not apply to native vessels entering, leaving or being moved in the port of Bombay. Section 31 (1) that I have just referred to applies to most of our major ports, Karachi, Calcutta and the like. Karachi also claims that it has a certain amount of space available, and that it is unnecessary to compel small native sailing craft to have on board a pilot or harbour master before they enter or leave or move from one place to another within harbour limits, provided that the sailing craft is less than 500 tons. Accordingly, the Karachi Port Trustees supported by the Bombay Government have requested that this section should be amended in this sense. That would mean that Bombay and Karachi would appear by name in the section. It seems a right power to take to exempt in certain ports these small native craft from the obligation of having a pilot on board before they move. But it also seems unnecessary, from the point of view of drafting, to mention each port by name in the Act. Therefore, we have placed this amendment before you asking you to confer power upon the Governor General in Council that where section 31 (1) of the Act is applied to a port, the Governor General in Council may also have the power in regard to any specified port to exempt by notification from this provision sailing vessels of any measurement to be specified in such notification.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK: I beg to move that the Bill be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 1st September, 1925.

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COUNCIL OF STATE.

Tuesday, the 1st September, 1925.

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

QUESTIONS AND ANSWERS.

DELEGATION TO THE GOVERNOR GENERAL IN COUNCIL OF THE POWER TO MAKE RULES UNDER SECTION 96-B (2) OF THE GOVERNMENT OF INDIA ACT.

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

- (a) whether, under section 96-B (2) of the Government of India Act the power of making rules has been delegated to the Governor General in Council;
- (b) if so, has the Governor General in Council made rules in virtue of the power thus delegated; and
- (c) if the reply to (b) is in the affirmative, will the rules be placed on the table?

THE HONOURABLE MR. J. CRERAR: (a) and (b). The power to make rules on various matters was delegated in the Fundamental Rules, and the Governor General in Council has availed himself of that power by making what are known as the Supplementary Rules. No delegation of rule-making power has so far been made in pursuance of the recommendations of the Lee Commission.

(c) A copy of the Supplementary Rules will be found in the Library.

THE HONOURABLE DR. DWARKANATH MITTER: A supplementary question, Sir. Will the Government be pleased to state whether the Standing Emigration Committee had an opportunity of discussing the Lowlands question with the members of the last Kenya Committee and to state the nature of the advice given by the Standing Emigration Committee?

THE HONOURABLE MR. J. CRERAR: I do not think that question arises, Sir, as a supplementary question.

THE HONOURABLE DR. DWARKANATH MITTER: The second part, Sir.

THE HONOURABLE THE PRESIDENT: The Honourable Member has anticipated the answer to the next question.

RESERVATION OF THE LOWLANDS OF KENYA FOR INDIAN COLONISATION.

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

- (a) whether they have consulted the Standing Emigration Committee of the Indian Legislature on the subject of the proposal made by

His Majesty's Government to reserve an area in the Lowlands of Kenya for Indian colonisation ;

(b) if so, has the Committee submitted its report ; and

(c) if there is such a report, will it be placed on the table ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : (a) The reply is in the affirmative.

(b) The Committee submitted no formal report but merely made a recommendation.

(c) Does not arise.

THE HONOURABLE DR. DWARKANATH MITTER : Will the Government be pleased to state whether the Standing Emigration Committee had an opportunity of discussing the Lowlands question with the members of the last Kenya Committee and to state the nature of the advice given by the Standing Emigration Committee ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : I shall be very glad to inquire if the Honourable Member will put the question down.

RESERVATION OF THE LOWLANDS OF KENYA FOR INDIAN COLONISATION.

53. The HONOURABLE MR. PHIROZE C. SETHNA : (a) Have Government received from the Overseas Committee of the National Liberal Federation and the Imperial Citizenship Association memoranda on the subject of reserving an area in the lowlands of Kenya for Indian colonisation ; and

(b) if so, will Government be pleased to make a full statement on the subject mentioning what action has been taken ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : (a) Yes.

(b) Government do not intend to depute an officer to inspect this area.

THE HONOURABLE MR. K. C. ROY : Could the Honourable Member indicate to the House the opinions of Kenya Indians on the subject ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : I understand that they are very much in conformity with the views that Government have on the subject.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Is it a fact that one of these gentlemen has agreed to serve on the Executive Council of Kenya and several have agreed to serve on the local Legislative Council ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : I am afraid I could not answer the question from memory.

NATAL BOROUGHS ORDINANCE.

54. The HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to state what action, if any, they have taken on the subject

of the Natal Boroughs Ordinance with a view to moving His Majesty's Government to advise His Majesty to disallow the Ordinance ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : The Government of India are still negotiating with the Union Government with a view to arrange a conference to consider the Indian question in South Africa.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Has any representation been made to the Governor General of the Union by the Government of India and is the Honourable Member in a position to indicate what that representation is ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : We are in negotiations with the Union Government and are constantly making representations.

THE HONOURABLE MR. K. C. ROY : May I ask, Sir, what definite advice the Government of India gave to the Governor General in South Africa to disallow the Natal Boroughs Ordinance ? That is the question at issue.

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : The arrangements for a round table Conference cannot be pursued if particular points are pressed and a reply in the affirmative or negative is insisted upon.

DISABILITY IMPOSED ON INDIAN STUDENTS REGARDING ADMISSION TO UNIVERSITY OFFICERS' TRAINING CORPS.

55. The HONOURABLE MR. PHIROZE C. SETHNA : With regard to the Resolution moved on 22nd January last, regarding the removal of the disability against Indian students in England to enter the University Officers' Training Corps, which was accepted by Government, will they be pleased to state what action His Majesty's Government have taken to remove the disability, and whether the disability has been removed by now ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : No reply has so far been received from the Secretary of State to the Government of India's despatch on the subject, which was sent on the 26th March last.

RECOMMENDATIONS OF THE AUXILIARY AND TERRITORIAL FORCES COMMITTEE.

56. The HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to state what steps they have taken to give effect to the recommendations of the Auxiliary and Territorial Forces Committee ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The Government of India found it necessary to consult Local Governments in regard to the principal recommendations of the Committee. The final replies of certain Local Governments have only recently been received, and these are still being examined. The Government of India have not yet come to any final conclusion on the subject.

REVISION OF THE MESTON SETTLEMENT.

57. The HONOURABLE MR. PHIROZE C. SETHNA : (a) Will Government be pleased to state whether they have received from the Government of Bombay a representation of the Legislative Council of Bombay on the subject of the Meston Settlement ; and

(b) if so, what action they propose to take thereon?

THE HONOURABLE MR. A. C. MCWATTERS: (a) The Government of India have received a representation from the Government of Bombay asking for an immediate revision of the Meston Settlement to be entrusted to the Taxation Inquiry Committee.

(b) As I have already pointed out to this House at the time of the debate on the Resolution regarding Provincial Contributions, the revision of the Meston Settlement is not within the province of the Taxation Inquiry Committee, and that Committee is not the sort of body to whom such duty could suitably be assigned. In accordance with my promise on that occasion, the Committee has, however, been asked to advise on the operation of Devolution rule 15 regarding the allocation of a share of income-tax to Provincial Governments.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Has any representation been received from the Government of Bengal? If not, will the Government call for a report from Bengal before finally deciding the question?

THE HONOURABLE MR. A. C. MCWATTERS: So far as I am aware, no representation of this character has been received from the Government of Bengal.

AMENDMENT OF THE LAW RELATING TO INFANTICIDE IN INDIA.

58. THE HONOURABLE MR. PHIROZE C. SETHNA: (a) Has the attention of Government been drawn to the observations made some time back by the Sessions Judge of Dharwar in his judgment on a case of infanticide, wherein he observed to the effect that "the criminal law of India might be brought into line with the law on infanticide obtaining in Western countries where infanticide is treated as an offence distinct from murder"?

(b) Are Government aware that the Bombay High Court, before which the same case came on appeal, endorsed the observations made by the Sessions Judge?

(c) Will Government state if any action will be taken on the lines suggested by the Sessions Judge?

THE HONOURABLE MR. J. CRERAR: The Government of Bombay have recently brought the case mentioned by the Honourable Member to the notice of the Government of India, and the Government of India are considering the expediency of amending the law.

AMENDMENT OF THE INDIAN INCOME-TAX ACT.

59. THE HONOURABLE MR. PHIROZE C. SETHNA: (a) Have Government considered the proposal made in question No. 29 on 22nd January 1925, regarding an amendment of the Indian Income-tax Act on the lines of the amendment made in 1923 to section 16 of the Finance Act of Great Britain whereby profits paid to policy-holders are no longer treated as taxable income?

(b) If an amendment is to be made, when will it be brought forward?

THE HONOURABLE MR. A. C. MCWATTERS: The matter is still under consideration. I hope a decision will be arrived at shortly.

ENCOURAGEMENT OF INDIAN ART.

60. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government be pleased to state:

(a) whether they have received a copy of the scheme for the encouragement of Indian Art framed by the "Finn of Delhi Committee"; and

(b) whether they propose to take any action in accordance with the recommendations made therein?

THE HONOURABLE MR. A. A. L. PARSONS: (a) No copy of the scheme has been received officially by Government.

(b) Certain suggestions for the establishment of a Central Art School at Delhi are being considered by Government.

INDIAN DELEGATES TO INTERNATIONAL AND IMPERIAL CONFERENCES.

61. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government be pleased to state:

(a) how many International and Imperial Conferences were held during the last three years;

(b) what were the functions and objects of each of these Conferences;

(c) to which of these were the Government of India invited to send delegates;

(d) to which of these were delegates sent by the Government of India;

(e) what were the names and qualifications of these delegates; and

(f) what has been the expenditure during the last three years incurred by the Government of India in connection with each one of these International Conferences?

THE HONOURABLE MR. J. CRERAR: I lay on the table a statement giving the information asked for in parts (c) to (f) of the question. As regards (a) and (b) I regret that the information asked for is not available.

Statement showing the Imperial and International Conferences held during the years 1922, 1923 and 1924 to which the Government of India were invited to send delegates.

Serial No.	Name of Conference.	Names of delegates.	Expenditure incurred by Government (expenditure in sterling has been converted into rupees at the rate of Re. 1 = 1s. 4d.)
1	League of Nations	1922. Lord Chelmsford, His Highness the Maharaja of Nawabnagar and Sir P. S. Sivaswamy Aiyer.	Rs. 24,629-5-0.

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N25-6

Serial No.	Name of Conference.	Names of delegates.	Expenditure incurred by Government (expenditure in sterling has been converted into rupees at the rate of Re. 1 = 1s. 4d.).
		1922-- <i>contd.</i>	
2	International Union of Geodesy and Geophysics held in Rome.	Dr. J. deGraaff Hunter, Mathematical Adviser, Survey of India.	Exact amount incurred is not known. Dr. Hunter who was at the time on leave in England was paid travelling expenses (1st class) for the return journey to Rome and subsistence allowance at £ 2-2-0 a day while attending the meetings.
3	General Assembly of the International Institute of Agriculture held at Rome in May 1922.	(1) Mr. J. A. Hubback (2) Dr. C. A. Barber (on leave in England).	Information not available.
4	Far East Quarantine Conference, Batavia.	No delegate was sent	....
5	International Geological Congress, Brussels.	Dr. E. H. Pascoe, Director, Geological Survey of India.	Rs. 1,770.
6	Imperial Conference for a Patent of Imperial validity, London.	Dr. H. G. Graves, late Controller of Patents and Designs.	Rs. 468-1-0.
7	Fourth International Labour Conference, Geneva.	(1) Late Sir B. N. Basu, Member of the Secretary of State's Council (Government delegate). (2) Sir L. J. Kershaw, K.C.S.I., C.I.E., India Office, London (Government delegate). (3) Sir Alfred Pickford (Employers' delegate). (4) Mr. N. M. Joshi, M. L. A., (Workers' delegate).	Rs. 10,584-2-0.
8	Permanent International Commission of Road Congresses, Paris.	Mr. B. G. Gwyther, Superintending Engineer, Bengal (on leave in England).	Information of expenditure incurred is not available.
9	International Railway Congress held in Rome.	(1) Mr. Deuchars, the Government Director of Indian Railway Companies at the India Office. (2) Sir Robert Gales, Kt., late Chief Engineer, Indian State Railways. (3) Mr. H. B. Taylor, C.B.E., late Chief Engineer, Indian State Railways.	Information of the exact amount of expenditure incurred is not available. Sir Robert Gales and Mr. Taylor were in England at the time of the Congress. Mr. Deuchars and Sir Robert Gales were granted actual travelling expenses (1st class) between London and Rome and back and a subsistence allowance of two guineas a day for the time spent on the continent on duty. No allowances or expenses were granted to Mr. Taylor as he acted as a delegate at his own expense.
10	International Advisory Committee held at Geneva in December 1922 in connection with the question of Anthrax.	Lt.-Colonel F. H. G. Hutchinson, Public Health Commissioner with the Government of India.	Rs. 1,790 approximately.

Statement showing the Imperial and International Conferences held during the years 1922, 1923 and 1924 to which the Government of India were invited to send delegates.

Serial No.	Name of Conference.	Names of delegates.	Expenditure incurred by Government (expenditure in sterling has been converted into rupees at the rate of Re. 1 = 1s. 4d.).
		1923.	
1	League of Nations	Lord Hardinge, His Highness the Maharaja of Nawanagar and Mr. Syed Hassan Imam.	Rs. 31,463-15-0.
2	Imperial Conference	His Highness the Maharaja of Alwar and Sir Tej Bahadur Sapra.	Rs. 16,638-6-11.
3	International Conference on Obscene Publications.	Sir Prabha Sankar Pattani ..	Information not available.
4	International Conference held in Spain in June 1923 for the purpose of discovering the most effective means of combating the olive fly.	No delegate was sent ..	....
5	International Conference for Phytopathology and Entomology held in June, 1923 at Wageningen, Holland.	No delegate was sent ..	....
6	International Cattle breeding Congress held in the Netherlands in August, 1923.	No delegate was sent ..	....
7	Imperial Education Conference, London.	No delegate was sent ..	....
8	Conference on Tropical Medicine in Angola.	No delegate was sent ..	....
9	5th Congress of the Far Eastern Association of the Tropical Medicine held at Singapore.	Lt.-Colonel S. R. Christophers, C.I.E., I.M.S.	Rs. 4,339-4-0.
10	October 1923 Session of the Standing Committee of the International d'Hygiene Publique, Paris.	Lt.-Colonel R. A. Needham, C.I.E., D.S.O., I.M.S.	Colonel Needham was in England and his T. A. to Paris and back and subsistence allowance were paid by the office International.
11	British Empire Forestry Conference, Canada, 1923 (Imperial).	Messrs. C. G. Trevor and W. A. Robertson of the Indian Forest Service.	Rs. 10,800 (estimated). Actuals are not known.
12	Fourth International Road Congress, Seville.	Mr. H. L. Holman-Hunt, C.I.E., Superintending Engineer, Burma.	Information not available.
13	The Permanent International Commission of Road Congress, Paris.	No delegate was sent ..	....
14	The International Air Congress, London.	Mr. H. A. Sams, C.I.E., I.C.S., Officiating Director General, Posts and Telegraphs.	Rs. 30.
15	Public Works, Roads and Transport Congress, London.	No delegate was sent ..	....

Serial No.	Name of Conference.	Names of delegates.	Expenditure incurred by Government (expenditure in sterling has been converted into rupees at the rate of Re. 1=1s. 4d.).
		1923— <i>contd.</i>	
16	Conference of Directors of Meteorological Services and Heads of Observatories, Utrecht, Holland.	Sir Gilbert T. Walker, Kt., C.S.I., M.A., D.Sc., Ph.D., F.R.S., late Director General of Observatories in India.	The Government of India were not actually invited to send a delegate; Sir G. T. Walker asked for permission to attend the Conference as a representative of India which was granted.
17	Fifth International Labour Conference.	Mr. (now Sir) D. M. Dalal, Kt., late High Commissioner for India, London. Sir Dadiba Dalal did not attend the Conference, his place was taken by Mr. A. G. Clow, I.C.S., acting as substitute delegate appointed by Sir D. M. Dalal. Sir L. J. Kershaw, K.C.S.I., C.I.E., India Office, London. Mr. J. A. Kay of Millowners' Association, Bombay, Mr. Roy Chowdhury, M. L. C., Calcutta.	Rs. 7,199-12-0.
18	International Conference of Labour Statisticians, Geneva.	Mr. A. G. Clow, I.C.S., Under Secretary, Government of India, Department of Industries and Labour.	Rs. 285.
19	The Imperial Economic Conference convened in London in October-November 1923.	India was represented by Lord Peel, then Secretary of State for India, and he was assisted by Mr. (now Sir) Charles Innes, Commerce Member of the Viceroy's Council, then on leave in England, and Mr. (now Sir) Dadiba Dalal, then High Commissioner for India, London, as delegates.	Delegates were the guests of His Majesty's Government.
20	International Navigation Congress held in London in 1923.	India was represented by Mr. H. A. F. Lindsay, C.B.E., I.C.S., the Indian Trade Commissioner in London.	<i>Nil.</i>
21	The Second General Conference of the League of Nations on communications and transit held at Geneva in November 1923.	None was sent from India. The Secretary of State was asked to arrange for the point of view of the Government of India being put forward by the British representative at the Conference.	<i>Nil.</i>
22	International Conference on Customs and other similar formalities.	Mr. W. D. Tomkins, India Office, represented India.	No expenditure was incurred in India and no information is available as to the amount incurred outside India.

Statement showing the Imperial and International Conferences held during the years 1922, 1923, and 1924 to which the Government of India were invited to send delegates.

Serial No.	Name of Conferences.	Name of delegates.	Cost incurred by Government (expenditure in sterling has been converted into rupees at the rate of Re. 1=1s. 4d.).
		1924.	
1	League of Nations	Lord Hardinge, His Highness the Maharaja of Bikaner and Sir Muhammad Rafique.	Information not available.
2	International Union of Geodesy and Geophysics held in Madrid	Sir G. P. Lenox-Conyngham, Retired, Superintendent, Survey of India.	Sir Gerald's expenses were paid by His Majesty's Government whom he also represented.
3	International Pedological Conference held in Rome in May 1924.	No delegate was sent.	..
4	General Assembly of the International Institute of Agriculture held in Rome in May, 1924.	1. Sir Raja Gopala Achariar, (Member, Secretary of State's Council). 2. Mr. B. C. Burt (on leave in England).	Information not available.
5	Second International Seed Testing Congress held in England in July 1924.	No delegate was sent.	..
6	Imperial Mycological Conference held in England in July, 1924 in conjunction with the British Empire Exhibition.	1. Dr. E. J. Butler (on deputation in England as Director of the Imperial Bureau of Mycology). 2. Dr. F. J. F. Shaw (on leave in England).	Information not available.
7	Imperial Botanical Conference held in July, 1924 on the occasion of the British Empire Exhibition.	Lt.-Col. A. T. Gage, I.M.S., C.I.E., M.A., M.B., B.Sc., F.L.S., F.A.S.B., Director of the Botanical Survey of India (on leave in England).	Information regarding exact expenditure incurred is not available. Col. Gage received deputation pay of 2-3rds of his Indian salary together with subsistence allowance at the rate of 30s. a day and actual and necessary 1st class travelling expenses.
8	April 1924 session of the Standing Committee of office International d'Hygiene Publique, Paris.	Lt.-Col. F. H. G. Hutchinson, C.I.E., I.M.S., (on leave in England).	Information regarding exact expenditure incurred is not available. Col. Hutchinson was granted an honorarium of 1-6th of his Indian emoluments in addition to leave allowance while on deputation in interruption of leave. His T. A. to Paris and back and subsistence allowance were paid by the office International.
9	October, 1924 Session of the Permanent Committee of the office International d'Hygiene Publique, Paris.	Lt.-Col. A. B. Fry, C.I.E., D.S.O., I.M.S., (on leave in England).	Information regarding exact expenditure incurred is not available. Col. Fry was placed on deputation and received 2-3rds of his Indian pay and a compensatory allowance of 16s. 8d. a day for the period of his deputation. Before going to Paris he was sent to Geneva to the working of the Health Section of the League of Nations. Received usual travelling expenses to and from Geneva and subsistence allowance at 3 guineas a day

Serial No.	Name of Conference.	Names of delegates.	Cost incurred by Government (expenditure in sterling has been converted into rupees at the rate of Rs. 1=1s. 4d.)
		1924— <i>contd.</i>	
10	Third English speaking Conference on Infant Welfare held in London.	Lt. Col. E. H. Hodgson, D.S.O., I.M.S.	Colonel Hodgson was on leave in England at the time and received only Travelling allowance and subsistence allowance.
11	Sixth International Labour Conference, Geneva.	(1) Mr. (now Sir) A. C. Chatterji, C.I.E., I.C.S., late Member of the Council of the Governor General of India. (2) Sir L. J. Kershaw, K.C.S.I., C.I.E., India Office, London. (3) Sir Alexander Murray, Kt., C.B.E. (4) Mr. Joseph Baptista, Bar-at-Law, M.L.C., Bombay.	Rs. 17,774-12-0.
12	The World Power Conference, London.	High Commissioner for India with Mr. J. W. Mears, the late Electrical Adviser to the Government of India as Technical Adviser.	Nil.
13	The Permanent International Commission of Road Congresses, Paris.	No delegate was sent.	..
14	International Postal Congress, Stockholm.	(1) Sir Geoffrey Clarke, Kt., C.S.I., O.B.E., I.C.S. Director General of Posts and Telegraphs as Senior delegate. (2) Rai H. K. Raha Bahadur, M.A., Dy. Director General of Post Office as 2nd delegate. (3) Mr. P. N. Mukerjee, M.A., M.R.A.S.F., R. Met. Soc. (London), Superintendent of Post offices and P. A. to Postmaster General, Bengal and Assam as Secretary.	Rs. 58,895-2-0.
15	2 International Opium Conferences.	Mr. J. Campbell, C.I.E., O.B.E., (late of the I.C.S.) assisted by Mr. H. Clayton, C.I.E., I.C.S., Financial Commissioner, Burma, who was on leave in England, Mr. Campbell had to leave suddenly on more pressing business and his place at the Conferences was taken by Mr. J. C. Walton of the India Office.	Information not available.

THE HONOURABLE MR. K. C. ROY : May I ask the Honourable the Home Secretary if he is in a position to state whether the cost of delegation of Indian Princes to the League of Nations as well as the Imperial Conference is a charge on Indian revenues ?

THE HONOURABLE MR. J. P. THOMPSON : With your permission, Sir, perhaps I might answer that supplementary question. The answer is in the affirmative. But I believe I am right in stating that the Princes have not on every occasion availed themselves of the generosity of the Government of India. That applies only so far as the deputations to the League of Nations are concerned. As regards deputations to the Imperial Conference I believe the cost of all the expenses of all the delegates in England is borne by the Imperial Government.

THE HONOURABLE MR. PHIROZE C. SETHNA : Do I understand the Honourable the Home Secretary to say in reply to parts (a) and (b), that he is unable to give that information, or whether the information is not available ?

THE HONOURABLE MR. J. CRERAR : The information is not available to me. The Honourable Member will observe that we have been at great pains to provide the information with regard to such Conferences to which the Government of India were either invited or did actually send their delegates. As regards those Conferences to which either we were not invited or to which we did not send our delegates, I regret to say the information is not available.

THE HONOURABLE MR. PHIROZE C. SETHNA : Can the Honourable Member inform us from where it will be available to us ?

THE HONOURABLE THE PRESIDENT : It is not the concern of the Governor General in Council at all. The Honourable Member is referring to Conferences to which India was not a party or to which India was not invited to send delegates. That is a matter on which information should be obtained elsewhere.

DESPATCH OF COPIES OF THE GAZETTE OF INDIA PER VALUE PAYABLE POST.

62. THE HONOURABLE MR. PHIROZE C. SETHNA : (a) Will Government be pleased to state if it is a fact that in response to a requisition from a well-known commercial body for copies of the Gazette of India containing the Insurance Bill it was informed by the Manager, Central Publication Branch, by his letter No. 855-G., dated 9th July 1925, that "copies of the Gazette asked for will be supplied on receipt of the copies from the Simla Press" ?

(b) Is it a fact that the commercial body received afterwards a letter No. 937-G., dated 17th July 1925, drawing its attention to item No. 4 on the reverse which stated "copies of the Gazette of India asked for will be supplied on receipt of Rs. 9-4-0 in advance, as prepayment is necessary under Government order. The Gazette of India is not supplied per V. P. Post" ?

(c) Will Government explain

(d) why the second letter could not have been sent in the first instance in reply to the requisition for copies of the Gazette of India, and

(ii) why sending copies of the Gazette of India per V. P. Post is prohibited?

(d) Will Government issue orders for sending copies of the Gazette of India by V. P. Post?

The HONOURABLE MR. A. A. L. PARSONS : (a) Yes.

(b) Yes.

(c) (i) The second letter was issued, not in consequence of the adoption of any prescribed method, but through an error on the part of a clerk.

(c) (ii) and (d). Odd copies of any particular part of the Gazette of India can be, and are supplied by V. P. P. There are, however, difficulties in the way of arranging for annual subscriptions to the Gazette being recovered by V. P. P. These are due to the fact that important parts of the Gazette are issued directly from Simla to subscribers, while subscriptions have to be collected by the Central Publication Branch in Calcutta.

SCHOLARSHIPS AND PRIZES FOR INDIAN ART STUDENTS.

63. THE HONOURABLE MR. PHIROZE C. SETHNA : (a) Will Government be pleased to state what progress has been made in regard to the Resolution moved on 28th January 1925 and accepted by them for considering the advisability of formulating a scheme of scholarships and prizes for Indian Art students and of establishing a central institution for the scholarship holders and prize-winners?

(b) Will Government now place on the table the scheme formulated by the architects of New Delhi in consultation with the Chief Engineer, which scheme was referred to by the Honourable Mr. A. H. Ley when speaking on the Resolution referred to in (a) above?

The HONOURABLE MR. A. A. L. PARSONS : (a) The matter is under consideration.

(b) The scheme formulated by the architects was placed before the Standing Advisory Committee attached to the Department of Industries and Labour who made the following recommendations :—

“As the revised estimate of the New Capital contains no substantial provision for decorative work, the Committee agree that consideration of the scheme should be postponed and that it should be revived if and when a comprehensive scheme of decoration is approved.”

Government have no present intention of taking any further action on that scheme and consider that in the circumstances no useful purpose would be served by placing a copy of it on the table.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Are the Government aware whether the Provincial Governments are making any arrangements for training research students to take up this decorative work when the Government have money for the purpose?

THE HONOURABLE MR. A. A. L. PARSONS : I have no personal knowledge of any such arrangements.

EXPENDITURE ON THE BRITISH LEGATION AT KABUL.

64. THE HONOURABLE MR. PHIROZE C. SETHNA : (a) Will Government be pleased to state whether they have made any representation to His Majesty's Government that the expenses on account of His Majesty's Minister at Kabul should not be paid out of the Indian Exchequer?

(b) If the reply is in the negative, do they propose to do so?

THE HONOURABLE MR. J. P. THOMPSON : (a) No, Sir.

(b) The matter came under review recently and it was held that it would not be in India's interest to alter the incidence at present.

THE HONOURABLE MR. K. C. ROY : May I ask the Honourable the Political Secretary whether the Kabul Legation expenditure was not carefully scrutinised by the Incheape Committee and reported to the Government of India as well as to His Majesty's Government?

THE HONOURABLE MR. J. P. THOMPSON : The Incheape Committee presumably did consider the question of the expenditure of the Kabul Legation, and I have no doubt that their conclusions were duly considered by the Government of India.

The Home Government is, of course, in full possession of the facts and I may refer the Honourable Member for further information to an answer given by Earl Winterton in the House of Commons on the 15th June 1925.

DEFECTIVE OVERBRIDGES AT BANDRA AND SANTA CRUZ ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

65. THE HONOURABLE MR. PHIROZE C. SETHNA : (a) Are Government aware that the Bombay, Baroda and Central India Railway is constructing several overbridges on its suburban stations?

(b) Is it a fact that the overbridge at Bandra, when completed, was found to be extremely inconvenient and evoked much protest from the public?

(c) Is it a fact that a large portion of it had to be scrapped and rebuilt?

(d) What was the original estimate and how much has the cost exceeded the estimate owing to the rebuilding?

(e) Who is responsible for the mistake, if any, and the consequent loss?

(f) Is it a fact that, despite public protests against the Bandra overbridge, an overbridge at Santa Cruz was allowed to be completed though it had the same defects as the Bandra overbridge?

(g) Is it a fact that a portion of even this Santa Cruz overbridge is scrapped and being rebuilt?

(h) What was the original estimate and how much has the cost exceeded the estimate owing to the rebuilding?

(i) Who is responsible for the mistake, if any, and the consequent loss?

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

(b) The bridge was found inconvenient and protests were made by the public.

(c) No. The stairways only were redesigned.

(d) The original estimate amounted to Rs. 19,407 and the expenditure actually incurred to Rs. 20,191, i.e., an excess of Rs. 784 only.

(e) The bridge was designed by a well-known firm of Engineering Contractors and the design was approved by the Superintending Engineer, Construction, for the Bombay, Baroda and Central India Railway.

(f) The Santa Cruz bridge is not yet completed. It had been ordered at the same time as the Bandra bridge and its erection was delayed in order to add the half-way landings found desirable in the latter case.

(g) No.

(h) The original estimate amounted to Rs. 17,844. The work is expected to be completed well within those figures.

(i) Does not arise.

DWELLINGS OF WORKMEN OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY AT MATUNGA.

66. THE HONOURABLE MR. PHIROZE C. SETHNA: (a) Has the attention of Government been drawn to the photographs and description thereof, which appeared in the *Bombay Chronicle* of 11th July 1925, of the dwellings of workmen of the Bombay, Baroda and Central India Railway at Matunga near Bombay?

(b) If so, have Government ascertained if the allegations made therein are true?

(c) If they are true, will Government state what steps have been taken to improve these dwellings?

(d) If no steps have been taken so far, will Government state if they propose to take steps and, if so, what steps?

THE HONOURABLE MR. D. T. CHADWICK: (a), (b), (c) and (d). Government have seen the photographs and description referred to, and they have ascertained that the real position is as follows:

The quarters in question were built in 1921 owing to the shortage of house accommodation in Bombay and to the difficulty experienced by the Workshop Staff in obtaining suitable accommodation. They were "*Kutcha pucca*" quarters having tiled roofs with bamboo and mud walls and were never intended to be of a permanent character, because in the ordinary course such staff are not entitled to railway quarters and the intention was merely to afford relief to the staff and assist them over a difficult period until the *chauls* planned by the Bombay Development Directorate were ready for occupation.

In view, however, of the high rental imposed by the Directorate in the first instance, the workshop staff requested that they might be permitted to stay where they were, a request which was conceded as the quarters in question were then in a good state of repair. A few months ago certain of these quarters began to show signs of deterioration, and as it was not intended to spend more money on them (the purpose for which they had been constructed having been

achieved) the occupants were informed that they must vacate them which they accordingly did and the quarters were demolished. Similar deterioration has now become apparent in the remaining blocks and notice have been issued to the staff in occupation that these quarters must also be vacated after which they too will be demolished.

THE HONOURABLE MR. PHIROZE C. SETHNA: How soon will they be demolished?

THE HONOURABLE MR. D. T. CHADWICK: As soon as the staff vacates them.

IMPORTS OF PIG-IRON FROM INDIA INTO AMERICA, ETC.

67. THE HONOURABLE MR. PHIROZE C. SETHNA: (a) Has the attention of Government been drawn to a report in the *Times of India* that, owing to heavy imports of pig-iron from India into America, the Government of the United States have appointed a Committee of Inquiry with a view to put heavier duty on imported pig-iron than the rate existing at present?

(b) Is it a fact that the Government of India have a profit-sharing arrangement with the Pioneer Magnesia Works?

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

(b) The Honourable Member is referred to clause 3 (a) of the agreement with the Pioneer Magnesia Works which is printed on page 49 of the Report of the Tariff Board on the grant of protection to the Magnesium Chloride Industry.

SAFEGUARDING OF THE PUBLIC AGAINST FRAUDULENT WINDING OF INSURANCE COMPANIES.

68. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government be pleased to state if in their proposed Insurance Bill they have included measures to safeguard the public against fraudulent winding up of Insurance Companies?

THE HONOURABLE MR. D. T. CHADWICK: In the Insurance Bill which has been published there is no special provision such as that referred to by the Honourable Member. The Bill is, however, published for criticisms and suggestions and any sent in by the Honourable Member will be welcomed.

THE HONOURABLE MR. PHIROZE C. SETHNA: Are Government aware of the fraudulent winding up of a Life Insurance Company in Calcutta quite recently?

THE HONOURABLE MR. D. T. CHADWICK: We have had complaints about the winding up of a certain Insurance Company in Calcutta. I am not prepared to say whether the transactions were fraudulent or not.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Is it not a fact that some of these liquidators are appearing in the police court in a capacity not ordinarily attached to creditable persons?

THE HONOURABLE THE PRESIDENT: I think we had better leave the matter where it is, if the proceedings are now before a court of law.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Is it not a fact that a Bill has already been introduced in another House, and do Government propose to take any steps to have a Joint Select Committee appointed for the consideration of the Bill ?

THE HONOURABLE MR. D. T. CHADWICK : A Bill has been introduced and has been circulated, and during the next Session a motion will most probably be made to refer it to either a Joint or a Select Committee. It has not been decided whether the Committee will be a Joint or Select one.

PAYMENT OF BOUNTIES UNDER THE INDIAN STEEL (PROTECTION) ACT.

C9. THE HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to state :

(a) the total amount of bounty paid during the first year of operation of the Indian Steel (Protection) Act on wagons ;

(b) the same during the second year ;

(c) on how many wagons it was given in each year and to which firms ; and

(d) the distribution of the amount amongst the various wagon-manufacturing firms in India in each of the two years ?

THE HONOURABLE MR. D. T. CHADWICK : (a) The total amount of bounty paid on wagons during 1924-25, the first year of operation of the Steel Industry (Protection) Act, 1924, was Rs. 2,85,600.

(b) During the current year, which is the second year, it is hoped to spend the whole of the maximum permissible amount of Rs. 7 lakhs.

(c) and (d). A reply to these two parts of the question would have to be very lengthy in order to be clear. I trust the Honourable Member will probably find information, which will meet his requirements, on this subject in Volume I of the Railway Board's Report on Indian Railways for 1924-25, which will be published very shortly.

MANUFACTURE OF LOCOMOTIVES AND WAGONS AT THE WORKSHOPS IN AJMER.

70. THE HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to state :

(a) how many locomotives or wagons have been made at the shops in Ajmer ;

(b) the date on which such wagons or locomotives were completed ;

(c) the cost of such locomotives or wagons to the railway company making full allowance for overhead, supervisory and consulting charges ; and

(d) the cost of locomotives or wagons of same or similar type to other railways, which have purchased them from private manufacturers ?

THE HONOURABLE MR. D. T. CHADWICK : If the Honourable Member will state the period for which the information is required, it will be collected and furnished to him.

PROPOSED AGRICULTURAL COMMISSION.

71. THE HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased :

(a) to lay on the table correspondence with the Secretary of State for India in connection with the proposed Agricultural Commission ; and

(b) to state how soon the Commission will be appointed and if there will be an Indian Chairman and an Indian majority ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : (a) and (b). An Agricultural Commission is not at present considered necessary and there has been no correspondence with the Secretary of State on the subject.

THE HONOURABLE DR. DWARKANATH MITTER : Has the attention of Government been drawn to the press comments regarding the suggested Agricultural Commission and the constitutional implication of the Central Government attempting to interfere with the ministerial subjects in the provinces ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : I will be very glad to see them.

HOME REMITTANCES.

72. THE HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to state whether the total amount of remittances, which they have made to the United Kingdom by purchase of sterling or other means up to 31st of July 1925, is—

(a) smaller than the amount *pro rata* for this period as foreshadowed in the budget statement, or

(b) larger ;

(c) smaller or larger by what figure ; and

(d) the reasons explaining (c) ?

THE HONOURABLE MR. A. C. MCWATTERS : The total amount of remittances for the 4 months ending 31st July 1925 was £3,926,000 and the total estimate for the year as indicated in the Budget was £31½ millions. The Budget Statement did not attempt to distribute the remittances *pro rata*, as it is practically impossible to distribute the annual budget programme of remittances month by month. The actual remittances must depend to a large extent on various uncertain factors during the year, and it is not therefore possible to make any comparison in the manner suggested by the Honourable Member.

ISSUE OF NOTES.

73. THE HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to state whether they have issued any notes in pursuance of the power sanctioned by the Legislature last year for larger fiduciary issue of notes and, if so, for what amount ?

THE HONOURABLE MR. A. C. MCWATTERS : The Government have not issued any notes in exercise of the additional powers sanctioned by the Legislature in February last.

AMOUNT OF STERLING SECURITIES IN THE PAPER CURRENCY RESERVE.

74. The HONOURABLE MR. PHIROZE C. SETHNA: (a) Will Government be pleased to state in parallel columns the amount of sterling securities in the Paper Currency Reserve on 1st January 1914, 1st January 1918, 1st January 1921 and 1st January 1925?

(b) Will Government be pleased to explain the change of practice, if any?

THE HONOURABLE MR. A. C. MCWATTERS: (a) A statement is laid on the table.

(b) The changes in the holdings of sterling securities in the Paper Currency Reserve from time to time are explained in the annual published reports of the Controller of Currency which will be found in the Library. I do not think there can be said to have been any change of practice recently. If, as I understand, the Honourable Member refers particularly to the increase in the sterling securities during the last two years, this is the result, firstly, of the conversion of £2 million worth of gold in the Reserve into interest bearing securities, and secondly, to the sale of Council Bills and purchases of sterling in excess of the Secretary of State's requirements. The latter course was adopted with the object of meeting India's requirements for additional currency.

Statement showing the amount of sterling securities in the Paper Currency Reserve.

Date.	Amount of sterling securities in the Paper Currency Reserve.	Total note circulation.
	£	Rs.
1st January 1914	2,667,000	64,56,78,000
1st January 1918	34,320,000	108,30,57,000
1st January 1921	8,350,000	161,40,08,000
1st January 1925	16,998,000	179,20,87,000

EXPENDITURE FROM INDIAN REVENUES ON CONSULAR OR DIPLOMATIC REPRESENTATIVES OUTSIDE INDIA.

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

- for how many consular or diplomatic representatives outside India are they paying from the Indian Exchequer;
- their names and remuneration;
- if there is any scheme for increasing the number of such representatives;

- if any reports are received from such representatives; and
- if such reports in full or part will be made public?

THE HONOURABLE MR. J. P. THOMPSON: (a) The Honourable Member is referred to the answer given to his question, on the same subject, on the 11th February 1924.

(b) A statement of those paid entirely from the Indian exchequer is laid on the table.

(c) No.

(d) Yes, except from the Indian Vice-Consul, Jeddah.

(e) Such reports as are of general public interest are published from time to time.

Statement showing the names and remuneration of Consular and Diplomatic representatives outside India who are paid entirely from the Indian exchequer.

Appointment.	Name.	Remuneration.
		Rs.
Minister, Kabul ..	Lieutenant-Colonel Sir Francis Humphrys.	Pay 4,000 p.m.
Consul, Kandahar ..	Khan Sahib Mahmud Khan	Pay 600 p.m. Special Pay 200 p.m.
Consul, Jelalabad ..	Muhammad Jehangir Khan	Pay 600 p.m. Special Pay 200 p.m.
Political Agent and Consul, Muscat.	Captain R. G. E. W. Alban (Offg.).	Indian military pay of rank. Special Pay 300 p.m.
Indian Vice Consul, Jeddah	Assistant Surgeon Chaudhri Hakim Din.	£ s. d. Pay 38 6 8 p.m. plus 5 % temporary bonus.
Consul General, Kashgar.	Brevet Major G. V. B. Gillan.	Rs. Pay 950 p.m. Sterling overseas pay .. £25 p.m.

EXPENDITURE FROM INDIAN REVENUES ON CONSULAR OR DIPLOMATIC REPRESENTATIVES OF THE UNITED KINGDOM OUTSIDE INDIA.

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

- whether they are bearing any expenses for any Diplomatic or Consular representative of the United Kingdom anywhere outside India;
- if so, what is the amount of such expense in each case;
- if reports of any kind are received by the Government of India from such representatives; and

- (d) what is the nature of protection afforded to Indian subjects who are travelling or doing business in countries where there are such representatives of the Imperial Government?

THE HONOURABLE MR. J. P. THOMPSON: (a), (b) and (d). Again I would refer the Honourable Member to the very full answer given to his question on the 11th February 1924. A statement showing the present cost to India of these services is laid on the table.

(c) Yes.

Statement showing the annual cost to India of Diplomatic and Consular representation maintained by England.

- (i) Persia.—Rs. 7,21,171 (average).
 (ii) China.—(a) General £12,500, (b) Tenguyeh £475 and (c) Kashgar Rs. 74,766 (average).
 (iii) Afghanistan.—Rs. 4,86,000 (average).
 (iv) Siam.—(a) Chiengmai £1,320. (b) half the cost in the case of Nakawn Lampong (Lakhon) the figures for which are not readily available.
 (v) Arabia.—(a) Muscat Rs. 2,63,298 (average), (b) Jeddah Rs. 20,000 (approximate).

APPOINTMENT OF INDIAN TRADE COMMISSIONERS AND CONSULAR REPRESENTATIVES OR DIPLOMATIC REPRESENTATIVES IN FOREIGN COUNTRIES.

77. THE HONOURABLE MR. PHIROZE C. SETHNA: (a) Have Government received any recommendations from commercial bodies for appointing Trade Commissioners, consular representatives or diplomatic representatives in foreign countries?

(b) Do Government propose to give effect to such recommendation, if made?

THE HONOURABLE MR. J. P. THOMPSON: (a) We have received no recent recommendations for the appointment of Trade Commissioners and none for that of Consuls and diplomatic representatives.

(b) Does not arise.

THE HONOURABLE DR. DWARKANATH MITTER: Will Government be pleased to say why the Trade Commissionership in Kenya has been abolished?

THE HONOURABLE MR. D. T. CHADWICK: Very largely on the ground of economy at the time of the Inchcape Committee.

REBATE ON FREIGHTS ON GOVERNMENT CONSIGNMENTS OF STORES AND MATERIALS PURCHASED ABROAD.

78. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government be pleased to state:

- (a) the exact amount of rebate on freights which they receive on Government consignments, from the United Kingdom, or the Continent to India, of stores and materials purchased abroad; and

- (b) what percentage is this rebate to the value of total purchases abroad during the last official year?

THE HONOURABLE MR. A. A. L. PARSONS: The Honourable Member is no doubt aware that freight on goods carried by sea varies not only from time to time but also according to the size, nature and weight of the articles. The exact amount of rebate which the London Stores Department has been able to secure from the shipping companies cannot consonantly with the public interest be divulged, but Government are satisfied that they save an appreciable sum owing to the rebate.

SYSTEM OF PAYMENTS FOR STORES PURCHASED IN BRITAIN AND INDIA.

79. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government be pleased to state:

- (a) the method of payment to British manufacturers from the Stores Department, London;
 (b) if any manufacturers are given any advance on materials or on partly prepared goods, or are they called upon to show completion certificates before any payments are made;
 (c) if they make any payment before delivery of material to any suppliers either to the Indian Stores Department or to the Railways or to the Army;
 (d) if so, what are the conditions under which such advances are made; and
 (e) if the system of payment is uniform or varies?

THE HONOURABLE MR. A. A. L. PARSONS: (a) Payment is made to the manufacturers by the Chief Accounting Officer of the office of the High Commissioner on his being satisfied that the stores have been passed by competent authority and have been delivered at the India Store Depot at Lambeth, or free on board ship, one of which is the ordinary condition of contract; or otherwise (in exceptional cases) in accordance with special contract provisions.

(b) As a general rule payment is made by the London Stores Department as just explained only on the completion of the contract, but in exceptional cases advances on collection of materials or partial completion of work, are allowed. I may add that in such cases precautions are adopted to minimise risk of loss to the Government.

(c), (d) and (e). As already explained, payment is ordinarily made either F. O. R. or on delivery of stores in London.

TRAINING OF INDIANS FOR EMPLOYMENT IN THE ROYAL INDIAN MARINE.

80. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government be pleased to state:

- (a) the number of officers in the Royal Indian Marine receiving a total salary, including allowances, of more than Rs. 400 a month; and

- (b) how many of them are Indians ;
- (c) what attempts have been made to secure Indians for filling vacancies ; and
- (d) if any attempt has been made to train Indians for this service and, if so, what ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) 123.

(b) No Indian is at present employed as a commissioned officer in the Royal Indian Marine.

(c) Indians are eligible equally with Europeans for appointment as officers to the Royal Indian Marine, but no qualified Indian has so far applied.

(d) The question of providing special training facilities for such Indians as may hereafter desire to qualify for this service is under consideration.

PURCHASE BY THE ARMY DEPARTMENT OF LAND FROM THE BACK BAY RECLAMATION IN BOMBAY.

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

- (a) if the Army Department has agreed to purchase 265 acres of land from the Back Bay reclamation in Bombay ;
- (b) what is the total amount of price to be paid ;
- (c) in how many years will this amount be paid ;
- (d) what will be the cost of new military buildings on such reclamation ;
- (e) what was the object of acquiring this land and discontinuing the existing arrangements ;
- (f) how much of the land vacated by the military under this scheme has been sold to date ; and
- (g) if none has been so'd, have any offers of any kind been received for the military lands, which are for sale in Bombay ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) and (b). The area which it is intended to purchase is approximately 236 acres for which a sum of approximately Rs. 228 lakhs is due to be paid.

(c) Payment is not due until the land has been reclaimed and is ready to be delivered. Funds for the payment are to be obtained from the sale of the military properties which are being surrendered.

(d) The buildings essentially required, in replacement of existing accommodation, apart from those which have already been provided elsewhere, are now estimated to cost about Rs. 40 lakhs. Other accommodation of a desirable character will be provided also if the assets of the scheme are sufficient to meet the cost. The expenditure is being financed strictly from the receipts realised.

(e) One of the principal objects of the scheme is to bring into full economic use in connection with the development of Bombay certain valuable military properties. With the money realised, adequate accommodation of an up-to-date character can be provided for the troops and there will be the further advantage that practically all the accommodation required for troops in Bombay will be concentrated in one military area.

(f) and (g). The properties so far sold which constitute only a very small proportion of the whole have realised approximately Rs. 69 lakhs. If my Honourable friend would like to have any further information regarding the Bombay Military Lands Scheme, the Army Secretary will be glad to give it to him.

EMPLOYMENT OF GRADUATES AND UNDER-GRADUATES OF THE MACLAGAN ENGINEERING COLLEGE, MUGHALPURA (LAHORE) IN THE MECHANICAL DEPARTMENT OF THE NORTH WESTERN RAILWAY.

82. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state whether they are prepared to give in the North Western Railway system a number of guaranteed appointments in the Mechanical Department to the graduates and under-graduates of the MacLagan Engineering College, Mughalpura (Lahore) ? If so, when do they propose to take some steps in this direction ?

The HONOURABLE MR. D. T. CHADWICK: Rules regarding the recruitment and training of officers for employment in the Mechanical Department, State Railways, are at present under consideration.

APPRENTICES EMPLOYED ON STATE RAILWAYS.

83. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (i) Will the Government kindly lay on the table of this Council the existing terms of service, method of training, mode and scale of payment, rules of ordinary, casual and sick leave of literate apprentices recruited in Loco. or Carriage shops, as compared with those of apprentices serving in the Signal, Bridge and Permanent Way Departments of each of the State-worked Railways for (a) Europeans, (b) Anglo-Indians, (c) Parsis, and (d) Indians ?

(ii) What is the number of such apprentices of each of the above classes on each of the State Railways ?

(iii) Is there any difference in the mode and scale of payment and methods of training of such apprentices when recruited direct, and when recruited through the MacLagan Engineering College, Lahore, on the North Western Railway ? If so, in what respect ?

The HONOURABLE MR. D. T. CHADWICK: The information at the disposal of Government is now out of date and they do not think that they would be justified in putting the Railway Administrations to the trouble of furnishing again all the particulars asked for by the Honourable Member.

NUMBER OF SIGNALLERS IN GOVERNMENT TELEGRAPH OFFICES.

84. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state the total number of signallers in the

Government Telegraph Offices (excepting the Combined Post and Telegraph Offices) ? How many of these signallers are Goanese ?

The HONOURABLE MR. A. A. L. PARSONS: The total number of telegraphists in Government telegraph offices on the 1st July, 1925, was 3,193. It is not known how many of them are Goanese.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: In case Government are not in a position now to state the number of Goanese signallers will they find it out and then supply the information ?

The HONOURABLE MR. A. A. L. PARSONS: It will mean a lot of trouble. If the Honourable Member thinks it really necessary for any particular purpose, I will see if I can obtain the information.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Yes, thank you.

NUMBER OF OPERATORS IN THE WIRELESS SECTION OF THE TELEGRAPHS.

85. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state the total number of operators in the Wireless section of the Telegraphs, also their scale of pay and terms of employment ? How many of them are Indians ?

The HONOURABLE MR. A. A. L. PARSONS: 86 Wireless operators are employed—12 are Indians.

2. There are three classes of wireless operators, namely :—

(a) *Service operators*, (who were fully trained before being recruited), scale of pay Rs. 250—10—300 p. m., *plus* free furnished quarters or house rent allowance in lieu thereof on the scale sanctioned for telegraphists in the Department, *plus* locality allowance where such is admissible at departmental rates, *plus* free medical attendance for self. These men are liable for service in any wireless station in India or Burma ;

(b) *Civil operators*, (trained departmentally) scale of pay Rs. 80—5—100—10—250 p. m., with the same allowances as service operators, *plus* wireless allowance of 1-4-0 p. d. and a lower or higher proficiency allowance of 0-15-0 or 1-5-0 p. d. according to qualifications, subject to a maximum of Rs. 350 *exclusive* of locality allowance. The Indian operators belong to this category. They are liable for service as in (a) ;

(c) *Military operators*, departmental pay from 1-12-0 to Rs. 3-8-0 p. d. according to length of service in the Department *plus* an engine-room allowance of annas eight p. d., when qualified, in addition to their military pay. They are liable for service as in (a).

TRANSFER OF THE TRAFFIC STAFF TO THE ENGINEERING STAFF IN THE TELEGRAPH DEPARTMENT.

86. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Do the Government intend to stop the practice of transferring the Traffic Staff in the Telegraph Department to the Engineering Staff ?

The HONOURABLE MR. A. A. L. PARSONS: I understand the Honourable Member to refer to the occasional transfers from the Traffic to the Engineering Branch of engineering officers who were originally in the Telegraph Department when the Telegraph Traffic and Engineering were combined and, on the separation of Telegraph Traffic from Engineering elected for the Traffic Branch. These transfers are inevitable if such officers are not to be deprived of their normal prospects of promotion and Government do not therefore propose to make any change.

IMPROVEMENT OF THE PROSPECTS OF LINEMEN IN THE TELEGRAPH DEPARTMENT.

87. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will Government kindly state the scales of salary, terms and conditions of employment of Linemen in the Telegraph Department ?

(b) What yearly increment do they get in their salary ? What amount of house-rent are they allowed in Simla, Murree, Mussoorie, and Naini Tal when Government are unable to provide them with accommodation ?

(c) Do the Government contemplate bettering their prospects ?

THE HONOURABLE MR. A. A. L. PARSONS: (a) and (b). The time-scale of pay is :

In Burma, Northern (i.e., the whole of the Punjab and North West Frontier Province) and Sind and Baluchistan Circles and in the vicinity of Bombay Rs. 22 rising by Re. 1 biennially to Rs. 32.

In other places Rs. 18 rising by Re. 1 biennially to Rs. 28.

Linemen belong to the "superior service" and are entitled to leave and pension according to rules. They are granted house rent allowances at all places where free quarters are not provided and compensatory allowances at certain expensive localities. In Simla, Murree, Mussoorie and Naini Tal they receive a house rent allowance of Rs. 2 and a compensatory allowance of Rs. 3 a month. They are provided free of charge with two suits of uniform annually and warm clothing at hill stations.

(c) No.

PURCHASE OF COAL FOR STATE RAILWAYS FROM SOUTH AFRICA.

88. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state the total quantity of coal so far contracted to be purchased by Government for State Railways from South Africa ? What is the average rate per ton f. o. b. Indian port in the contracts so far placed ?

THE HONOURABLE MR. D. T. CHADWICK: As the Honourable Member has not specified the period for which the information is required, it is not

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possible to reply fully to this question, but he may be interested to know that no South African coal whatever has been purchased for State-worked Railways in India since 1922.

PURCHASE OF COAL FOR STATE RAILWAYS.

89. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What is the total tonnage of Indian coal for the State Railways for which contracts have been placed this year? What is the average price per ton at colliery stations?

THE HONOURABLE MR. D. T. CHADWICK: If the Honourable Member refers to pages 3216 and 3217 in Volume IV, No. 50 of the Official Report of the Legislative Assembly Debates on Thursday, 11th September 1924, he will find therein full information regarding the arrangements made with the Coal Trade for the supply of coal to the State-worked and other railways during the current year. In addition to the quantity to be obtained under that arrangement, 2,600 tons and 14,200 tons of mithy and rubble coal, respectively, have been purchased during this year at an average price of Rs. 7-14-9 per ton f. o r.

CRISIS IN THE COTTON TEXTILE INDUSTRY.

90. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state whether they, in view of the present crisis in the cotton textile industry, contemplate taking off the excise duty on cloth manufactured in India? If not, what steps do they intend to take in this matter?

THE HONOURABLE MR. D. T. CHADWICK: The Honourable Member's attention is invited to the reply given by His Excellency the Viceroy to the deputation of the millowners, a report of which has appeared in the Press.

CIRCULAR ISSUED BY THE POSTMASTER GENERAL, PUNJAB, REGARDING NON-RECRUITMENT OF HINDUS FOR HIS DEPARTMENT.

91. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that the Postmaster General, Punjab and North-West Frontier Province, has issued a circular that in future recruitments for his Department, no Hindu will be appointed? If so, will the Government kindly lay on the table of this Council a copy of the instructions on the subject?

THE HONOURABLE MR. A. A. L. PARSONS: No circular has been issued. It is understood that the Postmaster General, Punjab, has issued orders that the recruitment of Hindus, unless they are graduates or under-graduates, should for the present be stopped in certain Divisions and in the four head offices at Delhi, Lahore, Peshawar and Simla. The Director-General of Posts and Telegraphs is now considering whether these orders should not be modified.

CONSTRUCTION OF NEW RAILWAYS IN THE PUNJAB.

92. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what new railway constructions will be

taken in hand in the Punjab in the current year, 1925-26, and what will be their mileage and costs?

THE HONOURABLE MR. D. T. CHADWICK: Government have recently received proposals for certain projects for consideration. They have not yet decided which of them to select for commencement during the year 1925-1926.

REDUCTION OF COAL FREIGHTS ON RAILWAYS.

93. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state whether they intend to give concession in coal freights on railways for long distances during the slack season? If so, what will be the nature and terms of such concession?

THE HONOURABLE MR. D. T. CHADWICK: Government are aware that with a view to assisting industries and the coal trade Railways are considering the possibility of a reduction in the rates for long distance coal, but a decision has not yet been arrived at.

COST OF ESTABLISHMENT OF THE RAILWAY BOARD BEFORE AND AFTER REORGANIZATION.

94. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will the Government kindly state what was the number of officers and the number of clerks and the establishment charges in the office of the Railway Board before the reorganisation, and what are the number of officers and the number of clerks and the establishment charges now?

THE HONOURABLE MR. D. T. CHADWICK: A statement giving the information is laid on the table.
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Statement showing the number of officers and subordinates, and the establishment charges in the office of the Railway Board before the Reorganisation and as it stands at present.

Particulars.	On 1st April 1924.	On 25th August 1925.	REMARKS.
1	2	3	4
No. of officers including Superintendents.	24	29	The effective strength is about to be reduced to :— Officers 23. Subordinates 119. The whole question of the cost of the Railway Board establishment is being placed before the Standing Finance Committee for Railways at the next meeting of the Committee.
No. of subordinates in office establishment excluding menials.	137	152	
During 1924-25 Estimated expenditure (approximate) in 1925-26			
Total cost of Railway Board establishment	Rs.12,03,700	Rs. 13,83,900	

RECRUITMENT FOR THE INDIAN ARMY.

95. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state the total number of recruits to the Indian Army enlisted after the Great War from each of the following classes : (a) Mahrattas, Kathis and Waghirs from Bombay and Central Provinces ; (b) the Rajputs and Ahirs from Rajputana and United Provinces ; (c) Gurkhas, (d) Telugus from Madras ; (e) Jats and Ahirs from the Eastern Punjab ; (f) Dogras from the Punjab ; (g) Sikhs from the Punjab ; (h) Brahmans from the United Provinces ; (i) Muslims from the United Provinces, the Central Provinces, Bombay and Madras ; and (j) other minor classes ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : I am afraid the information asked for by the Honourable Member is not available in exactly the form in which he desires it, but I will furnish him separately with a statement showing the total numbers of combatant recruits who have been enrolled between the 1st December 1918 and the 30th June 1925, classed according to Provinces, so far as this is possible, and I trust that the information contained in this statement will suffice for the Honourable Member's purpose.

I may mention that, so far as I have been able to ascertain, no Kathis or Waghirs have been enlisted as such.

REDUCTION IN THE NUMBER OF EXECUTIVE COUNCILLORS AND MINISTERS IN BOMBAY.

96. The HONOURABLE MR. PHIROZE C. SETHNA : Do Government intend to ask the Government of Bombay to consider the advisability of reducing when opportunity arises the number of its Executive Councillors and Ministers to the level of the numbers of the other provinces other than Bengal ?

THE HONOURABLE MR. J. CRERAR : The Honourable the Home Member in reply to a question in another place on the 2nd February 1925 stated that there was no proposal under consideration to reduce the number of members in any of the Provincial Executive Councils. The Government of India do not therefore propose to ask the Government of Bombay to consider the advisability of reducing the number of Executive Councillors.

REDUCTION IN THE NUMBER OF EXECUTIVE COUNCILLORS AND MINISTERS.

97. The HONOURABLE MR. PHIROZE C. SETHNA : (a) With reference to the reply to my question No. 25 on 4th February 1924, on the subject of the reduction in the number of Executive Councillors and Ministers, will Government be pleased to state if the decision has been arrived at ?

(b) If not, will Government give some indication when to expect it ?

(c) Will Government be pleased to publish the correspondence on the subject between them and the provinces concerned ?

THE HONOURABLE MR. J. CRERAR : (a) and (b) I would refer the Honourable Member to my reply to his previous question.

(c) The Government are not prepared to publish the correspondence.

NATIONALITY OF MEMBERS OF THE INDIAN CIVIL SERVICE.

98. The HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to give the numbers of British, Canadian, Australian, New Zealander, South African, Indian, Ceylonese, Federated Malay States members of the Indian Civil Service on 30th June 1925 ?

NATIONALITY OF PERSONS ADMITTED INTO THE INDIAN CIVIL SERVICE DURING THE LAST FIVE YEARS.

99. The HONOURABLE MR. PHIROZE C. SETHNA : Will Government be pleased to give in tabular form the number of Britishers, Canadians, Australians, New Zealanders, South Africans, Indians, Ceylonese and the Federated Malay States admitted into the Indian Civil Service in each of the last five years ?

THE HONOURABLE MR. J. CRERAR : With the Honourable Member's permission, I will answer questions Nos. 98 and 99 together. I have been in some difficulty in deciding what is the precise construction I can put on the Honourable Member's question, but I assume that he refers to members of the Indian Civil Service having a legal domicile in Great Britain, Canada, Australia, etc. If that assumption is correct I shall endeavour to obtain the information and supply it to the Honourable Member in due course.

EXCLUSION OF INDIANS FROM THE CEYLON AND FEDERATED MALAY STATES CIVIL SERVICES.

100. The HONOURABLE MR. PHIROZE C. SETHNA : Will Government state :

(a) if it is a fact that Indians are no longer admitted in the Ceylon Service ;

(b) if not, from what date ; and

(c) if there is a similar restriction against Indians in the Federated Malay States Civil Service and from what date ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : (a) Yes.

(b) From 1920.

(c) Yes. The Government of India are not in a position to state exactly from what date the restriction has been in force but it appears to be of long standing.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Do the Government of India propose to take any steps to bar the admission of candidates from Ceylon to the Civil Service for India ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : I do not think the matter has been under consideration.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Will the Government be pleased to consider the matter in connection with the other questions raised ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : The Honourable Member's supplementary question will probably place me in a position to have the matter examined.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules I lay on the table copies of a Bill to amend the law relating to salt and salt-revenue, a Bill further to amend the Code of Civil Procedure, 1908, and a Bill further to amend the Religious Endowments Act, 1863, which were passed by the Legislative Assembly at its meeting held on the 31st of August 1925.

CARRIAGE OF GOODS BY SEA BILL.

REPORT OF JOINT COMMITTEE LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, I lay on the table the report of the Joint Committee on the Bill to amend the law with respect to the carriage of goods by sea.

RESOLUTION *RE* GRIEVANCES OF POSTMASTERS.

THE HONOURABLE SRIJUT CHANDRADHAR BOROGAH (Assam Non-Muhammadan): Sir, I beg to move:

"That this Council recommends to His Excellency the Governor General in Council, that a Committee, consisting of officials and non-officials of both Houses of the Legislature and a representative of the Postmasters, be appointed to inquire into the grievances of the Postmasters, including those in the grade of Rs. 145—170, in India and Burma, regarding their pay and status, etc., and to suggest means as to how to remove the same."

The subject is rather dull and uninteresting and I therefore crave the indulgence of the House kindly to bear with me with patience.

In the last Delhi Session, Mr. Bipin Chandra Pal moved a Resolution in the Legislative Assembly, for the appointment of a Committee, to inquire into the grievances of the Postal Staff. The discussion of the Resolution was adjourned till this Session, as the Honourable Member in charge of the department promised to receive a deputation on the matter. Since then, a deputation has been received, and the Honourable Member, while declining to entertain a number of grievances, has given his assurance to remove a few. It may therefore be asked, why I move this Resolution, when a much wider Resolution was moved only a few months ago. I admit, Sir, that was a much wider Resolution than mine. But it was so wide of the mark, that it lost sight of those whose cause I now beg to advocate. I have gone through the discussion in the Assembly. I have read the memorandum of grievances submitted by the deputation to the Honourable Member, and I find that the whole affair was meant for the benefit of the clerical staff and the menials of the Postal Department, and not so much for the Postmasters. In the memorandum of grievances, no mention was ever made of some of the grievances of the Postmasters, which I am now going to enumerate. These are the reasons that have prompted me to take up this cause. In short, the subject-matter of my Resolution is not the same as that of the Resolution of Mr. Bipin Chandra Pal.

The Postal Department is one of the most popular and best managed departments of Government; and this credit is mostly due to the faithful service and the unceasing labour of the Postmasters, who are the most indispensable and responsible officers of the Department. I can assure you, Sir, that great discontent prevails among the Postmasters owing to a variety of grievances. These grievances are either real or unreal. In either case they deserve the prompt attention of the Government. If real, they must by all means be redressed, and if unreal, the matter must be explained to the Postmasters, in order to remove their discontent; otherwise, we cannot afford to let a large body of most useful public servants to remain always discontented.

The Postmasters are divided into 3 different classes and their pay is governed by seven scales (1) The Presidency Postmasters and the Postmaster of Rangoon (800—40—1,000, 1,000—40—1,200), (2) the gazetted Postmasters, among whom is counted the Postmaster of Lahore (350—20—650, 700—25—800) and (3) the non-gazetted Postmasters (145—5—170, 175—10—225 and 250—20—350). I will lay before the Council the grievances of these three classes of officers one by one.

First, let me take the case of the Presidency Postmasters and the Postmaster of Rangoon. After the report of the Postal Inquiry Committee, Government made a revision of the pay of the Postmasters. In that revision Government did absolutely nothing for the Presidency Postmasters and the Postmaster of Rangoon. It was said that these officers corresponded in rank with the Deputy Postmasters General, and that as the pay of the Deputy Postmaster General was not revised, the pay of these officers also must remain unaltered. Subsequently, in January 1923, the Government not only sanctioned an improved scale of pay for the Deputy Postmasters General, with effect from the 1st July 1922, but also gave them the benefit of counting officiating service for increment. They were compared with the officers of the Superior Traffic Branch, 1st division, of the Telegraph Department (*i.e.*, Superintendents, Central Telegraph Office, Bombay, Calcutta, etc.,) and were sanctioned equal pay with them. Formerly, there were three grades of Deputy Postmasters General—one grade drawing a pay of Rs. 800, another grade of Rs. 1,000, and a third grade, consisting only of two officers, drawing from Rs. 1,200 to Rs. 1,400. All these three grades were converted into one grade from Rs. 800 to Rs. 1,400, rising by annual increments of Rs. 60. But the Presidency Postmasters and the Postmaster of Rangoon are still getting from Rs. 800 to 1,200 as before. They were first told that they could get no increment as the Deputy Postmasters General with whom they corresponded in rank, would not get any. Subsequently, when the latter were given a benefit, their case was never considered for a moment. In justice and fair play the scale of pay of these officers ought also to have been made exactly similar to that of the Deputy Postmasters General. But this has not yet been done. The Islington Committee did not do anything for them, the Postal Inquiry Committee also did not do anything, nor have the Government done anything or ever received a deputation from them. The Presidency Postmasters and the Postmaster of Rangoon justly regard this as a gross injustice done to them. This is a just grievance and it requires prompt redress. The Deputy Postmaster General is an administrative officer

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and only an intermediary between the Superintendents on the one side and the Postmasters General on the other. One may sometimes think of running the department without the Deputy Postmasters General, but not without the Postmasters, for a single day.

Next comes the case of the gazetted Postmasters. In the case of these officers also, neither the Islington Committee nor the Postal Inquiry Committee did anything whatever. The gazetted Postmasters correspond in rank to the Superintendents of Post Offices, and till 1920 the maximum pay of both these two classes of officers was Rs. 600. But in June 1920 the Superintendents were made to correspond to the officers of the Superior Traffic Branch, 2nd division, Telegraph Department and their then existing five grades of pay (i.e., 200—250, 300—400, 400—500 and 500—600) were converted into one time-scale of pay of Rs. 250 to 700. But the case of the gazetted Postmasters was entirely left out of consideration. On the recommendation of the Postal Inquiry Committee, Government raised the maximum pay of the non-gazetted Postmasters to Rs. 350, while the minimum pay of the gazetted Postmasters still remained at Rs. 300. In order to remove this anomaly, with effect from November 1921. Government raised the minimum pay of the gazetted Postmasters to Rs. 350 and the maximum to Rs. 650, thus giving them an increment of only Rs. 50. Subsequently, with the introduction of the Fundamental Rules, a time-scale was introduced and all the three grades of gazetted Postmasters were converted into one on Rs. 350—20—650. But this revision, although it added Rs. 50 to the pay of the gazetted Postmasters, fixed their maximum pay at Rs. 650, while the maximum pay of the Superintendents of Post Offices, with whom they correspond, had already been raised to Rs. 700. This unequal treatment has caused widespread dissatisfaction among the gazetted postmasters and the introduction of the time scale pay has been regarded as not only unsuitable but also distinctly retrograde.

The Postmastership of Lahore was originally included in the list of the Chief Officers of the Post Office. By the revision this post was included in the list of gazetted Postmasters, with a special grade of pay from Rs. 700 to Rs. 800 (attached to office). This has lowered the status of the office. Again it is difficult to understand why, when there is this post of Rs. 800 in the list, there should not be only one grade of gazetted Postmasters drawing up to Rs. 800. Among the Deputy Postmasters General, there were three grades, one on Rs. 800, one on Rs. 1,000 and another, consisting of only two officers on Rs. 1,200—40—1,400. But all these three grades were converted into one from Rs. 800—60—1,400. There is absolutely no reason why a similar revision could not be made in the case of the gazetted Postmasters, fixing their maximum pay at Rs. 800. An objection may perhaps be raised against this measure to the effect that inasmuch as it will raise the maximum pay of the gazetted Postmasters to Rs. 800, i.e., Rs. 100 more than the maximum pay now fixed for the Superintendents, it will create discontent among the latter. But a similar discontent among the gazetted postmasters was never taken into consideration at the time of raising the pay of the Superintendents to Rs. 700, i.e., Rs. 50 in excess of the pay of the Postmasters. However that may be, the more arduous nature of work and the greater

responsibility of the Postmasters than those of the Superintendents, who are only supervising officers and who enjoy advantages and privileges not allowed to the Postmasters, will more than justify the excess of Rs. 100 in the pay of the Postmasters.

I now come to the non-gazetted Postmasters. Their pay formerly began at Rs. 100 and rose to Rs. 300. The Postal Inquiry Committee recommended the pay of the clerks to be raised to Rs. 140, and hence the starting pay of the non-gazetted Postmasters was also raised from Rs. 100 to Rs. 145 and the maximum from Rs. 300 to Rs. 350. Beyond this the Committee did not think it necessary to do anything, for they started with the most uncharitable presumption that the Postmasters were beggars and must remain satisfied with whatever the Government might be pleased to give them. The non-gazetted Postmasters therefore now begin at Rs. 145, that is just Rs. 5 more than a clerk in the highest cadre, and end at Rs. 350, after passing through three different grades, known as the 3rd selection grade, the 2nd selection grade and the 1st selection grade. It is not known why the non-gazetted Postmasters should have three grades instead of one. The disadvantage of this system is that a man drawing the highest pay in one grade has to wait there for a long time to go to the next higher grade, till a vacancy occurs there; and sometimes he has to retire from service, before getting a chance to go there at all.

It is a grievance of the non-gazetted Postmasters, that while the pay of the Deputy Postmasters General corresponds with that of the officers of the Superior Traffic Branch, 1st Division, of the Telegraph Department (such as Superintendents, Central Telegraph Office, Calcutta and Bombay, etc.) and while the pay of the Superintendents of Post Offices corresponds with that of the Officers of the Superior Traffic Branch, 2nd Division, of the Telegraph Department (such as officers in charge of the Telegraph Offices at Delhi and Agra, etc.), their own pay does not correspond with that of the Telegraph Masters; for the starting pay of a Telegraph Master is Rs. 275, while that of a non-gazetted Postmaster is only Rs. 145. Of course, there are Telegraph Masters who start on a lower pay, but they are local officers who cannot be transferred beyond a circumscribed area and who therefore cannot be compared with the Postmasters who are liable to be transferred from one place to another, within India and Burma. It is sometimes argued that a Postmaster's work does not require skill like that of a Telegraph Master, and hence a Postmaster is not entitled to the advantages of a Telegraph Master. It is difficult to understand what special skill is necessary for the work of a Telegraph Master. The Honourable Sir Bhupendranath Mitra wants us to believe that the Telegraph Master is a skilled man because—

“he has to learn to use the duplex or quadruplex Morse circuits, which not only work at a high speed, but require for their maintenance, a considerable amount of technical knowledge.”

I am afraid this argument convinces none except the Telegraph Masters. In the same sense a man who rides a bicycle can also be called a skilled man, inasmuch as he knows how to inflate the tubes, how to oil the machine, and sometimes even how to open it, and fit it up again. I cling to the popular view and hold that if the Telegraph Master is a skilled officer for handling his machine, the Postmaster is also a skilled officer in his own way in having to

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handle his multifarious technical duties. The duties that really require skill belong to the Engineering branch, the electrical branch, the testing branch and the other technical branches of the Telegraph Department. The Telegraph Master certainly receives and despatches messages, and for this he requires no more skill than a man receiving or sending a message by the telephor e. Moreover, when the pay of the Deputy Postmasters General and the Superintendents of Post Offices (with no technical knowledge or monetary responsibility) corresponds with that of the Officers of the Superior Traffic Branch of the Telegraph Department, a branch that really requires skill, there is no reason why the Postmaster's pay should not correspond with the Telegraph Master's for whose work no special skill seems to be necessary. On the other hand, the Postmaster has far greater responsibilities than the Telegraph Master who has nothing to do with monetary transactions, banking business, insured articles, heavy accounts work and the like. Under all these considerations, the Postmasters are quite right when they say that they are entitled to a similar treatment to that accorded to the Telegraph Masters, and that they have not got it.

Here an objection may be raised that if the Postmasters begin at Rs. 275, like the Telegraph Masters it will be anomalous to place them under Superintendents drawing only Rs. 250. This anomaly may however be removed by placing all the Head Post Offices and sub-offices, with officers of the Postmaster's grade directly under the control of the Deputy Postmasters General, just as all the telegraph offices are under the Postmasters General.

These are the main grievances of the Postmasters. There are however other grievances, and the following are a few of them :—

(1) In the case of the gazetted as well as the non-gazetted Postmasters, the rate of annual increment is very low. In the non-gazetted cadre a man requires 15 years to rise from Rs. 145 to Rs. 350. In the gazetted cadre also a full 15 years is required to rise from Rs. 350 to 650. So to attain the maximum pay of Rs. 650 a man must serve 15 years in the non-gazetted cadre and 15 years in the gazetted. And as Postmasters are not directly recruited, they must serve at least another 25 years as clerks or 20 years as Inspectors before becoming Postmasters. In other words, in order to be entitled to draw the maximum pay of a Postmaster, i.e., Rs. 650 a man must have 55 years' service if he is recruited from the clerical staff or 50 years' service if recruited from Inspectors, not taking into account the time he may be required to wait in the non-gazetted cadre for want of vacancies in the next higher grades. Taking the age of entry into service at 20 a man cannot rise to the highest grade of a Postmaster before he is 75 or 70. This is simply preposterous as one would be superannuated after 35 years' service, i.e., at the age of 55. The result is that although the maximum pay of the Postmaster is fixed at Rs. 650, it is almost impossible to reach it inasmuch as Postmasters are required to retire from service long before they come near the maximum. To remove this state of affairs there should be only three classes of Postmasters, the Presidency, the Senior and the Junior. There should also be only three grades for the three classes and the scales of pay should be so fixed that a man may rise to the highest grade after 35

years' service, as in the case of the Superintendent; who can within this period become Postmasters General.

(2) The indiscriminate classification of Postmasters as gazetted and non-gazetted has been a grievance of the non-gazetted Postmasters. Formerly, officers in charge of Post Offices at district headquarters, drawing a minimum pay of Rs. 200 were included among the gazetted Postmasters. Later on, this minimum was raised to Rs. 300. And now, since the revision of 1919, all Postmasters drawing Rs. 350 or less, have been classed as non-gazetted. This has the effect of lowering the status of the Postmasters. In no other department of Government are officers in charge of district offices and drawing a minimum pay of Rs. 200 classed as non-gazetted. It is therefore only just and proper to do away with this classification, and include all the non-gazetted Postmasters in the gazetted list.

(3) The starting pay of the Postmasters, i.e., Rs. 145 is quite inadequate considering the volume and the responsibility of the work he is required to do and also the present economic condition. The numerous duties of a Postmaster need no mention here. In point of his monetary transactions and accounts work he may be compared to the treasury officer or the manager of a bank and an accounts officer of the audit office respectively. He is responsible for insured and registered articles passing through his office. He knows no Sundays or holidays. He must work all day and night. For these considerations alone the sum of Rs. 145 is too small for a Postmaster to begin with.

(4) Another grievance of the Postmasters is that they are being treated as a lower order of officers than Superintendents of Post Offices who hold a corresponding rank and status; prior to 1907, Postmasters on a salary of Rs. 200 and more were ranked as gazetted officers and accorded equal treatment with the Superintendents whose minimum pay was Rs. 200. At present all the Postmasters up to the grade of Rs. 350 have been reduced to the grade of non-gazetted Postmasters. This has unfairly reduced the status of the Postmasters and is regarded as an injustice done to them. Here again the Superintendent is an administrative officer, and only an intermediary between the Inspectors and the Postmasters on the one side, and the Deputy Postmaster General on the other. He is subject neither to the grave responsibilities nor the hard labour of the Postmasters. The invidious distinction made between Superintendents and Postmasters cannot therefore be justified.

(5) Postmasters are allowed free quarters. This may be argued as a reason for their low pay. I am not aware of this factor being taken into consideration in fixing the pay of the officers of other departments who are allowed free quarters. Many of the Postmasters would perhaps gladly do without their free quarters if in place of them an increment were given in their pay, specially since that would enhance their pension on retirement. The grant of free quarters to the Postmasters is more than compensated for by the continued presence of the latter on office premises. Free quarters therefore ought not to effect the pay of a Postmaster. It may be mentioned in this connection that the Postmasters should also be given free furniture

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like the Telegraph Masters. There is no reason why this privilege, when given to the latter, should not be extended to the former. It also seems fair that Deputy Postmasters and Assistant Postmasters, when they are not provided with free quarters ought to be given house rent, as in the Telegraph Department. I believe the Honourable Member in charge of the Department is willing to do this.

(6) Postmasters are required to work on Sundays and holidays for which they get nothing whatever. There is no justification for this. The Telegraph Masters get their overtime allowance for working beyond their fixed 8 hours, and even the employes in a private concern get extra wages for extra work. It is therefore only just and proper to introduce the system of double pay for the Postmasters for work on Sundays and holidays. I am thankful to the Honourable Sir Bhupendranath Mitra for his kindly agreeing to do this also.

(7) Some Postmasters are required to do inspection work in addition to their ordinary duties, but for this no allowance is given to them. The absence of any conveyance allowance or a fixed allowance for this purpose is very keenly felt.

(8) At big towns, officers of the telegraph branch are given an allowance known as compensatory allowance over and above their pay. This privilege is denied to Postmasters; and the reason for this is not known. The Postmaster at a big town is subject to the same disadvantages as an officer of the Telegraph Department is required to cope with and should therefore have the same facilities to overcome them.

(9) The Postmasters, Deputy Postmasters and Assistant Postmasters do not understand why local allowances are not granted to them at stations where such allowances are given to the officers of the Telegraph Department, Traffic Branch, and also to the Superintendents and Inspectors of the Postal Department. At places where such allowances are necessary, the necessity is felt by the Postmasters, Deputy Postmasters and Assistant Postmasters also.

(10) The supervising officers in the Postal Department, i.e., Postmasters, Deputy Postmasters and Assistant Postmasters form only 6 per cent. of the clerical staff, while in the Telegraph Department, where the work to be supervised is rather less, the percentage is 18. The Postmasters hold that this percentage also ought to be raised to at least 18, so as to afford them some relief in their heavy work.

(11) The practice of recruiting Presidency and gazetted Postmasters some times from outside is a grievance of the Postmasters. The Presidency Postmasters ought to be recruited exclusively from the gazetted Postmasters, and the gazetted Postmasters from the non-gazetted Postmasters. This seems to be a just demand and recruitment from outside ought to be stopped, as in the case of the posts of the Deputy Postmaster General, which are exclusively filled up by the Superintendents of Post Offices in order of seniority.

(12) The want of representation of the Postmasters in the Postmasters' Generals' offices and in the office of the Director General is the cause of much of the bad treatment to which the Postmasters as a class are subjected. It is therefore highly desirable that posts of Personal Assistants to the Postmasters General and Assistant Director General should be thrown open also to Postmasters who will on account of their thorough inner knowledge of the Department add very considerably to its better administration.

(13) The percentage of the proposed senior Postmasters who are now called gazetted Postmasters should be adequately increased so as to afford sufficient room for the promotion of the proposed junior grade Postmasters who are now called non-gazetted Postmasters; or at least all the posts of the present grade of Rs. 250—350 should be absorbed in the proposed senior grade; under the existing scales, the number of gazetted Postmasters is not more than 5 per cent. of that of the non-gazetted Postmasters.

(At this stage the Honourable the President vacated the Chair which was taken by the Honourable Sir Maneckji Dadabhoy.)

Sir, these are some of the chief grievances of the Postmasters. They placed their case twice before the Government of India, but far from any redress they did not receive even an acknowledgment of their memorials. They also submitted a memorial to the Secretary of State. This also failed to produce any result. Finally, I place their grievances before this Council.

Another objection is sometimes raised.....

THE HONOURABLE THE CHAIRMAN: The Honourable Member has already exceeded his time limit; I must ask him to bring his remarks to a close.

THE HONOURABLE SRIJUT CHANDRADHAR BOROOAH: Sir, I am about to close. It may be said that if the pay and status of the Postmasters are improved, the members of the other services in the provinces will raise a hue and cry and ask for similar improvements. This is hardly an objection at all. The members of the other services in the provinces can never compare with the Postmasters. They belong to the Provincial services, while the Postmasters belong to an all-India service. They are not liable like the Postmasters, to be transferred from Burma to Baluchistan, or from Simla to Trivandrum. They are not required to work day and night, and on Sundays and holidays, like the Postmasters. This objection therefore cannot stand for a moment.

I know that some of the measures I have proposed will require money. I also know that it may be pertinently asked, how we, the non-official Members, who, at the Budget time, ask for reduction of the postage duty, can consistently ask for reforms in the Postal Department, involving more expenditure. In this connection, I beg leave to point out, that from the beginning of the introduction of the postal system in India, till the year 1907, the Postmasters enjoyed a concession, they were allowed a discount on the sale of stamps effected by them. In 1907, Government withdrew the concession. It was then said that this amount would be devoted exclusively to the improvement of the pay and prospects of the Postmasters, unfortunately this has not yet been done. The savings on this account would be not less than about 3 lakhs of rupees. The number of officers for whom I plead is about 800; and these 3 lakhs of rupees

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will be more than enough for this purpose. Besides, we have never seen the Government for want of funds refraining from doing anything which they are bent upon. Funds have been found for a thousand and one other things that hardly require any mention here. Where there is a will there is also a way, and I am sure, if the Government are only a little more sympathetic, if they really feel a little more for these people and are a little inclined to do something for them, want of funds will never stand in the way.

I have already alluded to the heavy work and the great responsibilities of the Postmasters. The Postal Department is one of the best managed Departments of Government. Its popularity is well known. Not a voice of complaint has ever been raised by the public against the excellent working of this most useful Department, and all the good name of this Department is due to a very great extent to the labour and efficiency of the Postmasters. Every Honourable Member of this House, whether he is an Indian or European, whether he is a Hindu, Muhammadan, Christian or Parsi, whether he is an official or non-official, is equally interested in the able and efficient management of the Post Office.

Lastly, Sir, I beg to state that I do not ask for much. My demand is very moderate. I ask only for a Committee to inquire into the grievances of the Postmasters. Even if my Resolution is accepted in this House, the Government of India may or may not give effect to it. Taking for granted that the Government of India appoint a Committee, the Committee may or may not certify the grievances. Supposing that the Committee recommends something to be done for the Postmasters, it will still be open to the Government to do or not to do anything. So in accepting this Resolution, the House does not commit itself to anything whatever.

I therefore look with great hopes to the good sense of the House. I look to the Honourable Members to think of the hard lot of a most useful class of public servants. I implore them to assist the Postmasters to get some redress for their just and long felt grievances.

With these words, Sir, I place my Resolution in the hands of this august House, and I hope it will not meet with any opposition whatever either from the officials or the non-officials.

THE HONOURABLE MR. K. C. ROY (Bengal : Nominated Non-Official) : Sir, I rise to oppose the motion. I have followed with very great interest the speech of my Honourable friend Mr. Borooah, I have no desire to follow him. If I tried, I should not succeed. But I shall urge three fundamental considerations against his motion. In the first place I consider, and I hope, Sir, the House will agree with me, that a body like this, the Council of State, the senatorial Chamber of the Indian Empire, is not a fit and proper place for ventilating the grievances of subordinates of the Post Office. When I say this, I feel I am backed by the practice of the senatorial Houses of Europe. I will now recite my own experience which I gathered during my last visit to England. I had an opportunity of meeting the Post Master General Mr. Harshorn, and I men-

tioned to him the practice of dealing with the grievances of the Post Office officials. He told me that these matters are hardly ever dragged before the Houses of Parliament; they are settled by a body commonly known as the Whitely Committee. I am sorry that we have not got in India a Committee like the Whitely Committee, but we have got an excellent substitute, in the Departmental Committee of the Legislature attached to the Department of Labour and Industry, and on that Committee two members of this House sit as our representatives, my Honourable friend Sir Deva Prasad Sarvadhikary and my Honourable friend Mr. Sethna. May I therefore respectfully ask Mr. Borooah to take this case before that Departmental Committee and have it settled by them? If the present practice of ventilating the grievances of subordinates of the Government of India is allowed to go on in this House, I feel quite sure the prestige and the dignity of this House will not be heightened. It will affect the morale of the services and lower the standard of discipline.

In the second place, Sir, I feel that the Post Office in India at the present moment is administered almost entirely by Indians. We have complete Swaraj there. We have our friend Sir Bhupendra Nath Mitra as the Member in charge of the portfolio; the post of the Director General is now held by Mr. G. P. Roy; and that of the Deputy Director General by Mr. H. K. Raha; in the Provinces the offices of Postmaster General, as well as those of the Deputy Post Masters General are held by distinguished Indians. Mr. Ghani, the Postmaster General is well known. In the circumstances, Sir, if the members of this House cannot settle the affairs of subordinates of the Post Office at the present moment when it is administered by Indians, I shall be sorry for ourselves.

In the third place, I wish to place before this House that I have seen constant and insistent demands for increasing the salaries and allowances of subordinates of Government. But Government very rarely consider the effect of this on private employment. I have never seen a suggestion from any Member of the House or of the other House for rise in the standard of national efficiency; and when these two are blended together, a demand for national efficiency as well as an increase in wages, it will meet with my support. I therefore oppose the motion.

THE HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I wish to support this Resolution, and I am glad my Honourable friend Mr. K. C. Roy spoke before me because I know on what ground it is likely to be opposed hereafter. This is an old Resolution, which I brought forward myself in 1920, and the Honourable the Law Member was on the Committee appointed under that Resolution. Then Professor Kale brought in a similar Resolution. I brought it in the old Council and Professor Kale brought it in this Council of State and I supported him, but somehow the matter fizzled out. And now this Resolution comes in for the third time, and I am very glad it has done so, and my friend the Honourable Mr. Borooah has taken the trouble to put down everything he wants to say, so there is nothing omitted, and I need not enumerate any of the grievances. But I do wish to lay stress on this point that it has been suggested from the beginning that the Telegraph Office and the Post Office should be fused together. They are technically two departments but they are really administered by

[Mr. G. S. Khaparde.]

practically one and the same head and they ought to be fused together. The Postmaster sends the letter that you give him to its destination, and the Telegraph Master does not send the identical paper, but he sends the words translated or written out in Morse or some other system, whatever it is. He only translates it into the tipping topping language and so it goes. Both do the same service for society and there is no reason why there should be such a distinction as there is between the Telegraph Office and the Post Office. My Honourable friend has dwelt on the advantages which the Telegraph Department enjoys and which the Post Office does not enjoy.

This is accounted for by the fact that the Post Office is about the oldest office ever established by any Government. Every Government first establishes a post office for communications and therefore like all old departments it gets neglected. It is not so in India alone. I made inquiries elsewhere and I find all over the world the poor postman is the hardest worked man, and it is seldom that his grievances are attended to. Another reason is that more speedy methods have been discovered and just as we now by preference take a motor car rather than a horse and carriage, by preference we employ telegrams rather than letters. We shall talk more in future by wireless than by wire telegrams and the thing will go on like this. The partiality of human nature for everything new and the unfortunate tendency of human nature not to regard good things that ever become old, are the two important things; and a third thing is being added now. That is what we should call in a court of law the question of jurisdiction.

My friend the Honourable Mr. Roy thinks that this Council has no jurisdiction to take cognisance of this matter or, if this Council takes cognisance of this matter, it is something so unusual that it is not done in England and therefore it ought not to be done in India. The reply to my mind is presumably that India is not England: the Indian constitution is not the English constitution and the safeguards that prevail there do not prevail here and there is no reason whatsoever why this Council should not take cognisance of these grievances.

The second part of the objection was that the Post Office is entirely in Indian hands. I quite agree that it is so and I also think that the Telegraph Department also has got a large number of Indians, and Anglo-Indians are also after all Indians; so that that Department is administered by an Indian is no reason why these grievances should not be redressed. I believe there may be grievances in departments administered by Indians, and it is all the more reason why we should take them up. They are Indians and they are expected to be sympathetic and if we only help them from here by calling all these sins into question, then Indians will be encouraged to submit proposals for reforms, whereas if we take no notice at all, then those poor people might be under a disadvantage. You may say, "Look here, so long as Europeans were managing the thing no proper reforms came. It is only when Indians are managing that all these things come up and therefore do not appoint Indians." That kind of argument ought not to hold good. Then again it is said that these people make constant demands for increase of pay. I

should like to know of a service which has never demanded increases. From the peon down to the highest member of the Civil Service everybody will be glad if he got an increase in his pay.

(At this stage the Honourable Sir Maneckji Dadabhoy vacated the Chair which was taken by the Honourable the President.)

The members of the Civil Service are most highly educated people and they are very careful about their interests. So they always steal a march over the others. They get increased emoluments first and the subordinates have got to fight as well as they can. For all these three reasons, I say that this is pre-eminently a matter which should be taken up by this House. This is not a popular matter. It is not a question of agitation. This is not a question of raising questions about rules or those things. It is purely a question of having all the services in India as contented as we possibly can and as economical as we could manage them. If these two Departments had been fused as we originally proposed, I believe these grievances would not have come in. The post office people have got to discharge a number of duties. The Postmasters have got to sell quinine; they have to take care of life insurance; they have got to take care of parcels sent to them. They have to do the duties of practically every department of Government. Every department of Government is reflected in some shape or other. The work of the Postmaster is a very responsible work and it does require very careful study. If I were to do that duty, I should have to study insurance packet-making and selling. I should have to know how to deal with people who come there; I should have to attend to registration and so on. There are a number of things which I could enumerate, because I took the trouble to study the question at one time. So, these two Departments have to be fused together and it is not beyond the capacity of our Indian statesmanship I suppose. Any member of the Civil Service with a little experience will be able easily to effect the thing and put the two departments together. I had a talk with a former Director of Posts and Telegraphs and so far as I could see he was in favour of amalgamating the two branches, so as to make the two into one department and have one set of rules, one set of promotions; the whole thing will then go on smoothly. At present there are two classes in one and the same Department and that is why you find all this rivalry. I therefore support the idea that a small Committee may be appointed with the Director of this Department, with some fresh blood from the popular element so that a scheme may be evolved by which these two departments can be put together and made to work under more or less similar conditions of work with what we call a living wage. That is my idea. I therefore most heartily support the Resolution moved by my Honourable friend Mr. Borooah.

THE HONOURABLE MR. A. A. L. PARSONS (Industries Secretary): Sir, my Honourable friend Mr. Khaparde has compared this House's position in dealing with this matter to that of a court of law. I am obliged to him for the simile, and I should like to ask the help and advice of Honourable Members with legal experience. If they were appearing in an intricate case; if after rather a heated discussion in open court it had been suggested that there should be a settlement out of court, and they were in charge of that settlement; if the parties to the dispute had been brought together and when they had come

[Mr. A. A. L. Parsons.]

together had been getting on quite amicably ; and if at that stage the dispute was again brought up before the court, what would my Honourable friends with legal experience feel and do ? I imagine that they would feel that it was not probably to the advantage of either party in the dispute that the case should come into open court again ; I think they would probably attempt to withdraw the dispute from open court as quickly as possible into a safer haven ; and I am sure they would say as little as possible. Without pressing the analogy too far, that is much the position I find myself in to-day, and that is the line of action I wish to take. I wish, if I can, to persuade Mr. Borooah to withdraw his motion and I wish to trouble the House with as brief a speech as possible.

I must immediately admit that I am not in a position to go into the individual grievances which have been mentioned by Mr. Borooah. In the middle of last February a Resolution of wider scope but embracing all that is contained in Mr. Borooah's Resolution was moved in the other House. The discussion on that Resolution was adjourned practically *sine die* on an undertaking given by Sir Bhupendra Mitra that he and the Director General would receive a deputation thoroughly representative of the employés of the Post Office and would go into all their grievances. About three weeks was spent in discussions with various authorities in order to secure that the deputation should be thoroughly representative, and towards the end of last March Sir Bhupendra Mitra and Sir Geoffrey Clarke met the deputation. They went through the various grievances with them and it took them, I think, a full three days ; there were no fewer than 50 of them. As I have said I do not propose to go into all these grievances, and explain what they were, but I should like to tell the House what the deputation itself thought of the reception accorded to it. In their report they write as follows :

"We must express our thanks to the Honourable Member and the Director General for the patient hearing they accorded to the deputation. They were sympathetic throughout and we expect substantial good will come out of the prolonged and free discussion allowed to the members of the deputation."

Sir Bhupendra Mitra shortly afterwards left the Department of Industries for about three months, and was therefore not able immediately to continue the investigation ; but the time was not wasted because departmental investigations continued, and as soon as Sir Bhupendra Mitra returned to the department, he took up the investigations again. A good many of the grievances have already been examined, and I do not think it is too much to say that almost every day he is considering one or other of the questions involved.

Now I am sure the Council will understand that, while these grievances are being investigated with all the expedition possible by the responsible department and by the Member in charge of the department, I am not in a position to discuss individual cases such as those mentioned by the Honourable Mr. Borooah. But I should like to refer to a statement with which Mr. Borooah began his remarks. He said that the deputation of last March did not represent the Postmasters. I cannot accept that statement. One of the principal members of the deputation, the General Secretary of the All-India Postal and Railway Mail Service Union, had himself been a senior Postmaster of the selection grade, and actually the second of the principal grievances put forward at the

meeting by the deputation related entirely to the pay of the various grades of Postmasters, from the Presidency Postmasters right down to the lowest grade. Now all the points raised by the deputation are being gone into one by one ; but I am afraid I was not able to follow my Honourable friend with sufficient precision to make quite certain that he did not mention a number of other grievances, which were not included in the representations made by the deputation and I will make him an offer. I am prepared to give him an assurance that everything he has said in his speech will be gone through extremely carefully and that we will examine departmentally any new grievances that he may have put forward in exactly the same way as the grievances represented by the deputation are being examined. I trust that with this assurance the Honourable Member will be prepared to withdraw his Resolution. If he does not withdraw it, I can only ask the House not to vote for it ; but I should very much prefer that a vote of the House should not be taken on the Resolution while we are actually engaged in examining as sympathetically as is possible the various questions which it raises. I ask the Honourable Mover not to put it to the House, but if it is put to the House I hope that it will be rejected.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal : Non-Muhammadan) : Sir, I should like to support Mr. Parsons' plea that the Resolution should be withdrawn and the department should be allowed to go into the matter, particularly in the light of the facts that have been brought out in to-day's debate. In doing so, I should like to bear him out completely that the Honourable Sir Bhupendra Nath Mitra is very anxiously considering the whole question. Reference has been made to the Advisory Committee attached to the Department and the members representing this House on that Committee. That Committee has but small powers. As one of these members, I have however had several talks with Sir Bhupendra Nath Mitra and I can assure the House that, as Mr. Parsons has informed it, he is anxiously considering the whole question every day. It is a very large question. Mr. Borooah has chosen to take up one portion of the question. Mr. Khaparde has taken up another and I may be able to take up a third and another Honourable Member may be able to take up a fourth, and so on. It would not be convenient to have piecemeal consideration of this kind. The Ryan report is now before the Department and the Department is bestowing anxious consideration on the whole question. I should have thought, Sir, that, when a matter like this was brought before the House, it should not be the grievances of the betterpaid Postmasters only which should be given so much prominence ; the poor menials pitiable condition should excite the sympathy of any right-thinking Member. I have told the House the Honourable Sir Bhupendra Nath Mitra is considering many questions. One of these is apparently a very small question which may not appeal to my Honourable friend Mr. K. C. Roy, whom I congratulate on his maiden speech. That is the question of wet uniforms of the postal peons, who do not know what a change of official cloth for official work means. In such things Mr. Roy with his big view of things is not interested. He thinks it below the dignity and the prestige of this House to consider such matters. In the case of a question like the one under our consideration the only thing to be considered is whether it would be to the advantage of the question itself or to the House which has full jurisdiction

[Dr. Sir Deva Prasad Sarvadhikary.]

over it if the matter is pressed here. In this case I suggest that Mr. Borooah should withdraw his motion and allow the department to consider the matter in all its aspects. If the result is not satisfactory, I should myself be prepared, should an opportunity occur, to bring up this matter before the House in spite of what has been urged against such a procedure to-day. Sir, having regard to those facts, I think Mr. Borooah will be well advised from all points of view to withdraw the Resolution and accept Mr. Parsons' assurance.

THE HONOURABLE THE PRESIDENT: Is the Honourable Member prepared to give an idea of his intentions to the House.

THE HONOURABLE SRIJUT CHANDRADHAR BOROOAH: I beg to thank the Government and the Honourable Mr. Parsons for the promise he has made to consider the matter departmentally. I hope that every grievance of the postmasters' that I have stated will be carefully considered. As regards an open court trial and an outside settlement, I have already stated in my speech that the postmasters twice memorialised the Government of India. They never asked for an open court trial; and even now it is a third party that has asked for it. Under the circumstances, as the Government have promised to make a careful consideration of the matter I beg leave of the House to withdraw my Resolution.

THE HONOURABLE THE PRESIDENT: Is it the pleasure of the Council that the Honourable Member should withdraw his Resolution?

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

RESOLUTION RE RESTRICTION OF OPIUM CULTIVATION.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, I beg to move:

"This Council recommends to the Governor General in Council that—

- (i) the area for cultivation of opium be restricted and brought under stricter control; and
- (ii) the practice of making advances to opium cultivators be discontinued with effect from the next season for making advances and that this be notified in advance as soon as possible."

Sir, the pathetic tone of Mr. Borooah's speech is still ringing in my ears and in moving a Resolution Honourable Members are apt to ask themselves, as he has been asking, what good the Mover of a Resolution does even if the Resolution is accepted or carried in the House.

That, however must not daunt us. We have certain duties in certain matters and have to do the best we can under existing depressing circumstances. The Resolution now brought up for the consideration of the House, Sir, is a necessary and unavoidable corollary of what the Honourable Mr. McWatters said in this House during the Delhi Session and what the Honourable Sir Basil Blackett said later on in another House on the same question. I recognise and have always been free to recognise that Government are studiously helpful in meeting the growing point of view of those who think that the opium policy of Government must undergo a change, a change in line with

growing public opinion and international demands. Recent telegrams from Geneva show that the claim put forward on behalf of Government in this behalf has been conceded by representative internationals, although doubt still continues to exist whether the quantity of production could not profitably be revised and whether serious and material reduction could not be effected. One of the Geneva telegrams shows that Sir John Campbell, the Indian delegate, said that whatever drugs Australia got came from the United Kingdom and not from India. He explained the measures adopted in India in the matter of illicit trade and added that the Indian Government had not received any complaint regarding India's anti-smuggling measures. Opium introduced into Australia was grown principally in Macao and other sources than India. Sir John Campbell said that India had stopped the export of opium to Macao and Persia, and I believe measures are under contemplation still further to restrict that export. But lastly, Sir, we have Sir John Jordan's opinion that the question of smuggling was relatively of minor importance. He said that the best means for curtailing opium consumption was limitation of opium production and in this respect co-operation with the Japanese would be very effective. He contended that they could not rely on the measures of some Governments dealing with the opium problem. It has been well remarked that the crux of the opium question in the Far East is chiefly in India and from that point of view and from the point of view enunciated by Sir John Jordan I desire this House to consider whether the time has not come for us to ask Government to make a clearer and more definite declaration of their opium policy regarding production, consumption and export, and whether having regard to the policy that has already been declared, it is not necessary that further restraint should be put on the area under cultivation.

I should like to remind the House that not long ago, an expert, Mr. Gibbs, giving evidence before the Taxation Committee, informed the Committee that as many as 27 districts are now laid under cultivation for opium. That is true about the United Provinces. There are small tracts in the Punjab which are also cultivated. The statistical reports available so far show a state of things that is not quite intelligible to the outside lay public, and probably my Honourable friend in dealing with the matter will attempt to throw some light on the subject. In 1921 the acreage was 1,22,888. There was a drop in 1922-23 and a further rise in 1923-24, the acreage being 1,42,152. The corresponding figures regarding cost of production are available and make people anxious. They point to the same direction of erratic rise and fall in the acreage as well as production. I do not know whether this fluctuation has anything to do with the demand for a supplementary grant that came up while I was still a Member of the other House in 1923, when I felt it to be my duty to oppose that supplementary grant. The reason put forward at the time by Mr. Anson on behalf of Government was that the crop was an exceptionally good one and obviously the output would be more than they actually required at the moment. On the other hand, they were unable to refuse to purchase that opium which had been growing under the control and under a licence given to the cultivators. It could not be grown otherwise and it could not be sold privately. That was the reason, Sir, why the supplementary grant of 77 lakhs was demanded at the close of the year 1923, I believe it was. That was put forward as

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an exceptional and accidental circumstance, and exceptions and accidents are not apt to occur every now and then.

I do not understand the meaning of the fluctuation and should like to have a clear understanding of the matter. Figures given in statistical abstracts and by the representatives of Government in the Councils do not tally. But certainly it appears from the figures that are available that having regard to the declared policy of Government themselves, the area is diffuse, the area laid under contribution is much larger than requires to be cultivated and the system of advance which is dealt with in the second part of my Resolution is sometimes responsible for results such as I have referred to already, namely, that, if as a result of advances cultivators do get and bring in a larger crop of opium than Government ever thought of requiring, they are bound to take it because there is no other way out of it. That would bring me to the question of advances. We want to make advances in cases where we want to nurse an industry, and not where we can get whatever we want to get without any elaborate system of advances. The system may have been necessary in the beginning, but I am quite sure that under the circumstances now prevailing such a system can have no importance even in regard to larger quantities, let alone the smaller quantity that the Government now or in future will require.

Sir I will shortly indicate the reasons for the growing popular opinion with regard to the matter. Reference has been made to the recommendations of the Royal Commission on Opium of 1893, upon the basis of which Government are still proceeding both with regard to the general policy or general administration of carrying out that policy. In connection with this Resolution I do want to raise the question of Government policy, and I trust we shall have clear information with regard to the matter, so that the country may know what the Government propose to do in the near future.

From an authoritative work by Mr. Willoughby recently brought out as a result of the proceedings in the Geneva Conference I desire to give an extract to the House, which will show exactly how, from points of view other than that of the Government of India, the question rests. He says :—

“Despite world-wide scientific and medical opinion that the eating or swallowing of opium, as practised in India, is highly deleterious from the physiological point of view and basing from the moral point of view, the Indian Government still asserts that, given the conditions prevailing in India, it is neither desirable nor feasible to restrict the use of the drug to what, in other parts of the world, are considered to be proper medicinal purposes. This determination and the policy based upon it is founded upon conclusions declared by a Royal Commission which made an elaborate report upon the subject in 1895.”

I was wrong in giving the date as 1893.

“There is, however, abundant evidence that the Commission did not make an impartial investigation of the subject, and even in Great Britain it has been admitted by some of the highest authorities that the report was not one that deserved high respect.

“However, the British Indian Government has continued to rely upon the report of this Commission in support of its opium policy. Thus, in its official defence of this policy, issued in 1923, it is said : ‘The findings of the Commission still stand as a complete justification of the Government’s policy’”.

Sir, much later than 1895 there was an unofficial commission that of the National Christian Council, which summed up the situation as follows :—

“We would sum up the state of public feeling by saying first, that mass public opinion on the subject does not exist ; secondly, that enlightened people increasingly dislike and are conscious of the evil of opium-eating ; third, that the reforming minds of India are giving their attention to the problem more and more with every month that passes ; and fourth, that the restrictions which in our view the facts demand would not be followed by any outcry, if only because those who have shown themselves most able to sway the masses of the people have definitely ranged themselves in favour of such restrictions.”

That would be in answer to what Lord Hardinge and others have said about the likelihood of disastrous results to India itself and to the Indian people, if further restriction was to be placed upon the cultivation and consumption of opium. Sir John Jordan’s testimony as well as that of the book I am quoting from laid down that, although since 1923 India ceased the production of opium for exportation to China, she has continued to produce opium in great quantities for domestic consumption and for countries other than China. There has been abuse in regard to export.

Sir, it is from that point of view, and from the point of view of the declared Government policy and intention in the matter that further restriction in regard to acreage is necessary ; and also from points of view analogous to those, the discouragement of the advances system has also become necessary. There is an interesting fact that has recently come to my notice, which I should like to place before this House in connection with the cultivation of opium in the Ghaziapur district. I know historical facts are now being challenged, and history is being made and re-made and renewed and revised to suit different points of view, but original documents can never lose importance, and I shall read out a short extract from the Sanad of the Moghul Emperor written on the 4th day of Rajeb, the 6th year of the reign, 25th December 1764. It runs as follows :—

“It becomes the Company to show their grateful sense of our Royal favours, and to exert themselves to the utmost, in the proper management and regulation of the country ; to encourage and befriend our subjects ; to punish the contentious, and expel the rebellious from their territories. They must use their best endeavours to promote the welfare of our people, the Riotts, and other inhabitants ; to prohibit the use of things of an intoxicating nature, and such as are forbidden by the Law of God ; in driving out enemies ; in deciding causes, and settling matters agreeably to the rules of Mahomed”.

I need not go through the rest of the extract. I know, Sir, that the Honourable Sir Basil Blackett deprecated reference to ancient history, as ancient as 1908, and if I have the temerity to refer to history earlier than that, that of 1764, I know I shall be met with the same criticism. At the same time we cannot forget that in getting that lease from the then Moghul Government, the East India Company took it with their eyes open, and with the limitations mentioned in the Sanad. It knew at all events that that particular tract was expected to be spared the destiny that followed later on. Whether it could be prevented or not is another matter. I have a shrewd suspicion, Sir, that these doubts were not absent from the minds of the Board of Directors that used to rule the destinies of the country then, for in a despatch dated 1817, 24th October, I find the Board of Directors expressed “the desire to restrain the

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use of this pernicious drug as far as possible, except for medicinal purposes, and said they would gladly do it for compassion for mankind." The cry of "compassion for mankind" has been raised in other forms from other quarters, and most of all in the League of Nations, where all international matters of this kind are being dealt with. The Government realised their responsibility in the matter and were steadily doing all that they could do, always bearing in mind the restrictive terms, in this direction. We submit, and we show that it is possible to do a great deal more with regard to the cultivation of opium, with regard not only to internal consumption but also with regard to export. But in spite of all that the Government have done, in spite of all that is admitted, the Government are lending themselves to the abuse in some shape or another. The remedy would be further restriction of production, and for that I plead, the first steps towards which must be restriction of acreage. I have brought up this Resolution, Sir, in good time for the Government to consider their policy, and if they are so advised, to make arrangements for the next season and see how far acreage can be further restricted and how far the advance system can also be restricted. I realise that a long-standing system like that cannot all at once be substantially curtailed or done away with at once, but with the realities before it, the Government I am sure, if they are really anxious to be helpful in the directions that I have indicated, ought to be able to take advance steps so that the restriction I plead for may be possible.

THE HONOURABLE MR. YAMIN KHAN (United Provinces West : Muhammadan) : Sir, I rise to oppose the Resolution. The first portion of my Honourable friend's Resolution, that the area for the cultivation of opium should be restricted and kept under stricter control, is I think absolutely superfluous, for the area which is under cultivation of opium is already under control. The opium is only cultivated in those portions where the cultivators receive advances from Government and, as the sale of opium is prohibited to the general public, the area is usually restricted, and it is not open to the cultivator to go on cultivating such areas as he likes. He only cultivates that portion which he thinks he can sell to the Government at a profit. So this portion of the Resolution in my opinion stands nowhere.

About the other portion, that the practice of making advances to opium cultivators should be discontinued, I think by this my friend means that the cultivation of opium should be absolutely abolished, because no cultivator will ever cultivate opium unless he receives advances from Government and, unless he is assured that whatever he produces will be purchased by the Government,

as there is no open market, he will have no competition and he will have no market.

Therefore he must depend upon the Government as purchasers. If he receives advances he sells at a cheaper rate comparatively because he is assured and he does not have to borrow capital from his money-lender for which he would have to pay interest. He produces at a cheaper rate when he gets an advance from the Government and the Governments get the whole profit. In the United Provinces, Sir, because that is the province which mostly cultivates opium, the whole of Oudh and the eastern

districts of the United Provinces are the great producers of opium and I have heard great complaints from the cultivators and zemindars in whose lands opium used to be cultivated that there are now some restrictions. They are losing a great deal and they complain now that the great industry is going out of their hands and their lands which are fit only for the cultivation of opium are lying vacant and uncultivated. They are not fit to grow other things, but they are fit only for the cultivation of opium. Under these circumstances, Sir, if this system is discontinued, I assure the Honourable Members of this House that it will mean only the absolute stopping of opium cultivation and nothing more. One may talk of morals or anything, but is the present cultivation causing any kind of moral degeneration in India? We have to see to this. I do not think my Honourable friend will be able to show to the House that opium is eaten in such quantities nowadays that it may be called immoral. So, the question absolutely goes. The only point is that if the Government export opium the question of the League of Nations might come in. They do not know the circumstances of the country which has got no other industry except this one. It will be causing a great loss to the Indian Exchequer as well. With these few words, Sir, I oppose this Resolution and I leave the greater opposition in better hands.

THE HONOURABLE MR. A. C. McWATTERS (Finance Secretary) : Sir, I think it may be for the convenience of the House and may also tend to shorten the discussion, if I rise at this stage to explain the attitude of Government in regard to this Resolution. The Resolution divides itself into three parts ; the first part refers to the restriction of the area of cultivation, the second recommends increased control and the third recommends the discontinuance of the system of making advances. Now, with regard to the first part, namely, the restriction of the area of cultivation, I have a fundamental criticism to make and that is that the Honourable Mover has begun at the wrong end. It is quite obvious that the area must depend upon your policy and his speech showed that he realised it also, because a good part of his speech not unnaturally was really devoted to a criticism of our policy. I think that in these circumstances his Resolution should have been differently worded. The Resolution speaks of the restriction of the area and gives no special reason why the area should be restricted. As regards the policy, I will refer to it later, because I have something important to say on that subject. But in the meantime I should like to tell the House what we have actually been doing in the direction of restricting the area under cultivation. It is obvious that we have had to take into consideration not only the probable reduction of our export trade and the progressive reduction of internal consumption, in regard to which I gave the House some striking figures last March, but we have also to consider the question of our stocks. All these three factors have to be taken into consideration in determining the area to be sown.

I will now give the House some figures of the actual area which has been under cultivation in recent years. Seven years ago in the United Provinces, which is practically the only important area in British India where opium is cultivated, the area under cultivation exceeded 260,000 acres. Three years ago, i.e., in 1922-23 the area was reduced to 141,000 acres. The area in 1923-24 was 134,000 acres. In the current year it has been reduced to 116,000 acres

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and in the year which will begin shortly, 1925-26, we have arranged to cultivate only 74,000 acres. This means that in the next season the area to be put under cultivation will be a little over one-third of the area cultivated 7 years ago, a little more than half that of three years ago, and will show a reduction of 36 per cent. on the amount put under cultivation in the current year. I think those figures are striking. As I have said, it is a result not only of our policy but of the fact that in the last two years we have had an exceptionally large outturn in the opium fields. It is this exceptional outturn which explains why we have had to come up recently for supplementary grants. It is not due in any sense to increase of acreage but to the exceptionally favourable seasons. The opium crop is a very variable one and in the last two years the outturn has been much above the normal. There is a further point in regard to the area of cultivation, a point to which the Honourable Mover quite rightly referred. He quoted the evidence of Mr. Gibbs before the Taxation Inquiry Committee. Mr. Gibbs' point was that the area should be concentrated as far as possible. It is a point which Government have not overlooked. Out of 37 divisions or sub-divisions in the United Provinces, we have already abolished 9 and we contemplate closing down several more in the near future with the sole object of getting the cultivation more concentrated and more under our control. With regard to the small areas in the Punjab, the Local Government is considering the question of further restrictions and control in those areas. We have also reduced the price last year by Rs. 2, from Rs. 15 to Rs. 13, and we again contemplate further reduction.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: The price paid to the cultivator?

THE HONOURABLE MR. A. C. McWATTERS: Yes, the price paid to the cultivator of opium. Then, there is another area from which we obtain considerable supplies, namely, the Malwa States. We have carefully reconsidered our engagements with the Indian States concerned and we have been able to reduce the amount for which we have contracted from 11,400 maunds in the current year to 6,500 maunds for next year. I think these figures show that Government have not overlooked the necessity of restricting the area and the production of opium in accordance with their policy, both external and internal, and in accordance with the requirements of the stock position.

I will now turn for a moment to the question of policy. I do not desire to repeat the whole of what I said in March last in this House. So far as consumption in India is concerned the House knows that the Central Government have no financial interest whatever in the opium supplied to the Provinces and I think the sense of the House was certainly with me when I took the view that the proper line of action was for us to co-operate with Local Governments in putting down abuses of opium—eating or smoking wherever they exist—and we have been pursuing that policy, in consultation with Local Governments. So far as exports are concerned, the House knows what financial sacrifices we have made in the past. I think it is sufficient to repeat that the average annual revenue of the Central Government from opium in the 3 years before 1913 was over 8 crores of rupees. The preliminary, actuals of last year show

that the revenue last year was Rs. 1 crore and 42 lakhs. I think that everyone recognises that the Government of India have made very substantial financial sacrifices.

I think we are entitled to ask that if we are to push those sacrifices further, as we are prepared to do, we should endeavour to ensure that our efforts are not wasted and that the policy adopted should be one which will really bring to an end any abuses of opium eating or smoking that may exist and not merely result in the opium from India being replaced by opium from other countries. After all, with a crore and a half a good deal can be done and I think we are entitled to ask that our sacrifices should not be made for no purpose. We have, for some years past, as the House knows, adopted a system, so far as exports are concerned, of allowing export only under the certificate system. We either sell direct to foreign Governments under definite agreements or we allow export on a certificate from those Governments. It might have been a possible line to stop there and say that the importing country is responsible. We have, as a matter of fact, gone further in two instances. In the case of Macao and in the case of Persia we have actually ourselves taken the initiative and stopped export, although the opium was desired by those countries. Our attitude in regard to exports has now been again considered by the Government of India in the light of their commitments at Geneva. They are anxious to show to the world that they are prepared to fulfil their obligations in the spirit and not merely in letter. Therefore, I have the full authority of Government to tell the House that the Government of India are now prepared to accept some measure of responsibility even for licit exports covered by certificates. That is to say, they are prepared to prohibit or restrict export even where foreign Governments are prepared to furnish a certificate, if there is evidence that the opium is finding its way into the illicit trade. This is an important declaration of policy and I think that it should help to meet the complaint which the Honourable Mover made about Indian opium being smuggled out of the countries to which it is in the first instance consigned.

I now turn to the question of control. Last March when I dealt with this question, I said very little about control because I was speaking at some length upon other matters. I contented myself at that time with quoting the opinion of one of the most hostile critics of Indian opium policy and if the House will bear with me I will quote that opinion again. The quotation is from Miss Eileen de la Motte. This is what she said on the question of control:

"Every step relating to the control and output is carefully and systematically regulated and has been brought to the highest pitch of efficiency, a model and example to the rest of the world".

Last March I left the matter at that. But, as the question of control has been definitely raised and as few people know how close and intimate that control is, I should like to give very briefly a few more details. In the first place as is known, the produce of poppy cultivated on Government account can only be obtained from Government. It has to be delivered to the Government Opium Department. From that Department it is issued only to licensed vendors wholesale or retail. The wholesale vendor can only sell such opium to other licensed vendors or to licensed druggists. The retail vendor may

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sell to individuals. Thus the individual can only obtain opium produced in India from a licensed retail vendor or a licensed druggist. Each stage of the distribution down to the retail vendor is safeguarded by an elaborate system of transport passes, while the conditions governing the licence of a retail vendor are most stringent. He may not sell to any one person at one time more than the quantity of opium which an individual may lawfully possess; he may sell only for cash and only on premises for which he is licensed; he must not allow consumption on such premises, and he must keep correct daily accounts of his sales which shall be open at all times to inspection by excise officers. There are further still more stringent restrictions in regard to opium for smoking. It is a system which has been developed through many generations and it has been brought to a very considerable state of efficiency. To illustrate the extent of our control over the area under cultivation, I should like to mention that during the last 15 years the area which has actually been cultivated has been less than the area settled except in two years when there has been an excess of less than 4 per cent. This shows that our opium officers keep a very close control over the area which is cultivated.

I now come to a still more important point regarding control which is that at Geneva we have recently agreed that we will allow an independent Committee of the League of Nations to visit India, as it will visit other signatory countries, after 5 years in order to examine our system of control and to assure themselves that it is absolutely water-tight. To this independent examination we have quite willingly and readily consented.

I now turn to the third point, namely, the advances to cultivators. This is an administrative matter and I think that the Honourable Mover has made a good deal out of what is after all a small point. It is a very old practice indeed. It dates back, I believe, from the days of the Mughal Emperors. We have references to it even prior to 1764. It is a practice which is not confined to opium. It is specially suitable where there is a crop which requires more than the usual amount of preparation of the soil and where there is a single purchaser who requires an assured outturn to be dealt with on business methods. For these reasons this system of advances has frequently been resorted to for such crops as opium, sugar and indigo. Now, there are two main reasons why this practice has always been found to be useful. First it ensures our having a much closer control over the area which is cultivated. It is obvious that if advances are not made we should have less certainty of particular areas being cultivated with opium. Therefore, in order to obtain the outturn which we require, we should have to settle a larger area than we do at present. In fact, as the Honourable Member desires to restrict the area of cultivation, he should welcome the system of advances, as it gives us much greater control over that area. The second reason is that our advances keep the cultivator out of the hands of the money-lenders. The amount of advance is not very considerable. It is about one-fifth of the total amount eventually due to the cultivator. It is made only to enable him to sow his crop without having to resort to the money-lender. The only result of the abolition of these advances will be that Government will have to offer a higher price and will be paying a portion of the money-lender's profits. We have had this matter under consideration

on several occasions and we have always come to the conclusion that it would be a retrograde step to abolish the system.

That is all, Sir, I have to say on this Resolution. I have shown what we have done in the direction of restricting the area cultivated. I have made a statement about our policy which is, I think, important. I think the House will realise what is my fundamental objection to this Resolution, namely, that the question of policy must have precedence over the question of the restriction of area. With regard to control, I have given a short account of our system and I have made an important point, namely, that the Government have agreed to accept the investigation of an independent committee of the League of Nations. As regards advances, I consider that it enables us to keep a closer control over the area under cultivation and that it is both for the benefit of the cultivator and the Government that he should not have to resort to the money-lender.

For these reasons I do not think I can advise the House to accept the Resolution and I hope the Honourable Member will not find it necessary to press it after what I have said. I do hope that the House will also realise that we are not hostile to and indeed are anxious to receive any sound and practical suggestions for the improvement of our opium administration.

THE HONOURABLE DR. DWARKANATH MITTER (West Bengal: Non-Muhammadan): Sir, in supporting this Resolution of the Honourable Dr. Sir Deva Prasad Sarvadhikary, I have in view the fact that the Honourable Mover of the Resolution is actuated by a very noble motive, namely, that of directing the policy of Government into a definite channel, that is to say, so far as home consumption of opium is concerned to reduce or diminish the drug habit of the people. The less the area of cultivation the less will be the production and the retail prices will consequently increase and opium will not be accessible so easily to the people who have cultivated the drug habit as it is when the area of cultivation is unrestricted. I do not know if the time has come when Government will agree to restrict the area of cultivation to the amount of opium which may be necessary for medicinal and scientific purposes. That is the millenium to come at some distant time. So far as India is concerned, the practice of swallowing or eating opium dates so far back as the sixteenth century and the habit cannot be eradicated in a day; but at the same time it has been stated by the Government, both by the Honourable Mr. McWatters and the Honourable Sir Basil Blackett, that the question of diminution of revenues will not prevent the Government of India from directing their policy into a channel which will really raise the condition of the people to this extent that there will be less and less of an indulgence in this pernicious habit either of eating or swallowing opium, or, so far as prepared opium is concerned, of smoking it. Honourable Members of the House will further notice that there is in some parts of the country, a practice which is very prejudicial and deleterious, namely, that of giving opium to children to keep them quiet amongst working mothers in certain industrial areas. Government will have to consider in future whether special measures will not be necessary to prevent that being done. I am bound to submit to this House that on account of the progressive increase in the retail price of opium there has been a considerable diminution in consumption in British India as I find from the figures and the Honourable Mr. McWatters will say if I am

[Dr. Dwarkanath Mitter.]

right. The amount now consumed *per capita* is 18 grains, while in 1895 it was about 27 grains *per capita*. The Honourable Sir Basil Blackett said in his speech last September that so far as Government are concerned they have decided to restrict the amount of imports and exports from India. The fact that it involved a further reduction in the revenues of India will not for a moment be allowed to affect Government's attitude in this behalf. The Resolution has done good in drawing prominent attention to the fact that Government will have to accede to the policy which will restrict the area to such an extent as will be necessary for the proper use of opium either for medicinal or scientific purposes or what may be required for the moderate use of opium. I support the first part of the Resolution.

With reference to the second part of the Resolution I feel some difficulty in supporting it, because I find from the speeches of previous speakers that this has been a practice which has been in existence from very ancient times. I am not prepared to support the second part of the Resolution as it is a matter of detail which Government may at some future time consider. I support the first part of the Resolution that Government should see their way to restrict the area for cultivation. The Resolution however does not define to what extent or in what proportion the restriction should be made. I fully realise that there is sufficient force in the statement of the Honourable Mr. McWatters, that first you have to define the policy. The Resolution in one sense really puts the cart before the horse. The Resolution has, however, drawn prominent attention to this fact that Government must change their policy in the direction that public opinion desires. For these reasons I support the first part of the Resolution.

THE HONOURABLE MR. K. C. ROY (Bengal : Nominated Non-Official) : Sir, with your permission I move for the adjournment of the debate on this Resolution till the next cold weather Session in Delhi. We are indebted to the Honourable Mr. McWatters for his illuminating speech in which he has told us much about our commitments in general, and withheld some. He has given us no details. We have not even before us the report of the Indian Delegation of 1924-25. Mr. McWatters next took us into his confidence when he said that he was in correspondence with Local Governments about internal opium policy, but he has given us no details. It is consequently unfair that we should be asked to vote either for the Resolution or against it. In the third place, there is the insoluble problem of opium cultivation in Indian States. We know nothing about it and there is no data before us. On these three grounds, therefore, I beg to move, Sir, that the debate be adjourned till the next cold weather.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That the debate be adjourned to a future Session".

I think that I should point out to the House that this amendment amounts to a proposal to close the discussion altogether, inasmuch as this Resolution will naturally disappear when the Council of State disappears.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I did not intend to speak on this Resolution of my Honourable Colleague to-day, but the motion for adjournment which has

been made by the Honourable Mr. K. C. Roy compels me to oppose it. The Honourable Mr. McWatters has very graphically and clearly explained the policy of the Government of India in the matter. He has in unequivocal language assured this Council that the Government of India have taken steps in the matter of the opium policy to restrict not only production but consumption. He has also pointed out that adequate measures have been adopted for the control of the industry. He has also given convincing reasons why these advances have been made by Government in the matter of the cultivation of poppy, and finally he has also informed the House that the Government of India have agreed after five years to an open examination of the condition of affairs by an impartial tribunal which will represent the League of Nations.

In view of these statements, and in view of the policy of Government also described in this Council last year very ably and fully by the Honourable Mr. McWatters in response to a similar demand, I consider that this Resolution is entirely unnecessary and superfluous and that no useful purpose would be served by adjourning the consideration of this measure till next cold weather, as my Honourable friend Mr. K. C. Roy has suggested. If the object of my Honourable friend Mr. Roy is to save this motion being defeated in this Council to-day, I entirely sympathise with him for having been so resourceful in having suggested this adjournment. (*The Honourable Sir Deva Prasad Sarvadikary* : "But we are so accustomed to defeat.") Sir, so far as the policy of the Government of India is concerned, no serious objection could be taken at this stage. When the Government of India sacrificed their finances in response to a certain class of faddist I was the first to raise my voice in opposition to the policy which was then adopted in the late Imperial Council. I then pointed out that the policy which the Government were then adopting would not receive a similar and sympathetic response from other countries; I then gave a warning to Government that they were throwing away their resources for the mere ideal and unattainable uplift of humanity, which would not be fully responded to by China where the bulk of our opium was shipped and other nations, and that their attempts would be fruitless. What I said 15 years ago, when Sir Guy Fleetwood Wilson was the Finance Minister in charge, has been borne out by a succession of events, and it is now a matter of common knowledge that the finances of India have been deplorably sacrificed to meet certain sentimental objections. Sir, the adoption of this Resolution is open to serious objection. Our finances have been put into order lately by heavy taxation. In the last three years taxation to the tune of 50 crores of rupees have been imposed on India, and now my Honourable Colleague to-day wants that a further slice of the revenue which we are entitled legally, morally and lawfully to obtain should be sacrificed, which would inevitably lead Government to a further imposition of additional taxation. That would be the natural implication of the acceptance of a Resolution of this character. Sir, the Government of India on successive occasions have made a definite declaration of their policy. Even the Finance Minister, the Honourable Sir Basil Blackett, in dealing with the subject of opium revenue, when discussing the last financial budget, clearly pointed out that it was the avowed policy of Government to go in steadily for a reduction and control of the growth of poppy. In view of all the circumstances, I consider it is absolutely

[Sir Maneckji Dadabhoy.]

unnecessary and wholly superfluous to consider this Resolution any further. I also oppose the motion for adjournment, and I think, in view of the assurance given by Mr. McWatters on behalf of Government, my Honourable friend there will see his way to withdraw his motion, but if he does not, there is only one course left to this Council, and that is to oppose and reject it.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I quite sympathise with the Mover of the Resolution, which, as it stands, is very commendable. No doubt it concerns the welfare of the people of India, where opium is taken in large quantities. Every one in this House, I believe, will surely admit that of all the intoxicating drugs opium is the most harmful and cruellest enemy of mankind. It is the most injurious and enervating and not only deprives man of his energy and wisdom but it makes him idle and luxurious and degrades the one addicted to it in several respects. Knowing as we all do the most injurious effects of taking opium, I trust very strong measures will be adopted to discourage its use. But the question is, what sort of steps should be taken to prevent the taking of this injurious drug. My Honourable friend the Mover of the Resolution proposes restricting its cultivation by discontinuing the advances made to the cultivators of the drug in question. But I say that supposing its cultivation in British India is restricted by the measure proposed, what guarantee can we have as to its limited produce in Native States or the independent territories bordering on India. As it is, it is the Native States or the territories other than British India that traffic most in this most objectionable of all the licensed drugs. I am afraid, Sir, the placing of any such restriction on its cultivation in British India will not prove of any advantage. On the other hand it will result in its smuggling, as is the case with regard to cocaine. Cocaine, I think, is the most expensive of all the intoxicating drugs. Legal restrictions have been imposed by the Government on its use, but I think Honourable Members are aware of the fact that, in spite of these restrictions, cocaine is taken in very large quantities in this country. People who are addicted to it get it, no matter how expensive it is. No other result, I think, can be expected with regard to opium by placing any restriction on its produce, for those who are addicted to it will get it under any circumstances. Although in the Punjab and in the North-West Frontier Province we do not cultivate much opium, there are a vast number of people, especially of the Sikh community, who consume opium and it will be very difficult to stop those people from getting the drug they require. Moreover, the Resolution, if given effect to, would deprive the Government of a considerable amount of revenue and would consequently result in fresh taxation under which we are groaning already and reduction of which is very anxiously awaited by all of us. As the lion's shares of Indian taxes are contributed by the agriculturist classes, I am afraid, the imposition of any fresh taxation levied to make up the deficiency in the central revenue caused by the

abolition of the opium duty, would be very hard on the poor Zamindars both in the Punjab and the North-West Frontier Province, whose incomes are already diminishing every day owing to the arable lands being water-logged. Under the circumstances I think the right and proper method of discouraging the use of opium would be to educate public opinion and bring home to the minds of people the injurious effects attendant on its use. Unless we do this and unless the public really realises the evil effects of using opium, I am afraid you will not be able to discourage its use by any legislative measure. I think, therefore, that instead of imposing any restriction on the cultivation of this special drug, we should start an anti-opium campaign, which, I believe, will prove of great advantage. In view of what I have said, I trust the Honourable the Mover will see his way to withdraw the Resolution and do something in the way of starting an anti-opium campaign by speeches and writing or some thing of that sort.

THE HONOURABLE SRIJUT CHANDRADHAR BOROOAH (Assam: Non-Muhammadan): Sir, I come from a province the inhabitants of which have a right to be heard on this matter. Opium is nowhere more consumed in India than in the province of Assam. I believe the Geneva Conference fixed the maximum quantity of opium for every 10,000 of the population at 6 seers. You will be surprised to hear that there are some districts in Assam where this limit has gone up to 159 seers. I am of course open to correction, for I speak from memory. But, even if I am wrong, I am sure I am not very wrong. I have seen the evil effects of opium with my own eyes. Opium thoroughly degenerates its victim intellectually, morally and physically. It makes a man weak in body and in mind; and whenever the opium-eater is ill, the doctors are at a loss what to do; because no medicine will act on his system. Opium eaters are timid, indolent and proverbial liars. There is no humiliation which the opium eater cannot stoop to, no disgraceful thing which he cannot do, for a single dose of opium. He will readily part with everything he has got in the world, he will ungrudgingly do the most disgraceful things, in order to get his dose of opium. It is very sad to think how many happy families in my province have been ruined, how many are being ruined, and how many will still be ruined by this great monster. The people of Assam have always asked the Government to abolish the opium traffic in the province altogether. Even the opium-eaters themselves would like this for the good of their children and their grand-children, provided only that they get their own dose of opium as long as they live. The Assam Government have taken some steps to remove this evil. They have reduced the number of opium shops; they have also reduced the quantity of opium supplied to these shops; and they have lately introduced a system of registration of the opium eaters. But these have not produced the desired result. The people want the Government to do more. They are even prepared to make good the loss in opium revenue by some other means. They say, "Impose some other tax and take away this opium from us." But the Government will not go as fast as the people would like them to. The Resolution has been opposed by some Honourable Members, but I am afraid, these gentlemen do not know the mischief done by opium in my province. They come from places where the opium habit does not exist, or where even if it exists, it is on a very small scale. The Resolution before us wants to reduce the production of opium, and so I

[Srijut Chandradhar Borooah.]

think it is my sacred duty to support it. I am thankful to the Honourable mover for bringing it in. I support the Honourable Dr. Sir Deva Prasad Sarvadhikary's Resolution with the greatest pleasure.

THE HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I shall not detain the Council for many minutes; neither am I going to speak physiologically on the subject or in any other way. I only want to say a few words on the policy of the Government in regard to this matter. Sir, I may claim to be one of the oldest and most vigorous critics of the Government opium policy. I have been a critic from the year 1885 when there was a discussion brought forward in Parliament by the Archbishop of Canterbury. I was one of the persons who very often discussed this question in the Press and on the platform. I was also one of those who took part in a large mass meeting which was held in the Town Hall by the Bishop of Bombay, Dr. Mylne. Then, later on, in 1897, when I was in London I addressed along with my old friend the late Sir Surendranath Banerjea a large meeting specially held in Exeter Hall, and since those days I have constantly and closely watched very carefully the policy of the Government in regard to opium. I was exceedingly glad when the treaty with China was concluded some 15 or 12 years ago. From that time forward every Member of the Council must have seen how the opium revenue has steadily dwindled down and down. 12 crores was the maximum that we had about the time the treaty was under negotiation till we have now less than 2 crores of rupees. The only opium we now grow is the opium for internal consumption, more or less for medicinal purpose and a little for export. We may feel assured that the Government will still bring down the cultivation of opium to the minimum. We may fully rely on the assurance given by our Financial Secretary, that the Government will steadily pursue the policy. That being the case, I think the Council will act wisely by not prolonging this debate unnecessarily, and I do hope, and sincerely hope, that my friend, Sir Deva Prasad Sarvadhikary, who has brought forward this Resolution with the best of intentions, being a reasonable man and a man of practical common sense, will withdraw his motion. With these words, I take my seat.

THE HONOURABLE THE PRESIDENT: Honourable Members do not seem inclined to speak on the amendment that the discussion be postponed to a future Session. I think we might get that amendment out of the way. The Honourable Mr. K. C. Roy's amendment was that the discussion be postponed for a future Session. The question is that that amendment be adopted.

The motion was negatived.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Sir, it has been one of my ambitions in life to earn the approbation of my Honourable friend from Bombay in whose good company I have all along been in the crusade against opium and drugs and liquor. I should not lightly want to lose that approbation. On the present occasion, however, matters are on a slightly different basis. We have had pronouncements and announcements from the

Honourable Mr. McWatters that make my position, at all events with regard to the first portion of the Resolution, stronger and more unassailable than ever. He has been good enough to say, and I congratulate him and Government on the announcement, that there have been steady efforts at restriction of acreage. That being so and there being an admission of the need for restriction, I fail to understand why so commonplace and obvious a Resolution like that commending further restriction to the attention of the Government should not be acceptable to Government, unless it be for reasons which I do not want to attribute to the Government, namely, that to be told to do the right will not suit them unless they make up their mind to do the right on their own account. Sir, I do not think that the request of the Council of State, if my Honourable colleagues are with me, with regard to at least the first portion of the Resolution can possibly come amiss to the Government. A case for restriction has been made out and a case for restriction has been admitted by the Government. I may not be able to say definitely, clearly and unequivocally how far further restriction shall go, because, Sir, as has been pointed out and as my Honourable friend claimed in his speech, the questions of policy and of restriction must go hand in hand. I could not dictate the policy, and I am supposed to have chosen what my Honourable friend called the wrong end of the stick. But any end of the stick is good enough for certain purposes if that purpose can be even partially achieved. I say that though you have been restricting the cultivation, this restriction has not been enough. You say that I have not yet defined my policy. Whose fault is that? There are your Geneva commitments. There is public opinion insistently wanting you to lay down your policy regarding the absolute minimum of cultivation under the present circumstances and you have not yet framed your policy. That is not the fault of this House or of those outside it who are urging the Government to have a more restricted policy. Therefore, Sir, I find it difficult to fall in with the views of those of my friends who have advised me to withdraw my Resolution.

I see, however, greater force with regard to their suggestions in the second part of the proposal. And if you, Sir, be good enough to put the Resolution in two parts, I shall be quite prepared to fall in with the views of my friends who advise me to withdraw my Resolution with regard to the second part. I am myself not at all convinced by what my Honourable friend Mr. Yamin Khan or for the matter of that other Honourable Members have said with regard to the propriety of continued advance. I do not agree that unless you want me to nurse an industry of agriculture like sugar, there is occasion or justification for an advance. Certainly not from public revenue. It so happens in this case that Government are the monopolists and not in the position of a Government pure and simple. They are more like private dealers giving advances and taking a *quid pro quo*. That has been the ancient practice but it is not necessarily the correct practice, at least now when people have realised what can be done if they take to the cultivation within such areas as Government may think fit to prescribe. Sir, I am quite in sympathy with those of my friends who want to keep the cultivator out of the hands of the money-lenders and I wish that their good wishes and good feelings could materialise in various other directions where such help is much more needed for the agriculturists proper

[Dr. Sir Deva Prasad Sarvadhikary.]

than for the opulent and flourishing opium trade. Therefore, that argument does not weigh with me.

Reference has been made, Sir, to indigo advance. I wish my Honourable friend had not referred to that. It has a doleful, un-cheery and regretful history behind it which we do not want to re-call. It will die its natural death and we do not want it to be resurrected from the end that it has properly attained. In spite of all that, Sir, I am prepared, having regard to the administrative reasons that have been urged, to withdraw the second portion of my Resolution.

With regard to the first portion, Sir, I am sorry to have to divide the House. I am sorry that I have been the unwilling cause of bringing them after the mid-day adjournment and I hope Honourable Members will not mind that. As some fundamental questions have been raised, I am afraid I shall have to go a little more in detail in my reply than I would otherwise have done. Government may on this occasion well cry to be saved from their friends. They themselves have not put forward financial reasons. They do not mind the dwindling revenue under the opium head. But there are friends of Government here who regret the good old days when "nations could be uplifted" in their own words—what nations I do not know—out of the revenue that the Government was accustomed to derive from the old opium head. Whatever uplifting that might have been it must have been at the expense of some other nations. The argument that "if these foolish nations do not want to behave, what does it matter to us; we shall go on making money as we have been doing out of opium and let them do what they like" will no longer answer. That is a proposition that did not appeal to people in the near past. We have embarked upon a settled policy from which there is no going back that the opium revenue shall be sacrificed. I am sure a crore and a half will not be much of a matter now to be taken into consideration after we consulted to the loss of many more crores, having regard to commitments that have been already referred to.

Incidentally, Sir, let me refer to the 50 crores that we are supposed to have been paying in the shape of additional taxation. That was the dictum of an expert whose opinion is always entitled to great respect. But has it been all or largely because of the loss of opium revenue? No. Moreover an expert not far from me here reminds me that it was nearer 90 crores than fifty that we have been paying in the near past in the shape of additional taxation. Surely loss of opium revenue is not answerable for this. I shall however leave that matter to be settled by experts. Anyway, Government and the people have agreed that the question of financial loss shall not stand in the way of the ultimate solution of this question. With regard to the moral aspects of the question about which my Honourable friend Mr. Yamin Khan has still doubts, I think the Honourable Member from Assam has fully answered him and if I might give him one or two extracts from medical opinion, I think it would serve my purpose all the better.

Dr. S. K. Datta speaking in the Assembly on this very question pointed out last March that the document of 1911 (Lord Hardinge's pronouncement) laid down that opium possessed certain medicinal properties. In the first place it

was supposed to be a specific against malaria, an exploded theory. During the luncheon interval one of the Honourable Members hailing from the neighbourhood of the Godavari District said to a suffering member that it was an antidote against malaria. I said on Dr. S. K. Datta's authority that it was not. In the second place it was claimed to be an anodyne, and there according to Dr. Datta, certainly experience was with the Government of India. In the third place, it was supposed to be necessary for the ailments of children. This is an absolutely exploded theory which is borne out by the testimony of well-known Doctors, like Doctor Jibanu Mistri of Bombay who says:

"The percentage of opium-eating under medical advice is very small. The greatest abuse to which it is put is the prevailing habit of dosing children with it to keep them (a) from crying, even when it is due to such legitimate cause as insufficiency of mother's milk, or (b) to keep them quiet while the mother goes out to work, or (c) from a prevailing false impression that it is good for the healthy growth of a child."

I do not want to labour the point further because I think it is generally agreed that neither on moral nor medical grounds, in spite of the findings of the Royal Commission of 1895, which have been seriously challenged, can it be said that in the interests of the people of India the consumption of opium cannot be reduced.

Regarding exports my Honourable friend has himself admitted that if abuse is proved, Government will be prepared to reconsider the question of exports under the certificate system. That there is room for such reconsideration is indicated by the Geneva report to which I did not think it necessary to refer in my opening speech, because I thought that it was not likely to be challenged. One of the opinions expressed by Sir John Jordan was as follows. He declared that, unless the Committee could take effective measures to prevent the large export "it was better to abandon the matter." He hoped other Governments would follow India's practice of not attaching importance to import certificates. He added that nearly the whole of the exports from the Persian Gulf were nominally destined for Vladivostock, but they were really landed elsewhere.

I do not for a moment suggest that the Government of India have been at all remiss with regard to this matter, but instances of abuse are clearly indicated which will make Government, in the light of what my friend has told us to-day, reconsider the situation and revise the certificate procedure under which export is allowed. Even in these Geneva Conferences I do not think statements of fact are always accurate and can be implicitly relied on, and I should like to take them with the usual reservation. For example, when certain people were attacking the Portuguese Government with regard to the situation in Macao, the Portuguese delegate said that in Macao the consumption of opium was relatively negligible. Sir Malcolm Delevingne drew attention to certain inaccuracies in the Portuguese report concerning re-exports of opium from Macao. Therefore there is a great deal of room for reconsideration of the whole question of export as well as internal consumption. The matter was fully gone into in the debates here as well as in the other House in March last. Therefore I do not want to tire the patience of the House by referring to that at length. I submit, however, that the first part of the Resolution at all events should be accepted. Regarding the other part, I am in your hands and in the hands of this Honourable House, and I have indicated my views on that point.

THE HONOURABLE MR. A. C. McWATTERS: Sir, I do not propose to inflict a second speech upon the House but I was glad that the Mover on reconsideration has decided that the second part of his Resolution had better be left out. I think the administrative reasons that I gave are quite conclusive. As regards the first part I was still waiting to hear my main objection to this Resolution answered, which is that you must define your policy first and on this account the Resolution as it stands is in my opinion practically nugatory. It is a Resolution which, if the House adopted it, would serve no useful purpose whatever. I took great trouble in my speech to show what real advance we had made in regard to opium exports. The reply of the Honourable Member has more or less confirmed what I said in regard to the action which Government are taking. With regard to the restriction of area, we have already made great restrictions after full and careful consideration of the policy which we have accepted. As regards any further restriction in general terms such as this, I would say that it is absolutely meaningless. I must, therefore, oppose the Honourable Member's Resolution.

THE HONOURABLE THE PRESIDENT: I shall put the Resolution in two parts. I think that is the proper course and it will be open for the Honourable Member to let the second part of his Resolution go by default.

The first part of the Resolution is :

"That this Council recommends to the Governor General in Council that—

(i) the area for cultivation of opium be restricted and brought under stricter control".

The question is that that part of the Resolution be adopted.

The Council divided :

AYES.—11.

Aman Ali, Khan Bahadur.
Borooah, Srijut Chandradhar.
Haroon Jaffer, Mr. Ibrahim.
Karandikar, Mr. R. P.
Manmohandas Ramji, Mr.

Mitter, Dr. D. N.
Ramadas Pantulu, Mr. V.
Ram Saran Das, Rai Bahadur Lala.
Raza Ali, Mr.
Roy, Mr. K. C.
Sarvadhikary, Dr. Sir Deva Prasad.

NOES.—29.

Abbott, Mr. E. R.
Akbar Khan, Major Nawab Muhammad.
Amiruddeen Ahmad Khan, Nawab Bahadur, Sir.
Chadwick, Mr. D. T.
Charanjit Singh, Sardar.
Chettiyar, Sir S. M. Annamalai.
Crazer, Mr. J.
Currie, Sir William.
Dadabhoy, Sir Maneckjee.
Dutt, Mr. P. C.
Fazl-i-Husain, Mian Sir.
Froom, Sir Arthur.
Khaparde, Mr. G. S.
Laird-MacGregor, Mr. E. G. L.

McWatt, Major-General Sir Charles.
McWatters, Mr. A. C.
Misra, Pandit S. B.
Mittra, Mr. K. N.
Natesan, Mr. G. A.
Parsons, Mr. A. A. L.
Rampal Singh, Raja Sir.
Sarma, Sir Narasimha.
Sen, Mr. B. C.
Sethna, Mr. Phiroze C.
Tek Chand, Diwan.
Thompson, Mr. J. P.
Wacha, Sir Dinshaw.
Yamin Khan, Mr.
Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: I will now take the second part of the Resolution. That will run :

"This Council recommends to the Governor General in Council that the practice of making advances to opium cultivators be discontinued with effect from the next season for making advances and that this be notified in advance as soon as possible"

The question is that that part of the Resolution be adopted.

The motion was negatived.

THE HONOURABLE THE PRESIDENT. Mr. Yamin Khan.

THE HONOURABLE SAIYID RAZA ALI: Sir, I rise to a point of order in connection with the procedure governing the introduction of a Bill in the Chamber on the eve of its dissolution. Paragraph 78B of the Manual of Business and Procedure makes it quite clear that, unless a Bill is passed in the Chamber in which it has been introduced, it automatically lapses with the dissolution of the Chamber. Further, paragraph 66 shows that no action can be taken by Government with reference to a Bill if merely leave to introduce it has been given by a Chamber which is subsequently dissolved. The position, therefore, Sir, that arises will be rather anomalous, and as there is some doubt about the interpretation of these rules, I ask you, Sir, to kindly enlighten us with a ruling as to what will happen if this House gives leave to the Honourable Member to introduce his Bill. As I have submitted, after leave being accorded, with the dissolution of the Council the Bill will automatically lapse, so that the only point that will have been gained, if I am correct in my interpretation of paragraph 66 of the Manual of Business and Procedure, will be the according of formal leave which will lead to nothing. I ask you, Sir, to kindly give us a ruling as to whether it will be possible for Government even to circulate this Bill for public opinion and public criticism if leave is granted. As I have already submitted, it seems from paragraph 66 of the Manual that such action cannot be taken legally by Government.

THE HONOURABLE THE PRESIDENT: I think the point raised by the Honourable Saiyid Raza Ali is not a difficult one. Under the rule, which was added to the Indian Legislative Rules not long ago, any Bill which is introduced in the Council of State will, when the Council is dissolved, lapse unless at the time of the dissolution it has been passed by both Chambers. In the particular case of the Bill which the Honourable Mr. Yamin Khan seeks leave to introduce to day it does not necessarily follow that the Bill will lapse, though on the face of it it does seem a practical impossibility that the Bill will be passed into law by both Chambers before the end of the current Session. The Honourable Saiyid Raza Ali asked one more question, and that was whether it would be legal for the Government to circulate a Bill introduced to-day in the manner in which the Honourable Mr. Yamin Khan seeks to introduce his Bill. The answer is that it would not only be legal, but, if before the end of the Session a motion were moved and carried that the Bill should be circulated for opinion, it would be obligatory on the Government to circulate the Bill for opinion. What would happen to these opinions when received would be another matter.

AMENDMENT OF THE LAW RELATING TO INTEREST BILL.

THE HONOURABLE MR. YAMIN KHAN (United Provinces West: Muhammadan): Sir, before asking for leave to introduce this Bill, I might point out with reference to one of the objections which has been raised by the Honourable Saiyid Raza Ali, that it may not be possible to circulate the Bill for opinion, but it may be quite possible, even in this Session, to take the Bill into consideration and to pass it. There is ample time during this Session and these motions can be moved in this House.

THE HONOURABLE THE PRESIDENT: I do not know whether the Honourable Member clearly understood me. Even though this motion may be moved and passed by this House and even if the Bill should be passed by this House, nevertheless if by the end of the Session the Bill has not been passed by the Assembly also, the Bill will lapse.

THE HONOURABLE MR. YAMIN KHAN: That is what I was saying. It might be quite possible that it might be passed by the Assembly also because there is ample time. Any how, Sir, it is on the agenda for me to ask for leave to introduce this Bill. I have stated in the Statement of Objects and Reasons fully what leads me to ask for leave to introduce this Bill, and it is a very simple measure. By this Bill I want only to stop the accumulation of interest beyond the capital amount which had been advanced by the money-lender. It is for the benefit of the zemindars and agriculturists. This is an old Hindu law which prevailed up to 1855 in the whole of India. It was prevalent during the Moghul period. It is prevalent at present in Indian States; it is prevalent in the Bombay Presidency to a certain extent; it is prevalent in Calcutta town proper to a certain extent, and in Berar. A change was brought about in 1855 by Act XXVIII. Since then the present law is to allow the accumulation of interest to go on. By this Bill I propose to incorporate the old Hindu law into the law of India. It is not the proper time now for me to give illustrations or to discuss fully what mischief the introduction of the Act of 1855 has caused to the zamindar community and how many houses have since then been ruined on account of the present law. I will deal with these matters at a later stage. At present it will suffice for me, Sir, to lay before the Council the fact that in 1855, when the new change was brought in, there was neither a Muhammadan or a Hindu sitting in the Council and therefore at that time their laws could not properly be represented. The effects of that change will be discussed by me at a future stage. The Government, taking into consideration the great hardship which had been caused to different lands of debtors introduced the Usurious Loans Act in 1918; but that does not go far enough in providing a remedy for the mischief which I propose by this enactment to stop. The old Hindu law was very sound, it was well fitted to the needs of the country for which it was made and it remained the law for centuries.

With these few words I ask for leave to introduce this Bill.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member (Sir Annamalai Chettiyar, who had risen to speak) propose to oppose the Bill?

THE HONOURABLE SIR S. R. M. ANNAMALAI CHETTIYAR (Madras: Non-Muhammadan): Yes, Sir, I rise to oppose this Bill. I may be permitted

to observe that no new facts have been adduced justifying the introduction of a Bill so recently rejected by this House as February this year. It has been repeatedly brought before this House and before the other House in some shape or other and permission for its introduction has as often been refused. I should think that the author of the Bill feels very strongly on the subject and so he brings it up again and again. While we can respect the strength of his convictions, I doubt very much if we will be justified in permitting the introduction of the Bill. He seems to labour under a misconception in thinking that the banker or money-lender wants to deprive his debtors of their properties. If my experience is a correct guide, I should think that nothing is farther from the truth. The banker or money-lender will only be too glad to receive regular payments of interest and principal. His business is to make money roll and so yield more, and not to have it locked up. But, Sir, it has become a fashion in these days to blame the creditor for whatever evils the debtor may bring on himself. The creditor helps the debtor in a time of need. There are debtors and debtors. The creditor's repeated requests for payment of his dues are ignored. The debtor purposely allows the interest to accumulate because he is sure of the protection afforded by the Usurious Loans Act. There are again cases where the debtor finds it to his convenience to put off payment.

THE HONOURABLE MR. YAMIN KHAN: Sir, is this speech in opposition at the present stage in proper order?

THE HONOURABLE THE PRESIDENT: The Honourable Member is so far quite in order.

THE HONOURABLE SIR S. M. ANNAMALAI CHETTIYAR: Sir, I am only stating the reasons why I am opposing this motion. When the creditor presses, the debtor says, "Look here, have I not got enough property, why do you press me? You know this year has been a bad one and I can hardly pay you unless I sell some of my properties and the value of property goes down in lean years. I expect a better return, a larger income, next year. Can you not wait till then? I am sure to be able to pay you." The creditor waits but the interest accumulates. Is he at fault? A series of bad years comes on which are not uncommon and the same request is repeated and the accumulation of interest is inevitable. To blame the creditor for this is hardly reasonable. Why should the sins of the debtor be visited on the creditor? Sir, in this country money-lending is not limited to one particular community or communities. All who can spare some money take to banking. Professional people, such as lawyers, doctors, and the agriculturists themselves, invest their money in loans. Perhaps this type of creditors and not the professional money-lenders may in some way be responsible for the evils complained of. The money-lenders as a class are not responsible for that although there may be exceptions here and there. But we should not proceed to generalise from those exceptions.

Sir, only one word more. It is well to remember that the money of the money-lender and banker has played no mean part in the development of the country and contributes much towards its material progress in agriculture, trade and industry.

M82CS.

[Sir S. M. Annamalai Chettiyar.]

What will be the effect of this Bill on the free flow of money? Agriculture, trade and industry will suffer most and get paralysed for want of Capital. For your information, Sir, I will tell you—perhaps most of the Honourable Members here are aware of it—that almost all the Local Governments are against this Bill. I must oppose this Bill.

THE HONOURABLE THE PRESIDENT: The question is:

“That leave be given to introduce a Bill to amend the Interest Act.”

The motion was adopted.

THE HONOURABLE MR. YAMIN KHAN: Sir, I introduce the Bill.

RESOLUTION *RE* INTEREST ON DEPOSITS IN POST OFFICE SAVINGS BANKS OPENED BY MUHAMMADAN DEPOSITORS.

THE HONOURABLE THE PRESIDENT: The Council will now resume discussion on the Resolution* moved by the Honourable Mr. Haroon Jaffer on the 16th March which is set out on the paper. The discussion on the Resolution on that occasion was adjourned on the motion of an Honourable Member no longer with us to enable Government and the Honourable the Mover and other Members of the Council to ascertain the views of the Local Governments and particularly of the Muhammadan community in regard to the proposal contained in the Resolution; and I think it would serve to shorten the debate and possibly to keep it on the right lines if I ask the Honourable Mr. McWatters, who on behalf of Government has been making inquiries, to inform the House what the result of those inquiries has been. Thereafter if it is necessary, I may be able to indicate to the House the lines on which the debate should proceed and the scope of the speeches which may be made by Honourable Members who have already spoken in the debate.

THE HONOURABLE MR. A. C. MCWATTERS (Finance Secretary): Sir, the action taken by Government after the debate on the 16th of March last was to consult all Local Governments and to ask them to give us their opinion on the various issues raised in that debate after consulting representative Muhammadan opinion all over the country. The replies are beginning to come in; we have only received two replies from the major Local Governments and we have not yet material enough to enable us to arrive at a definite decision on the questions at issue. I should like, however, to give this assurance to the Honourable Mover that if there is a weight of opinion in favour of the scheme which has been proposed or something on those lines, the Government are quite prepared to give the matter their serious consideration.

*“This Council recommends to the Governor General in Council that Government may be pleased to keep a separate account of the interest payable by Government on deposit accounts in Post Office Savings Banks opened by Muhammadan depositors who, owing to their religious belief, have requested that no interest should be credited to them, and that this sum should be set aside as a special fund, to which also any interest on Government securities foregone by Muhammadan holders under similar circumstances should be credited and that this fund should be utilised in awarding Scholarships to poor Muhammadan students in the Muslim University, Aligarh.”

THE HONOURABLE THE PRESIDENT: The Council seems to be in a better position for discussing the Resolution than it was in March last. With reference to the remarks that fell from the Honourable Mr. McWatters, I think the Council would like to hear the remarks of the Mover on the views of and assurances given by the Honourable the Finance Secretary.

THE HONOURABLE MR. HAROON JAFFER (Bombay Presidency: Muhammadan): I want to know whether the amendment on the agenda is to be moved by the Honourable Saiyid Raza Ali.

THE HONOURABLE THE PRESIDENT: The amendment will come later. It will not arise if the Resolution is otherwise disposed of. I asked the Honourable Member if he had any remarks to make with regard to the assurances given by the Honourable the Finance Secretary.

THE HONOURABLE MR. HAROON JAFFER: Sir, from the information which my Honourable friend Mr. McWatters has just given, I find that he has received replies only from two Governments, and unless he receive replies from all the other Provincial Governments, he cannot decide whether it will be possible for him to accept my Resolution or not. It is now nearly six months since the Government of India have been trying to ascertain opinions and so far, I am sorry to say, they have not succeeded. Surely this matter might have been expedited in view of the fact that the life of this Council ends with this Session. It would have been better for me to have asked you to again postpone the consideration of this Resolution, but as there is no further Session of this Council, I cannot do so. Besides Government also cannot give effect to it because all the replies have not been received. Under the circumstances, I have no other alternative left but to accept the assurance just given that the Government will give effect to my Resolution if the majority of the Muhammadans approve of it. I beg to throw out a suggestion that, if there is no majority, at least those provinces which are in favour of it may have the advantage of my Resolution. I do not press my Resolution and I ask permission to withdraw it.

THE HONOURABLE MR. A. C. MCWATTERS: I wish to repeat the exact form of the assurance which was given by me. I said, if there was a weight of opinion in favour of the proposal or something on those lines, Government will give the matter their serious consideration.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, the announcement made by the Honourable Mr. McWatters is, I believe, quite satisfactory. I hope my Honourable friend has carefully followed his words. The words were that if the weight of opinion invited by the Government of India favoured the proposal contained in the Resolution, Government would be willing to give effect to it.

THE HONOURABLE MR. A. C. MCWATTERS: Government will give it their serious consideration.

THE HONOURABLE SAIYID RAZA ALI: I am told that the words used were “serious consideration.” Even if the Resolution is carried, what will be the effect? Resolutions passed by any Chamber of the Indian Legislature are not binding on the Government. They can at best be seriously considered

[Saiyid Raza Ali.]

by the Government and no more. Therefore I believe I am in order in moving that the discussion be adjourned *sine die*.

THE HONOURABLE THE PRESIDENT: I think the simpler way of disposing of the Resolution would probably be for the Honourable Member to ask for leave to withdraw if he is still of the same opinion.

THE HONOURABLE MR. HAROON JAFFER: Yes.

The Resolution was withdrawn by leave of the Council.

RESOLUTION *RE* INDIANIZATION OF THE ESTABLISHMENT OF THE HIGH COMMISSIONER FOR INDIA.

THE HONOURABLE THE PRESIDENT: I understand that the Honourable Mr. Sethna does not propose to move his Resolution* and I therefore refrain from calling him.

DATE FOR DISCUSSION OF THE RESOLUTION *RE* THE REFORMS INQUIRY COMMITTEE'S REPORT.

THE HONOURABLE THE PRESIDENT: I may inform the House with reference to certain remarks made in the Council the other day that I have received notice of a Resolution from the Honourable Mr. Crerar with regard to the Reforms Inquiry Committee's Report. I understand that it has not yet been circulated to Honourable Members. I mention it now because the Honourable the Home Secretary has asked me to waive the full period of 15 days' notice, so as to enable his Resolution to be taken up some time next week. The Resolution will be circulated almost at once, but in the meantime I might read its terms to the House. The Resolution runs:

"This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

I am quite prepared to accede to the request for shortening the full period of 15 days' notice, provided the period is not unduly shortened; and it will be for the convenience of the House if the Home Secretary could indicate the probable date on which the Resolution will be put on the list of business, a date which should not be earlier than the middle or the latter half of next week.

It will be possible no doubt to find time for it. But I should like to hear from the Home Secretary if he has any proposal to make, in the absence of the Leader of the House, as to the date on which it should be taken up.

THE HONOURABLE MR. J. CRERAR: Dates are under consideration at present. I think they will be the 11th and the 12th of September. But this

* "This Council recommends to the Governor General in Council that steps be taken to Indianise the staff and establishment of the High Commissioner for India in the United Kingdom."

is provisional. I can certainly promise that the period of waiving the notice will not be shortened to any date within those dates. I believe that those dates will actually be sanctioned.

THE HONOURABLE THE PRESIDENT: I hope it will be possible to give the House definite information within a day or two as to the date on which this Resolution will be brought forward.

The Council then adjourned till Eleven of the Clock on Wednesday, the 2nd September, 1925.

COUNCIL OF STATE.

Wednesday, the 2nd September, 1925.

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

QUESTION AND ANSWER.

COMPETITION OF RAILWAY WORKSHOPS WITH PRIVATE ENTERPRISE.

101. THE HONOURABLE MR. PHIROZE C. SETHNA: With reference to the information supplied in reply to parts (e) and (f) of question 86 put on 11th February last, will Government be pleased to state the nature of the work given out to private enterprise and its amount in each of the last two years?

THE HONOURABLE MR. D. T. CHADWICK: The collection of the information would involve a considerable amount of time and expense and would not appear to serve any useful purpose. The Government do not therefore propose to collect it.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill to confer certain exemptions on members of legislative bodies constituted under the Government of India Act, and a Bill to supplement certain provisions of the Sikh Gurdwaras Act, 1925, which were passed by the Legislative Assembly at its meeting held on the 1st September, 1925.

INDIAN SUCCESSION BILL.

THE HONOURABLE SIR HENRY MONCRIEFF SMITH: I have to move:

"That the Bill to consolidate the law applicable to intestate and testamentary succession in British India, as reported by the Joint Committee, be taken into consideration".

I intend to make very few remarks in bringing this motion to the notice of the Council, partly because I occupy a somewhat anomalous position in that, though I am making a motion before the Council, I am not able to cast my vote in favour of it, unless, which God forbid, there is an equal division of opinion on the motion. The position which I occupy was fully explained by my predecessor, Sir Alexander Muddiman, when he asked for the leave of the Council to introduce this Bill, and I think Honourable Members are fully aware of the reasons why I am taking the unusual course of laying a motion before the Council, and that is, that this Bill is the product of the Statute Law Revision Committee of which, at the moment, I have the honour to be the President.

The Bill which Sir Alexander Muddiman introduced two years ago purported to be a measure of pure consolidation, and this House and the other

[Sir Henry Moncrieff Smith.]

House, accepting it as such, agreed to refer it to a Joint Committee. The Bill has now been considered by the Joint Committee and its Report and the Bill as amended by it are before Honourable Members. I think I may assert, without fear of contradiction, that despite the numerous amendments which have been made in the text of the Bill by the Joint Committee the nature of the Bill has not been altered, and it is still a measure of pure consolidation. Two points, therefore, only arise. The first is whether it is a measure of complete consolidation. Are there enactments on our Statute-book which with advantage might be incorporated in this Bill which for the moment are not included in its provisions? That point has been considered in the first place fully by the Statute Law Revision Committee. They recognised that there were certain enactments which had been left out in this consolidation. Thereafter, it was considered by the Government to whom this Bill went and finally it has been considered by the Joint Committee. If Honourable Members will turn to paragraph 3 of the Report, they will find a discussion of the enactments which wholly or partly have been excluded from the scope of this measure.

The other point which arises is whether there has been a true consolidation, that is to say, whether the Bill, in bringing together the law scattered as it was previously over the whole of the Statute-book, has, in making the necessary alterations of language and in making the necessary rearrangement of sections, unconsciously altered the law in any respect. The Joint Committee is satisfied that no such alteration has been made. As I have said, a very large number of textual amendments have been made in the Bill. These are all of a drafting nature. At the same time the Joint Committee thought, in view of suggestions made by certain competent critics of the Bill, that it was possible to improve the arrangement of some of the Chapters and Parts. The rearrangement that has been made is explained in the Report and is indicated also in the copy of the Bill as amended by the Joint Committee.

I move that the Report of the Joint Committee be taken into consideration.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I have only one observation to make in connection with this Bill. As you have rightly pointed out, this measure is one of pure consolidation of the several Acts with certain improvements in textual drafting, and as such the Bill as now presented is fully complementary and embodies all the necessary amendments. I congratulate the Joint Committee on the presentation of this Bill which involved arduous labour. But I have one important advice to offer in connection with this Bill. When this Bill was circulated for opinions numerous important amendments were suggested. Unfortunately, as the scope of reference to the Joint Committee was limited to consolidation only, no notice was taken of the several important amendments of the Act itself which have been widely recommended. This Act has been in existence for a long time, and I have seen and perused the reports of several bodies on some of the amendments proposed. Many of these amendments are very necessary, and I only trust that at an early date the

Government will undertake a measure to incorporate the numerous amendments that have been already suggested. I have nothing further to add.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member) Sir, the country and the Government are under a great obligation to the Statute Law Revision Committee for the extremely useful piece of legislation which they had undertaken and for the thoroughness, care and success with which they have performed their arduous labours. The attention of the Government has been invited by the Joint Committee to the numerous amendments which have been suggested when the Bill was circulated for opinions. Sir Alexander Muddiman and I, in appending our signatures to the Report of the Joint Committee, have in a manner pledged the two departments concerned to undertake the task of amendment at an early date. I do not wish to be understood to bind my successor too closely to dates. I am sure that as soon as the pressure of other business permits, the departments concerned will undertake the revision of this Bill when it is passed into an Act and press it upon the attention of both the Houses. (Hear, hear.)

THE HONOURABLE DR. DWARKANATH MITTER (West Bengal: Non-Muhammedan): Sir, the need for this consolidating legislation is indeed very great, and we are thankful to the Members of the Joint Committee of both Houses for placing their Report at such an early date before this House. The intention was, when Sir Alexander Muddiman referred this Bill to the Select Committee on the 29th February 1924, to include in this legislation all matters of previous legislation regarding succession. On that day I made a suggestion to the Honourable Sir Alexander Muddiman, who was then presiding over this House, that it might be possible to include the Hindu Disposition of Property Act, 1916. That, as Honourable Members will find, is stated as the first Act which has been omitted from this consolidating measure in paragraph 3 of the Report. The reason which is given by the Joint Committee is that section 5 of that Act leaves it open to the Governor General in Council to extend it to other communities like the Khoja community by a certain notification, and that it does not render it desirable that that Act should find a place in this consolidating measure. There are also other Acts like the Special Marriage (Amendment) Act, 1923, the Wills Act, 1838, and the Inheritance Act, 1839, the Legal Representative Suits Act, 1855, and the Oudh Estates Act which have not been included in this consolidating legislation, and if, as it seems to be the intention from some Resolution to which reference has been made by you, Sir, that Government intend to bring forward an amending measure to amend the Indian Succession Act at an early date, if as the Honourable the Law Member suggests that his successor will take the earliest opportunity of introducing that measure,—the question that necessarily arises is, whether it would be right to pass this consolidating measure, now, if Government really intend within a year or two to bring forward an amending measure so as to have a complete law of succession embodying in it all the amendments. In view of the fact that the Government intend to amend, having regard to the volume and strength of opinions which have been collected, the present measure, I ask whether the House will be right in passing this consolidating measure at present. If you do so, you will simply be multiplying

[Dr. Dwarkanath Mitter.]

the measures on the Statute-book. It would also lead to some difficulty for lawyers or legal practitioners to move about in the course of one or two years from one Statute to another. That is always an inconvenient method, and if the intention is that an amending measure should be brought forward at an early date, I think, Sir, that this consolidating measure should not be passed now. I mean no great advantage will accrue by passing this consolidating measure, for, after all, it helps legal practitioners to tell their clients who are interested in a will where they should look for the provisions as to how the estate of the particular person is to be administered after his death. If within a year or two we have to throw this consolidating measure into the waste-paper basket and look to some other Act which will include not only the amendments but also the previous Statutes with regard to succession, I do not see that any object will be served by passing the present consolidating measure. That is, Sir, the view which I submit before this House.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal : Non-Muhammedan) : Sir, I am sorry that, in supporting the motion that you have just moved from the Chair, I have to join issue with my Honourable and learned friend Dr. Dwarkanath Mitter. The very fact that he himself brought to the notice of this House, when this matter was committed to the Joint Committee, the necessity of considering certain amendments arising out of measures like the Hindu Disposition of Property Act, which however could not very well come in as a part of the consolidating measure, cuts the ground away from under him with regard to the suggestion, a somewhat belated suggestion, that he has now thrown out, that we should wait till the Government are ready with their proposals for amendments. I should have thought, Sir, that he would have recognised, as he did recognise before, that the first and most important step for amending a large and comprehensive measure like this would be a good consolidating Act. That was aimed at by the Statute Law Revision Committee and by the Joint Committee. I am free to congratulate the Statute Law Revision Committee on its achievements. But for obvious reasons I cannot associate myself in the chorus of congratulations to the Joint Committee.

Sir, a good piece of consolidating work has been done, and after it has been done and done so thoroughly, I think it would be a thousand pities to await the convenience of the incoming Law Member for his amending measure and to let this stand over. From the point of view that I have urged before, namely, that a good consolidating measure must always precede a good amending Act and also for the reason that it has been so thoroughly done, I think the House would not be well advised in letting this matter stand over, but should pass it in the form in which it has been presented.

Sir, the Honourable the Law Member has given us a qualified pledge, we know how to value Government pledges. They can always be qualified. I do not think the qualification was necessary. We have heard of pressure of work in the Law Department but, as I said the other day, other departments like the Home Department are taking over a large portion of the work that used to belong to the Law Department before. That may be an administrative

convenience ; it may owe its origin to other reasons. Sir, we have had long-due measures awaiting amendment, measures about which the lawyers to whom my Honourable friend has alluded are very much exercised, measures, for example, like the Transfer of Property Act which has long needed revision and amendment. Honourable Members know that Government money and Government time have been spent over it and yet the comprehensive amending measure, towards which we have been looking forward for a long time, has not yet come. I do not know, therefore, how soon, in spite of the pledge given by my Honourable friend, a comprehensive amending measure with regard to this enactment will be forthcoming.

I do hope it will come early and I do hope that the Transfer of Property Act will also come early. And when these measures do come, Sir, more than incidentally I desire to draw the attention of this House, as I have drawn your attention, Sir, through the Secretary, to the somewhat difficult position that this House occupies with regard to Select Committees. According to our rules, if a Select Committee has been appointed elsewhere and not a Joint Committee, this House is precluded from appointing a Select Committee of its own and has to resort to other devices and means for the purpose of having a measure threshed out here. That is a matter, Sir, which I would like to commend to your attention for consideration and rectification. What good Joint Committees can do has to a certain extent been demonstrated in this piece of enactment.

I have not the slightest doubt that this House will pass the measure as it stands and the other House, in spite of its desire and its constant look-out for finding fault with whatever is done in this House, will not find it quite easy to discover a weak spot so far as this enactment as an amending measure is concerned. And lastly, Sir, I should like very strongly to associate myself with what the Joint Committee has said, namely, that the amendment which has been so largely and so strongly demanded from all sides, should be taken up as early as possible.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muham-madan) : Sir, as to the somewhat discordant note struck by the Honourable Dr. Dwarkanath Mitter, I would like the House to remember that the functions of the Joint Committee were confined to consolidating a number of Acts that are to be found scattered. No power was given to the Joint Committee to consider amendments which would have a tendency to change or alter the law. The Joint Committee, therefore, had to work within the limited scope that had been assigned to it by this House. Yet Honourable Members will find that the point has not escaped the careful attention of the Joint Committee over which you, Sir, presided. In paragraph 2 of the Committee's Report it is clearly and definitely pointed out that there is a considerable volume of opinion in favour of amending the existing law and the attention of the Government is invited to this fact. I believe this is as far as the Joint Committee could under the circumstances possibly go. We have now further had a guarded assurance from the Honourable the Law Member, who was a distinguished member of the Joint Committee, to the effect that under certain conditions Government would consider the question of amending the whole law on the subject. A very good reason, Sir, has been given in the Joint

[Saiyid Raza Ali.]

Committee's Report why the several Acts that have been specifically enumerated in that Report could not be put into the consolidation measure with which the Joint Committee was charged. I do not think anything has been said by my Honourable friend to weaken the force of this argument. He makes a rather—if he will excuse my saying so—fantastic suggestion when he says that the question of real amendment is of such great importance that, instead of taking the consolidation measure into consideration, we should wait till the Government can bring forward an amending Bill. That, Sir, I may be permitted to say, is counsel of perfection. In spite of the personal inclination of the Honourable the Law Member, we do not know how long it will take the Government to prepare such a measure. The difficulties and the hard work involved in preparing a Bill of this character are not unknown to those Honourable Members who have anything to do with the profession of law. I for one am not prepared to say that this House should accept the counsel of my Honourable friend. The consolidation measure has been prepared as carefully as was possible under the circumstances of the case. It appears from Schedule IX that as many as 14 Acts have been consolidated and brought into this one Bill. That in itself is by no means a mean achievement. I therefore think that it is high time that the profession and the Bench were spared the trouble of looking into a number of scattered measures that are to be found on the Statute-book, and that this Council should lose no time in giving its blessing to this measure and pass it.

THE HONOURABLE SIR HENRY MONCRIEFF SMITH: I thank those Honourable Members who by their speeches have saved me from the necessity of joining in this debate. I think perhaps they have taken an unnecessarily serious view of the remarks that fell from the Honourable Dr. Dwarkanath Mitter. As I listened to him I did not for a moment gather the idea that he intended to oppose the motion.

I should like also, as President of the Statute Law Revision Committee and as Chairman of the Joint Committee on this Bill, to take the opportunity, on behalf of those Committees, to thank the Council for their very generous appreciation of the work done by them.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill to consolidate the law applicable to intestate and testamentary succession in British India, as reported by the Joint Committee, be taken into consideration”.

The motion was adopted.

THE HONOURABLE SIR HENRY MONCRIEFF SMITH: I move that the Bill, as amended by the Joint Committee, be passed.

The motion was adopted.

INDIAN SUCCESSION (AMENDMENT) BILL.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I move for leave to withdraw the Bill to amend the provisions of section 27 of the Indian Succession Act, 1865, as reported by the Joint Committee.

Sir, I think perhaps that a few words of explanation are due from me to this Council as to the reason of this motion. The reason of the motion I have just made will be at once apparent to the legal Members of this Council; it is that Schedule IX of the main consolidating Bill, which has just been passed, repeals the Indian Succession Act of 1865 which my Bill seeks to amend. Therefore, when the main Bill goes through the other House and becomes an Act, my Bill, if allowed to stand, would seek to amend an Act which does not exist. I hope though at some future date, after the main consolidating Bill becomes an Act, to reintroduce this small Bill of mine in a somewhat modified form.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Thursday, the 3rd September, 1925.

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COUNCIL OF STATE.

Thursday, the 3rd September, 1925.

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

TRANSFER OF PROPERTY (AMENDMENT) BILL.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay : Non-Muhammadan) : Sir, I rise to ask for leave to introduce a Bill to amend the Transfer of Property Act, 1882.

The Statement of Objects and Reasons explains fully the necessity for this Bill. In accordance with the Act as it stands at present, assignments of life insurance policies without consideration are documents about which there is a doubt whether they should be registered or not. In practice, however, such documents are not registered. Under section 130 of the Act the transfer of any actionable claim with or without consideration is not required to be registered. But, Sir, in this country, as there is no distinction between "good" and "valuable" consideration, assignments of life policies in favour of relatives are gifts *inter vivos* and as such would come under section 123, and under section 123 they would require to be registered. There is, therefore, a doubt on this question and even eminent counsel are not agreed about it. This doubt can be removed by providing an exception to section 123 and that is exactly what the Bill proposes to do.

The motion was adopted.

THE HONOURABLE MR. PHIROZE C. SETHNA : I introduce the Bill.

RESOLUTION *RE* INQUIRY INTO THE CONDITION OF THE COTTON MILL INDUSTRY.

THE HONOURABLE MR. HAROON JAFFER : (Bombay Presidency : Muhammadan) : Sir, I gave notice of my Resolution* which is on the agenda about the end of July last. Since then, a deputation of the millowners have waited upon His Excellency the Viceroy in order to place the grievances of the mill industry before the Government. In reply His Excellency has made an offer of an inquiry and that proposal is now under the consideration of the millowners. In the circumstances, Sir, I have no desire to complicate matters unnecessarily by proceeding with this Resolution of mine. I therefore beg leave to withdraw this Resolution. The Resolution which stands in my name....

THE HONOURABLE THE PRESIDENT : There is no necessity for the Honourable Member to read the Resolution if he does not propose to move it

* This Council recommends to the Governor General in Council that an inquiry be immediately made into the condition of the Indian cotton mill industry and into remedies for its amelioration."

[The Honourable the President.]

nor does he require the leave of the House to withdraw it. I understand the Honourable Member has withdrawn the Resolution.

THE HONOURABLE MR. HAROON JAFFER: Yes, Sir.

SPECIAL LAWS REPEAL BILL.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I beg to move that the Bill to repeal certain special enactments supplementing the ordinary criminal Law, as passed by the Legislative Assembly, be taken into consideration.

In doing so, I desire to narrate very briefly the events that led up to the passing of this measure by the Assembly, in the hope that such a narration as that will itself be sufficient to induce you to vote for this motion. The Bill is the outcome of long and strenuous efforts made by both Chambers of their reformed Central Legislature to secure the repeal of the repressive laws which disfigure the Indian Statute-book. I am glad to be able to say that the initiative in this matter came from this Chamber. On the very first day, after its inauguration, on which it sat to transact ordinary business, the fourteenth Day of February 1921, the Honourable (now Right Honourable) Mr. V. S. Srinivasa Sastri moved a Resolution to the following effect:—

“This Council recommends to the Governor General in Council that a committee be appointed at an early date to examine the repressive laws now on the Statute-book and report whether all or any of them should be repealed, and, in case where repeal is not desirable, whether the laws in question should be amended and, if so, how.”

The Resolution was carried *unanimously*. In pursuance of it the Home Department by a Resolution, dated the 21st March 1921, appointed a committee consisting of officials and non-officials with Sir Tej Bahadur Sapru as its Chairman. The committee examined 13 repressive laws including the 5 mentioned in the Schedule to the present Bill under discussion. Of these five, they recommended the repeal of four. I know that they made a reservation in favour of preserving, if necessary, powers strictly consistent with the original purpose of the third venerable old Regulations, namely, (1) The due maintenance of the alliances formed by the British Government with foreign Princes; (2) The preservation of tranquillity in the territories of the native Princes; and (3) The securing of British Dominions from foreign hostility, and, only so far as the inflammable Frontier is concerned, internal commotion. The only Act out of the five now under discussion whose retention the committee recommended was the Prevention of Seditious Meetings Act, X of 1911, but even in respect thereof they recommended its repeal when a healthy change in the political situation permitted. It was itself conceived as a temporary measure even at its inception.

There were no Swarajists or Extremists in the committee. Indeed from the nature of the evidence placed before the committee and some of its recommendations, a section of well-informed Indian public opinion suspected, (not without some reason, that the Committee and the Resolution) to which it owed its birth, were both inspired by the Government in order to strengthen

the hands of the Executive to root out the non-co-operation movement in the guise of partial reconciliation and sweet reasonableness. The era of terrible repression that followed the publication of the report by the committee lent some colour to this suspicion. Whatever may be the truth, it is noteworthy, for my present purpose, that even that committee considered that in regard to many of the laws examined by them, their continuance on the Statute-book was both unnecessary and objectionable and recommended their repeal.

The report of the committee was published on 2nd September 1921, and on the 19th September 1921, the Government passed the following order thereon:—

“The Governor General in Council has considered the Report and has decided to accept the recommendations made by the committee; steps will be taken *as soon as may be* to introduce legislation to give effect to them.”

In spite of the aforesaid promise to introduce legislation as soon as may be (mark the words) no steps were taken by the Government to repeal any one of the five repressive laws with which this Bill deals.

Then on the 20th March 1924, after a lapse of two years and a half, a Resolution was moved in the Legislative Assembly to the following effect:

“This Assembly recommends to the Governor General in Council to take steps for the immediate repeal of Bengal Regulation III of 1818, and the Criminal Law Amendment Act of 1908, and other repressive laws and regulations that still exist on the Statute-book.”

It was carried by an overwhelming majority. Nevertheless, the Government did not make the slightest effort to give effect to this Resolution. Then Mr. V. J. Patel (now the Honourable Mr. Patel) sent up the present Bill in its original form in September 1924, but it was not reached in that Session. He obtained leave to introduce it in the last Delhi Session on 3rd February and it was ultimately passed in its present form by the Assembly on the 19th March 1925, and was laid on the table of this House at its next meeting in due course. There were very few days in March last left thereafter for me to bring it here for consideration and I have therefore taken the earliest opportunity to bring it now before this House.

From the Schedule attached to the Bill which is placed in your hands you will see that five enactments are sought to be repealed. Of these, the first three are a century old and the fourth is three quarters of a century old. The Bengal State Prisoners Regulation III of 1818, has been extended also to the United Provinces, the Central Provinces, the Punjab, Bihar and Orissa and Assam. So this Regulation, together with its sister Regulations of Madras and Bombay, cover practically the whole of India. All of them deal with offences against the State and were enacted long before the passing of the Indian Penal Code which contains a Chapter exhaustively dealing with every conceivable offence against the State including *conspiracy*. At the time when the first three Regulations were enacted the British power was not firmly established in the land. Titular Sovereigns and their more powerful provincial chiefs were still on their thrones and more than one European Power was contending for sovereignty or supremacy in India. The Preamble of Regulation III of 1818 is sufficient to give you an idea of the purposes which these enactments were intended to serve:

“Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the promotion of tranquillity in them

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territories of native Princes entitled to its protection and the security of the British Dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceedings or when such proceedings may not be adapted to the nature of the case or may for other reasons be inadvisable or improper."

It is not denied that the ordinary law covers the offences contemplated by these archaic, antedeluvian, and unjudicial pieces of legislation. I call them *unjudicial* because they are of the nature of *lettres de cachet* which dispense with all forms of legal trial and make the very Executive which is the subject of attack by the alleged offender the prosecutor, judge and executioner. The main ground urged for their retention is the impossibility of securing in all cases the evidence necessary to bring the accused to trial in a court of law. This stale and stock argument of the bureaucracy was fully and sympathetically considered by the Repressive Laws Committee to which I referred and was disposed of by it in the following tender way:

"We recognise the force of these arguments, in particular the difficulty of securing evidence or preventing the intimidation of witnesses.....But we consider that in modern conditions of India that risk must be taken. It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the Legislature.....The harm created by the retention of arbitrary powers of imprisonment by the Executive may, as history has shown, be greater even than the evil which such powers are directed to remedy."

It is obvious that the pathetic plea of the Executive for the retention of its autocratic powers of an obnoxious character may have been disposed of on much firmer, more convincing and humane grounds. However, the reasons given by the Committee are sufficient to serve my purpose. Apart from its inherent merits as a piece of just and sound legislation, consonant with our modern notions of civilized jurisprudence, there are many points in its favour.

The *first* point in favour of this Bill is the almost unanimous desire which the Members of this House evinced for the repeal of repressive legislation, on the 14th February 1921, as a necessary preliminary for the inauguration of the new era of responsible government under the reformed constitution. The *second* point in favour of the Bill is the recommendation of the Repressive Laws Committee in favour of the repeal of the enactments in question. The *third* point in its favour is the wholehearted acceptance of the Committee's recommendations by the Government in September 1921, accompanied by a promise to introduce necessary legislation for the purpose. The *fourth* point in its favour is the adoption by the Legislative Assembly in March 1924, by an overwhelming majority of a Resolution in favour of the repeal of these laws. I have a *fifth* reason also which I shall state later on. What then are the reasons which actuated the Government to go back on their undertaking of 1921 and to ignore the wishes of both Houses of the Central Legislature. Sir Malcolm Hailey, speaking in the Assembly in March 1924, gave his reasons. He said that after the report of the Committee was received the Government were faced with new dangers, namely, the Moplah rebellion in Malabar, information about the existence of a Bolshevik

association in this country and the recrudescence of conspiracy in Bengal, and these were said to be the justification for Government's change of attitude. I believe that some of the Members of this House, at all events, know how these dangers were overcome by the Government. The Moplah rebellion was suppressed mainly by the proclamation of martial law and with the help of the military. The absence of a deportation Regulation on the Statute-book would not have handicapped the Government in the least. Moreover, I may mention that there is a very drastic special law called the Moplah Outrages Act, which is exactly similar to the Punjab Murderous Outrages Act of 1867, in force in Malabar and that it armed the Government with ample powers. With regard to the Bolshevik Association, it is now a matter of common knowledge, that its members were brought to trial in the ordinary courts at Cawnpore, and there was no suggestion that any need for the use of a rusty weapon in the legislative armoury was felt. As for the conspiracy in Bengal I am not here concerned with the truth or otherwise of its existence. All I know is that in the name of conspiracy about sixty true and honest Swarajists like Subash Chander Bose, Anil Baran Roy and some other lieutenants of the late Deshabandhu C. R. Das were spirited away under Regulation III of 1818 and the now notorious Bengal Criminal Ordinance was subsequently placed on the Statute-book without the assent of any Legislature in India by recourse to certification and recommendation. Many impartial and respected leaders, including Mahatma Gandhi, openly expressed their belief that the Regulation and the Ordinance were aimed at the Swarajist movement. Sir, I therefore beg to state to this House that the reasons given by Sir Malcolm Hailey for the action of the Government in not repealing these Regulations are to say the least most unconvincing. A very large section of the Indian public, whose feeling I claim to voice, believe that the Government changed their mind simply because, from the latter part of 1921 onwards, the momentum of the movement for the achievement of Swaraj was growing in volume and intensity. I venture to say, Sir, that the bureaucracy is tenaciously clinging to these repressive laws, in order to suppress all effective forms of political agitation. The way in which these Regulations were used in the *anti-partition* agitation days in Bengal confirms me in this view. Men like Aswini Kumar Dutt, Krishto Kumar Mitra, Subash Chandra Mallik and Monoranjan Guha were arrested and deported as revolutionaries. My Honourable Colleagues from Bengal will undoubtedly be able to bear testimony to the spotless character and noble patriotism of these victims of the bureaucratic wrath. The truth of the matter is not that the ordinary law is sufficient to maintain law and order but as Lord Morley put it aptly:—

"The great executive officers never like or trust lawyers. I will tell you why? for they never trust or like law."

Now, Sir, this method of governing by repressive laws has not proved a success in any country; it will tend to increase discontent. In regard to Bengal itself I shall quote the testimony of one who is not in sympathy with the politics of my party—the Swaraj Party—and who is not an unfriendly critic of the bureaucracy, Mr. Bipin Chandra Pal. He said the other day speaking in the Assembly:—

"I know it that, before these deportations and internments came into existence in Bengal, the revolutionary movement was not half so wide-spread as it became

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subsequently. Old men had nothing to do with it. Staid house-holders in the villages had no part or lot in this propaganda. But when these deportations came, when these internments came, when the iron of these prosecutions entered into the heart of the simple minded relations and friends of your political suspects—it was then that we found everybody, extremists, moderates, literate or illiterate, moved by a new and deep sense of resentment against the Government coming and telling us: What are we coming to? Is this the Government under which we have to live? This seems to be the experience of rightminded statesmen all over the world. Repression begets greater discontent which in its turn calls for greater repression and so on.

I beg leave to quote one passage from what Lord Morley said about the use of these Regulations when he was pressed by the Indian Government to sanction deportations under them. Lord Morley, the Secretary of State for India then, dealing with these Regulations and the arguments of that character wrote as follows:—

“You state your case with remarkable force, I admit. But then I comfort myself, in my disquiet at differing from you, by the reflection that perhaps the Spanish Viceroy in the Netherlands, the Austrian Viceroy in Venice, the Bourbon in the two Sicilies, and a Governor or two in the old American Colonies, used reasoning not wholly dissimilar and not much less forcible.”

Speaking of the Regulations this is what Lord Morley wrote:—

“The question between us two upon this matter may, if we don't take care, become what the Americans would call ugly. I won't repeat the general arguments about deportation. I have fought against those here who regarded such a resort to the Regulation of 1818 as indefensible. So, *per contra*, I am ready just as stoutly to fight those who wish to make this arbitrary detention for indefinite periods a regular weapon of Government. Now your present position is beginning to approach this. You have nine men locked up a year ago by *lettre de cachet*, because you believed them to be criminally connected with criminal plots, and because you expected their arrest to check these plots. For a certain time it looked as if the coup were effective, and were justified by the result. In all this, I think, we were perfectly right. Then you come by and by upon what you regard as a great anarchist conspiracy for sedition and murder, and you warn me that you may soon apply to me for sanction of further arbitrary arrest and detention on a large scale. I ask whether this process implies that through the nine detenus you have found out a murder plot contrived, not by them, but by other people. You say, ‘We admit that being locked up they can have had no share in these new abominations; but their continued detention will frighten evil-doers generally.’ That is the Russian argument; by packing off trainloads of suspects to Siberia we will terrify the anarchists out of their wits, and all will come out right. That policy did not work out brilliantly in Russia, and did not save the lives of the Trepoffs, nor did it save Russia from a Duma, the very thing that the Trepoffs and the rest of the ‘offs’ deprecated and detested.”

I beg to commend these noble and weighty words to this House.

Sir, I said I had a fifth reason to urge in favour of my motion. It is this. This Bill was passed by the Assembly by an overwhelming majority. Almost all the elected representatives voted in its favour. Not only Swarajists but Independents, Moderates, Liberals, and in fact members belonging to all sections of the House except the officials upheld it. The circumstance ought to carry great weight with this House. The country is decidedly against the retention of these dangerous powers in the hands of an alien bureaucracy which is not responsible to the Legislatures and which is irresponsive to popular opinion. Many of you will have to face your electorates very soon to seek re-election to this Chamber. You cannot do so *justly* if you do not voice their feelings in this vital matter. The theory that the elected representatives

are bound to give expression to their own feelings and convictions and not to those of their constituents is now an exploded one. We have no justification to sit here and vote against the wishes of those who returned us. I therefore appeal to you all to vote for this motion. To my official Colleagues I will say one word. I cannot do it better than by quoting the words with which the Honourable Mr. V. S. S. Sastri, commended his Resolution for the appointment of a committee to repeal the repressive laws to this House:

“It would be incongruous with popular liberty which we are confidently hoping that the new Councils will inaugurate; it will be incongruous with that principle if the repressive laws now on the Statute-book continued there in the present form. In giving such liberties as may seem suitable, in taking such steps as may seem advisable let there be no reservations to the extent that you wish to go. Go ahead bravely and not haltingly. It is the most essential condition of success in this great work. But has no buts; let there not be a superabundance of ifs. So working we certainly will do what no other people in the world has done, achieve full constitutional liberty within the British Empire by entirely peaceful and constitutional methods.”

With these words, I beg to move that the Bill as passed by the Assembly be taken into consideration.

THE HONOURABLE MR. J. CRERAR: (Home Secretary): Sir, I rise to oppose this motion. In doing so, I should like to acknowledge in the first instance the moderate terms in which my Honourable friend has commended his motion to the House. But while I make that acknowledgment, while the Honourable gentleman's arguments were on the whole moderate and certainly phrased in the most courteous and temperate manner, they were by no means consistent in that respect with the character of the Bill he presents. I note further, that in selecting the historical rather than the polemical method, he, wisely perhaps, restricted himself to theories and to his own construction of past events. He has dealt very little with the realities and the facts of the present situation. Well, Sir, before I develop my comments on my Honourable friend's arguments, I should like as a preliminary to invite the attention of the House to an interesting fact. The Bill submitted for the consideration of this House differs in two important respects from the Bill which was originally introduced in another place. It omits from the measures proposed to be repealed the Punjab Murderous Outrages Act, and there is a partial mitigation of the original Bill in so far as it affects the Moplah Outrages Act, perhaps, Sir, I should be thankful for small mercies. But I must remind the House that the original mover of the Bill in another place was by no means content with these innovations in his Bill and he announced his intention at the earliest possible date of introducing a Bill in which the brief reprieve of these legislative victims would be very speedily terminated.

Those changes in the original Bill were the result of a little, perhaps belated but not too belated, examination of the provisions of two of the laws in question, the result of some consideration of the conditions against which they were intended to provide, of some calm reflection on the consequences which would result from their repeal. Sir, I wish that examination, that consideration, that reflection had been more general than it was, that it had been extended further and had been bestowed in the degree which they merited on the other laws which still stand in the Schedule. If that course had been taken in another

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place, if my Honourable friend opposite had taken that course; I believe that he would not have moved his motion and that this Bill would not now be before the House.

Fortunately, however, the wisdom of the framers of our constitution has preserved for us the opportunity of bringing to bear upon this matter a dispassionate scrutiny, a just balance between ideals of jurisprudence and the hard facts of reality, a sense of responsibility in legislation and a statesmanlike regard for the public interest and the public security; and it is the special function and obligation of this House to supply these requisites of wise and prudent legislation.

Now, Sir,—and this has been reflected to a great extent in the Honourable Member's speech—criticism of the laws in question has been mainly directed either to general considerations on the arbitrary power alleged to be conferred by them on the executive Government and their repugnance to normal canons of jurisprudence or to alleged recommendations made by the Committee on the special laws or to arguments regarding the possibility of their abuse. Sir, I will take these in order. The Honourable Member has urged in general terms that these laws are repugnant to accepted canons of jurisprudence. Now, Sir, I admit that these laws, if literally construed and rigidly administered, undoubtedly confer upon Government the power of committing to custody without the regular form of judicial trial, and I share myself the repugnance commonly expressed to that aspect of them though many of the strictures which have been passed upon them, even from this point of view, require a great deal of qualification. It is only hard necessity which compels us to keep them upon the Statute-book. With regard to the character of the necessity, I should say a few words later. Then we come to the recommendations of the Committee. I venture to suggest to the House that the report of that Committee should be taken as a whole and I have been much impressed, having recently read it and re-read it, by the fact that, though the specific recommendations of the Committee were inspired by a very sanguine view of the circumstances, even as they then stood, the Members of the Committee were nevertheless themselves very much impressed by apprehensions for the future. And indeed the ink was hardly dry on their report when we had the Moplah outbreak. That was followed by a recrudescence of revolutionary activities in Bengal and simultaneously with the recrudescence and development of revolutionary activity in Bengal, we discovered the existence of a Communist conspiracy in India, in connection with which we were compelled in the first instance to use this Regulation. The facts of this conspiracy were then submitted to the regular criminal courts and resulted in what is now commonly known as the Cawnpore Communist conspiracy case. The judgment of the High Court in that case will reveal to Honourable Members that what I claim in respect of the very dangerous Communist conspiracy in India is not a thing of the bureaucratic imagination. I hope, Sir, that Honourable Members will very carefully examine the recommendations of this Committee on which my Honourable friend laid so much stress. As I have said, if the reasoning which was employed by that Committee in leading up to their conclusions is carefully examined, it will be

found that there are many reservations, many apprehensions for the future, which find no place, no reflection, in the measure which is now before the House.

The Honourable Member has quoted from the writings of the late Lord Morley. We are all familiar with the words of that eminent statesman which seldom fail to be quoted in discussions of this character, and I should for my part remind the House of a statement made by Lord Morley which I have already had occasion to quote in this House and which is to the following effect:—

"We found"—he is referring to Regulation III of 1818—"in the armoury of weapons of Government a law, and applied it. . . . We should have been perfectly unworthy of holding the position we do—I am speaking now of the Government of India and myself—if we had not taken that weapon out of the armoury and used it against the evil-doers."

It is alleged that this Regulation—I think these are the words used by my Honourable friend—is archaic, antiquated, and obsolete. I must point out that it is not more archaic than revolution, that it is not more antiquated than conspiracy, and that it is not more obsolete than assassination.

Well, Sir, these are general considerations, and I do most earnestly implore the House to direct their attention rather to the actual facts of the situation. I wish to make it quite clear to the House that the retention of these laws on the Statute-book is due to a very real sense of a very real danger. I invite the attention of the House to the fact already quoted by my Honourable friend that even the Committee whose report he quotes with so much approval were satisfied of the continued necessity of providing for the object of this Regulation in so far as it is expressly declared to be the security of the British dominions against foreign hostility. They were particularly impressed with the dangers of what they call the "inflammable Frontier". They ignored,—and after all, it is easy to be wiser after the event and events have happened since, with regard to which they were necessarily uninformed,—but they did forget, that the North-West Frontier is not the only frontier of India. Very serious, very persistent attempts have been made to introduce into India propaganda and machinations against her peace and against her security. That is not a mere theory. The case to which I have referred gives abundant chapter and verse for that statement. It is not only to the North-West Frontier, that our attention must be directed. I believe in the light of later knowledge that the Committee in that respect would have revised their recommendation. There is no doubt that the frontier is specially exposed to the dangers of foreign hostility. But, were it not for the vigilance of our officers, were it not for the legislative weapons which we have in reserve, foreign hostility directed against the peace and security of India would pour in at every port, in the form of subversive propaganda, in the form of incitements to murder and rebellion, and in the concrete form of illicit arms and illicit ammunition. If the Communist danger is considered by any Honourable Member as a thing which can lightly be dismissed, I would invite his attention to the present course of events in China. The disturbed conditions there, more particularly in southern China, are, it is a notorious fact, largely due to Communist activities. Now, is it to be supposed that the events that have happened in China can occur without reactions in India? I am not

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merely suggesting a speculative probability. It is a fact and we have documentary proof of it, that attempts have been made and are still being made by the Communist elements in China to secure connection with India. There are at the present moment certain Communist emissaries still at large. Honourable Members are probably aware that we have accepted an international obligation to receive and be responsible for our own undesirables—by undesirables I mean persons whose activities are likely to be dangerous to the peace and security of their own or other countries. A certain number of these persons—they are very well known Indian Communist agents—are or were recently in Germany and the German Government applied to us to agree to their removal on the ground that their activities were obnoxious and dangerous to the German State. Well, Sir, we are under an obligation to receive those persons on these shores. Are we to allow them to carry out in India activities which in Germany were found to be dangerous to the State, and will this House seriously propose to deprive Government of the means of dealing with persons of this type? Now, Sir, that is a danger, a very real danger. There is another danger. The Honourable Member somewhat light-heartedly stated that he was not concerned with conspiracy in Bengal. He did indeed allege that the action taken by Government with regard to the conspiracy in Bengal was directed against the Swaraj Party, and that its object was the suppression of legitimate constitutional agitation. Both those allegations I must most emphatically deny. The action taken in Bengal under Regulation III of 1818, the action taken by the Governor General in promulgating an Ordinance, and the action taken subsequently in passing the Criminal Law Amendment Act was not directed against either the Swaraj Party or against any other form of constitutional agitation in India. It was directed against a network of terrorist conspiracies, and I think that if we clear our minds of a great deal of prejudice and a great deal of irrelevant theory, there will be found very few persons who can conscientiously get up and say that the action taken by the Local Government, by the Governor General and by the Government of India has not been fully and amply justified by the results. However that may be, I desire to press very strongly upon the House that the existence of revolutionary conspiracy in Bengal is not a danger solely confined to that province. It is not reasonable to suppose when we find ramifications as highly organised as those conspiracies in Bengal undoubtedly were organised, that they should be confined to that province alone. They are not confined to that province alone. Let me remind Honourable Members of the fact which is probably well within their memory as it occurred not very many months ago, that a violent revolutionary pamphlet was found simultaneously at many places in the United Provinces and at many places in the Punjab. Let me remind them of the character of that incitement to violence. Here is a quotation from it:

“This revolutionary party has deliberately abstained itself from entering into this terrorist campaign at the present moment even at the greatest of provocations in the form of outrages committed on their sisters and mothers by the agency of a foreign government, simply because the party is waiting to deliver the final blow. But when expediency will demand it the party will unhesitatingly enter into a desperate campaign of terrorism, when the life of every officer and individual who will be helping,

the foreign rulers in any way will be made intolerable, be he Indian or European, high or low.”

That pamphlet was distributed simultaneously in a very large number of centres in the United Provinces and the Punjab. That does indicate at any rate the probability of an extension of the network of revolutionary conspiracy outside Bengal. Honourable Members have seen the recent report of a daring outrage—the robbery of a train in the United Provinces. I must be extremely careful in referring to the circumstances of that offence because the matter is now under investigation, but they give us very good ground for supposing that it is the work of revolutionaries. Now, there are other indications of that kind which I should like to be in a position to lay before the House but I cannot for obvious reasons do so. The danger of the extension of this evil outside Bengal, the area where the Bengal Criminal Law Amendment Act is in operation, is a very real one, and that reason alone should in my opinion constitute a sound ground for the retention of Regulation III upon the Statute-book.

I will not dwell on the alleged abuse, actual or potential of the law because I frankly admit that my Honourable friend did not base his case very seriously on either. I heard it said in another place that the Committee which was appointed by the Bengal Government to examine cases of action taken under the Regulation and under the war legislation found that five per cent. of those persons were innocent. I venture to say that this is very typical of the loose kind of criticism which has been directed against the administration of this Regulation. This particular statement is entirely remote from the facts. What the Beachcroft and Chandavarkar Committee actually said was this:

“The total number of cases examined and advised on by us is 806. Of these 100 relate to State prisoners dealt with under Regulation III of 1818; 702 to internees under the Defence of India Act; and four to persons dealt with under the Indian Ingress Ordinance. In six of the total number of cases examined by us, we have advised Government that there are not sufficient grounds, in our opinion, for believing that the parties concerned have acted in a manner prejudicial to the public safety or the defence of British India, and that, therefore, they should be unconditionally released.”

I invite the special attention of the House to the language employed in the last sentence “prejudicial to the public safety or the defence of British India.” This is language drawn from the rules under the Defence of India Act, and it is therefore a reasonable presumption that the cases referred to by the Committee were cases of action taken under these rules. If that is so, then it follows that of the 100 cases under Regulation III of 1818 which were examined, there was not a single case in which the Committee found that the action of Government had not been fully justified. Then, Sir, the Honourable Member referred to the occurrences in Malabar. He asked whether Government found that they required the use of the Regulation in that case. I am astonished that an argument of that kind should be laid before the House by an Honourable Member from the Madras Presidency. The fact is, as has been explained on more than one occasion, that the Madras Regulation was used, and used with great effect, in connection with the Malabar rebellion. Let me remind the House what the circumstances were. It is well known that large numbers of Hindus were attacked by Moplahs. Outrages of the most dreadful character were perpetrated and large numbers of M90CS.

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unoffending persons were forcibly converted to Islam. A considerable proportion of the perpetrators of these crimes were sentenced, but when the time for their sentences was due to expire, a very serious question arose as to whether they were to be allowed to return to the scene of their former outrages. I ask Honourable Members to endeavour to imagine what the situation was. During the period which had elapsed since the rebellion, every endeavour had been made by Government to promote reconstruction. The villages were beginning to come back to the normal state of things once more and the victims of these horrible outrages were beginning to receive at least some alleviation from time. The return of the original perpetrators of these crimes would have been fatal to that process of reconstruction. It would have been fatal also for those communities who were so slowly and so pitifully recovering from their disasters that the persons originally responsible for their troubles should be returned to their midst. Therefore the Government of Madras decided that the authors of these crimes should not be allowed to return to their homes. They were sent under the most lenient form of restraint possible to another part of the Presidency under the powers conferred by the Madras Regulation. The results have been entirely justified and yet the Honourable Member from Madras tells us that the Madras Government did not find the Madras Regulation of any avail in connection with the Malabar rebellion.

THE HONOURABLE MR. V. RAMADAS PANTULU: May I explain, Sir. What I said was that the absence of the Regulation on the Statute-book would not have handicapped them. I did not say that they did not use it. My question is: Why did they use it. There was no necessity for it.

THE HONOURABLE MR. J. CRERAR: I do not quite appreciate the Honourable Member's point. He says that the absence of this Regulation on the Statute-book would not have handicapped the Madras Government. I have already explained that the Madras Government used that Regulation effectively in securing an object which could not have been attained by any other conceivable legal means. I now return to my original point. I have acknowledged the moderation of the Honourable Member's language but I still return to the point that his Bill is not a moderate Bill.

It appears to me that neither his arguments nor mine have yet penetrated into the root of the matter. The real issue before the House is one which must be entered on with complete sincerity and candour.

The question has been debated on innumerable occasions, and on a careful examination of these discussions I have been compelled to the conclusion that the real object of this Bill is not to improve the Statute-book. Its object is to impair the power and weaken the responsibility of the Government which is at present charged with the duty, and burdened with the obligation, of maintaining peace and order in this country—the most elementary conditions of any form of civilised life, the most necessary conditions of any kind of political progress. That power and responsibility, that duty and obligation, are charges which must be accepted and vindicated not more by the present Government than by any conceivable future Government of India. No honest

Government whether in its own interest or in the interest of the peoples committed to its charge or in the interest of its successors in title and liability, can possibly be met with an aggression of this character and omit to repel it by every means in its power.

THE HONOURABLE DR. DWARKANATH MITTER (West Bengal: Non-Muhummadan): Sir, I beg to move the following amendment to the original Resolution:—

12 Noon.

“That the Bill, as passed by the Legislative Assembly, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Byramji Dadabhoy, the Honourable Sir Deva Prasad Sarvadhikary, the Honourable Mr. Karandikar, the Honourable Saiyid Raza Ali, the Honourable Mr. Ramadas Pantulu, the Honourable Mr. K. C. Roy, and the mover, and that the presence of five of the Members of the Committee shall be necessary to constitute a quorum.”

Sir, not many words are needed from me in order to commend this Resolution to the acceptance of the House. You have heard the Honourable Mr. Crerar say that the Report of the Repressive Laws Committee should be examined as a whole. That is a report which after a good deal of consideration the Committee arrived at, after a long discussion among the Members themselves, and it is not possible that in this House we can in the sitting of a day or a few hours examine the recommendations of that Committee. In asking for the acceptance of this amendment I am not asking the Government to commit themselves to any principle underlying the Bill. My object, Sir, is to focus the attention of the House on the principle of the Bill and that is a function which I submit, Sir, the Select Committee can very well discharge. There is an apprehension in some quarters that when a matter is referred to a Select Committee, it means that the principle of the Bill is accepted. I submit, Sir, that that is not so, if I may just refer in this connection to the procedure of the House of Commons as stated in a book written by Mr. Joseph Redlich with an introduction by Sir Courtenay Ilbert who for some time was the Law Member of the Government of India. He states at page 187 of volume II of that book that—

“the task of a Select Committee is accordingly investigation and nothing more. It stands in the sharpest contrast to the work of a Committee of the whole House, while such Committees are indirect aids to legislation inasmuch as they arrange the material upon which the legislative decisions are effectually based and they help to focus the ideas of the House upon matters of principle or to work out the technical details of some legislative course of action the principle of which has been accepted.”

Therefore I want to make it clear that by asking for the acceptance of this amendment I am not asking the Government or any Members of the House to commit themselves to the principle underlying this Bill. I do not see much strength in the reasoning of my Honourable and learned friend Mr. Ramadas that the Bill has been passed by the majority of the Legislative Assembly. The major section of the Assembly are not tolerant of the opinions of the Members of this House, and I do not see why we should not treat their opinions with the same respect with which they treat our opinions. I am therefore prepared to ask the attention of the Honourable Members of this House to this point that there should be an independent examination of the whole question by a Select Committee, a representative Select Committee, consisting of the Members of Government and of the representatives of the several

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provinces. The question is one, Sir, of very great importance. The question is whether the ancient Regulations of the different Provinces—the Bengal Regulation of 1818 and the similar Regulations in Madras and Bombay—should still be retained on the Statute-book. Of course I have an open mind on the question. If a Committee after an examination of the Report of the Repressive Laws Committee are satisfied that there is no need for their repeal, the Committee will certainly be able to report that to this House. If reference to Select Committee does not mean that the principle is accepted, I do not see, Sir, any harm in a Select Committee meeting and considering the question whether, having regard to the conditions which are prevalent in the different provinces and after collecting the opinions of Local Governments—I do not know if these opinions have yet been collected—there is need for their repeal. It may also be, as I find from the proceedings of the Legislative Assembly of the 19th March 1925, that the Honourable Sir Alexander Muddiman was prepared to accept some of the amendments which were proposed in the course of the discussion on this Bill, that the Government may reconsider the matter afresh on the report of the Select Committee now proposed. There was an amendment which was proposed by Mr. Rangachariar, one of the Members of the Legislative Assembly, and I find that the Government were prepared to accept the amendment with regard to the Bengal Regulation.

THE HONOURABLE MR. J. CRERAR : I must point out that the Honourable the Home Member expressed a certain view with regard to these amendments but at the same time pointed out very clearly that he was unalterably opposed to the Bill itself.

THE HONOURABLE DR. DWARKANATH MITTER : These are all matters which, as the Honourable Mr. Crerar will realize, may be discussed in the Select Committee, and if the Select Committee ultimately arrives at the decision that there is no need for repeal, they will so report to this House. I am only asking for an examination of the whole question by a Committee consisting of representative Members—an examination which cannot be done in one sitting or in a few hours. These are the reasons, Sir, which make me submit to the House that the Committee which I have suggested is a representative one. We should get on behalf of the Government the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Dadabhoy, representing the Central Provinces, the Honourable Dr. Sir Deva Prasad Sarvadhikary and myself, representing Bengal, the Honourable Mr. Karandikar representing the Bombay Presidency, the Honourable Saiyid Raza Ali representing the United Provinces, the Honourable Mr. Ramadas representing the Madras Presidency, and the Honourable Mr. K. C. Roy representing the Punjab. (Laughter.) I submit, Sir, that the Committee is a representative one. I am also quite amenable to any suggestion, if it is made, with regard to the addition of any other Honourable Members to this Committee. I might suggest, for example, as this is a question affecting the Frontier also, that if the Honourable Mr. Thompson is willing, his name might also be added to this Committee.

THE HONOURABLE THE PRESIDENT : Has the Honourable Mr. Thompson anything to say with regard to the suggestion that his name might be added to this Committee ?

THE HONOURABLE MR. J. P. THOMPSON : If the House decides to appoint a Select Committee, I should be proud to serve on it.

THE HONOURABLE THE PRESIDENT : Amendment moved :—

“That the Bill, as passed by the Legislative Assembly, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Byramji Dadabhoy, the Honourable Dr. Sir Deva Prasad Sarvadhikary, the Honourable Mr. Karandikar, the Honourable Saiyid Raza Ali, the Honourable Mr. Ramadas Pantulu, the Honourable Mr. K. C. Roy, the Honourable Mr. J. P. Thompson, and the mover, and that the presence of five of the Members of the Committee shall be necessary to constitute a quorum.”

The debate will now confine itself to that amendment until it has been disposed of one way or the other. That is to say Honourable Members now speaking should confine themselves to the question as to whether this Bill should go to a Select Committee or not. Before the debate is resumed, I think I should remove from the minds of Honourable Members any possible misapprehension that may have been caused by the words that fell from the last speaker in moving his amendment. He suggested to the House that the acceptance of the motion that the Bill should be referred to a Select Committee did not commit the House to the principle of the Bill. That is a statement which is not in accordance with the practice or the rules of this House. He quoted as a precedent the practice of the English Parliament, but, as Honourable Members are aware, the Committee stage in the House of Commons is not by any means the same thing as the Committee stage in the Indian Legislature. It has been accepted, and definitely laid down in this House as well as in the other Chamber of the Indian Legislature, that the motion to take a Bill into consideration and a motion to refer a Bill to a Select Committee or a Joint Committee commits the House to the principle of the Bill. It is only a motion that the Bill be circulated for the purpose of eliciting opinion thereon that does not at the second reading commit the House to the principle of the Bill.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I will only confine myself just at present to the amendment according to your ruling. I oppose this amendment. I oppose it because it will commit the House to the principle of the Bill and secondly, as I shall point out presently, it will serve no useful purpose. You, Sir, have already referred to the Parliamentary practice to which reference has been made by my friend the Honourable Dr. Dwarkanath Mitter, and I shall therefore not take up the time of the Council by any further reference to that matter. This Bill before us is of a very important nature and character. It touches a very broad principle. The root of the Bill consists of many ramifications which have to be carefully considered. I for one would not like to serve on this Committee, because by my acquiescence to serve on this Committee, I would be leading the House to believe that I am inclined in any way to accept this Bill with some modifications that may be proposed and hurriedly considered by the Select Committee. You, Sir, have explained fully that when a Bill

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is referred to a Select Committee the House accepts the principle of the measure. I understand, Sir, that the same ruling was given in the other House by Sir Frederick Whyte and I do not desire that any departure should be made from the established practice in this direction and that in future there should remain no doubt on the subject.

Now, as regards the Bill itself, as regards the suggestion for the Select Committee, assuming that we go to a Select Committee and consider the measure, has my Honourable friend any guarantee that the other House is going to accept the amendments proposed by this House?

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Why do you want the guarantee?

THE HONOURABLE SIR MANECKJI DADABHOY: Probably you have not read the proceedings of the other House, but on two occasions Sir Alexander Muddiman in order to meet that Assembly proposed two most reasonable amendments and the Assembly contemptuously disregarded them.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): The remedy and result would be quite another if that course was followed here.

THE HONOURABLE SIR MANECKJI DADABHOY: Well, there is every reason for the presumption that that course would be again followed. The very fact that a large majority in the Assembly refused even to consider the amendments that were proposed by Sir Alexander Muddiman on behalf of the Government and to which a large body of other independent members might have also given their support, shows conclusively the temper of that Assembly, and I therefore say that it would serve absolutely no useful purpose to go to a Select Committee and ask them to modify the Bill to any extent or even to re-consider it. Further, what is there to prevent my Honourable colleague Dr. Dwarkanath Mitter if his real object is, and as I understand the object of many Members is, to make some necessary modifications in the Bengal Regulations and other repressive Acts to bring in a separate amending Bill? Don't you think that could be done more appropriately by first rejecting this Bill and then bringing in an amending Bill? If my friend Dr. Mitter introduces a Bill to make any alterations or modifications in the Regulations or the Seditious Meetings Act or section 12 of the Punjab Murderous Outrages Act I am sure this Council will be exceedingly pleased to consider that Bill on its own merits. I personally think that it would be confusing the issue before this Council if we allow any amendments to be passed at this stage. But if Honourable Members here desire that we should make the change, and the change will be a necessary change in those Regulations, I am quite agreeable that we should consider the matter, but that can be done more efficiently and appropriately by a separate Bill which may be brought by any non-official Member of this Council, and the whole question may then be thoroughly threshed out. I submit that this view of mine will commend itself to Honourable Members here. Honourable Members should bear in mind also, when contemplating a Select Committee, that this Council has now 13 or 14 days of existence left; our life is limited; we have got only 14

working days. I do not think it will be possible within that short time to consider carefully all the amendments which some of my Honourable colleagues here may suggest and that we shall have time enough to pass this Bill in a modified way and send it to the Assembly. I also think that it would not be fair to our successors in office that on the eve of our extinction we should commit that Council, our successors, to any policy which may be dictated by this Council. I think it would be more advantageous, it would be more practical, and it will be a prudent course that we at present dispose of the Bill, either pass it or reject it, and that any further amendments that may be suggested may be considered by way of a separate Bill. Sir, I therefore oppose this amendment.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Sir, I understand you to rule and direct that any observations that may now be made should be confined to the proposal for a Select Committee. That being so, I take it that Honourable Members who speak on this amendment will have another opportunity of speaking on the Bill itself, in case the motion for a Select Committee is rejected.

THE HONOURABLE THE PRESIDENT: Undoubtedly.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Sir, I have been trying, as I always try, to follow with care my Honourable friend Sir Maneckji Dadabhoy with regard to considerations of legal questions and legislative matters.

I fail, however, to follow him when he ruefully asks us, as condemned men in the cell are often reminded of the limited number of days that are before them, not to commit this Bill to a Select Committee because it will not be possible for the Select Committee work to be done at all during our remaining mortal days, at least not done as well as he would desire it to be done. In the same breath and in the following sentences he warns us against committing our successors in this House, and I am sure he will be one of them, to a policy that might not commend itself to them though approved of by us. If the Select Committee and its object fail for reasons that he apprehends and has adduced and therefore die a natural death, I fail to see how this Council can commit its successor to any policy. Therefore, that is a sort of argument which I trust will not weigh with the House in considering whether this Bill which had no opportunity of being considered in Select Committee at all in the other House should not be committed to a Select Committee here. Only the other day, in connection with a Bill for which leave was given by this House the same difficulty about the short life of this Council was brought out and yet the House did not hesitate to admit the Bill. Later on, that Bill and another Bill that was allowed to be introduced this morning will, I take it, be committed to Select Committees and will, I have no reason to doubt, be dealt with as well as this Council in its wisdom and light may be able to do.

Sir, you from the Chair have controverted the proposition that my Honourable friend Dr. Dwarkanath Mitter on the authority of Dr. Redlich, one of the greatest Parliamentary writers, laid down with regard to the scope of Select Committees. If, Sir, that is to be taken as your ruling, I must bow to it with the respect that it deserves. If, however, it is open to question I should certainly claim for the position.

THE HONOURABLE THE PRESIDENT: I think the Honourable Member is again trying to raise a misapprehension which I tried to remove just now. It is a ruling which I have given—not merely my own ruling but a ruling of my predecessors, established by practice in this House and in both Chambers of the Indian Legislature since they were created. The matter is not open to discussion and I must ask the Honourable Member to refrain from saying anything likely to re-create the misapprehension which I attempted to remove just now.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: If that is a ruling there is an end of the question. If it was not, it would be open to many a suggestion for creation of Conventions on Parliamentary lines that could have been made. Even if that was not to be so, I say Government already stood committed to the broad principles of the Bill subject always to necessary limitations when it accepted the report of the Committee presided over by Sir Tej Bahadur Sapru. The question of acceptance of policy, the larger policy, therefore, does not and cannot now arise. There are always possibilities of introducing safeguards such as the Government have indicated in the Select Committee. Reference has been made to the “reservations” and “apprehensions” on the part of the Repressive Laws Committee, particularly with regard to questions connected with the Frontier and cognate matters. I do not think there has ever been the slightest objection on the part of any one that so far as those matters are concerned Government should continue to have the powers that it at present possesses.

THE HONOURABLE MR. J. CRERAR: I think it is hardly correct for my Honourable friend to say so. It was stated in another place with reference to the Punjab Murderous Outrages Act that, if that Act was excluded from the Schedule of the Bill, a further Bill would be brought with the intention of repealing that also.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: I have nothing to do with the reserved mentality or even the express mentality of isolated Honourable Members to the contrary in this House or in another place, and what they propose to do in certain events is a matter that does not concern us for the moment. If Mr. Patel had not been translated into the Honourable Mr. Patel and if in another capacity he had brought forward a Bill with which he had threatened Government, that would be the occasion for Government to take care of themselves, and I have not the slightest doubt that this House would have been glad to assist Government in maintaining that position within reasonable limitations. But for my present purpose I say those are matters with regard to which I do not think that there is the slightest doubt in the mind of any right thinking man that the Government should continue to be armed with necessary powers for dealing effectively with any questions arising in connection with the Frontier, and in the category “Frontier” I am prepared to include ports and other frontiers than the North-West Frontier to which the Honourable Mr. Crerar has referred. That matter is one that could well be provided for by the Select Committee in connection with the three Regulations that find a place in the Schedule. The reservation and apprehension of the Repressive Laws Committee would be thus fully respected.

There are other matters which do not strike one now, that would strike one more round the committee table, with regard to which it would be possible to make provisions to meet the reasonable Government point of view and to meet the points of view of the Repressive Laws Committee which the Government accepted, the point of view of the people who it is well known are always insistently pressing for the repeal of unnecessary and obnoxious legislation, would also be thus met, I shall not call it a pledge, but the understanding which the Government did arrive at at the time should be given effect to and Government should themselves have devised a measure and not have waited for a Bill of this kind only to oppose it generally. An amendment with regard to these matters has been long overdue. This amendment of my Honourable friend for the appointment of a Select Committee, even at this stage recognises, and I am prepared to recognise, that there are ways and means by which the Government point of view could be met as far as possible, and provision could be made even in this Bill for a continuance of those powers which the Government consider a *sine qua non* for discharging their responsibilities. Such an attempt was made though unsuccessfully in the other House by the introduction of safeguarding amendments, without objection from the Chair or the Government. And such an attempt and move would be successful in this House with the acceptance of a Select Committee, even within the few remaining days of our life. If the Government are not prepared to agree to this amendment there would be very little left for some Members at all events but to vote for consideration of the Bill as proposed and to ask for leave to bring in amendments in the House even at this stage.

THE HONOURABLE MR. G. A. NATESAN: (Madras: Nominated Non-Official): Sir, I should like to say that I would desire to support the amendment of my Honourable friend, Dr. Mitter. I should like also to give what I consider to be the reasons which in my opinion are sound and which I trust, in the judgment of this House, at any rate of many Members of this House, will be considered to be sound. It seems to me that some of the observations with which the Honourable Mr. Crerar closed his speech and some of the reasons given by him make out a strong case for referring this matter to a Select Committee. So far as I am concerned and those who are placed in a position similar to myself are concerned,—I had the honour of being invited to give evidence before the Repressive Laws Committee and I was one of those who gave evidence that some at least of the laws which are scheduled here should be repealed. It now transpires that there are other circumstances which have to be taken into consideration and considered carefully not only by the Government but also by the non-officials, and I think that it is quite proper and it would be a very legitimate and fair demand that non-official members should make because this Bill which comes to us in this form for the first time did not, in the opinion of officials and non-officials, receive that amount of adequate and expert consideration which a Bill of this nature ought to have had in the other place. I certainly think that this House, in view of the expectations formed of it, that is, of the general expectation that it is to scrutinise very carefully all legislation that comes from the other House, has a right to demand that a full, adequate and ample opportunity should be available to it to discuss it. It is quite possible, without in the least giving up the principle, that Government may be able to see that there are certain things scheduled which might go without

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danger to the State and it is equally possible they might be able by a further set of evidence and by some of the considerations which have been adduced by the Honourable the Home Secretary to convince the members of the Select Committee that certain safeguards must be accepted before they could agree entirely to accept the Bill as it is. I do not think I am drawing upon my imagination but I may state an obvious fact, namely, that the composition of the proposed Select Committee and the responsible character of some of the non-officials placed on it, must be a strong guarantee that it will be able to consider whatever reasonable proposals are put forward to see that the inherent power which any State should possess to meet an emergency ought not to be denied to it so lightly. I would also point out that I do not share the apprehension of my Honourable friend Sir Maneckji Dadabhoy that if we do make some amendments in this House and the matter be referred to the other House the amendments would not be accepted in the other place at all. I would ask him to remember that a considerable time has elapsed since this question was discussed in the other place and it is a very obvious fact, a fact over which most of us rejoice, that the temper of the other House, at least of a considerable body of members there, has changed. (*Sir Maneckji Dadabhoy: "Question"*). I am stating an obvious fact. Those who came to destroy and demolish are now helping in the work of construction. Those who came to wreck the Councils are now guarding their best interests. Further, the leader of the Swarajist party in accepting a place on the Sken Committee has stated that the policy of his party is to adjust itself to altered conditions. So, it is possible that if the Select Committee now presents a new set of facts the other Chamber may adjust itself to altered conditions. Those who came to non-co-operate are now co-operating. I certainly do not think therefore that if this House makes certain recommendations and suggestions through the Select Committee, they will be treated with contempt or in the spirit which my Honourable friend Sir Maneckji Dadabhoy apprehends. I also venture to state that there is absolutely no difficulty in getting the Select Committee to get its work done before the dissolution of this Council, because other Select Committees elsewhere have considered even more important questions, have held their sittings and presented their reports, within an equally short time. I do not see therefore any objection to supporting the proposal to refer this Bill to a Select Committee. I think, without giving up the principle in any way for which the Government stand, the fair course to adopt, with a view to giving non-officials the opportunity to make up their mind, is to refer the Bill to a Select Committee and I therefore cordially support the amendment of my Honourable friend Dr. Dwarkanath Mitter.

THE HONOURABLE MR. G. S. KHAPARDE: (Berar: Nominated Non-Official): I wish to oppose this proposal for appointing a Sub-Committee or a Select Committee as they call it for reasons very different from those that have been urged up to this time. My reason is this. On the very first day on which this Council met to transact business nearly five years ago, this matter was brought forward by the Right Honourable V. S. Srinivasa Sastri and the proposal was to appoint a Select Committee and I then opposed that Select Committee. I said that the Select Committee would never do any

good at all. All that it will do is to go over the matter over and over again, to chew the cud and to move in circles. Oftentimes their minds move in a groove and ultimately they come back to the same point and nothing is decided. As an example of it I can state this case. On that day I was the only unfortunate man who opposed that committee. Speaker after speaker got up and applauded the proposal put forward by the Right Honourable V. S. Srinivasa Sastri. They were very glad to associate themselves with him and they gave me the parting kick. They told me my opposition to the Select Committee was very very bad indeed. My Honourable friend next to me was one of those gentlemen who administered that kind of punishment to me. It is a pleasure now to see that he is also opposed to the formation of this Committee. I believe that one of the things this Select Committee will do is to shelve the matter. If you want to shelve a matter, you appoint a Select Committee. It takes years and years and at the end nothing happens. The Right Honourable Srinivasa Sastri's proposal was very much applauded that day and a great deal of encomium was showered on him and we know what the Select Committee did. After five years we are still where we were in February 1921. On top of that my friends again want a Select Committee. That Select Committee was a very strong one presided over by my friend Dr. Sir Tej Bahadur Sapru and there were also other eminent persons on it. My friend who spoke just now appeared as a witness. The whole thing began in noise and fury and ended in nothing. If you have another Committee it will go over the same ground. There will be many more people examined and at the end you will find that we come back to this point, whether the Bill should be considered at all, whether it is worth while taking it into consideration. So I think that the Select Committee will serve no good purpose at all. The personnel of this Committee may be quite good. One Member of this Council is as good as any other Member. I may represent Afghanistan for the matter of that. It does not matter. My objection is that this Select Committee will not advance matters. The argument has been put forward that Government have already accepted the principle of the Bill. I wish I could support that. It suits me very well but on the day that Government consented to that Select Committee this Bill was not in existence at all, was not born. It could never have been dreamt of by anybody. All that was dreamt of in those days was that these proposals were intended to bring about unity, were intended to forget the past. We thought we were writing on clean sheets, on a clean piece of paper. Those were the high hopes that we started with. How has it all ended? It has ended in a funny way. At present all I have got to say is that if this Committee is brought into existence it will serve absolutely no purpose. It will not carry us beyond the horizon that we can see. Probably the whole thing will be forgotten altogether. I therefore strongly oppose the formation of this Select Committee.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): I rise to speak at this stage so that I may have the advantage of speaking before the Honourable Mr. Crerar. The record of the activities of Government since the inauguration of the reforms in the beginning of 1921 is not one of which the Government can have any reason to be ashamed. Sir,

[Sa'iid Raza Ali.]

indeed I will go further and say that the conciliatory attitude displayed by Government ever since is one of which they can justly, having regard to the difficulties with which they were confronted, feel proud. I do not propose, Sir, to detain Honourable Members by reading out quotations from the remarkable speech of His Royal Highness the Duke of Connaught or the touching appeal made by Lord Chelmsford in the beginning of 1921. Let us examine and see what has been the output of the legislative activities of the Government of India. I do not propose to go into the merits of the speech of the Honourable Mr. Ramadas since the occasion for that has not yet come. But, Sir, I may mention in connection with the amendment which is before the House that the Honourable Mr. Ramadas pointed out that there were 13 Acts which were examined by the Select Committee that was appointed in 1921. If I understand my Honourable friend Mr. Ramadas correctly, he proceeded to say that no action was taken by the Government of India after the submission of the Committee's Report. Am I right?

THE HONOURABLE MR. V. RAMADAS PANTULU: No. With regard to these particular Acts which the Bill now seeks to repeal, no action was taken.

THE HONOURABLE SAIYID RAZA ALI: I am very glad that the point has been very prominently placed before this Chamber. On looking into the Acts which were passed in the Delhi Session in 1922, it would appear that out of the 13 Acts which were examined by the Select Committee presided over by Dr. Sapru (as he then was) no less than 6 have been repealed *in toto* and one in part. The Acts repealed by the Legislature are the Bengal State Offences Regulation of 1804, the Madras Regulation VII of 1808, the State Offences Act, 1857, the Forfeiture Act, 1857, the Defence of India (Criminal Law Amendment) Act, 1915, and the Anarchical and Revolutionary Crimes Act, 1919. Of the seven Acts which were repealed, one was repealed in part in 1922, namely, the Indian Criminal Law Amendment Act of 1908. The Honourable Mr. Crerar will thus realize that the achievements of the Government, and especially of his Department, are such that they can easily face going to a Select Committee with a stout heart. Sir, after all what is the meaning of referring a Bill to a Select Committee? You have, Sir, given an emphatic ruling, and very rightly, following your predecessor, that the reference of a Bill to a Select Committee commits the House to the principle of that Bill. That no doubt, Sir, is so and I fully realize that if this Bill goes to the Select Committee, this House will commit itself to its principle. But, Sir, let us see what is the principle underlying the Bill. The principle is not that the Honourable Mr. Crerar or the Home Department of the Government of India are thereby pledged to repeal *in toto* all the five Acts that have been mentioned in the Bill. In fact the principle is only this, that all these five Acts which are included in this Bill will be carefully considered, and if after a close consideration of the present conditions in reference to all these Acts it is found necessary that some one or more of these Acts should be modified, the Select Committee will no doubt make a recommendation that that amendment be made accordingly. That is very different, Sir, from taking it for granted that the moment we send this Bill to the Select Committee it

will be obligatory on the Select Committee to make a recommendation repealing all the five Acts or the majority of them. That, Sir, is my reply to the criticism that it would be inconvenient to send this Bill to the Select Committee.

Now, as has already been pointed out, the Acts which this Bill proposes to deal with are of such importance that it is not possible for a House of 60 gentlemen, though very eminent as regards their knowledge of the law, to give that careful consideration to its provisions which can only be done by a small Committee of 8, 9 or 10 persons. Important questions arise. The present state of the country has got to be examined. Various reports have got to be looked into. It has got to be seen what are the needs and what may be the needs of the various provinces where these Acts are in force or to which provinces they may be extended by the Governor General in Council. All these are questions, Sir, which can be satisfactorily considered by a Select Committee only.

In passing, Sir, I may make a brief reference to the objection raised by my Honourable friend, Sir Maneckji Dadabhoi. He thought it would be dangerous to adopt this course inasmuch as if any recommendations are made by the Select Committee which are accepted by this House, it may be that the other House would not agree to those proposals, which would then bring this House into conflict with the other Chamber. Sir, if this consideration were to guide our actions, it follows that on no occasion can this House revise or amend legislation which is sent to us by the other Chamber.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I rise to a personal explanation.

THE HONOURABLE SAIYID RAZA ALI: I believe, Sir, my Honourable friend will get an opportunity towards the end, if there is any point of substance. It follows, Sir, that my Honourable friend's objection, if held to be valid, takes away the jurisdiction of this Chamber to revise or alter Bills sent up to it by the other House. The same objection can apply to any Bill which is sent up at any stage, but he has raised a point which has some force in it, and that second point of my Honourable friend is this. He regrets fully and sorrowfully reminded the House that there are only 14 days more of life left to us after which we have to face an election.

THE HONOURABLE SIR MANECKJI DADABHOY: I never regretted it, Sir.

THE HONOURABLE SAIYID RAZA ALI: That was my impression, Sir. Now I am very glad to know that my Honourable friend does not at all regret that the election is coming soon. I congratulate him on that attitude, Sir, there is some force in the point raised by my learned friend. To meet that point I propose that the following words be added at the end of Dr. Mitter's amendment:

"and that the Committee do submit their report on or before the 10th September 1925."

I will just pass over in writing the words I propose to be added to the amendment to you, Sir. If the Select Committee make a report on or before the 10th of September on which date I understand this House will be sitting, there will

[Saiyid Raza Ali.]

be ample time left to this House to go through the entire Bill carefully and the Bill, if passed in any modified form which will commend itself to the wisdom of this Chamber, can be sent down to the Legislative Assembly, and the Legislative Assembly can be invited to concur in the amendments made by this Chamber. Sir, political prophesies are always unwise and therefore I have no desire to play the role of a political prophet. I for one do not know what will be the reception exactly meted out to our amendments, if any, by the other Chamber. But let me say, Sir, this much, that I have too much faith, too much confidence in the robust commonsense and its latest phase displayed by the Legislative Assembly to suppose that it will act in an unreasonable manner. It is a body that consists of some of the most distinguished men in the country and it is a sign of growing grace in that Chamber that it is becoming day by day more and more reasonable. Is there any reason to suppose that they would invite a conflict with this Chamber by summarily rejecting any amendments incorporated by us? Is there any reason to suspect that they would do that? There is just only one word on the question of drafting which I beg leave to say. If the words that I propose to be added to Dr. Dwarkanath Mitter's amendment are accepted by this Chamber, it will be necessary to strike out the word "and" before the words "and the mover" in the third line from the bottom in the amendment of my Honourable friend.

Sir, I would close with an appeal. This unreasonable, at any rate painful, fight between a section of the political leaders of the country and the Government has been raging unnecessarily long. I have read the debates in the other Chamber very carefully and I was pained to see that on every vital point there was a difference of opinion between the Government and the majority party in the Legislative Assembly. Sir, after all, have not events happened since the 24th of March when we dispersed in Delhi which encourage us to hope that, whatever might be said of the Government's angle of vision, the angle of vision of those who entered the Legislative Assembly with a view to destroy it has considerably changed? That, Sir, is a stern fact which has to be acknowledged; and if it is a fact, what is the response that the Government propose to make to this change in their angle of vision? Sir, I submit that the least that the Government can do, and if I may say so, should do, is to consent to this Bill being sent to the Select Committee. I need hardly say much about the personnel, excepting one, namely, myself. There are on that Committee people who will be of the greatest help and assistance to the Government. When I excepted myself, I did not mean to say that there would be any lack of willingness in me to assist the Government but perhaps there are others better qualified to serve on that Committee. Why distrust this Council, why distrust the men whom Dr. Mitter proposes to put on the Select Committee and why, may I ask, Sir, distrust the other Chamber?

THE HONOURABLE SIR MANECKJI DADABHOY: I rise to a point of order, Sir. Is my Honourable friend speaking on the amendment?

THE HONOURABLE SAIYID RAZA ALI: Sir, I am speaking on the amendment, the acceptance of the proposal to send this Bill to the Select Committee. Will Government be fair to that influential body in the Legisla-

tive Assembly which, it appears, is now desirous of co-operating with the Government, though it will not confess that openly? With these words, Sir, I support the amendment of the Honourable Dr. Dwarkanath Mitter.

THE HONOURABLE THE PRESIDENT: Amendment moved to the amendment of the Honourable Dr. Dwarkanath Mitter:

"That in that amendment the word 'and' before the words 'that the presence of' be omitted and at the end of the amendment the following words be added, namely: 'and that the Committee do submit their report on or before the 10th September 1925.'"

THE HONOURABLE MR. K. C. ROY: Frankly speaking, Sir, I dislike the Bill, and it is precisely on that ground that I suggest that the Select Committee should be appointed. If the House agrees to the appointment of a Select Committee, it will be able to reshape the Bill and possibly make it acceptable to the Honourable Leader of the House and to the Honourable Mr. Crerar. May I remind the House that this Bill was carried through the Legislative Assembly at breakneck speed? It has not had the advantage of a Select or Joint Committee. It was a purely party measure designed to create political effect. The Bill was not circulated; no public opinion was elicited; the Provincial Governments, which are primarily responsible for the good government of this country, were not even consulted and their views are not before us. I do not see any sign to convince me that the report of the Repressive Laws Committee was even taken into consideration by the other House. Then, Sir, there is the point on which you have given your ruling and which the House will no doubt unhesitatingly accept. I for myself accept the ruling which you have given; but what is the net result of that ruling? It commits the House to accept the principle. It does not commit the House either to decline or to accept the Select Committee's Report. It does not commit the House to pass the Bill. What the net result of your ruling will be, is that in regard to the final shape of the Bill the House is at liberty to do what it likes. Under the circumstances, I hope the Government will see their way to accept this amendment.

THE HONOURABLE MR. J. CRERAR: Sir, I think it is desirable that I should at this stage explain very briefly the attitude of Government towards the Honourable Dr. Dwarkanath Mitter's amendment. There are two points which I wish to make perfectly clear to the House. In opposing this Bill, I do not desire to be construed as affirming that every measure contained in the Schedule to this Bill is the last word in legislation. I do not desire to be understood as contending that a Regulation which was made in the year 1818 could not be improved upon both in form and in substance. That is the first point. The second point that I desire to make is this. I think it is clear from the attitude of the Honourable Members who have moved and supported this amendment respectively that they are perfectly willing to concede that, in certain special circumstances, Government ought to be armed with special powers. And I think that I can also infer that they would be prepared to show the necessary sense of responsibility, the necessary regard for the difficulties and the responsibilities of Government, by giving to the full such powers as Government can on an examination of the case claim to be required. I think, Sir, that I have put the case of the Honourable Members who have supported this amendment fairly. Well, if I am not in a position to respond to that

[Mr. J. Crerar.]

attitude on the part of Honourable Members whose fault is it, I ask? It is the fault of the framers of the Bill which is before the House. Let me explain exactly what I mean. You, Sir, have given a ruling as to what is the precise implication of an acceptance by this House of a motion to refer to a Select Committee,—we should be committed to the principle of this Bill. Now, my point on that is that the only principle of this Bill is repeal. My Honourable and learned friend, whose commendation of the administration of the Government of India, and particularly of the Home Department, I desire very warmly to acknowledge—my Honourable and learned friend has endeavoured to impress the House with the view that repeal is not the principle of this Bill. He says that the principle of this Bill is that the Acts in the Schedule should be examined and modified. If that indeed is the case, the Bill is one of the most extraordinary instances of draftsmanship that has ever come to my notice. What does the Bill say? It says:

“..... It is expedient that certain special enactments supplementing the ordinary criminal law should be repealed.”

I see nothing there which suggests that these enactments should be examined, nothing that they should be modified, still less that any part of them should be retained. Further, if we are to seek for more light on the intention and the principle of this Bill, let us come to the Statement of Objects and Reasons. It says:

“The ordinary criminal law of the land is sufficient to deal with persons guilty of offences against the State.”

The ordinary criminal law of the land. I submit, therefore, that if this Bill did go to a Select Committee, it would not be open to that Select Committee to equip Government, if they thought fit, with special powers outside the ordinary criminal law of the land.

THE HONOURABLE SAIYID RAZA ALI: On a point of order, Sir. I believe it will be open to the Select Committee to modify instead of repealing the various Acts which are mentioned in the Schedule?

THE HONOURABLE THE PRESIDENT: I should be sorry to give a definite ruling on that point at once. The Honourable Member will readily recognise that if I stated anything on that point now I should be seriously prejudicing the rights of the Chairman of the Select Committee to deal with points of order arising before him should the Bill go to a Select Committee.

THE HONOURABLE MR. J. CRERAR: I think, Sir, I am at least entitled to infer from your ruling some considerable doubt whether the Select Committee could have the very wide latitude which my Honourable and learned friend supposes they could have. But that is not precisely my point. My point is that if Government accept this amendment they are committed to the principle of a measure which rests not on modification or reconstruction, but on repeal and of which the original mover in the course of the Statement of Objects and Reasons underlying his Bill, expressly says in the clearest and the most unquestionable terms that the ordinary law of the land is sufficient to deal with persons guilty of offences against the State. That, Sir, is really the substance of my position. If it were possible for me to meet the attitude which I very warmly acknowledge, the attitude that has been expressed in the speeches of Honourable Members who have supported this motion, the recog-

nition by my Honourable friend of the manner in which Government have, as a matter of fact, exercised their powers, the general recognition that having regard to the responsibilities of Government, having regard to the dangers which I have pointed out and having regard to all the other realities of the case, Government ought to be equipped with such special powers as they can substantiate a case for nothing would give me greater pleasure and gratification than to be in a position to respond to that appeal. I am not in a position to respond to that appeal because the motion made by my Honourable friend and the consequential amendment of my Honourable friend Dr. Mitter would necessarily commit Government to a position entirely inconsistent not only with the general lines of the argument which I have urged in my reply to the Honourable Mover, but also with the considerations which I have now the honour to place before the House.

THE HONOURABLE MR. R. P. KARANDIKAR: (Bombay: Non-Muhammadan): Sir, I rise to support the motion to refer the Bill to a Select Committee. I do it as the second best thing that I could do on the present occasion. I have to differ from the view which has been placed before this Council by the Honourable Mr. Crerar with reference to his interpretation of the expression “repeal”. I think that it is open to this House to take the whole Bill into consideration in spite of the express view that we find in one single word like “repeal”. I do think that the idea conveyed by this Bill is to enable a reconsideration of the various enactments mentioned in the Schedule. Specially, as there are five enactments mentioned in the Schedule, it would be open to the Select Committee while discussing both the principle and the utility of touching these enactments, to go further into the question of either retaining one Act, repealing another, modifying a third, or amending a fourth, and it would just be open to the Select Committee to whom this Bill might go for consideration to look into all the aspects of the question.

I would just like to clear one position. It has been urged, and with considerable force, that the Government's power should not be impaired. I wish to assure them that it is not anybody's desire to impair the power of Government in the least. The endeavour of every one in this House, as well as of every one who belongs to the other House, is to strengthen the hands of the Government. If Government would be weak they would be weak because they have not got the popular support. Government would be strong if they had the popular support, and as long as Government can count on popular support they need not fear being styled as either a weak Government or an impaired Government. It is not the least desire of anybody to impair Government. What every one here as well as in the other House tries to do is to see that Government are placed on a very sound basis, and are made strong by popular support in every manner possible, and it is in this behalf that every endeavour is being honestly made by those who belong to this House or to the other House to see that wherever the confidence in Government is likely to be shaken by one enactment or another there may be measures brought before this House or the other House to strike at the root of that cause and to see that those enactments no longer exist upon the Statute-book.

THE HONOURABLE THE PRESIDENT: The Honourable Member is wandering away from the Select Committee.

THE HONOURABLE MR. R. P. KARANDIKAR: I am referring to the necessity to refer the matter to the Select Committee because it is the desire of all concerned to strengthen the hands of Government. I do not yield to the temptation that is in the way of my friend the Honourable Mr. Roy that he does not like the Bill and therefore he wants it to be referred to the Select Committee. That may be his point. My point is that if this Bill is referred to the Select Committee it need not necessarily mean the repeal of every word of all the enactments mentioned there. They will take into consideration the desirability of repealing such of them as do require amendment, having regard to the fact that many of these are a century old and they may require amendment in the light of experience. I therefore on the present occasion reserve my right to a few remarks if they are necessary at a later stage. I support this motion of the Honourable Dr. Dwarkanath Mitter.

THE HONOURABLE MR. PHIROZE C. SETHNA: (Bombay: Non-Muhammadan): Sir, I have listened with great attention to what fell from my Honourable friend Mr. Crerar in regard to this amendment. You ruled, Sir, that it is the practice of this House that when a Bill is referred to a Select Committee it implies that the House has agreed to the principle underlying the Bill. The Honourable Mr. Crerar pointed out that the principle underlying the Bill is the repeal of the Bills referred to in the Schedule. There are five Bills. The Honourable Mr. Crerar further pointed out that either the Bills ought to go or remain and that there is no *via media*. From what fell from the Honourable Mr. Crerar it is clear that in his own mind he has doubts whether some of the Regulations which are antiquated should remain in their old form or be recast in a new form. My point therefore is that, if Government do not agree to the repeal of all the five Acts, it may be that after consideration in the Committee they may at least agree to repeal one or two. Any Act so repealed might be reintroduced in a manner that would serve our present day requirements. It is for these reasons I would appeal to the Honourable the Home Secretary to meet the wishes of the House by agreeing to the amendment of Dr. Mitter.

THE HONOURABLE THE PRESIDENT: The original motion was:

"That the Bill to repeal certain special enactments supplementing the ordinary criminal law, as passed by the Legislative Assembly, be taken into consideration."

On which an amendment has been moved:

"That the Bill as passed by the Legislative Assembly be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Byramji Dadabhoy, the Honourable Sir Deva Prasad Sarvadhikary, the Honourable Mr. Karandikar, the Honourable Saiyid Raza Ali, the Honourable Mr. Ramadas Pantulu, the Honourable Mr. K. C. Roy, the Honourable Mr. J. P. Thompson and the Honourable Dr. Dwarkanath Mitter and that the presence of five members of the Committee shall be necessary to constitute a quorum."

To that amendment two amendments have been moved:—

"(1) to add at the end the words 'and that the Committee do submit their report on or before the 10th September 1925' and

(2) to omit the word 'and' where it occurs before the words 'that the presence of five'."

The question I have to put is that those two amendments be made to the Honourable Dr. Dwarkanath Mitter's amendment:

1 P.M.

The Council divided:

AYES—13.

Borooah, Srijut Chandradhar.
Chettiyar, Sir S. M. Annamalai.
Karandikar, Mr. R. P.
Manmohandas Ramji, Mr.
Mitter, Dr. D. N.
Natesan, Mr. G. A.
Ramadas Pantulu, Mr. V.

Rampal Singh, Raja Sir.
Raza Ali, Mr.
Roy, Mr. K. C.
Sarvadhikary, Dr. Sir Deva Prasad.
Sethna, Mr. Phiroze C.
Vedamurti, Mr. S.

NOES—30.

Abbot, Mr. E. R.
Akbar Khan, Major Nawab Muhammad.
Aman Ali, Khan Bahadur.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.
Chadwick, Mr. D. T.
Charanjit Singh, Sardar.
Commander-in-Chief, H. E. the.
Crerar, Mr. J.
Currie, Sir William.
Dadabhoy, Sir Maneckji.
Dutt, Mr. P. C.
Fazl-i-Husain, Mian Sir.
Froom, Sir Arthur.
Harnam Singh, Raja Sir.
Ismail Khan, Haji Chowdhuri Muhammad.

Khaparde, Mr. G. S.
Laird-MacGregor, Mr. E. G. L.
McWatt, Major-General Sir Charles.
McWatters, Mr. A. C.
Misra, Pandit S. B.
Mittra, Mr. K. N.
Moti Chand, Raja.
Parsons, Mr. A. A. L.
Ram Saran Das, Rai Bahadur Lala.
Sarma, Sir Narasimha.
Sen, Mr. B. C.
Tek Chand, Diwan.
Thompson, Mr. J. P.
Wacha, Sir Dinshaw.
Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: I have now to put to the Council the amendment of the Honourable Dr. Mitter. I have read it to the House several times. The question is:

"That the Bill be referred to that Committee."

The Council divided:—

AYES—13.

Borooah, Srijut Chandradhar.
Chettiyar, Sir S. M. Annamalai.
Karandikar, Mr. R. P.
Manmohandas Ramji, Mr.
Mitter, Dr. D. N.
Natesan, Mr. G. A.
Ramadas Pantulu, Mr. V.

Rampal Singh, Raja Sir.
Raza Ali, Mr.
Roy, Mr. K. C.
Sarvadhikary, Dr. Sir Deva Prasad.
Sethna, Mr. Phiroze C.
Vedamurti, Mr. S.

NOES—30.

Abbot, Mr. E. R.
Akbar Khan, Major Nawab Muhammad.
Aman Ali, Khan Bahadur.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.
Chadwick, Mr. D. T.
Charanjit Singh, Sardar.
Commander-in-Chief, H. E. the.
Crerar, Mr. J.
Currie, Sir William.
Dadabhoy, Sir Maneckji.
Dutt, Mr. P. C.
Fazl-i-Husain, Mian Sir.
Froom, Sir Arthur.
Harnam Singh, Raja Sir.
Ismail Khan, Haji Chowdhuri Muhammad.

Khaparde, Mr. G. S.
Laird-MacGregor, Mr. E. G. L.
McWatt, Major-General Sir Charles.
McWatters, Mr. A. C.
Misra, Pandit S. B.
Mittra, Mr. K. N.
Moti Chand, Raja.
Parsons, Mr. A. A. L.
Ram Saran Das, Rai Bahadur Lala.
Sarma, Sir Narasimha.
Sen, Mr. B. C.
Tek Chand, Diwan.
Thompson, Mr. J. P.
Wacha, Sir Dinshaw.
Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: That brings the Council back to the debate on the original motion, namely, that the Bill be taken into consideration. Assuming that several Honourable Members wish to speak on that, I think I had better now adjourn the Council to a Quarter to Three.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE SAIYID RAZA ALI: Sir, I find myself on the horns of a dilemma in speaking on the motion that the Bill be taken into consideration. When this Bill was before the Legislative Assembly, a certain Member, who wanted to act as a peace-maker, pointed out that the greatest difficulty in the way of a compromise being effected was that the Swaraj party in that House relied on their numbers while the Government entrenched themselves behind the solid block of Government votes in this House. I will not be so uncharitable, Sir, as to accept the suggestion of that Honourable Member. I am free to confess that on a question like this there can surely be more view points than one, and I will be the last man to suggest that those and only those who voted for the Honourable Dr. Dwarkanath Mitter have a right to say that they are correct. I do not minimize the importance of the official view point as disclosed in the speech of the Honourable Mr. Crerar. Nor, on the other hand, do I feel inclined to brush aside totally the considerations that have led the Honourable Mr. Ramadas to move that this Bill be considered and passed. All the same, Sir, I find my position extremely uncomfortable. The Act, as would appear even to a casual observer, is extremely defective as regards drafting. It is no doubt capable of being improved, but that stage, I am afraid, is over. No amendments have been scheduled in this House, so that Honourable Members have got to make up their minds either to vote for Mr. Ramadas or to vote with the Government. Personally, I do not think, looking to the phraseology of the Act, that my Honourable friend Mr. Ramadas will be right in pressing this measure to the vote. But, Sir, I cannot disguise from myself the fact that, whatever may have been the reasons, the attitude of the Government is not one which can draw for itself the sympathy of impartial judges. What, after all, has been the attitude of the Government? Here was a proposal, a very reasonable proposal, that the Bill be considered in all its details by a Select Committee. That amendment was strongly opposed by the Government. I do not think after this the Government have a right to expect those who think for themselves that they should vote with it. The best thing, I believe, under the circumstances, for a man: holding the view that I do, would be to act on the famous Persian proverb: "*Aqilan taslim kardand ikhtiyar*" which means, "On occasions it is the prudent who keep silent."

After all, if I may be allowed for a minute to use a legal phrase, this is a fight between two wrong-doers. On the one hand, we find Mr. Ramadas who wants to sweep away all these Acts, the use of some of which may be required

in emergencies like the one that happened in 1921-22. I must confess that I cannot say that the administration of the country can be carried on, even in emergencies, without the help of some sort of Acts like these five that are mentioned in the Schedule. Therefore, the Honourable Mr. Ramadas forfeits the sympathy of all impartial observers. Now, look at the other wrong-doer. What is the attitude of the other wrong-doer? The other wrong-doer, namely, the Government, is right when it says: "It is a big matter and you are not right in repealing these Acts *in toto* inasmuch as their enforcement would in all likelihood be required at critical times". But, Sir, is this wrong-doer also right when it says: "No, I am not going to consider the question even of the modification of these Acts."

THE HONOURABLE SIR MANECKJI DADABHOY: And, pray, what is your attitude!

THE HONOURABLE SAIYID RAZA ALI: My attitude is, the attitude of every honest man, that, when you are between two wrong-doers, neither side with the one nor with the other, but stand up for your own convictions. Induce the two wrong-doers to come to a compromise.

It may be that one of them perhaps is a greater offender than the other. But after all, as the legal phrase goes, there is not much to choose between two wrong-doers, and therefore, Sir, I propose to abstain from voting if there is a division.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Sir, as my friend, the Honourable Saiyid Raza Ali, has not yet gone up to the Bench, which I hope he will soon do, I am inclined to tell him a good old Calcutta story.

THE HONOURABLE SAIYID RAZA ALI: Older men than myself have waited in vain.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: They have, but I hope my friend will not wait in vain. Two very vigorous vakils were appearing on either side and the first made points that the Judge thought were the last words on the subject. When the other man got up, the Judge said, "What is the good of wasting the time of the court; all that could have been said has been said." The second Vakil asked, "Sir, shall I not have an opportunity," to which the Judge replied, "Well, by all means, if you wish to please yourself:" and when the Vakil had finished the learned Judge turned round to the other and said "Look here, my friend, the other man has not spoken amiss." And the Judge said that he had been placed on the horns of a dilemma. My friend here has never really been on the horns of a dilemma in his attempt to judge between two wrong-doers. He has quietly and politically, slipped out to his own satisfaction, on account of his conscience as he tells us. I do not think, Sir, that the case is so desperate as my Honourable friend thinks. Why does he think that the stage for an honourable settlement and compromise has passed? In supporting the motion of the wrong-doer, the Honourable Mr. Ramadas Pantulu, whose wrong-doing is not of his own making or seeking, I am not without hopes. If this House will take a generous and reasonable view of the situation and if at a later stage if this

[Dr. Sir Deva Prasad Sarvadhikary.]

motion is passed you and the House will be pleased to allow some of us to move amendments, though not tabled on the lines which were adopted in the other House, the situation may yet be well saved. However, that is a matter that I do not propose to anticipate. I must confine myself for the present to the question whether this Bill should be taken into consideration. Sir, if proof were necessary for something being done in this direction, I think the Honourable Mr. Crerar's speech, upon which I congratulate him in the same way as he congratulated the Honourable Mr. Ramadas Pantulu, opens out a wide vista of possibilities that this House should not shut its eyes to. I regret, Sir, that amendments have not been scheduled in the way that some were attempted to be scheduled in the other House, but I do admit that the time for that would not be wholly passed if this House does think that the Bill should be taken into consideration. Sir, reference has been made to what this House did this morning with regard to the motion for a Select Committee. I do not think that it was in order nor should I be in order in referring to that. But I do refer to one of the arguments of my Honourable friend opposite from Nagpur in support of the rejection of that motion in support of the rejection.

THE HONOURABLE SIR MANECKJI DADABHOY: You have not heard me yet.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: I am glad to hear that. I hope he will be supporting the motion for consideration if his interruption means that. Well, Sir, for the present without any uncharity to him I shall assume that he is not of my mind in this matter and that he will probably be supporting the rejection of the motion of my friend Mr. Ramadas Pantulu. And what was his argument, Sir? Let us not do anything that will not be acceptable to the majority in the other House and let us avail of the strength of his school of thinking as illustrated, if one may take it as an illustration, by the result of the voting for the Select Committee. He and people of his way of thinking are in the majority here availing himself of which he proposes a curt rejection of the whole Bill. Arithmetical victory is a thing that does not always appeal to me and arithmetical victory here will not be a last word. I shall refer to one extract from the Report of the Repressive Laws Committee to the following effect:

"It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the members of the Legislature."

If as a result of voting here and in the other House it be ultimately shown that totalling the votes in the two Houses together the majority be in favour of the Bill, then my friend will be in an undesirable position indeed and Repressive Laws will be continued in spite of the finding and the recommendations of the Committee. In passing, Sir, it is noteworthy that this Committee was called the Repressive Laws Committee. I do not think the Government can feel very comfortable and happy with regard to the nomenclature to which they never objected. But it has carried a certain amount of prejudice, a prejudice that an impartial man would not attach much importance to, but at the same time it does connote some sort of an understanding that

the Government did not seriously concern themselves with regard to the nomenclature of the Repressive Laws Committee and did also agree to the repeal of Repressive Laws.

THE HONOURABLE MR. J. CRERAR: If I may interrupt the Honourable Member, those particular words were borrowed from the Resolution moved by the Right Honourable Srinivasa Sastri.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Anyway, Sir, the loan was not objected to. If arithmetical victory is good, it is good at times, by a little further arithmetic later on to show to this House that victory will be on the side of repeal. There is no question, there can be no question, about these measures in their present unadulterated shape being regarded with deep and genuine disapproval by a majority of the members of the Legislature, and of the thinking and vocal public? The motion in the other House was accepted by a vote of 71 against 40. If the unfortunate number, thirteen which was the number of votes in connection with both the amendments that came up in this House earlier be still less on the present motion the situation will remain unchanged. I shall be prepared to anticipate that some Honourable Members who have expressed their frank dislike of the Bill though they support a reference to Select Committee, may fall off and make the number of votes on this occasion a little less ominous than thirteen. Supposing we were to be in a minority of something like 10 or less, even then with the 71 in the other and 10 or 8 in this House, we should still be in a majority as a whole. I do not believe, Sir, in these arithmetical juggles or arithmetical victories, but still there will be this point with regard to it that the Houses of the Legislature as a whole are for repeal or reasonable amendment. I refer again to the division lists in the other House with regard to some of the amendments. Some of them were lost only by 14 votes, others by 20. Having regard to the temper and the tone of this House I have not the least doubt, Sir, that if an opportunity was afforded for moving some of these amendments which find a place in the proceedings of the Legislative Assembly they would be carried. It is conceivable that leave should be given to Members who have not scheduled these amendments to move them and with the good sense of this House to have those amendments accepted, which would make the law acceptable to the people in a modified form and yet continue to arm the Government with all the powers they want; and I plead earnestly that such opportunity should not be denied.

Sir, having regard to what is happening elsewhere, it is an interesting and inevitable evolution upon which I should not ridicule or twit those who are coming round, as has been the fashion in some circles, but should welcome it and try to lead it on from more to more. In the evolution that is going on in the other House and outside, people hitherto of a different mode of thinking and acting will become more and more an aid to the maintenance and progress of law, order and co-operation. Honourable Members should and may with profit take note of the recent voting on the Contempt of Courts Bill in this connection. I have not the least doubt that that minority of 14 with regard to certain amendments in the other House will dwindle down and will become a majority and reasonable amendments that this House makes will be ultimately accepted by the other House. The friction and conflict that Sir

[Dr. Sir Deva Prasad Sarvadhikary.]

Maneckji Dadabhoy apprehends would then be illusory. It is in that view and hope, Sir, that I venture to think that this House should not refuse to take the Bill into consideration and later on with your indulgence and with the permission of the House some of these amendments may be successfully moved.

It is a very serious position which should not be lightly slurred over.

3 P.M.

I do not think that people ought to be placed in the position to which my Honourable friend Saiyid Raza Ali has referred. There ought to be opportunities of a free and frank consideration of the whole situation and opportunity should be given to this Chamber to put right matters in the best of its light having proper regard to what the Government are certainly entitled to in the present circumstances, about which there has not been the least note of dissent in this House, not even from those who are looked upon as Extremists.

If I may refer to the Preamble of the Regulation of 1818, the position will be clear. It begins as follows:

"Whereas reasons of State embracing the due maintenance of the alliances formed by the British Government with foreign powers,"

Whoever questions that that power should continue? The Preamble then goes on:

"the preservation of tranquillity in the territories of Native Princes entitled to its protection"

Some of us might be inclined to raise questions with regard to what my Honourable friend Mr. Thompson does in his secluded department, and if we had the opportunity we should be able to give versions of certain facts which would not make him quite comfortable. We are not however allowed to do that in spite of which I do not know how he feels about it. He is safe at all events from our intrusion and the power in the law continues unchallenged. Then, Sir, we have "the question of security of the British dominions from foreign hostility"—I shall leave out the words about "internal commotion" for the present. This power also has not been questioned except with regard to "internal commotion". The latter would be a power of a wider and more comprehensive nature than even the Government would care to claim and the Repressive Laws Committee certainly contemplated and advised its exclusion. One of the amendments that might be moved to which I referred,—I shall not refer to that at length now because this is not the opportunity—clearly and unequivocally wanted to leave out, rather leave in, questions of internal commotions on the frontiers. My Honourable friends from the Punjab some of whom have been speaking to me are naturally nervous with regard to what may be happening there on the frontiers, and the amendment that I have in view would deliberately place, so far as the frontiers are concerned out of the category of the repeal following the suggestions of the Repressive Laws Committee. Next remains the question of internal commotion proper with regard

to which we emphatically say that the normal laws of the country and not the laws that have been characterised as archaic and antidiluvian, should any longer continue to govern the situation now that we are on the dawn of an era when better things are promising. That was the position that some of us took up in connection with the Bengal enactment when it came up before this House in March last and I ventured to say, and I shall repeat:

"If there was reason to believe the existence of a conspiracy like that, that and that alone would make the people of Bengal hesitate to object to the provisions of the most drastic nature, whatever may be urged regarding the sanctity of ordinary procedure and normal law of the country. In absence of such evidence these are violent and abominable crimes for which emergent exceptional law should not be needed. We have had a chapter of exceedingly regrettable incidents, crimes, violent crimes for a series of years, call it revolutionary crimes if you like, revolutionary possibly from the point of view of those that are responsible for them. But that cannot be called an organised revolutionary movement for the furtherance of political aims and aspirations of any considerable section of the country or the people. They are mere insane crimes that ought to be put down with a heavy hand, for which there is ample machinery. That is where I draw the line, and I do not think that my Honourable friend's gratuitous warning about 'levity and hardihood of assertion' will change the situation or is warranted in this connection."

THE HONOURABLE SAIYID RAZA ALI: Is that a quotation from the Honourable Member's own speech?

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Yes. I said that and I say it again. I say that that is the attitude of mind that ought to prevail even in my Honourable friend, Saiyid Raza Ali. Every one of us here is prepared to agree that Government should have all the powers that they reasonably want. And we want to see it legalised and regularised here and with the assistance of this Bill with reasonable modifications. Where, then, is the objection to giving this House an opportunity of having the Bill taken into consideration and later on of allowing suitable amendments to be moved?

Sir, reference has already been made to the exclusion of the Punjab Murderous Outrages Act and the Moplah Act, to give them short names. The Honourable Mr. Crerar informed this House that even though those Acts were excepted for the time being there was a threat held out that on some later day a Bill would be introduced to have those also repealed. That is a situation with which we need not for the present trouble ourselves and reference to it in connection with this measure does act with a certain amount of prejudice. There is another matter of prejudice to which I would like to refer. I do not think that the Honourable Mr. Ramadas was quite right in referring to the approaching elections in the way he did. I have no doubt Members of this House, who happen to think differently about this matter from him and me, have their own reasons, which to them appear to be good. They are and will be guided by considerations, irrespective of questions of elections. They and we shall continue to do our work in the best of our respective lights vouchsafed to us. I do not think, Sir, that Honourable Members in this House or anywhere should be persuaded by considerations of the kind suggested. Sir, as this is a motion merely for having the Bill taken into consideration. I should not be well advised in referring in detail to the amendments that ought to be put before the House in order to make the Bill less objectionable, and from that point of view I myself have not the least conscientious objec-

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tion to borrow the Honourable Saiyid Raza Ali's words in supporting the motion that the Bill be taken into consideration. The conscientious objection would be quite the other way.

THE HONOURABLE SIR MANECKJI DADABHOY : At the outset I wish to thoroughly associate myself with the Honourable Mr. Crerar in the high compliment he has paid to my Honourable friend, Mr. Ramadas Pantulu, for the great moderation and temperateness with which he has introduced his motion in this Council. I am very glad to say that Mr. Ramadas has kept up the traditions of this House and that his speech on this occasion stands in bold contrast and relief to many of the speeches made in the other House. He is entitled therefore to our gratitude on this occasion. There are one or two points in his speech made this morning which I should like to dispose of before I come to the text of the Bill now before the Council. My Honourable friend with his great ingenuity and subtlety referred to the impending election. He covered his remarks in a veil but the result of his remarks on that point is no more than this, "Be careful. The sword of Damocles is hanging over your heads. The election is coming, and mind what you are doing on this occasion with this Bill." Let me tell my Honourable colleague that the fact of the forthcoming election will not in any way weigh with me in the slightest degree in coming to a correct conclusion on this subject, and I have no doubt that it will not weigh with my Honourable colleagues here who with their sturdy independence, which has distinguished them on various occasions, will keep up the dignity and the traditions of this great House. Sir, I should be false to myself, false to my constituency which consists of landed proprietors, agriculturists, commercial and other interests, if I swerved in the slightest degree on this occasion from the path of duty in speaking out what I feel in connection with this Bill. I will not follow the policy of my Honourable colleague Mr. Saiyid Raza Ali in throwing the whole blame on both parties, running with the hare and hunting with the hounds. Nor shall I be coerced into any submission in connection with this Bill by the remark which my Honourable colleague Mr. Ramadas made that this Bill received overwhelming support in the Legislative Assembly and comes before this House with the hall-mark of its approval. Mr. Ramadas is perfectly correct. This Bill was passed in that Assembly by an overwhelming majority. It is also true, as he said, that the Independents and the Moderates joined in supporting this Bill and he threw out a hint to the Independent Members of this Council also to support the Bill. Sir, my close study of the proceedings of the sister Assembly for the last 20 months has brought to me the conviction that some of the Independents, though trading under a different label, in their heart of hearts are no more than Swarajists. They have proved themselves as such by their conduct, speeches, and their votes. Sir, having stated that, I shall come to the matter before us.

The Bill itself is a small measure. My friend Saiyid Raza Ali with his legal knowledge and acumen has found fault with the drafting of this Bill. Probably he is right. I am inclined to agree with him, but the blame cannot be thrown on Mr. Ramadas Pantulu. The author of this Bill was another

gentleman who now occupies a very high place in the Government of India. (*An Honourable Member* : "Not in the Government of India.") Yes, I mean as President of the Assembly. Mr. Ramadas has only sponsored this Bill in this Council and as a godfather to this Bill I do not think he is liable to any rebuke such as my Honourable friend Saiyid Raza Ali has extended to him. The Bill itself is a simple one. In the condition in which it was introduced in the Assembly it did not contain the proviso which is now added to section 2. That proviso was purposely put in for the purpose of giving the Local Government of the Punjab powers under section 12 of the Punjab Act and also the Madras Government, for retaining in their hands, the powers under section 6 of the Moplah Outrages Act. In other respects the Bill comes before us in its original condition. My friend Dr. Sarvadhikary is always a very staunch and enthusiastic supporter of the general public and I highly appreciate him for that purpose. I am equally enthusiastic and vigilant in my own way in watching the interests of the public and my own constituency. Both Dr. Sarvadhikary and Saiyid Raza Ali have in the course of their criticisms led this Council to understand that the Acts and the Regulations which are sought to be repealed are of an outrageous character and that the Bill before us seeks to repeal those old legislations which cannot possibly be retained on our Statute-book in this era of civilisation with any credit, reason or dignity. My Honourable friend Saiyid Raza Ali even goes to the other extreme of stating that the Government in this case are the wrong-doer. I hold no brief for Government. The Government Benches have capable men to fight their own battles but, in order that the scope of this Bill may not be misunderstood and that the real position which this Bill implies may be understood, I will with your permission make a very brief examination of these Bills which are now sought to be repealed by the Honourable Member. Sir, this repealing Bill comprises five Bills. Three of them are the old Regulations, the Regulation of 1818, the Regulation of 1819 and the Regulation of 1827, and two others—the State Prisoners Act of 1850 and the Prevention of Seditious Meetings Act, 1911. My Honourable friend Mr. Ramadas stated in his speech this morning that these Regulations are a century old. Sir, the hoary age and the historical antiquity of some of these laws is a fact to be borne in mind and worth reckoning instead of being belittled. The very fact that these Regulations have existed for a century and have only been applied in the course of a century in half a dozen or a dozen instances since the war and very rarely before the war is an abundant guarantee that they have been very sparingly used and considerably put into operation by the various Local Governments, and therefore when this Council is called upon to vote for total repeal the fact that no serious injustice has been proved to be done in the past is an adequate and unanswerable reply to the critics of these laws. Am I wrong in now advising the Council not to countenance the suggestion of the Assembly to repeal those Acts in such a great hurry! Sir, my friend in the course of his speech has rightly pointed out that on some occasions these Regulations have caused some injustice and the powers given under them have been abused. I am not prepared to controvert that proposition. I will not for a moment try to defend Government that on some occasions when the Government of India or the Madras Government or the Bombay Government have put these Regulations

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into operation, they have not committed errors of judgment or that they have not acted on some occasions unwisely and hurriedly. After all Government is a human Government. Any tribunal that you may establish or set up after all is a human tribunal. You may vest the power, you may retain the power in the hands of the Executive. You may retain the power in the hands of Judges, in the hands of special Courts. Human judgment is not always infallible. It has been often said in connection with these Bills: 'Why not put the machinery of the ordinary law into operation and have these people tried in the law courts?' Does my Honourable friend Mr. Pantulu tell me that the Judges have never erred? Does he mean to assure this Council that human judgment is always infallible? If he takes up that position, I am prepared wholly to disagree with him. In the course of my practice I have personally encountered two instances where men were sentenced to death and hanged and it was subsequently proved that those people were actually innocent. These dangers exist everywhere. Whether you may have a regular tribunal, whether you may vest the power in the hands of the Executive, such mistakes, such errors of judgment, are likely always to take place, and I therefore submit that such arguments should not unduly weigh with Honourable Members in coming to the right decision—merely because sometimes the Government act foolishly or through an error of judgment take unnecessary proceeding,—that the entire usefulness of these Regulations is negated by such instances.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Does my Honourable friend question the fact that people have more confidence in Judges and Courts?

THE HONOURABLE SIR MANECKJI DADABHOY: I do not question that. I am only laying down the proposition that even Judges err: and to say that if these people who were locked up under the Regulations had been tried in a court of law, they would have received justice is not always a proper argument to advance. I only emphasise the fact that these errors of judgment always take place, and therefore on that account alone, pray do not judge of the usefulness of a particular Act or a Regulation, and tell the country that because a particular Regulation gives powers to an Executive to restrain the liberty of an individual and that there is no regular trial provided by it and there is no regular formality of the usual legal proceedings attached to it, therefore it ought to be entirely condemned. That is the point. My Honourable friend opposite will understand what I am now trying to impress upon my Honourable colleagues.

Sir, what is the purport of these Regulations which are a century old? My friend seems to think that all that is wrong and reprehensible is embodied in these Regulations and thus when irresponsible speeches are made like that, the general public, who are unaware of the facts of the case, are misled into the formation of wrong and erroneous judgments. Now, if Honourable Members will peruse the Preamble and sections 1 and 2 of these Regulations, they will find that section 2 is the operative section and section 1 defines the four purposes for which this Regulation can be put into operation. Now what are the four purposes? Let us take purpose by purpose and examine it and

see if there is anything very outrageous. I shall confidently rely on the sound judgment of my Honourable colleagues here to take a right view of the entire matter. Now the first point is this. Under the Preamble, the first ground of interference would be:

"Whereas reasons of State embracing the maintenance of alliances formed by the British Government with foreign powers, etc."

That is, in a case of breach of any of these, the Government of India would have the right to put it into operation. Can any man, can any sane man object to this? Is not any Government entitled to protect and preserve and maintain its alliances and obligations with foreign powers? When my friend there, the Honourable Mr. Ramadas Pantulu, will have a Swaraj Government and when probably he will be a member of the Swaraj Cabinet some day, may I ask if he will not require Regulations of this nature to protect his own indigenous Government? Will he put his hand on his heart and tell us to-day that his Government can dispense with provisions of this nature? I am certain any form of government, be it a Swarajist Government, be it an autocratic Government, be it a bureaucratic Government, be it a democratic Government, will require some power in their hands, some provisions of this nature to protect themselves and prevent abuses taking place. The second part of the preamble in this:

"the preservation of tranquillity in the territories of Native Princes under the protection of Government."

You know, Honourable Members.....

THE HONOURABLE SAIYID RAZA ALI: Sir, should not the Honourable Member address the Chair?

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I must bring to the notice of my Honourable Colleagues that India is a vast country, that it comprises the territories of some great Princes, and that the territories owned by these Princes and Chiefs is nearly one-fifth of the territories owned by the British Government. Thus can the Government of India and we, the Members of the Indian Legislature, claim to have any protection for the people in the British territory if we do not simultaneously protect and safeguard the interests of the Princes and Chiefs in alliance with the Government of India? We are bound, apart from the question of treaties, living in such close proximity, having such close trade relations between the Indian States and India, having such intermixture of population and the facilities of transport which are steadily increasing, we are bound for the safety of the greater interest of British India to preserve and protect the rights and privileges of these Princes; and if these Regulations provide for the maintenance of that peace and tranquillity, is it such a serious affair as to be taken objection to and to be condemned so lightly? I leave that point to Honourable Members to judge. What is the next point? The next point is the security of British Dominions from foreign invasion. I think I ought not to say much on this point. My Honourable colleagues know what propaganda since the war the Bolsheviks have carried on in this country. Many of my Honourable colleagues here know that emissaries were sent out from the Soviet

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Government and the other foreign powers into this country to cause internal commotion and unrest: and if any of these people come from foreign territories for the purpose of destroying the peace of this country, are not the Government entitled to take steps to arrest these people and punish them and detain them? And if the Government do take such steps, can my Honourable friend call them wrong-doers, as he has termed them? Such powers and privileges would be claimed by any Government in whatever country.

The next point is regarding internal commotion. I must candidly say that I myself entertain some apprehension about the correct interpretation of these words. Internal commotion might be in various ways. My Honourable friend, Mr. Ramadas, has stated that Government have sought the shelter of these Regulations for the purpose of preventing political agitation and that political agitation could not come under the construction of the words "internal commotion." Perhaps he may be right. I wish to keep an open mind on the subject till the whole thing has been thoroughly threshed out and examined. At present I am inclined to believe that political agitation, industrial agitation and agricultural and social agitation might possibly, when they incited and caused commotion, be said to come within the operation of these words. However, as I said, I shall keep an open mind on the subject till the matter has been fully discussed and threshed out.

Now, with great solemnity and with great show of reasoning my Honourable friend Mr. Ramadas pointed out that this Council of State recommended the appointment of a Repressive Laws Committee to Government, and when that Committee has made its recommendations, the Government have been sleeping over them and the Indian Legislatures with supine indifference have discarded the report of that Committee. He and his friends say that both the Government and this Council have not acted in consonance with that report and that both the Legislatures have violated the trust reposed in them. Does my Honourable friend wish to tell this Council that this Repressive Laws Committee recommended a whole-sale repeal of Bengal Regulation III of 1818? Did the Committee ask for it? Did they even mention about the internal commotion aspect of the case? To have no doubt in the matter and for the edification of the Honourable Member, I would read a paragraph from the Report of that Committee. It is paragraph 13:

"Our recommendation in regard to Regulation III of 1818 and the analogous Regulations in the Bombay and Madras Presidencies is subject, however, to the following reservations. It has been pointed out to us that, for the protection of the frontiers of India and the fulfilment of the responsibilities of the Government of India in relation to Indian States, there must be some enactment to arm the Executive with powers to restrict the movements and activities of certain persons who, though not coming within the scope of any criminal law, have to be put under some measure of restraint. Cases in point are exiles from Foreign or protected States who are liable to become the instigators or focus of intrigues against such States: persons disturbing the tranquillity of such States who cannot suitably be tried in the Courts of the States concerned and may not be amenable to the jurisdiction of British Courts: and persons tampering with the inflammable material on our frontiers. We are, in fact, satisfied of the continued necessity...."

—mark the words "satisfied of the continued necessity"—

"for providing for the original object of this Regulation, in so far as it was expressly declared to be 'the due maintenance of the alliances formed by the British Government with Foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British Dominions from foreign hostility,' and only in so far as the inflammable frontier is concerned from internal commotion."

So, my Honourable friend Mr. Ramadas will see that for the four purposes for which this Act was framed, the Repressive Laws Committee, with an Indian gentlemen, Sir Tej Bahadur Sapru, as its Chairman, have advised against the repeal of this Regulation. In the face of such a definite instruction on the subject, he talked glibly in this Council when he said that this Council has not fulfilled the trust reposed in it by an immediate repeal of an Act of this nature, though the recommendation of this Committee was made nearly 5 years ago. To say the least, it is not a correct fact to assert.

Now, Sir, in connection with the other two Regulations, I will not detain the Council much longer. The Regulation of 1818, which is commonly known as Bengal Regulation III of 1818, gave the Governor General in Council powers, irrespective of any restriction to province or area, to detain a man in custody for any such offence as is stated in it. The two other Regulations of Madras and Bombay are almost identical in terms with the Regulation of 1818 and give powers to their respective Governors to control such men as I have pointed out. I have shown, therefore, that these three Regulations are absolutely innocuous and there ought to be entertained no fear, no apprehension, of any kind by the general public or by the Members of the Legislature as regards the real scope of these measures.

Now, the next Act mentioned in the Schedule which we have been asked to repeal is the old Act XXXIV of 1850, namely, the State Prisoners Act. Probably it is not known to many Honourable Members that this Act is a mere supplementary Act to the aforesaid three Regulations. As some doubt was created with regard to the custody of these prisoners, this Act of 1850 was passed. I will just read the Preamble of this Act which will dispel all doubt on the subject. It runs as follows:

"Whereas doubts have been entertained whether the State prisoners confined under Regulation III of 1818 and the Bengal Codes can be lawfully detained in any fortress, jail or other place within the limits of jurisdiction of any of the supreme courts established by the Royal Charter and it is expedient that such doubts should be removed and the powers under the same Regulation extended to all the territories under the Government of East India Company; It is hereby enacted as follows:—"

So, Honourable Members will see that supplementary legislation was passed for the purpose of dispelling certain doubts entertained as to the manner of the custody of prisoners taken under Regulation III of 1818 and the Madras and Bombay Regulations. Now, it will clearly appear to the Council, Sir, that if the Regulations are to be kept alive and maintained, it naturally follows that this State Prisoners Act of 1850 should also remain on the Statute-book, because it is necessary for the purpose of removing all doubts on the subject.

Sir, before I discuss the remaining Act, there are one or two remarks which I would like to make in this connection. A great deal has been said about

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the degradation and the insult to the Indian people by the existence of these Regulations on our Statute-book. I am perfectly conscious of sentiments like these often expressed. But I would appeal to my Honourable colleagues. Would it be less degradation, a lesser stain on the character and reputation of our people in this country if we have constant commotions, riots, outrages, murders, depredations in this country? Would that be an edifying spectacle? Would that increase the dignity of the country which we are all so anxious to maintain? Which is preferable? Regulations which are sparingly applied and which act as a deterrent to the people, or would you remove those Regulations and have chaos in the country, depredations, murders, outrages, men, women and children dragged from their homes and beds at night and taken miles away for the purpose of vengeance, cruelty, ransom or rape? Is that less degradation to the country? I think it is very imprudent to talk glibly about supposititious insults. But merely because these Statutes are of a preventive character, which remain on our Statute-book and which act as a deterrent not to cultured or enlightened people but to fanatics, to the uneducated, to the illiterate body of people, are we to be called upon to dispense with them? And, Sir, just realise what will be the state of affairs if these Acts were wholly repealed. We have large industrial interests in the country, we have large commercial interests in the country. Trade and Commerce is daily growing from one corner of India to another and is carried on with freedom and a certain amount of official protection. We have got large agricultural interests to be watched, nursed and looked after. What will be the state of the people in this country, and of all these interests, if laws innocuous laws of this character, which harm no body, and which have been assailed and objected to merely on sentimental grounds, and unjustly criticised and abused are removed? I cannot for one moment honestly and sincerely perceive that there is any sense in asking this House to repeal these Statutes.

Then, Sir, I come to the next Act, the Seditious Meetings Act. We are asked to abolish it. Honourable Members know, most of you know, that for some time past this Act has not been put into operation. It is in vogue in no part of India at present as far as I am aware, and if I am wrong the Honourable the Home Secretary will correct me.

THE HONOURABLE MR. J. CRERAR: That is quite correct, Sir.

THE HONOURABLE SIR MANECKJI DADABHOY: It is in operation in no part of India. At the time when this Act was passed it was indispensable and since then it has rendered very useful service. India had no greater patriot than the late Gopal Krishna Gokhale. I appeal to Members of this Council to read the speech which that distinguished statesman made in connection with this Bill when it came up for discussion in the old Imperial Council. We have his admission. He said that the Act was a comparatively innocuous measure and he supported this Bill at that time. I was in the Council then and I also gave my feeble support to this Bill. Sir, with regard to this, what has the Repressive Laws Committee to say on the subject:

"Animated by these ideas, we therefore recommend the repeal of all the Statutes included in the terms of reference to this Committee, with a reservation as to Bengal

Regulation III of 1818 and the corresponding Regulations of the Madras and Bombay Presidencies. But we advise that the repeal of the Prevention of Seditious Meetings Act, 1911, and Part II of the Indian Criminal Law Amendment Act, 1908, should be deferred for the present. Their retention..."

—mark these words please.—

"Their retention is necessary in view of recent occurrences and possible developments which we cannot but regard with great apprehension."

The Repressive Laws Committee advised the retention of this measure and not as Mr. Ramadas Pantulu has pointed out this morning that the Committee recommended its repeal.

THE HONOURABLE MR. V. RAMADAS PANTULU: I did not say that, Sir.

THE HONOURABLE SIR MANECKJI DADABHOY: You implied it by your speech.

THE HONOURABLE MR. V. RAMADAS PANTULU: No, on the other hand I expressly said that the Committee did not recommend its repeal.

THE HONOURABLE SIR MANECKJI DADABHOY: Now, Sir, this report was written in 1921 and the Committee then said it should be retained for the present. The Members of the Committee were very cautious; they did not ask for it as a permanent measure. And I for one am looking forward to the day when peace and tranquillity will be absolutely restored in this country and I shall then join my Honourable colleagues in giving my warm support for the repeal of this measure. But, Sir, can we now honestly state that this Act is no longer required? This report was written in 1921 and the members of the Committee then expressed grave apprehensions, and have those apprehensions not been justified, being fully confirmed by the events which have taken place during the last 4 years? Have we all forgotten the outrages at Gorakhpur, the riots at Rai Bareilly, the massacres at Chauri Chaura? Have we forgotten the havoc and murderous outrages done in Malabar by the Moplahs, the riots in Central India and in the Punjab? If those unhappy events have happened with what reason can we ask the Government to repeal this measure and pronounce our anathema against this Act? These unfortunate events have happened since this report was written and in view of the events we have before us, could we blame Government for retaining these measures? Would the industrialists, the commercial classes, would the agriculturists, who like to live in peace and tranquillity and in serene enjoyment of their occupations, will they like all these measures to be repealed and chaos and terror introduced in the country? I cannot understand, Sir, all that is said and spoken in this Council and in the Assembly when these things are happening, throwing aside actual facts that are confronting us. We ignore facts. We ignore the circumstances. We discard arguments and realities and, like school-boys, we accuse Government for the sins which simply exist in our imagination. Sir, I have spoken enough, and clearly shown that the retention of these laws in the country at present is absolutely necessary. My Honourable friend Dr. Sarvadhikary in the course of his speech has dropped a hint that, after the consideration stage of the Bill is finished, he would propose certain amendments and it would be an appropriate

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act on the part of this Council to accept those amendments in order that the objections to the Bill may be mollified or removed. Sir, if the general public is ignorant of the real nature and character of these Bills, we cannot possibly dispel from their minds the wrong opinions formed about the real value of such measures. I myself feel that it is quite possible that certain of these Regulations as well as the Seditious Meetings Act might to some extent be modified if suitable conditions are prevalent in this country. I personally agree with my Honourable friend Sir Deva Prasad Sarvadhikary that the matter is one worth the consideration of this Council.

As the Supreme Council in the country we are bound to ignore all petty jealousies, all erroneous arguments and all mischievous inferences. We are bound not only to look to the maintenance of the general peace and tranquillity, but also to contribute our share to the due maintenance of law and order in this country and see if under a suitable atmosphere we are in a position to dispense with some of the obnoxious provisions of some of these enactments. I quite agree to that extent. I am in full sympathy with that object, but I submit with all humility to my Honourable friend that this is not the time nor the occasion for the consideration of this Bill. He must wait. There is no use bringing any amendments now. Let the Council pronounce a definite opinion once for all whether these Regulations ought to be maintained or ought to be repealed. Let us clear this important issue before we proceed further. If my Honourable friend opposite, who is himself a great lawyer, brings in a Bill of that nature before this Council I shall be the first to give my warmest help and assistance in the matter and see what can be done towards modifying the repressive character, if there is any, in these enactments. In view of the circumstances that I have mentioned, and in view of the facts that I have laid before the Council, I trust this House will have no hesitation in rejecting this Bill as it stands. Sir, I oppose the Bill.

*THE HONOURABLE KHAN BAHADUR AMAN ALI (East Bengal: Muhammadan): Sir, I rise to oppose the Bill. The reason why I oppose this Bill is that when the enactments under consideration were framed, the necessity for those laws was really felt. No one can object to that. The thing to be seen is whether these laws are now necessary in order to deal with the offences for which they were framed before, whether the purpose for which they were passed was a good one and whether they are opposed to the progress of this country in the way of education, in the way of agriculture, in the way of industry or in the way of politics. My personal view is that these laws do not interfere at all with the purposes I have enumerated here. On the other hand, they aid the peaceful progress and advancement of the country. If they are repealed my own conviction is, and it is not influenced by any extraneous circumstances, that disturbance and disaster will be the result and it will greatly affect the peace and order of the country. First of all, I must point out that the Executive are responsible for the working of these laws. In order to strengthen the hands of the Executive they were passed for purposes of tranquillity and order in the country. We see that the Executive are against repeal of these laws. This is not the only ground that influences me to rise and speak against this Bill. My own motto is the peaceful progress of the country, and I oppose that which

*Speech not corrected by the Honourable Member.

deters that peaceful progress, no matter whether Government are in its favour or not. My conviction, my unbiassed opinion is that grounds have not been made out for the repeal of these laws. With these observations I oppose the Bill.

THE HONOURABLE MR. R. P. KARANDIKAR: I rejoice to think and to express in very plain terms that I feel not at all perplexed as to how to vote in respect of this motion. After the very vigorous and splendid speech that the Council has heard from my Honourable friend, Sir Maneckji Dadabhoy, I was at one time inclined to think silence was golden. Finding however that my Honourable friend had a fling at the Swarajists, and I think partly unnecessarily—perhaps he is perplexed at the thought that the ranks of the Swarajists are swelling and that those people in the Assembly who appeared at first to be Independents are in their heart of hearts Swarajists, and a compliment which the Swarajists really deserve—I really think that there is a great loss to the public at large that the Honourable Sir Maneckji Dadabhoy has not had any occasion to address any public platform in the manner in which he addressed his remarks to this Council. It is indeed a great loss because the public would have been benefited by the remarks that he offered. At one time he forgot that he was addressing the Council and had to be pulled up to address the Chair. I really feel that there could be no difficulty in understanding the real situation. Questions were asked as to whether the Swarajists could be in need of such legislation. Of course, I do not care what the Swarajists in the future may say, but I can say on this occasion that we at least here in this Council ought not to set an example of this kind to the Swarajist Government should it ever come into operation. For the matter of that I would be disinclined to transmit to the Swarajist Government any legislation which aims at the incarceration of people without trial and forfeiture without trial. If there is any motto on which a Swarajist Government could be based and could hope to succeed it should be this, that there shall be no incarceration without trial, nor any forfeiture of property without trial.

THE HONOURABLE SIR MANECKJI DADABHOY: What happened in Mughal Emperors' time?

THE HONOURABLE SAIYID RAZA ALI: That was 300 years back.

THE HONOURABLE MR. R. P. KARANDIKAR: I am not going to answer that question because history has sufficiently answered it. But since the question has been asked, I will ask Government not to follow in the wake of the Muhammadan Government or, for the matter of that the Brahmin Government, an embodiment of which you will find in my humble person. At a meeting in London I was asked to speak on behalf of the Brahmins. I found myself the only Brahmin there. I told my audience that if they wanted to profit by the history of the Brahmin rule they should take care not to repeat their mistakes. They committed their mistakes. They suffered for them. They had their special laws and Brahmin rule suffered. I ask Government therefore to abstain from perpetuating any special laws in any matter whatsoever. I really feel that it is not so much the repressive laws that make people good and honest but it is the sense of justice these people have in their heart of hearts, the faith they have got in the justice

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administered by the High Courts. Whenever therefore there is any measure which takes away the right of the High Court to interfere, whenever there are incarcerations without trial or forfeiture without trial, surely the public at large would not be satisfied with enactments which permit such things, and the sooner they are removed from the Statute-book of India, the greater the regard will people have for the justice for which alone British rule is perpetuated in this country. I do not belong to the generation which can hope to have any office in the Swarajist Government hereafter. Nor for the matter of that do I care for being elected next time. That does not affect me in the least. I am speaking on behalf of the whole of India. I think it would be disastrous to the real interests of India to show to the outer world that the whole of India is seething with sedition, and plundering, murders and dacoities. I appeal to this House not to yield to descriptions of this kind. They do not stop here.

THE HONOURABLE SIR MANECKJI DADABHOY: Do you still talk like this in the face of incidents in Chauri Chaura and other places?

THE HONOURABLE MR. R. P. KARANDIKAR: In a country which, as I have often observed, is seven times as large as the United Kingdom and 16 times as large in population, which is in fact a continent, it is useless to talk of a riot here and a riot there and to fill nervous people with the thought that the whole of India is in that condition. I would ask you in all earnestness not to be carried away by such a description of India. I would ask Members of the House to remember that it is not people in India only who will look at to-day's debates in the papers. The whole world will be watching to see what the Council of State is doing in matters of this kind. Is it a good picture to show to the outside world and to all civilised nations that in respect of a measure which has been passed by the Assembly this House should not even show the concession of giving due consideration to that measure, remembering the kind of people that supported the measure in the other place and the intellectual contribution that they made in regard to the discussion of that measure? I find, very unhappily, references were made to another House, the lower House, the Assembly, as if they were not our brethren. They are the real representatives of the people, not the aristocracy that is represented here. (The Honourable Sir Maneckji Dadabhoy: "Question.") That question will have to be solved by future generations. That may be solved shortly and I hope perhaps in my own life time, when you will find the Swaraj Government leading this Government on to a better end. To-day, what I am anxious to do is to place this Government on a sounder footing. Why should anybody complain in this House that we are trying to deprive the Government of their power? What is the power of Government? Is it to hold people under subjection? People must support the Government and then alone will it be strong. No measure of this kind can make the Government strong unless you convince the people that it is necessary and it is very difficult for these people to be convinced. When I say people, I include myself. I know that many people think that their safety is in danger. There are nervous people who think that their self-dependence, self-reliance is sought to be encroached on by passing measures of this kind or retaining measures of this kind. The one principle therefore which ought to actuate us in retain-

ing on the Statute-book any measure which is recognised as law is that we do not interfere with the freedom of the person, liberty of speech and order forfeiture of property without trial. I would ask this House not to consider that this measure has been proposed either by the Swaraj Party or some other party. It comes up before this House as a measure asked for by the whole country as represented by the Assembly. That is the view which must appertain to a measure of this kind and I therefore appeal to this House to look upon this measure dispassionately, without nervous attacks which are liable to be produced as a consequence of the descriptions which you have had from the splendid and vigorous speech of the Honourable Sir Maneckji Dadabhoy which would have done credit to any platform. But I guarantee that if his speech to-day had been made on a public platform where there could have been an expression of unfettered public opinion, unguarded by the sanctity of this House, the Honourable Sir Maneckji Dadabhoy would have learnt something of what the people think. But I know that the Honourable Sir Maneckji Dadabhoy does not care for it. He said he did not hold a brief for Government but the major part of his speech showed that he did hold a brief. At the same time the Government Benches are quite able to take care of themselves but in addition to their ability and power, they have got this sort of advocacy at their behest and at their service. (The Honourable Sir Maneckji Dadabhoy: "Plain speaking is always unpalatable.") In spite of all the arguments that we have heard to-day, I think there are many Members of this Council who think that those who differ from the Honourable Sir Maneckji Dadabhoy have also got a case which has got to be respected. I wish I had his vigour and his adjustment to convince you that I have a right cause, the cause of honesty, the cause of righteousness and not the sort of cause which has got to be supported by measures which are questionable in their character such as the five Acts now before you. I really feel that this measure ought to be supported.

THE HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, I wish to support this Bill. It may be asked why I opposed the amendments but still support the Bill. I reply that I am in sympathy with the repealing of all these measures, but I am not in sympathy with delaying measures or with the dilatory proposals that were made. I oppose dilatory measures, and I am glad I have now the opportunity of speaking on the measure itself. I will not indicate my personal inconvenience because that is a matter of small importance, nor dwell upon personal matters. With your leave, I shall take the concluding arguments that were urged by my Honourable friend, Mr. Crerar, and we shall see how far these arguments are correct or can stand. The first argument was—and here let us begin with this admission, as in courts we would like the admission of the opposite party—there is one admission here, and that admission is that these laws really do not represent the ideals of jurisprudence. He admitted that fact, but he said that the necessities of the situation are such that we are compelled to have these measures. Yet about those necessities I shall speak later, but at present I thank him for having made an admission that these are not laws that jurisprudence supports, nor are these laws such as English history would support. I should like to see a measure of this kind being introduced in England and then we would hear M90CS.

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more about it. As a matter of fact laws that transgress the ordinary and the fundamental principles of jurisprudence really stand condemned by themselves. If it is not necessary to use them, well, drop them as fast as you possibly can. When I say, "Drop them at once", I remember the arguments that were advanced when the report of the Repressive Laws Committee was being written—and the happenings, such as Chauri Chaura and all these things which were represented by my Honourable friend on my right. I say it is all right, but at the time when I am speaking, there is no such event known in India. Whatever may have been the reasons at that time, there is no such thing existing now, and therefore I say that the sooner you drop these laws, the better. Constantly keeping up the whip in hand and constantly indulging in threats only provoke opposition: it is much better to drop these harsh measures, and you will then see that the people against whom your action is directed will drop all that they are doing. I know that hard things have been said by others, and I am sorry that they have been said; but I am also equally certain that if you do not hold this sword of Damocles over their heads, they would not say all these things. The world is like a mirror. If you look and laugh, the world laughs back; if you frown, the world will frown; if you show your fist, there is the same picture reflected. Therefore, let us not always have these laws hanging over the heads of the people, showing how strong you are and always threatening to beat the people, and showing that the Government are strong enough and will repress all these things. I submit that retaining these laws only antagonizes the people. That is the unfortunate thing, but a fundamental thing in human nature. If I show force, then the reply to it is force. But if I try to persuade people and succeed in persuading the people, there is no bitterness left behind. I do not think it is paying a great compliment to the British Government to say that although they have been here two centuries, yet the country is seething with sedition, that there are people who will run at each other's throats, if these laws are repealed, and that this will happen and that that will happen. I shall only ask the question, 'What have you been doing the last 200 years if you have not civilised the country to this extent?' This is not a country inhabited by barbarians; it is a country inhabited by civilised Hindus, civilised Muhammadans, civilised Parsis. We are not barbarians or primitive people roaming about forests: and if 200 years of administration have not improved us to this extent, what shall we say? I think we have been improved, and those who say that we shall run at each other's throats pay a very very poor compliment indeed to the British Government on the splendid service that the British have done and the splendid service they are doing in India. You ignore the good things they have done. Don't be afraid of it. There may have been indiscretions done. Even in 1921 there may have been wrong things done, but that does not mean that that will happen again in 1925. These are popular waves of agitation, waves of excitement, and these waves do come. They pass away also very soon. If they do not pass away, they would be a menace, but my experience of life is that all these things come temporarily, they catch the fancy of the people, people talk a great deal about them, and then they forget all about them. And the evidence of this is to be found in the circumstance, as some of my friends

have been saying, that there is a different temper prevailing, that there is not that amount of bitterness in the other House also that there used to be, and my Honourable friend, Mr. Karandikar, rightly I think resented some of these observations that were made against the other House.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, may I rise to make a personal explanation? Both the Honourable Mr. Karandikar and the Honourable Mr. Khaparde have mentioned that I made observations against Swarajists in the other House. That statement is wholly untrue. What I said was this, which I will repeat again for the information of Honourable Members. The Honourable Mr. Ramadas in his opening speech said....

THE HONOURABLE THE PRESIDENT: Will the Honourable Member please repeat what he said, and not refer to the Honourable Mr. Ramadas's speech?

THE HONOURABLE SIR MANECKJI DADABHOY: It was stated in his opening speech....

THE HONOURABLE THE PRESIDENT: Will the Honourable Member say what he said?

THE HONOURABLE SIR MANECKJI DADABHOY: What I said, Sir, was that it was true that most of the Independents or rather that some of the Independents in the Assembly supported the Bill, and I said that that was a perfectly true statement. But I said that a close study of the proceedings of that House convinced me that many of these Independents who called themselves Independents were in their heart of hearts Swarajists, and they traded under a different name. I said that not by way of disparagement.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Khaparde.

THE HONOURABLE MR. G. S. KHAPARDE: I am very glad the Honourable gentleman on my right has admitted what he said, and when he said that they were Swarajists at heart, I believe he did not mean it as a compliment but meant something else. To say that someone is something but he is a Swarajist at heart means that Swarajists have got a bad tradition, and you cannot get away from that. That is the ordinary way. You remember in the play of Othello there is a man called Iago. Brabantio, the father of Desdemona, appears on the balcony and says, 'why do you appear before my house?' So this man says, "Sir, you are a councillor". That means, that "you are a fool." This has been interpreted by commentators, and whoever read that part of the play knows it. So to say that "you are a councillor" means something different; and to say that so and so is a Swarajist at heart means that he is an anarchist at heart. (The Honourable Mr. R. P. Karandikar: "No, not an anarchist.") You put them higher. I put them a little lower. As I was saying, there are people who give you terrible pictures of events, which they think are bound to happen as a consequence of the repeal of these Acts. I have listened to that eloquent picture which was portrayed before me of the cruelties that will be perpetrated. It is all very well poetically. As a matter of fact, it is not true. The world existed and India existed before

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these laws were enacted and I believe will exist after these laws are taken away, more especially when we have had so much good training in the art of government, in debates and assemblies and other things. All these things will not be lost in a day. There is nothing of this kind going on at present when I am speaking and asking the Council to repeal these laws. There is no threat. It was mentioned that Bolsheviks have come, but they are not within my boundary anyhow. There is a strong Government between me and the Bolsheviks still. So these are all imaginary things. I will just give you a small story, not a long one. A man was lying down. It so happened that a rat jumped over him. He said to himself: "Oh, to-day the mouse has jumped over me; to-morrow the cat following the rat will jump over me; then the dog following the cat will jump over me; then the man riding the horse will jump over me and then the carriage will come over me and I shall be crushed." Then he began to cry. This is something like what we have heard. I say, have a little courage, have a little patience and have strength. The British Government have been here for some time and they have done very good work. They have got the nerve; they have got the power and therefore there is no fear like this. Do not magnify it. The fact of the matter is, as was mentioned, that it goes against the grain of every Englishman to have a man condemned unheard as it is called. If I have understood English history properly, then I can say that it is very difficult to convince an Englishman that a man should be or can be convicted unheard. The case to-day is still worse. The man is not only convicted unheard but is even carried away from us and is detained in a separate place from where you get no news. The whole thing is terrible and goes against the grain of every Englishman. I know that at Home these laws will not be supported. In England unfortunately false ideas have been kept up which go to show that India is seething with sedition. I do not say that these ideas have been kept up intentionally but very likely unconsciously. They have been kept up because sensation-mongering is one of the defects of the present day newspapers. The present day journalism indulges a great deal in such sensations. People are willing to read these sensations. Probably they do not believe in them. I do not think, if votes were taken, you would get many votes in favour of detention without trial, nor would you get many votes for the argument that has been put forward, namely, that the Judges have examined all the cases that were submitted to them. If I remember aright, there were some 90 cases and the Judges did not disagree even with one of them. I wish that argument had not been used. I say this for this reason. How can you expect a musician to make you music without his instruments and a painter to paint a picture without his brushes? Similarly a Judge must have both sides of the case before him if he is to decide the case properly. No Judge can decide unless he has both parties before him and not only the parties but the ablest lawyers on both sides. It is only when these lawyers argue the matter out that a Judge can come to a right conclusion. You say that these cases were approved by the Judges, but may I know what evidence they had before them?

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY:
Evidence!

THE HONOURABLE MR. G. S. KHAPARDE: Evidence, of course. The Judges will ask for evidence before they believe you. They do not take you at your word. They always want evidence before them. However, we shall pass on further.

The next argument that was put was that even Judges go wrong after they have had both the parties before them and after the cases were argued by the parties. Therefore, the inference drawn by my Honourable friend to the right was that the Executive Government should be armed with powers to do so. He contended that, what is the good of lawyers when the Judges also go wrong? Why not, therefore, let the Executive Government go wrong? That is a wild argument and an unsound argument. Truth is difficult to discover and even Judges who are trained to weigh evidence and used to dissect evidence sometimes go wrong? Then how much more would the Executive Government go wrong? The Executive Government will decide matters upon the reports submitted to them by these subordinate officers. Therefore, I say, the conclusion is that in order to do justice we should hedge the Executive Government round with all possible difficulties and make it difficult for them to come to a hasty conclusion. That is my conclusion. It would not be the right inference that because the Judges go wrong therefore the Executive Government should get a sort of free ticket to do what they like. In cases of emergency the Executive Government should have extraordinary powers. But as soon as this emergency has disappeared, the ordinary judicial law should come into force. Therefore this trial or this condemnation without trial ought to go. Such things ought to be very strictly limited. Unfortunately I have not brought my book, but I think the Repressive Laws Committee said that this Regulation III of 1818 should be confined to the borders and to the frontiers and should not be brought into provinces, and so on. These are all the recommendations that were made by the Repressive Laws Committee. Therefore, I submit that the arguments that were first urged that the cases were submitted to the Judges do not carry the matter very far. It does not make any difference that the Bill first appeared in one shape and then it was changed. We are considering the Bill as it was passed by the Assembly. So, its past history is, to a great extent, irrelevant. I quite appreciate the argument that we may have a request from Germany that some of our bad characters have crossed our borders and that they should be turned back. But Germans are very wise and good chaps after all. But I say if we have got bad characters we know how to deal with them. We have got enough provisions to deal with them in the Indian Penal Code and in the Criminal Procedure Code. If there are very very bad characters we can put them before the court and get them hanged. There is nothing much about it. Then they say that the Bolsheviks have come in. That is an old story. It is no good magnifying fears in that way. It is only good for timid people but not for strong people, who do not indulge in that sort of thing. I take great objection to that part of Mr. Crerar's speech where he said that people who talk about repealing these laws, really wish to weaken the Executive Government. I think he said so. I took a note of it. I submit this is not so. At any rate, you cannot accuse the Right Honourable Srinivasa Sastri of devising a measure to weaken the Government and to

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strengthen the Swarajist. That sort of accusation was not made then and I do not think anybody will make it now.

And even if there is such a person who makes that accusation, I shall read to him the last words that the Right Honourable Srinivasa Sastri spoke :

“One word more”

That is, on the 14th of February 1921 when we sat for the first time to transact business. As I said, he said :

“One word more. In giving such liberties as may seem suitable, in taking such steps, as may seem advisable, let there be no reservations to the extent that you wish to go. Go ahead bravely and not haltingly. It is the most essential condition of success in this great work. But has no buts; let there not be a superabundance of ifs. So working we certainly will do what no other people in the world have done, achieve full constitutional liberty within the British Empire by entirely peaceful and constitutional methods.”

Here perhaps at that time when he said these words he imagined that some people would charge him with weakening the Executive Government, and he therefore forestalled them by giving utterance to these words. One of the conditions of success, either in battle or argument or in anything else, is that you must have confidence in yourself and you must not believe that such a thing will happen. That will make you timid and you will not be able to argue as well nor fight as well as you would otherwise do. If you wish to succeed, if we want to have a good and strong Government, that Government must also be a confident Government, not afraid every minute of meeting a ghost round the corner or meeting a bad man or a seditionist. There is no use being timid in a matter of this kind. There is no need to tell it to this House in which there are trained and educated people present. Even wild beasts can be trained only by your own confidence. If you get into the cage and are afraid, the tiger will eat you. If you go in with confidence and show the tiger your weapon, he will not do that. I therefore say that the better course is not to be timid. We do not want to weaken the Government. It is the other way round. The Right Honourable Srinivasa Sastri said that this is a time when we are beginning a new constitution, a new Assembly, and everything new, and therefore let us begin with goodwill on all sides; let us take it for granted that everybody has got the goodwill. Do not wait to find out whether a man has the goodwill. Go on, and if he displays ill-will there is the Penal Code to deal with him; if he does not, so much the better. It is exactly the way in which a man goes to the tiger's cage. If the tiger does all you want him to do, it is all right; if he does not, you carry a small pistol with you. Something of that kind has to be done. These are all trained administrators and it is not for a man like me to say how the administration has to be carried on, but the fact is that one must have confidence in himself and should not imagine ghosts coming. He should not imagine things in that way. That is what the Right Honourable Sastri means and that is what I have meant and wish to mean. Let us not be deterred by these fears, by these craven fears. Set them aside and say, “I am generous with you; I repeal all these laws. I hope you will not compel me to revive them; you will not compel me to go back on that. If you do, take care

what will happen. But I hope you will behave yourself.” And nothing will go wrong. After all is said, what is to be done? Nothing at all. There is nobody to be threatened. And as my friends have said, even the poor Swarajists who were so bad are showing a good front and coming round, coming round to responsive co-operation. I am very glad to hear that. It is very good news to me. I am pleased with it. I say that this Bill should be passed as it is, and if within a few months or within a few days things that are threatened do come about, we are always at your disposal. You can pass any laws you like within 24 hours. For the matter of that you have got ready powers of Ordinance at the disposal of His Excellency the Viceroy. No Council is necessary, no legislation is necessary if the situation arises. Having those powers, having the power of making Ordinances at your disposal, having all that wealth at your disposal, having strength of men at your disposal and having a large army at your disposal, I do not quite understand why you should fight about little Bills. About one Bill, it will do nothing. I am rather amused about it. That Bill is not in force in any part of India. Why not then abolish it? Is it an ornament and is it because you like to say “I have got that Bill, it is very nice”, that you want to retain it? Superfluous legislation is a curse. It ought not to be indulged in. Some of our Acts have been taken bodily from English laws; they are a little bit subtle and they carry the matter much further. The person who wants to avoid it goes one better, because he learns things from the laws which we give him. It is no good having superfluous laws, unnecessary laws, antiquated laws. We have no contempt for antiquity. We always think that the more ancient a thing is the better it will be. That is our tradition. The oldest is the best. We do not dislike antiquity. This law was enacted in circumstances which have ceased to exist now. These things were done when the British Government in India was comparatively very small and they had many necessities which do not exist now. And now, the British Empire, I mean the Indo-British Empire, extends from the Himalayas to Cape Comorin and that was not the condition in 1818 when these laws were enacted. With prosperity, with better government, with a larger extent of area, with more civilised people who are used in running the administration, I think it is just as well to get rid of all these laws, antiquated laws, as they are called; and if it becomes necessary to enact those laws, within 24 hours an Ordinance can be issued and within two months of that the Legislature will assemble and you can

THE HONOURABLE THE PRESIDENT: I am very loath to interrupt the Honourable Member, but the hour is getting late. (The Honourable Member did not resume his seat). Order, order. (The Honourable Member then resumed his seat.) I was saying that I was very loath to interrupt the Honourable Member, but the hour is getting late and I must invite his attention to the fact that he is indulging in a wearisome repetition of his own arguments, repetition of his own statements.

THE HONOURABLE MR. G. S. KHAPARDE: I am very sorry, Sir; if I have indulged in repetition, perhaps speaking sometimes I lose my sense of proportion also. (Laughter.) I was endeavouring to bring forward a few arguments that were left. I have finished the first page of my notes. There are some more points. I have dealt with the question of these Bolsheviks and all

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that sort of thing. I was speaking about the Act of 1911 which is not in force anywhere, and therefore I said if it is not in force anywhere and there appears to be no inconvenience caused by its not being enforced, it may as well be repealed. That was...

THE HONOURABLE THE PRESIDENT: Order, order. This is the third time that the Honourable Member has said that.

THE HONOURABLE MR. G. S. KHAPARDE: Sometimes, Sir, a thing has to be impressed by repetition. However, I shall finish that argument and that argument is that I opposed the motion for the Select Committee, but I support the passing of this Bill; and if necessity arises, which I hope will not arise, fresh legislation can be resorted to; Government have also the power of making Ordinances in their hands. With these words, I support the passing of this measure.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I intend replying very briefly to the many points that were raised in the course of the debate, and I shall take up as little time of the Council as possible. First of all, Sir, I wish to state that I do not owe any apology to anyone nor do I claim the sympathy or indulgence of anyone for having brought this motion before this House. I did what I considered to be my duty in asking this House to take into consideration a Bill which was passed by a very large majority of the Legislative Assembly.

I make only a very modest request. I do not make any extravagant demand. The present stage of my motion is only to request the House to take the Bill into consideration, and we have not come to the stage of its being passed. If you agree to this motion, namely, to take the Bill into consideration I believe it will be open to the Honourable Members of this House, who feel that they cannot go the whole hog with me, to press such amendments as they may desire to do. Therefore, I earnestly request the House for an opportunity to consider the Bill which was passed by the Assembly. I am thankful to the Honourable Mr. Crerar for conceding that he himself realised the force of my attack upon these laws as being somewhat archaic and opposed to modern jurisprudence. But he claimed to brush aside all notions of modern civilised jurisprudence and juridical ideas in view of what he called certain facts. I submit that I do not feel impressed by the facts that he has enumerated as proving the necessity for retaining these repressive laws on the Statute-book. It is not possible for me at this late hour to show that the ordinary law of the country is enough to meet the needs of any situation such as the one he has described in his speech. The point, however, which was made in the course of this debate, as well as the debate in the other House, is that while the ordinary law might possibly cover the offences which these ancient Regulations were intended to deal with, there may be cases in which evidence may not be forthcoming or it may not be desirable, in public interests, to try the offenders in open courts.

That is the chief argument which has been pressed time and again against a repeal of these repressive laws. I submit that that very argument shows the

unsoundness of the position taken up by the Government. The Honourable Sir Maneckji Dadabhoy referred to the fact that there were instances in which Judges had gone wrong. If it were so, I say it is an *a fortiori* case in which the Executive tries to deal with so-called offenders upon *ex parte* evidence and upon evidence which the person accused has no chance of explaining or controverting. It *a fortiori* follows that the dangers are greater. If for any matters, other than internal order and peace, Government wanted to retain extraordinary powers the Repressive Laws Committee had shown very clearly what ought to be done. On this matter, I wish to state in answer to my Honourable friend, Sir Maneckji Dadabhoy's statement (that the Repressive Laws Committee did not recommend a repeal of these Regulations) that I emphatically assert that they did recommend a repeal of these Regulations. They made a reservation in favour of certain powers, other than those relating to internal commotion, and in the case of internal commotion they wanted to restrict it to the "inflammable frontier". They suggested that a legal expert might deal with the method in which the reservation may be given effect to, and apparently they meant that suitable legislation might be introduced so far as reserving those powers and the powers which dealt with foreign relations, relations with Native States and the security of British dominions from foreign hostility was concerned. I will only read one sentence from the report of the Committee, which I think will bear out my contention:

"The retention of these Acts could in many cases only be defended if it was proved that they were in present circumstances essential to the maintenance of law and order. As it has not been found necessary to resort in the past to these measures save in cases of grave emergency we advocate their immediate repeal."

I have carefully read that paragraph more than once and I submit that it related to all these Acts. I know that there is a separate paragraph which says:

"We desire to make it clear that the restrictions which we contemplate in this connection are not penal in character. We are satisfied that they have not been so. . . . The reservation may also involve the retention in a modified form of the State Prisoners' Act of 1858. But this is a matter for legal experts. . . ."

Therefore they say that if any extraordinary powers relating to foreign relations and things of that kind have to be reserved it must be by means of legislation undertaken after expert advice. So, I am right in saying that the Government have not given effect to the recommendations of that Committee. If the Government thought that they could themselves make reservations by retaining the enactments *in toto* on the Statute-book there was really no use in appointing such a Committee. If they had any doubt as to how they should proceed, they should have summoned that Committee again and asked them for revised recommendations. The Government have done nothing of the sort. I feel therefore that I am right in saying that Government have gone back on the undertaking which they gave in September 1921.

In justification of the retention of these Statutes, the Honourable Mr. Crerar said that there were many potentialities in the present situation the dangers of which it was not possible to contemplate; he however enumerated a few of the old dangers; but he added to them a new one. He said that the German Government wanted protection against Indian Communists. I only dread to think of the future of this unhappy country, if among the reasons for which the bureaucracy in this country claims to retain very drastic and

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repressive laws on the Statute-book, they press into service the obligations arising from international complications and the growth and rise of Bolshevism and Communism in European countries. I do not think that the potentialities pointed out by the Honourable Mr. Crerar are such as to justify the bureaucracy in retaining these powers.

Then, Sir, with regard to the uses to which these laws were put, it is a matter of opinion. Whether those laws were used to suppress legitimate political opinion and agitation or only used for the purposes for which they were intended is a matter largely of opinion and of inference based upon facts. I can assert, with some amount of confidence, that a large volume of Indian public opinion thinks that these Acts are being put to such a use. I was present at a conference which was held recently in Bombay, presided over by the Right Honourable V. S. Srinivasa Sastri, in which all parties in the country were represented. I never attended a conference during the last 25 years of my public life which was so representative in character and which discussed matters in so dispassionate a manner as that unity conference did. That conference passed a unanimous resolution that the Bengal Regulation and the subsequent Ordinance were aimed at the Swarajist movement. I have already told you that Mahatma Gandhi, who is never satisfied without sifting the facts very carefully, gave it as his opinion, after deliberation, that the Regulation and the Ordinance were aimed at the Swarajists. Therefore, it is a matter of choice of opinion. If the Honourable Mr. Crerar is of another opinion we cannot help it, but I may say I voice the contrary opinion which is held by my countrymen, a very large number of my countrymen.

With regard to the arguments adduced by my Honourable friend Sir Maneckji Dadabhoy I will only make a brief reply. He said that the antiquity of these measures is a point in their favour. I was somewhat surprised to hear such an argument from so astute a publicist. In matters of penology and criminal jurisprudence standards of conduct vary very greatly from time to time and conduct which was penal in 1818 cannot necessarily be penal in 1919. And to say that what suited the conditions and needs of the people in 1818 would equally suit the people in this century is an argument which really takes my breath away. With regard to his other arguments, my friends the Honourable Mr. Karandikar and the Honourable Mr. Khaparde have dealt with them and I do not therefore propose to deal with them. I will deal only with one remark which he emphasized,—namely, that these laws were absolutely necessary for the purpose for which they were intended. Even on that matter I am willing to join issue with him, but I do not propose to do so. There are many laws which I can point out, such as the Foreign Jurisdiction Act and the Acts of 1864 and various old Regulations which give powers to deal with interlopers and British subjects who are creating trouble in Native States. These powers are still in the hands of Government but that is a different matter. My point is that the ordinary laws themselves are sufficient and more than enough to deal with every conceivable form of offence against the State. The Indian Penal Code has a special Chapter dealing exhaustively with offences against the State and my friend has not taken the trouble to point out which sections of these

Regulations are intended to cover cases not already covered by the Indian Penal Code.

There is only one remark of the Honourable Mr. Crerar with regard to the Moplah rebellion with which I want to deal. I am sorry that he entirely misunderstood me. I took care to say that the absence of the Regulation would not have handicapped the Government. I know that the Regulation was used very vigorously against the Moplahs and even after the rebellion was suppressed it is being used to deport them to various places like the Andamans, and there is a large volume of opinion against the improper exercise of that Regulation by the Government of Madras. My point was that the rebellion was itself suppressed under martial law and that the Moplah Outrages Act, which is still on the Statute-book and which this Bill specifically saves from repeal, arms the Government with ample powers which they can wield and there is really no power which they cannot wield under that. So it was merely to keep it alive that the older Regulation was used. My point was that there was no necessity to use it.

Finally, I will give a word of personal explanation. My friends Sir Deva Prasad Sarvadhikary and Sir Maneckji Dadabhoy have tried to refute that portion of my speech which related to my reference to the electorate. I am afraid they have misunderstood both the letter and the spirit of my remarks. I never asked any Member of this House to vote in fear of the electorate. When I asked you to vote without fear of this mighty British Government, I am the last person to ask you to vote in fear of the electorates. These are the words I used :

“Many of you will have to face your electorates very soon to seek re-election to this Chamber. You cannot do so justly if you do not voice their feelings in this vital matter. The theory that the elected representatives are bound to give expression to their own feelings and convictions and not to those of their constituents is now an exploded one. We have no justification to sit here and vote against the wishes of those who returned us.”

I adhere to these words and I do not feel ashamed of them. I say that we are bound to represent the interests of our constituents. That is the point I made. I did not ask you in any manner whatever to regulate your conduct in any fear of the electorate. I am the last man to say that.

In asking you to consider this measure, I am making a very moderate request. I beg to emphasize the fact that the stage of civilisation reached by any nation is judged by outsiders by its laws and I think it will be a grave reflection upon the British Government and their work for a century and a half in this country if they allow these old Regulations to remain on the Statute-book. It would be a sad commentary on the way they governed this country and trained the people for self-government. In the good name of British Government and in the good name of British India I would ask you to allow this motion to be considered.

I am as anxious as everybody else not to weaken the hands of Government and I am convinced that the hands of Government will not be weakened by the repeal of these Regulations. I know that the Government themselves thought so in 1921 when they whole-heartedly accepted the recommendations

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of the Repressive Laws Committee and promised to introduce legislation for their repeal as soon as may be. Therefore I do not desire to weaken anybody's hands. It is true that I am averse to leaving in the hands of the Executive extraordinary and dangerous powers in this country for one reason, that is, because the Executive is not responsible to the Legislatures and is not also responsive to public opinion. When the Executive becomes responsible to the Legislatures and responsive to public opinion, there may be more reason for placing in its hands extraordinary powers, because we can regulate the use of these powers and we can have a check upon their improper use. So long as you are not responsible to the Legislature and responsive to public opinion, I do object and most strongly object to the retention of these powers in your hands. Therefore hasten that day when you will give responsible Government to this country and then you may have even greater powers. At the present stage you cannot retain them. If India is to attain liberty, she cannot have the Damocles' Sword of these repressive laws hanging over her head. You cannot ask the people of this country to eke out their existence in perpetual dread of the bureaucracy. This is not a condition of things which will permit the growth of Parliamentary institutions or responsible government which everybody professes to have so much at heart.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I do not intend to detain the House at any length while I briefly summarise the attitude of Government on the debate. I am sure that both the Honourable and learned gentleman opposite and I must agree that the necessarily divergent points of view which we have laid before the House have received a patient and an impartial hearing the result has certainly been to clarify the issue before the House and my sole purpose is now to make perfectly clear what that issue is. The issue now beyond any question whatsoever is the total and unqualified repeal of the laws standing in the Schedule. It is that and nothing else. My Honourable and learned friend from the United Provinces expressed himself somewhat pathetically as being on the horns of a dilemma. I should like to point out that if the dilemma exists at all, it has only one horn and to escape it, the Honourable gentleman has only to exercise a little moral courage, without any demand whatsoever upon the intellectual agility which at other times he is perfectly capable of displaying. The Honourable Member quoted a Persian proverb enjoining silence on the prudent. Permit me to reply to him with another:

*Ta-mard sakhun na gufta bashad
aib-o-hunarash nahufta bashad.*

I think, Sir, that applies not only to a man when he makes a speech but also to him when he says "Aye" or "No" on a division. Well, Sir, the issue is perfectly clear. My Honourable and learned friend the Mover has made an ingenuous appeal to the House to pass this motion for consideration on the ground that it will then be enabled to amend these laws as it chooses. Permit me to point out that that incorrectly states the case. If the House passes this motion for consideration it will be committed to the principle of this Bill, even more specifically than if it had passed the amendment for reference to a Select Committee.

The issue therefore is perfectly clear. My Honourable friend opposite says that he reverts to his original proposition that the

5 P.M.

ordinary law of the land is sufficient to deal with all the circumstances of the case. My complaint is that the Honourable Member did not make, nor did any other Honourable Member who spoke on his side make, any serious attempt to deal with the true facts of the situation which I placed before the House. Nor is the present contention in any closer contact with the facts. The plain fact is that the ordinary law of the land is essentially penal and punitive law. It is not preventive law: and the main purpose of the Regulations, the main purpose of the Seditious Meetings Act, is not penal but preventive. That is the substance of my reply to the Honourable Member's point that the existing law is sufficient to meet the case. I have only one more word to say and that is to refer to the remarks made by my Honourable friend Mr. Khaparde. He dealt with the matter at very considerable length; and I was pleased, I was gratified, to draw two inferences from what he had to say. The first was that he did not take this motion very seriously; and the second was that he congratulated himself on the fact that he still had a strong Government, as he said himself, subsisting between him and the forces of disorder. I think that sentiment will be shared by more Honourable Members than the Honourable Mr. Khaparde, and it is largely under the inspiration of that sentiment that I should advise them to give their verdict on this issue.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to repeal certain special enactments supplementing the ordinary criminal law, as passed by the Legislative Assembly, be taken into consideration."

The Council divided:

AYES—9.

Borooah, Srijut Chandradhar.
Karandikar, Mr. R. P.
Khaparde, Mr. G. S.
Mannohandas Ramji, Mr.
Mitter, Dr. D. N.

Ramadas Pantulu, Mr. V.
Sarvadhikary, Dr. Sir Deva Prasad.
Sethna, Mr. Phiroze C.
Vedamurti, Mr. S.

NOES—29.

Abbot, Mr. E. R.
Akbar Khan, Major Nawab Muhammad.
Aman Ali, Khan Bahadur.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.
Chadwick, Mr. D. T.
Charanjit Singh, Sardar.
Commander-in-Chief, H. E. the
Crerar, Mr. J.
Currie, Sir William.
Dadabhoy, Sir Maneckji.
Dutt, Mr. P. C.
Fazl-i-Husain, Mian Sir.
Froom, Sir Arthur.
Ismail Khan, Haji Chowdhuri Muhammad.

Laird-MacGregor, Mr. E. G. L.
MacWatt, Major-General Sir Charlest.
McWatters, Mr. A. C.
Misra, Pandit S. B.
Mitra, Mr. K. N.
Parsons, Mr. A. A. L.
Rampal Singh, Raja Sir.
Ram Saran Das, Rai Bahadur Lala.
Roy, Mr. K. C.
Sarma, Sir Narasimha.
Sen, Mr. B. C.
Tek Chand, Diwan.
Thompson, Mr. J. P.
Wacha, Sir Dinshaw.
Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, on Monday next motions will be made for the consideration and passing of the five Government Bills laid on the table during the course of the present week.

On Wednesday the 9th September the Honourable Mr. Crerar will move his Resolution regarding the amendment of the Electoral Rules in the manner recommended by the Reforms Inquiry Committee.

I understand, Sir, that you have admitted the Resolution regarding the grant of a bounty on steel manufactured in India between the 1st October 1925 and 31st March 1927 of which notice was given yesterday by the Honourable Mr. Chadwick and that you will be prepared to permit the Resolution to be moved on the 9th September before the usual period of notice expires. If this is so, Sir, the Resolution in question will also be moved on that day.

Friday the 11th and Saturday the 12th September will be set apart for the discussion firstly of the Honourable Mr. Crerar's main Resolution on the majority report of the Reforms Inquiry Committee the text of which was read to the Council by you, Sir, on Tuesday last and which has since been communicated to Honourable Members, secondly of the Honourable Sir Deva Prasad Sarvadhikary's Resolution recommending the formation of a convention to draft a constitution for British India, and thirdly of the Honourable Mr. Phiroze C. Sethna's Resolution regarding provincial autonomy which was ballotted for the 10th September but which the Honourable Member has agreed to postpone till after the main Government Resolution on the subject of the Reforms Inquiry Report has been disposed of.

For the week opening on Monday the 14th September there will remain the Honourable Mr. Crerar's Resolution regarding the amendment of the Indian Legislative Rules and Standing Orders to provide for the constitution of Select Committees to deal with Bills relating to Hindu and Muhammadan Law, and also legislative business the precise nature and extent of which will depend on the course of events elsewhere.

The remaining non-official days are the 8th, 10th and 15th September and the business ballotted for those days has been communicated to Honourable Members.

I may add for the information of Honourable Members that so far as can be foreseen at present the business of the Session is likely to be concluded on or about Thursday, the 17th September.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: The Honourable the Leader of the House has not mentioned my other Resolution about the delegation of the Reforms Committee's Report to the Convention that I seek to set up by another Resolution.

THE HONOURABLE SIR NARASIMHA SARMA: We promised that the Resolutions of which he had given notice and which were ballotted for already could be moved either as independent Resolutions or as amendments. If the Resolution, of which the Honourable Member speaks, is one which cannot by means of an amendment be incorporated in the Resolution or moved by means of an amendment to the Resolution, then certainly he will have an opportunity of moving it separately.

RESOLUTION RE BOUNTY TO BE PAID ON STEEL MANUFACTURED IN INDIA.

THE HONOURABLE THE PRESIDENT: I allowed the Resolution of the Honourable Mr. Chadwick regarding the bounty to be paid on steel manufactured in India within a certain period to be moved within the period of notice on the understanding that it would be circulated to Honourable Members of this Council at once. Perhaps it would be well if the Honourable Mr. Chadwick could indicate to the Council the terms of the Resolution.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): I have now got a copy of the Resolution and can read it out to the Council. It runs as follows:

"That this Council recommends to the Governor General in Council that a bounty should be paid on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927, subject to the following conditions:

- (1) The bounty should be paid only to firms or companies manufacturing, mainly from pig-iron made in India from Indian ores, steel ingots suitable for rolling or forging into any of the kinds of steel articles specified in Part VII of Schedule II to the Indian Tariff Act, 1894.
- (2) The bounty should be paid on steel ingots manufactured by such firms or companies, and the bounty should be paid at the rate of Rs. 12 a ton on 70 per cent. of the total weight of the ingots manufactured in each month.
- (3) The total amount of the bounty payable under this Resolution in the 6 months ending the 31st of March, 1926, should be 18½ lakhs and in the year commencing the 1st of April, 1926, and ending the 31st of March, 1927, should not exceed 41½ lakhs, making a maximum total in all of 60 lakhs."

The Council then adjourned till Eleven of the Clock on Monday, the 7th September, 1925.

COUNCIL OF STATE.

Monday, the 7th September, 1925.

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

QUESTIONS AND ANSWERS.

HIGH SCHOOL AT RAISINA.

102. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What steps do Government propose to take with reference to the absence of a High School at Raisina and when do they propose to take steps?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: Government are informed that an application has already been presented to the Municipal Committee that the Municipal Middle School at Raisina should be raised to the High Standard, and that the matter is being considered by the Municipal Committee.

PROVISION FOR TEACHING HINDI TO INFANTS IN THE MUNICIPAL MIDDLE SCHOOL AT RAISINA.

103. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that no provision exists at present for the teaching of Hindi to infants in the Municipal Middle School at Raisina? If so, do Government propose to take steps to make provision for such teaching at an early date?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: The answer to the first part of the question is in the affirmative. Provision for teaching Hindi to infants in the Municipal Middle School at Raisina will be considered when a sufficient number of infants who speak Hindi in their own homes join the school.

PROVISION FOR THE CONVEYANCE TO SCHOOL OF CHILDREN OF GOVERNMENT SERVANTS STATIONED AT RAISINA.

104. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Have Government made any provision for the conveyance to school of children of Government servants stationed at Raisina? If not, do Government propose to make any provision?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: The answers to both parts of the question are in the negative.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill further to amend the Indian Penal Code, a Bill to amend the law with respect to the carriage of M92CS

[Secretary of the Council.]

goods by sea, a Bill further to amend the Opium Act, 1857, a Bill to provide for the grading of coal and for the grant of certificates for coal intended for export, and a Bill to amend the Provident Funds Act, 1925, which were passed by the Legislative Assembly at its meeting held on the 3rd September, 1925.

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the Bill further to amend the Code of Civil Procedure, 1908, as passed by the Legislative Assembly, be taken into consideration.

It will be within the recollection of the House that in 1923 the Code of Civil Procedure was amended in order to raise the limit of salaries of Government servants, employees of railways and others for the purpose of exemption from attachment. It was considered at that time that the limits of Rs. 20 and Rs. 40 then subsisting were too low, in view of the falling off in the purchasing power of money. That change was accordingly made, but as a consequence some difficulty has been experienced by urban co-operative credit societies which cater to a very large extent for low paid employees. The fact that they cannot realise their debts by the attachment of the salaries of creditors drawing salaries below the limits fixed by the amended Act has restricted their operations, and it is desired to remedy this inconvenience by restoring, in the case of co-operative credit societies only the limits formerly subsisting in the Act, namely, Rs. 20 and Rs. 40. This is the object of the small measure which I commend for the consideration of the House.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

RELIGIOUS ENDOWMENTS (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I beg to move that the Bill further to amend the Religious Endowments Act, 1863, as passed by the Legislative Assembly, be taken into consideration.

This, again, is a small measure which has been undertaken in pursuance of a recommendation of the Civil Justice Committee, who pointed out that, having regard to the nature of the functions discharged by the civil courts under the Religious Endowments Act, it is unnecessary that jurisdiction in such cases be limited, as it is at present, to the highest local court of civil jurisdiction, i.e., generally speaking, the district court. Many of the cases arising out of the Act could be quite satisfactorily dealt with by courts of

lower jurisdiction up to the pecuniary limits of such jurisdiction. Consequently on the analogy of similar provisions already existing in the Code of Civil Procedure, which enable Local Governments specially to empower courts to hear suits of a similar character, it has been proposed to empower Local Governments in respect of suits arising out of the Religious Endowments Act also. One exception to that only is contemplated, namely, that in proceedings relative to vacancies in committees under section 10 of the Act, the powers shall remain, as they are at present, vested in the district court.

I move that this Bill be taken into consideration.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

SALT LAW AMENDMENT BILL.

THE HONOURABLE MR. A. C. McWATTERS (Finance Secretary): Sir, I move that the Bill to amend the law relating to salt and salt-revenue, as passed by the Legislative Assembly, be taken into consideration.

The object of this Bill is to bring under the direct control of the Central Government the administration of salt in the Madras and Bombay Presidencies. On the 6th March 1924, when I was speaking in this House on the Central Board of Revenue Bill, I foreshadowed the possibility of the legislation which is now before the House. What I said on that occasion was:

"The new Central Board of Revenue is not fully functioning at present for two reasons, first because there are certain administrative questions still under discussion with Local Governments, particularly the question of separating the salt and excise establishments of Madras and Bombay, and bringing the salt establishments under the direct control of the Central Government; secondly, because there are certain powers assigned by statutory law to Local Governments which have not yet been transferred to the Board of Revenue."

With regard to the second point, the Bill which was then before the House, dealt with those statutory powers. I went on to say:

"Later on it will be necessary, when the details of the administrative questions to which I have referred have been settled, further to amend in some respects the Salt Acts in Madras and Bombay, but with that we are not at the moment concerned."

Since then, in March and April last, we have been able to effect a separation of the salt and excise establishments in Madras and in the Bombay Presidency proper. With regard to Sind the question of separating the establishments is more difficult, and it is still under consideration. The Bill now before the House provides that it can be brought into operation in different areas on different dates, with the object of bringing the administration of salt in Sind also, in due course, under the Central Government. The principle of this Bill is, I think, one which the House will readily accept. Apart from

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administrative convenience, it is a principle which is in strict conformity with the spirit of the reformed constitution. As regards the details, they are purely consequential, amounting in practically all cases to the substitution of the Central Government and the Board of Revenue for Local Governments and their officers. I do not think there is anything special in the Bill to which I need draw attention, except perhaps the safeguard which we have added that any person aggrieved by any proceeding or order of the Central Board of Revenue under this Act has the right of application to the Governor General in Council for review.

I move that the Bill be taken into consideration.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

The Schedule, Parts I, II and III, were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. C. McWATTERS: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

LEGISLATIVE MEMBERS EXEMPTION BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the Bill to confer certain exemptions on members of legislative bodies constituted under the Government of India Act, as passed by the Legislative Assembly, be taken into consideration.

Sir, one of the recommendations of the Reforms Inquiry Committee was to the following effect:

That members of the legislative bodies constituted under the Act should be exempted from—

- (1) serving as jurors and assessors,
- (2) arrest and imprisonment for civil offences during the meetings of the Legislatures in question and for periods of a week before and after such meetings.

It was further recommended that effect should be given to this proposal by amendment of or action under the ordinary law. The provisions of the law concerned are section 320 of the Code of Criminal Procedure and section 135 of the Code of Civil Procedure. Honourable Members will observe that it is proposed to amend section 320 of the Code of Criminal Procedure by adding the following clause:

“(aa) members of either Chamber of the Indian Legislature and members of a Legislative Council constituted under the Government of India Act;”

which will grant immunity to Members of the various Legislatures from serving as jurors or assessors; and it is proposed to add after section 135 of the Code of

Civil Procedure, another section, 135A, which Honourable Members will see on the paper before them. These proposals go a little way beyond the actual recommendations of the Reforms Inquiry Committee, but they are merely a logical extension of them. In the first place it is considered that Members of the Legislatures should enjoy this immunity, not only when the Legislatures are actually in Session, but when such Members are members of a committee of a legislative body, or, in the case of the Indian Legislature, of a Joint Committee or conference of both Chambers. Further, it was pointed out that, in the case of Members coming from long distances to places at which the Legislature is sitting, more particularly the Indian Legislature, a period of one week might operate somewhat unfairly, and that, having regard to the interests of Members of Legislatures coming from great distances, the period of one week suggested by the Committee should be extended to a fortnight, as in the measure which I move.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I suggest that, whenever Members of any Legislature are summoned to appear as witnesses during the Session of the Councils, or 14 days after or before the Session of the Councils, they should also be exempted.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): I think that is quite right.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill to confer certain exemptions on members of legislative bodies constituted under the Government of India Act, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

SIKH GURDWARAS (SUPPLEMENTARY) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the Bill to supplement certain provisions of the Sikh Gurdwaras Act, 1925, as passed by the Legislative Assembly, be taken into consideration.

This, Sir, is a measure the importance of which will, I am sure, be recognised by every Member of this House. As it merely validates the provisions of the local Act, the circumstances which led up to the passing of which are very clearly in the recollection of Honourable Members, it is unnecessary for me to detain the House at any length. I will merely point out that there are certain provisions of the Act of the local Legislature which are beyond its competence to enact. One of these is the appointment of Judges of the High Court to preside over the Tribunal provided for in Chapter III of the Act, and the other provisions are those which affect the jurisdiction of the

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High Court. Honourable Members will recollect the appeal recently made by His Excellency the Viceroy for the ratification and endorsement by the Indian Legislature of this important measure. I would ask this House on this occasion to respond to that appeal.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE SIRDAR CHARANJIT SINGH (Punjab: Nominated Non-Official): Sir, I should like to congratulate the Government on the Sikh Gurdwaras Act. As His Excellency the Viceroy said the other day, it offers a fair prospect of a practical and equitable settlement of a momentous and complex issue. Our warmest thanks are due to the Government of India and to the able and sympathetic Governor of the Punjab, His Excellency Sir Malcolm Hailey, whose sympathetic consideration and indefatigable labours have brought about this happy result. I have no doubt that this measure will not only restore but also strengthen those relations between the Government and the Sikh community which, to quote again from His Excellency the Viceroy's weighty pronouncement, have been "glorious in war and no less renowned in peace". Sir, I cordially support this Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to supplement certain provisions of the Sikh Gurdwaras Act, 1925, as passed by the Legislative Assembly, be passed."

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, with one exception the Bills laid on the table to-day will be proceeded with on Monday, the 14th September. The exception is the Indian Penal Code (Amendment) Bill, commonly called the Age of Consent Bill. I understand that an amendment will be moved to this Bill from the non-official Benches, which may be expected to commend itself to the Council and, in view of the possibility of the Bill being amended, it is desirable that it should be returned to the Assembly at an earlier date than would be possible if it were left over to next week. I propose therefore to move that the Bill be taken into consideration and passed on the conclusion of the non-official business ballotted for Thursday next. This, as the House will observe, involves no curtailment of the three days period of notice.

THE HONOURABLE THE PRESIDENT: Provided, I may add, the Honourable Member gives formal notice to-day.

THE HONOURABLE SIR NARASIMHA SARMA: I will do so.

The Council then adjourned till Eleven of the Clock on Tuesday, the 8th September, 1925.

COUNCIL OF STATE.

Tuesday, the 8th September, 1925.

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

RESOLUTION *RE* INDIANIZATION OF THE STAFF AND ESTABLISHMENT OF THE HIGH COMMISSIONER FOR INDIA.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay: Non-Muhammadan): Sir, I beg to move:

"That this Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom."

One of the most important changes effected by the Government of India Act was the creation of the office of High Commissioner in the United Kingdom for India, a position analogous to similar appointments made in the United Kingdom by the different self-governing Colonies and Dominions. When the reforms were on the anvil, a Committee on Home Administration of Affairs was appointed, which is better known as the Crewe Committee. That Committee had to inquire into the organization of the India Office and the relations between the Secretary of State and the Government of India. The Committee recommended that the time had arrived for the appointment of a High Commissioner for India in the United Kingdom who should be paid out of the Indian revenues and whose work should be that of an agent to the Government of India. The exact words in which the Committee made the recommendation are as follows:

"We are satisfied that the time has come for a demarcation between the agency work of the India Office and its political and administrative functions, and that the step would commend itself to all classes of opinion in India as marking the stage towards full Dominion status."

In accordance with this recommendation, the Government of India embodied a provision in the Act for the appointment of a High Commissioner for India in England. This appointment could only be made by His Majesty by an Order in Council. On the 13th of August 1920, such an Order was issued by His Majesty in Council authorising the Governor General of India, in Council, with the approval of the Secretary of State for India in Council, to appoint a High Commissioner to work as an agent and to perform all the duties pertaining to agency business in England.

This Order empowered the High Commissioner to appoint all officers, clerks and servants in his office. The Order, however, was not unrestricted. There were two limitations. The first was that these appointments should be in consonance with any general or special orders passed by the Governor General in Council, and secondly, it was laid down that any person who was

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transferred from the establishment of the Secretary of State for India to the High Commissioner's office would have a right of appeal to the Secretary of State against any orders by the High Commissioner in regard to his removal, his suspension, his pay, allowances, promotions, etc. Further, it was laid down that a person so appointed was, for the purposes of section 67A of the Act, to be regarded as a person appointed by the Secretary of State. In other words, the salaries and pensions of these men were non-votable.

I have thus briefly explained the statutory provisions relating to the High Commissioner's office and establishment. On the 14th of February 1924, I asked Government in regard to the cost of the High Commissioner's office and establishment. The Government replied that the cost in 1921-22 including all contingencies was £175,855. They further informed me that the revised estimate of the cost for 1922-23 was £166,400. I am sorry I have not with me the cost of the High Commissioner's office and establishment for later years, but if the Honourable Mr. Chadwick in the course of his reply is in a position to give those figures I am sure the House will appreciate it. On the same day, I put another question in regard to the number of staff in the High Commissioner's office. The Government replied that as at 30th September 1923, there were 248 persons in the permanent staff and 319 persons on the temporary staff, making a total of 567 people. The temporary staff consisted of messengers, labourers, packers, etc. I am obliged to my Honourable friend Mr. Chadwick for the information he has given me that in the High Commissioner's office to-day, they have exclusive of warehouse men, messengers, packers, etc., a total of 365 persons. This would leave out the lower staff, and I take it that this number of 365 corresponds with the number of 248 in the permanent staff as given to me at the beginning of last year.

Now, Sir, out of these 365, 245 were transferred from the office of the Secretary of State for India to the High Commissioner's office, and since the establishment of the High Commissioner's office, as many as 120 new appointments were made. This gives a percentage of a little over 6. The total number of Indians out of these 365 is only 23. So that out of every 100 on the staff of the High Commissioner, about 7 are Indians and the remaining 93 are non-Indians. Of these 23, five were amongst the 245 transferred from the Secretary of State's office, so that out of the 120 new appointments only 18 Indians were appointed. Twenty-three out of 365 represents, as I have said, a percentage of a little over 6. But I would like to point out to the House that whilst the percentage of the number of persons employed is a little over 6, the percentage of salaries paid to these persons is very much lower than 6 per cent. for the good reason that the great majority of these men are filling minor, and I may add, very minor positions.

My object in bringing forward this Resolution is to ask the Government to Indianize the High Commissioner's office as much as and as quickly as possible. The principle of the increasing association of Indians in the different branches of the administration is now fully recognised and firmly established.

It is in the forefront of the policy enunciated in the pronouncement of the 20th of August, 1917, and embodied in the Preamble of the Government of India Act of 1919. The High Commissioner is merely the Agent for the Governor General in England. Personally, I should very much prefer that his duties were not what they are but that they were confined to his representing India at big social functions. I have advanced this view on one or two previous occasions in this House and I repeat it again to-day. The agency business for the Government of India, which is carried on by the High Commissioner in London, should preferably and advisedly be carried on in this country. I am not alone in this view. It is the expressed wish of both Indians and Europeans and they have conveyed this to Government by a Resolution in the Assembly. Government have not carried out the wishes of the Assembly in this respect to any large extent so far, but I hope they will do so by degrees. In the meantime, I quite realise that Government will—I am referring, Sir, to the Resolution in which they asked for rupee tenders and tenders in India,—but I say until that is done, the High Commissioner's office will certainly require a large staff in England itself. The High Commissioner's office is essentially an Indian Department, the cost is borne by India, and yet a large part of its expenses are outside the vote of the Assembly, which I am sure the House will regard as a very anomalous position indeed. Except for the very highest appointments on the staff, the whole establishment of the High Commissioner's office corresponds to any work that is done in any of the Departments in the Government Secretariat in India or in the provinces, and there is no reason why the personnel should therefore be so enormously non-Indian as it is. In fact, from the figures I have given to you, I regard it as scandalous, and I am sure the House will agree with me that out of a total of 365 there should be only 23 Indians.

I recognize that the agency work of the Secretary of State's Department which was done previously by about 245 men was work of a kind to which these men were accustomed, and consequently they could not be thrown over and I have no grievance against these 245 men, including the 5 Indians, having been taken over by the High Commissioner in his establishment. But I do not regard as at all satisfactory the fact that, out of 120 new appointments, so few as 18 should have been given to Indians, and this I regard as one more illustration of sacrificing the interests of the Indian to that of the Britisher. In view of the fact that the Department is Indian, that the cost is borne by the Indian Exchequer, and as many as 240 non-Indians were taken over from the Secretary of State's office, justice demanded that of the new 120 appointments, if not all, the major portion should have been given to Indians. Sir, the figures I have quoted reveal the position of affairs and I think the House will agree that this position requires to be ended. There is no reason why the High Commissioner's office should not be manned by Indians. Whether the Government will agree with me or not in the suggestion that all future appointments should be made only of Indians, I am sure the Government will concede that the present percentage is very low indeed and constitutes a very serious injustice.

Take the case of the offices of the other High Commissioners. The other High Commissioners have certainly not as large establishments, but I can

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inform the House as a result of personal inquiries that the offices of the other High Commissioners have imported from their respective self-governing Colonies or Dominions the majority of their men in the higher positions. It is only men in lower employ, menials and others, who are engaged locally and there is no reason why we should not do the same in our High Commissioner's office.

There are five senior appointments in connection with the High Commissioner's office. There is that of the Secretary, the Assistant Secretary, the Chief Accounting Officer, the Director General of Stores and the Deputy Director General of Stores. Of these five, only one office, namely, that of Secretary, was at one time, I believe, for a period of three years, held by an Indian, an Indian of great promise—I mean Mr. J. W. Bhore,—who discharged his duties remarkably well and to the satisfaction of all concerned. I regard it as a very fortunate circumstance that India should have had till now three eminent men filling the post of High Commissioner for India. The first of them was the late lamented Sir William Meyer. Sir William Meyer was a very distinguished member of the Civil Service. He fought the battles of India as best he could. I will plead guilty to having in this House once very strongly attacked him for neglecting the interests of the tax-payer in this country and for having given away orders to British manufacturers at much higher rates when he was able to get the same orders placed on the Continent at considerably lower figures.

THE HONOURABLE MR. D. T. CHADWICK: May I ask what that has to do with the Indianization of the staff?

THE HONOURABLE MR. PHIROZE C. SETHNA: Sir, I am referring to the fact that Sir William Meyer rendered great service to India. I am explaining my position that I did say certain things and I know I was pulled up by the Member for Commerce, the Honourable Sir Charles Innes, but I have this consolation that Sir William Meyer sent me word that the Resolution moved in this House strengthened his hands in fighting against vested interests in the City and he would welcome similar proposals in this House or in the other place. That, Sir, is the reason of my mentioning the name of the late Sir William Meyer and with great deference to him for all that he did for India. The next incumbent of the office was Sir Dadiba Dalal, who was most painstaking and rendered equally efficient services to India, and it is a matter of great regret to this country that he deemed it necessary to resign his appointment, for reasons with which we are not yet acquainted but which I hope will some day be made public. To-day we are represented by another Indian gentleman, who is an official, but, although Sir Atul Chatterjee is an official, it is a matter of gratification to find that he is discharging his duties in a manner which is proving equally satisfactory.

If suitable Indians can be found to fill the most responsible positions in this country, there is no reason why equally suitable Indians should not be found to fill the higher positions that I have enumerated, and I have said that so far only one Indian has filled the office of Secretary for some little time, and I would certainly suggest that more Indians be put in these higher

positions. Whilst I am on the subject of these higher positions in the office and establishment of the High Commissioner, I should like to refer to what I understand is a difference that has arisen in regard to the interpretation of the rules. This House is aware that some years ago, when there were differences between employers and employed and it was not easy to settle these differences, the Home Government appointed a committee to suggest ways and means whereby such differences could be settled. That Committee was called the Whitley Committee, because it was presided over by Mr. Whitley, the present Speaker of the House of Commons. The recommendation of that Committee was that every large establishment of Government should have a departmental committee and that differences may be settled by such departmental committees, and, if unsuccessful, that they may then be referred to a national committee. Such departmental committees and the national committee bear the Chairman's name, the first is known as the Whitley Departmental Committee and the other as the Whitley National Committee. I understand that the members who were transferred from the Secretary of State's to the High Commissioner's office now claim that they alone had the right to these higher appointments which I have enumerated, with perhaps the exception of the Chief Accounting Officer and the Secretary. I further understand that this question was referred to the Whitley Departmental Committee on which there are representatives both of officers and of the men, and because they could not come to an understanding, it was referred to the Whitley National Committee. The Whitley National Committee very rightly replied that the High Commissioner's office cannot be regarded as a Department under the Home Government, and that as it was purely a Department under the Government of India, this question could consequently not be decided by them. All I should like to know from the Honourable Mr. Chadwick is if any concession has been made to the men in the manner they desire, or if the High Commissioner will continue to have the right to appoint anybody he pleases, Indian or non-Indian, to fill the offices that I have enumerated.

Sir, besides the senior appointments, the service is divided into five different grades. The first is called Administrative, the second and third Higher and Lower Executive, and the fourth and fifth Higher and Lower Clerical. As I have informed the House, out of the 23 Indians, the great majority fill the minor posts in these grades, and it is time now that Government should lay down a rule that from now onwards any future vacancy will be filled, as far as possible, by suitable Indians, whether they are employed permanently in London or whether they are transferred from this place to London for a period of three years. I personally would prefer the latter course in regard to the higher appointments. It will give the men here a chance of knowing the work there and it would also give a chance in London to people having anything to do with India to know our requirements first hand from men who have worked in this country. I think I have been able to show that in the appointments that are made in the High Commissioner's office, Indian interests have been ignored, sadly ignored, and I hope, therefore, that in future Indians will be appointed in far larger numbers, not only in the minor but also in the more important positions. I conclude with the hope that the Government will regard my Resolution as reasonable, fair and equitable.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I intervene in this debate at this early stage as I think it might assist the House and clarify some of the issues. I was glad to hear from my Honourable friend Mr. Sethna—in fact, I expected it from him—that in moving his Resolution he had no idea whatever of throwing over the men who had come over from the India Office when the High Commissioner's office was started. He is not proposing, I gather from him, that this Resolution should be carried into effect at the expense of the men who have already served India in this office or its predecessor for a number of years, it may be for a longer or shorter period. Many of these just joined and served India in the India Office, when they thought that they were engaged entirely by the Secretary of State for India on similar terms as others employed at home, namely, in the English Civil Service. It is not unnatural, when you take over a large body of men from one office to another, that they should make inquiries regarding what their future is likely to be. I will return to that later, but I am certain that the House will be pleased to see that the Mover had no idea of dispossessing or turning these men into the street. If he had any such idea, I am perfectly certain that this Council would not endorse it.

Now, Sir, we have been charged with sacrificing Indian interests. This is the proposition which the Honourable Member definitely put forward. He said that the Government of India should lay down rules that all future appointments in the High Commissioner's office should be filled by Indians. That was the proposition he put before the Council. That is how he described the meaning of his wording "Indianization". I was somewhat puzzled, at first, I must say, in endeavouring to understand what he meant by that word. Now I know and this House knows what he meant by that expression. He has definitely stated to the House that every new appointment in the High Commissioner's Office should be given to an Indian, I expect, excluding messengers and *chaprasis*. He laid a great deal of stress upon the percentage figures. He said that 120 new posts had been created and altogether there were only 23 Indians out of a total staff of 300 odd. That, he said, was a scandalously low proportion. I have ascertained from some of the other High Commissioners their figures. First of all, I must point out about these 120 new appointments, that they were new appointments only in the sense that they for the first time came on the High Commissioner's establishment. They were really to a large extent the transfers as a result of extra work taken over by the High Commissioner in connection with accounts, income-tax and in connection with the conversion of the East Indian and Great Indian Peninsula Railways into State Railways and the closing down of the offices of those companies. It cannot be suggested that the whole of the staff which was employed in those offices and which was accustomed to railway work should be at once dismissed and their places filled by Indians. It was necessary for continuity of work to take over men who had been at the work, and that is how the increase in appointments came about. They are due to the taking over of this additional work.

THE HONOURABLE MR. PHIROZE C. SETHNA: Are they not permanently appointed?

THE HONOURABLE MR. D. T. CHADWICK: No, Sir. They were taken over on exactly the same terms as those on which they were engaged when the transfer took place, but the majority of them are temporary. In the High Commissioner's office, a large number of men are on temporary scales. Many of course are also on permanent scales.

The next point the Honourable Member made was that the existing proportion of Indians was scandalously low. He said he knew it from personal inquiries he made in the High Commissioner's Office. Before I come to that, let me first of all give the figures. Mr. Chatterjee gives his staff, a few weeks ago, excluding messengers, as 368, of which 30 are Indians, that is to say, 8 or 9 per cent. I also asked the High Commissioner to address the other High Commissioners and to inquire how their offices were staffed. I am authorised by the High Commissioners of the other offices—I naturally asked for such permission—to make public these facts. Those offices, the Council will understand, have been in existence for the best part of 20 years. Australia, there are 18 Australians out of a total of 196—10 per cent. South Africa, 14 are born in South Africa out of a total of 128—11 per cent. Several others have temporarily visited South Africa. New Zealand, 16 born in New Zealand out of a total staff of 119—13 per cent. 10 others have visited New Zealand at some time or other. Ireland, which is only one day's journey and not 6,000 miles away, the senior men are from Ireland but the whole of the clerical staff are from London. Therefore, the analogy collapses completely. The basis, the foundation stone upon which he has erected his edifice has been pulled out.....

THE HONOURABLE MR. PHIROZE C. SETHNA: Do not be so sure.

THE HONOURABLE MR. D. T. CHADWICK: Now, Sir, I come to the total cost. If the Honourable Member wants the budget figures I will get them for him. But that is not the point at issue. The point at issue is only one of staff and the rates at which they are paid. I have not added the *chaprasis* and staff of that kind. The number that I have given is 368. That is a large figure. 210 of that 368 are on grades of pay of which the maximum does not exceed £250 a year, that is, Rs. 277 a month. Another 128 are on grades of pay whose maximum is Rs. 444 a month. That comes to 338 out of 368. Now, Sir, those are mostly lower grade or what we would call routine clerks. I have given you an idea of the maximum to which they can rise. They rise to that maximum after 15 years or in some cases 20 years' service. It may be a matter of remark why there should be such a large number in the clerical grade. As a matter of fact, there is an enormous amount of routine work to be done in the High Commissioner's office. His office work consists mostly of agency work, accounts, leave, pay, pension, income-tax, and stores. A vast amount of the work that is discharged in that office is not the higher administrative work or the higher executive work which we have in offices in India, but work which has to be done by routine clerks. Take the clerical grades. They start on the equivalent of Rs. 66 a month. We are not going to get men to go from India to London to do that kind of work on anything like that figure. In fact, the truth of the matter is that with education so much more widely diffused in England than it is in India, the pay of men of equal

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educational qualifications is on the whole lower in England than in India. I do not say that invariably but it happens so in many or in most of the grades. And that is definitely so, naturally so and inevitably so when certain technical qualifications are also required as is the case with many of the posts attached to the Stores Branch. Take for a minute the shorthand typists. I do not think that my Honourable friend will say that the shorthand typists you can get in London are inferior, incompetent or careless. They are extremely good. The pay that a shorthand typist can rise to in the High Commissioner's office is equivalent to Rs. 152 a month. In my own Department here, in the Commerce Department, the stenographers start on Rs. 175 a month. Is it more businesslike to engage men locally or to send them over from here where they can get a starting pay higher than the maximum pay in the High Commissioner's office? From the point of view of business, from the point of view of the interests of India, which is the more preferable course? My Honourable friend says that every single appointment that falls vacant in future should be given to an Indian so that every post in that office is held by Indians. My Honourable friend is the head in India of one of the finest insurance companies in the world and all honour and respect to him for it, for he well deserves the position. The headquarters of that office is not in India. Would it be business economy and would it be in the best interests and increase the popularity of his office in Bombay if he imported Canadians for every single appointment from typist upward in his Bombay office? It is not practical politics. I have not endeavoured to work out the cost of his proposals.

I now come to the 30 odd posts which carry more than Rs. 555 a month. Only 6 of those reach Rs. 1,100 a month. Many of them are naturally senior controlling posts held by those who came over from the India Office who have already 10, 15 and 20 years' service to their credit. The period of service in England in the Home Civil Service is, I think, not certainly 25 years, but is I think 35 or 30. My Honourable friend says that those men are not to be disappointed. He inquired whether a guarantee had been given to those men who had come over from the India Office that every senior post as it fell vacant would be given to them. None. Sir William Meyer in the discussion with the staff in the Whitley Committee made it perfectly clear that he reserved to himself the discretion and the right to bring in any man from outside whenever he found it suitable or desirable. He did that definitely and he has left it on record. There are only 30 appointments on and above Rs. 555 a month out of 368, and naturally most of the vacancies must be in the lower grades. You cannot help it, but the point I wish to make is that there is an Indian to be found in every grade and not only in the lowest grades. As vacancies occur in the higher grades they are brought in as and when they come. Therefore, I say that my Honourable friend has no justification for the remarks he has made that the state of things is scandalous. We leave the question of appointments to the High Commissioner. He has no justification for saying that our High Commissioners have neglected the interests of India or denied opportunities to Indians.

Now, Sir, I would like to show the practical effect and the bearing of it if this Resolution were accepted. I have shown that Sir William Meyer used to

leave openings specially for Indians in his time, and that has been the policy of successive High Commissioners. Of these appointments, there are six posts the salaries of which would rise above Rs. 1,111 a month. Three of the incumbents of these posts just reach that figure. Of the 3 above it, two posts have been perpetually filled by men with Indian experience. I do not say that these posts were filled necessarily by Indians, but I say they were filled by men with Indian experience. In fact at one time all three posts were filled by men with Indian experience. They were Mr. Bhore, Mr. Ryan, and myself as Indian Trade Commissioners, all men senior in service who were lent and have since returned to India. Well, Sir, if you have got an establishment numbering 368, in which only 3 posts carry a salary of over Rs. 1,111 a month, and two of those posts are permanently filled by men from India, and at one time all three of them were so filled by men with Indian experience, I do not think that it can be urged that the permanent staff that has been taken over has been unduly favoured for the higher posts. Now, Sir, many Indians when joining the office do not remain very long, although they are given an extra £50 a year. Sir Atul Chatterjee during the last 12 months has recruited 12 Indians, of whom three have since resigned. Yet continuity of service in the office is necessary. Employment in the office cannot be used merely as a means of allowing Indians temporarily resident in England to supplement their resources. I will give the principle which Sir Atul Chatterjee follows. It is a principle, which, I think, this House will endorse. We wish to get in Indians in that office and have the office closely linked with India, but I cannot agree that it is to the interests of India either financially or for their reputation in London to endeavour to convert the High Commissioner's Office into an Indian colony in London, to make a strictly closed enclave in the metropolis of the Empire. Sir Atul Chatterjee's principle is this "Indian candidates considered to be qualified and suitable are appointed, whenever possible, to vacancies on the establishment" and he endeavours to get Indians whenever he can. That I think, Sir, is the right principle. And I go further. My Honourable friend has rightly and very truly said that every High Commissioner has had the interests of India at heart. I was glad to hear the reference that was made to Sir William Meyer, because he was once my own personal chief, and I hold no man in higher regard or in greater respect. The Honourable Mover says that the successive High Commissioners for India have had the interests of India at heart, Sir William Meyer, Sir Merwanji Dadiba Dalal and Sir Atul Chatterjee, and we expect that the future High Commissioners who will hold office will be animated by a similar spirit.

Sir, this matter of recruitment to their office is entirely in their own hands. We do not want to make any definite rules for an office which is 6,000 miles away. And, Sir, I suggest to this House that, having cleared away, I trust, some of the misapprehensions that may have existed in the minds of some Honourable Members, they will be content to leave the High Commissioner to work upon a principle which he has already followed and which he will be able to follow and carry out more fully as time goes on.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, when I first read this Resolution, I confess I was in a predicament, and could not understand the exact aim of my Honourable friend
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[Sir Maneckji Dadabhoy.]

Mr. Sethna. I was in the same difficulty which the Honourable the Commerce Secretary has pointed out. But my Honourable friend Mr. Sethna in the course of his speech made it very clear that all he intended was, to use his own words, "as much and as quickly as possible to Indianize the High Commissioner's Department". Those words relieved me a good deal. My Honourable friend Mr. Chadwick has also fully traced the history of the High Commissioner's establishment and has given us valuable information regarding the total number of employees, the character and nature of their service, how many of them fall under the category of the higher staff and how many fall into the ranks of clerks and others. Sir, the idea of Indianization is dear to every Indian, and I am sure there is not a single Indian either in this House or in the other House who would have anything to say against his own countrymen being advantageously and more extensively employed in the service of the State. I have as such entire sympathy with my Honourable friend Mr. Sethna. But I also see various difficulties in our way, one or two aspects of which have not been referred to by the Honourable Mr. Chadwick. The Honourable the Commerce Secretary has rightly pointed out that so far as the menial establishment is concerned, it would not be in the interests of India financially to send a large number of Indians to work in the Department of the High Commissioner in England when men of equal qualifications or probably of superior qualifications and ability can be found on a much lower salary.....

THE HONOURABLE MR. K. C. ROY (Bengal : Nominated Non-Official) : I do not think Mr. Chadwick said that.

THE HONOURABLE THE PRESIDENT : The Honourable Member will have his opportunity to explain it.

THE HONOURABLE SIR MANECKJI DADABHOY : Much as I would like to see the Indianization of the High Commissioner's office, I do feel that, if I supported the Resolution as it stands, I would be involving India in a financial burden which no Member of this House will be justified in doing. Probably my Honourable friend Mr. Sethna was not fully conversant with the total constitution of the 365 men who are employed in the office of the High Commissioner. It has been rightly pointed out that out of these 365 persons, a number of them had to be taken over from the Secretary of State's service when certain departments were transferred and brought within the cognisance of the High Commissioner. I am therefore perfectly clear in my mind that, so far as the lower establishments are concerned, we could not profitably interfere in the matter. If we sent out Indians from this country, we will have to pay their passages, we will have to give them furlough and even casual leave to come back to their country again after certain periods of service. They cannot be expected to stay indefinitely there. I fully realise, therefore, what will be the cost to the country of these men whose travelling allowances, furlough and other allowances will have to be paid. My friend, the Honourable Mr. Chadwick has told this Council that there are 30 people employed on the staff, but he has not told this Council that these 30 people get extra allowances and a bigger rate of pay than the men locally employed.

THE HONOURABLE MR. D. T. CHADWICK : What allowances ?

THE HONOURABLE SIR MANECKJI DADABHOY : You give an increased pay to Indians who are employed there. I understand they receive some kind of additional overseas allowance.

THE HONOURABLE MR. PHIROZE C. SETHNA : Only £50 overseas allowance. All Indians get that.

THE HONOURABLE MR. D. T. CHADWICK : They do get a little extra ; allowances somewhere about the neighbourhood of £50.

THE HONOURABLE SIR MANECKJI DADABHOY : So this will also commit the country to a sort of extra expenditure. There is another aspect of the case, so far as the higher appointments are concerned ; it must be clearly understood that the High Commissioner's Department has to deal with many technical matters in which special knowledge and training are absolutely necessary. You are not going to send people from this country to go through their apprenticeship in the High Commissioner's Department before they are qualified to manage those departments and do the work. There is technical knowledge required, and as such it is not possible that the men drafted from this country will be in a position to turn out the same quality of work and be as useful as the men you could get from that country. Therefore, both on the grounds of efficiency and economy, the Resolution as it is drafted does not commend itself to me. All the same, my friend Mr. Chadwick has rightly pointed out that the three High Commissioners so far have done their very best in the matter and have preferentially employed Indians in these departments as far as practicable. That is perfectly commendable. But there is no guarantee that in future this policy will be consistently followed. Fortunately the two last High Commissioners have been Indians. There is no rule definitely stating that only Indians are to be appointed to that exalted office. It is quite conceivable that the successor to the present gentleman might be a European. It is quite possible that, though the Government of India now feel and are anxious that higher posts should, as far as possible, be filled up by Indians, this policy might be overlooked some time or other and it is therefore advisable that some sort of expression of opinion of this Council should remain on record with regard to the Indianization of the High Commissioner's establishment so far as the higher appointments are concerned, provided they are compatible with economy and efficiency. It is for this reason I think if I move a small amendment to the proposition of my Honourable friend, Mr. Sethna, I trust it will be acceptable both to the Honourable Mover and to Government whose policy Mr. Chadwick has so fully and carefully described. My amendment will be consistent with the policy of the Government as enunciated by Mr. Chadwick to-day I therefore move, Sir, the following amendment :—

"That after the word 'taken' in the first line the following words be inserted :
'as far as compatible with economy and efficiency' ;

and in the second line, for the word 'staff' the words 'higher staff' be substituted."

The Resolution will thus read :—

"This Council recommends to the Governor General in Council that steps be taken, as far as is compatible with economy and efficiency, to Indianize the higher staff and establishment of the High Commissioner for India in the United Kingdom."

I trust my amendment will commend itself to the Council.

THE HONOURABLE MR. K. C. ROY (Bengal: Nominated Non-Official): Sir, I am sorry I cannot give a silent vote on this motion. I was one of the witnesses before the Crewe Commission and I think, Sir, that, representing the Moderate Deputation, I was the first man to propose the creation of the office of High Commissioner. And in this connection I should like to tell the House that the Honourable Mr. Chadwick who sits there on the Treasury Bench was the forerunner of the High Commissioner as he was the Trade Commissioner before him in Old Bond Street. Mr. Chadwick and I had conversations about the High Commissionership long before it took shape and I always found in him a warm supporter of the idea. When the question of the High Commissionership was before the Crewe Committee, we were put to a searching cross-examination by Sir James Brunyate; the details were discussed, the question of establishment was discussed, and we had to concede, in London—, Mr. Samarth and I,—that the Indianization of the High Commissionership would be one of slow growth. The High Commissionership, as this House is aware, was established in October 1920. In the beginning the opportunities were very few and the Indian candidates were also very few. In recent years, however, I know from personal experience that Sir Dadiba Dalal did his best to attract Indian recruits. So did Sir Atul Chatterjee. As Mr. Chadwick has told the House, from October last year Sir Atul Chatterjee took no less than 12 Indians in his office, of whom I believe 9 are working and 3 have left. Perhaps the House would like to know the scale of wages there. For a beginner the wage is £2 10s. a week with £50 at the end of the year as a prospective bonus. This is not a tempting salary for Indians who live in London.

Then, Sir, reference has been made by my friend Mr. Sethna to the practice of other Dominion offices. In my short experience I have seen many Dominion offices, and I know one or two very distinguished High Commissioners, and the figures which Mr. Chadwick gave I knew already unofficially, and at least I know that in one High Commissioner's office there is not a single national of his own serving in that office. The Dominion High Commissioners make it a strong point of filling all responsible offices that are charged with direction and control by their own nationals and with experts possessing local knowledge. And the same should be our effort. But at the present moment our High Commissioner's office compares very favourably with other Dominion offices. We have an Indian High Commissioner, an Indian Secretary for the Students Department; the Secretary to the High Commissioner is a distinguished public servant in India, but I cannot, I am sorry, say the same thing of the Chief Accountant as well as the head of the Stores Department.

I therefore, Sir, support the Honourable Sir Maneckji Dadabhoy's amendment.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, when I read the Resolution of my Honourable friend this morning, I too felt a sort of hesitation in making up my mind to vote for it; not because I was oppressed by any doubts such as those which the Honourable Mr. Chadwick and my Honourable friend, Sir Maneckji Dadabhoy entertained. I was not oppressed by the fact that a large number of Englishmen would have to be replaced by Indians because I consider that, as the High Commissioner's staff is paid entirely out of Indian revenues, as many Indians as possible ought to replace Englishmen in that office.

But I had this feeling in my mind about the High Commissioner for India.

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According to section 35 of the Government of India Act and the Order in Council promulgated by His Majesty in pursuance of the provisions of that section, he is merely an agent of the Government of India, and really a Department of the Secretary of State for India's office, and he speaks only on behalf of the Government of India and the Secretary of State and not on behalf of Indians as other High Commissioners and Ambassadors do in England, and his policy is largely guided by the dictates of the Secretary of State and the Government of India. Under such circumstances I felt a hesitation in advocating the Indianization of the staff, which would necessarily involve a higher expenditure. Reading the Lee Commission's Report, I found that they had given a sort of overseas compensation to Indians. When they recommended higher salaries to European civil servants, they said that if Indians are employed out of India, they would also get concessions by way of compensation. If my countrymen are to be employed in the High Commissioner's office, that would necessarily involve India in higher expenditure, and I doubted whether it was desirable to involve India in this higher expenditure if the advantages that would accrue to India were few. But, Sir, I found on a closer scrutiny of the functions of the High Commissioner and the way in which he discharged them in the past that it would certainly be an advantage to India to have an Indian staff in his office though it may involve a higher expenditure to the Indian Exchequer. I do not know how far the High Commissioner has protected the interests of India in the past, but of late, I have been reading the statements published for the use of Honourable Members of this House and the other House in the official reports of the Legislative Assembly, and these tables are arranged under three heads. Part A—cases in which lower foreign tenders, including British tenders, for foreign made goods have been set aside wholly or partially in favour of British tenders; Part B—cases in which discrimination is between British firms only, and Part C—cases in which discrimination is between foreign firms only. Having read very carefully the first head, namely, cases in which lower foreign tenders, including British tenders, for foreign made goods, have been set aside wholly or partially in favour of British tenders, I found in the last column the reasons for acceptance of higher tenders from British firms in preference to lower tenders from foreign firms. Certain reasons are given in each case. The reasons, Sir, if scrutinised, are to my mind very unsatisfactory. Some of them are that the delivery would be delayed, the quality of the articles is not so good and so on. I thought that most of these office notes would be put up by the higher staff of the High Commissioner's office and by the subordinates, who would try to find some fault with foreign tenders if those tenders affect British interests. Therefore, I thought that if Indians were there in large numbers, they would see to the interests of India in a larger measure and not try to put forward such frivolous objections, as I find some of them to be, against foreign goods in preference to British goods. So, the net advantage to India by having an Indian staff would be a large gain in the purchase of stores and other articles, which the High Commissioner has got to purchase very frequently. An Indian atmosphere in the High Commissioner's office is itself a great advantage. You know, Sir, that in India we have been advocating that the Secretaries to the Government must be

[Mr. V. Ramadas Panitulu.]

Indians, as far as possible, with a view to the fact that they would be able to influence the policy of the members and the Departments to whom they are attached. It will also serve an equally advantageous purpose if Indians in the higher grades and the lower grades staff the Indian High Commissioner's office. His policy will be largely influenced by Indian advice and an Indian atmosphere and Indian interests. That is the main reason why I want to support this Resolution.

With regard to finding Indians in England, I do not think that you need import every Indian from India to England. On the other hand, there is a large number of Indians in England from various provinces, particularly from Bengal and also Bombay, and a few from each of the other provinces, either as students or as persons who are in minor employments. They will be willing to serve in the High Commissioner's office if opportunities are afforded. An increasing number of Indians are going to England, and there is a large question of unemployment in India for Indians who return to India. I go further. Very brilliant graduates who return from England are unable to get the small salary of which my Honourable friend Mr. Chadwick spoke rather sneeringly. Rs. 150 or 155 is not to be obtained by many a graduate in India, and there are several such people in England who would be content to serve their motherland on such a salary instead of returning to India and joining the band of unemployed here. Therefore, seeing that the total expenditure of the High Commissioner's office is met from the Indian Exchequer, and having regard to the fact that there are many Indians who will be found willing to serve in England itself, I think it will not be disadvantageous to India to Indianize the High Commissioner's staff. Even if it involves a higher expenditure that would be more than compensated by the fact that the atmosphere of the High Commissioner's office would be Indianized and the advice to the High Commissioner will be Indian, and that will serve to protect the interests of India. Therefore, instead of leaving the Resolution as it is, I propose a further amendment:—

"To add at the end of the Resolution, the words; 'as much and as quickly as possible'."

The Resolution will then read:—

"This Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom as much and as quickly as possible."

I move, Sir, that these words may be added at the end of the Resolution as an amendment.

THE HONOURABLE THE PRESIDENT: I think, in order to enable the debate to proceed on proper lines and to dispose of these amendments one way or the other, it would be advisable for the Honourable Mover and the Honourable Member in charge of the Resolution on behalf of the Government to indicate to the Council the views they have on the first amendment of Sir Maneckji Dadabhoy so that I may put that amendment. I presume they want to speak on it.

THE HONOURABLE MR. PHIROZE C. SETHNA: Sir, I am not inclined to favour Sir Maneckji Dadabhoy's amendment. He proposes the addition of the words "as far as is compatible with economy and efficiency." As

regards economy, the Honourable Mr. Chadwick has explained that an Indian employee of the High Commissioner's office is entitled to the same salary and emoluments as the English clerks. The only difference is £50 overseas allowance. Assuming for argument's sake that all the 120 employed by the High Commissioner after the opening of his office were Indians, it would cost 50 times 120, or £3,000, which I do not consider as very large. The second reason is on account of efficiency. I hold, Sir, that the work in the High Commissioner's office, with the exception of the five higher appointments that I have enumerated, is not of a kind which requires any special training. I go further and say that many Indians will be found in the different parts of Government service in this country who will be able to discharge the work required of them, if transferred to England, as well and better. Then, Sir, with regard to my Honourable friend, Mr. Ramadas's proposal I am perfectly willing to accept his amendment. I hope however I shall have the right of reply.

THE HONOURABLE THE PRESIDENT: Certainly.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I gather there is a difference of opinion about my Honourable friend, Sir Maneckji Dadabhoy's amendment. My Honourable friend Mr. Sethna says that there is no technical work, no special work in the High Commissioner's office except in the first five highest appointments. I do not know what he will call the Inspectors of Stores, what he will say of a Surveyor of Shipments, the Examiner of Medical Stores, or the Inspector of Motor Transport. Special technical qualifications are required in many of those appointments. Where you require technical qualifications it is well to remember that facilities for education in England are so much superior and that many men are available and consequently not only is there a larger field of selection but salaries are lower. My Honourable friend says that if the whole 120 men had been appointed from India it would only cost another £6,000. I must point out that those 120 were not men in the senior grades. There are only 30 of the whole 368 in the senior grades and a majority of the 120 were lower paid posts of which I have already spoken.

I am afraid I did not give Sir Maneckji Dadabhoy a complete answer to the point that he raised. It is perfectly true that Indians who are domiciled in England are paid £50 more because they are Indians. If Indians were sent from the Services in India—it has not been done to any extent, there is only the case of Mr. Bhore who was on a fixed salary as I was as Trade Commissioner—if men were sent out from the Indian Services, then the principle of extra allowances to which my Honourable friend Sir Maneckji Dadabhoy referred would apply and would be considerably higher than £50 a year. That £50 is a differentiation in favour of Indians against their English brethren both of whom are resident in London. The allowance will be higher for sending men from India. I am perfectly prepared and I ought to make it perfectly clear, that we wish to get an Indian complexion in this office, that the presence of Indians is desired. That is the policy of Government and I agree with much of what my Honourable friends Sir Maneckji Dadabhoy and Mr. K. C. Roy said. But we must not do damage to or hurt those men who are already there. With that reservation I am prepared to accept the amendment of my Honourable friend Sir Maneckji Dadabhoy.

THE HONOURABLE THE PRESIDENT: The House will observe that it will not be able to accept both the amendments which have been moved to this Resolution. Had I known that the Honourable Mr. Ramadas desired to move an amendment which was not entirely compatible with the Honourable Sir Maneckji Dadabhoy's amendment, I should not have called him at that stage, and I think I might take this opportunity of asking Honourable Members to let me know early in their speech if they propose to put forward an amendment, because in that case had the Honourable Mr. Ramadas taken that course I should have stopped him and asked him first of all to let the Council arrive at a decision on the first amendment moved to the Resolution. Honourable Members will observe that at this stage they must confine themselves to the Honourable Sir Maneckji Dadabhoy's amendment.

THE HONOURABLE MR. MANMOHANDAS RAMJI (Bombay : Non-Muhammadan): I rise to support the Resolution as moved by the Honourable Mr. Sethna. The Honourable Sir Maneckji Dadabhoy said that if Indians were employed wholly or in large numbers in the High Commissioner's office it would swell the cost to this country, which it could not bear. May I ask him what is the principle in private peoples' concerns, in commercial offices and others? What do we find in Bombay? All the Japanese offices are principally manned by their own people. All the Greek offices have invariably Greeks to look after their affairs. It is not a question of cost. It is a question of getting people in whose interests the Department is run to look after that department whenever it is required of them. If the question of cost, the question of quality and of technical knowledge were trotted out, we do not know when there would be a chance for any man to be qualified to serve in a particular position. That is the argument put forward by the Honourable Mover of the Resolution, and that is the object with which motions are brought forward in both Chambers. We want Indians to look after their own affairs. We want Indians to have an opportunity of looking after their own affairs, and we want Government to create and give those opportunities. With these few words I support the Resolution.

THE HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras : Non-Muhammadan): I submit that even with regard to the question of cost and of efficiency there can be no two opinions. I think there will be young men forthcoming who will be willing even to forego voyage allowances and serve in England for the very same pay that is offered there. (*An Honourable Member:* "Will you give a guarantee?"). I think even on the question of efficiency a competitive examination like the I. C. S. may be held and young men selected without showing any preference. On these two points I do not think that there is any ground for supporting my Honourable friend, Sir Maneckji Dadabhoy's amendment. Sir, the House is grateful to my Honourable friend Mr. Sethna for bringing forward very valuable Resolutions and motions before this House and I daresay that this is one of them. I should like to associate myself with this Resolution, and I heartily support it.

THE HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-Official): I am afraid we are all groping in the dark while we want more light. A variety of suggestions is made for the Indianization of the office of the High Commissioner for India in London. Now, Sir, the Government of

India have very loyally accepted the principle of Indianization. The Indianization of the Services is going on slowly but steadily, and I think if you go on slowly but steadily and patiently all my Indian friends will be undoubtedly convinced that the Government are loyally carrying into effect their cherished aspirations. That being the case, what I want to impress upon my colleagues here in this House is this. Government have so far loyally accepted their wishes that they have now appointed, at least they have appointed for a second time, an Indian gentleman to be their High Commissioner. That Commissioner, or at least those Commissioners, have been in the confidence of Government. Their selection has been approved of by the Indian community at large, and they are gratified that Indians are now put at the head of that responsible office. This being the case, the question is, why not invite a comprehensive report from the High Commissioner himself, what he thinks of these two suggestions from his own practical experience. Can he not make a report and say, "The Indianisation of my Department should proceed on such and such a line—these will be the higher appointments reserved for Indians—and as regards the subordinate appointments they may be given to those younger men in England who can do the work better, and that on a smaller salary and with greater efficiency". If we get a full and fair report from the High Commissioner as to what he wants of his office are, and how far Indianization can still be effected in the superior staff of his office, I think we shall be in a better position later on to give our opinion on the subject. At present, of course, a variety of suggestions have been made, but those suggestions throw no additional light whatever than already discernible. So far, I do not think we can proceed further with complete satisfaction. Therefore, I think it is better to have more light. By the aid of that light which can only be furnished by the High Commissioner in England, in whom we have every confidence, we shall be able to determine once for all the broad and sound lines on which Indianisation can be effected. Let Sir Atul Chatterjee make a report, and let it be placed before this House, so that we may carefully consider and arrive at a just decision on it. That is the right and proper way, I submit, to proceed. I consider that by adopting the present method we are merely frittering our time, and shall be hardly achieving the good object we have in view.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay : Non-Muhammadan): Sir, I rise to support the Resolution.

THE HONOURABLE THE PRESIDENT: I would ask the Honourable Member to confine himself for the moment to the amendment moved by the Honourable Sir Maneckji Dadabhoy.

THE HONOURABLE MR. R. P. KARANDIKAR: Very well, Sir. I oppose the amendment of my Honourable friend Sir Maneckji Dadabhoy. In doing that, I would refer to the information which was supplied to this House by the Honourable Mr. Corbett in answer to question No. 346 put by the Right Honourable Srinivasa Sastri. He asked:

"Will Government kindly furnish a statement, with reference to the office of the High Commissioner for India and the departments under him, showing the number of European and the number of Indian officials drawing salaries:—

(i) of £500 a year and above;

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[Mr. R. P. Karandilkar.]

- (ii) of £250 a year and above, but below £500; and
(iii) of £100 a year and above, but below £250.

In answer to this part of the question, we have been supplied with this statement.

	No. of officials drawing £500 and above.	No. of officials drawing £250 a year and above but below £500.	No. of officials drawing £100 a year and above but below £250.
Europeans	31	76	204
Indians	1	4	9
Total	32	80	213

Now the second part of the question was :

"Are there any rules or instructions for the guidance of the High Commissioner in filling up vacancies in the establishments under him, such, for instance, as that he should advertise them in India as well as in England or that he should apply to the appropriate departments in India for the loan or transfer of suitable officers before recruiting in England"? To this the one simple answer given was "No".

The last part of the question was :

"If not, will Government make such rules or issue such instructions as will bring about the progressive Indianization of the establishments."

The answer to this was :

"I think the Right Honourable Member is sufficiently familiar with the conditions in England to realize that the High Commissioner's establishment could not at present be Indianized without greatly increasing the cost of the office. Suitable Indians would not ordinarily be willing to accept appointments in England on the pay which is sufficient for Europeans. There are, however, a certain number of Indians already in England who are content with European rates of pay, and it is understood that it is the practice of the High Commissioner to appoint such Indians to fill vacancies in his office when possible."

The date of this answer is 3rd September 1924. But the statistics supplied in the first part of the answer referred to 1st October 1923. It is obvious that there must have been some additions and alterations in the statistics which were supplied on 3rd September 1924. And it would have been a matter of great delight if we had been supplied with further information in addition to what was conveyed by the answer which I have just read to the House. Undoubtedly, I quite agree that it would not pay India to send her young people from here on such a poor salary which begins on Rs. 66 a month. As I have read the statement, however, it does not strike me that the pay would rest there, because we have got appointments here which are preferable. As was emphasised by one of the speakers, there were students there and there are still students in England, who would be quite content with having some modicum of income in addition to what they are getting from their homes in India.....

The HONOURABLE SIR MANECKJI DADABHOY: But these are all whole-time appointments.

The HONOURABLE MR. R. P. KARANDIKAR: I agree with what has fallen from the Honourable Parsi Knight. I agree with him, but it is just the question that these students along with other people can get instruction at any time of the day or night in Great Britain, and so they would be quite content to work whole time if it is necessary to work in the India Office and elsewhere, because they would be able to gather that sort of education which will fit them to benefit their mother country when they return to this country. I was in England, and I know the conditions in India. I therefore agree to the Resolution as proposed, and I oppose the amendment.

I do not think that the Honourable Mr. Sethna ever contemplated for a moment that he should throw an extra burden on the Indian revenues. As far as is compatible with economy and efficiency, that is the principle on which all posts are to be filled. I never for a moment contemplate that the Honourable Mr. Sethna would ever agree to any proposition to burden India out of proportion. My Honourable friend Mr. Ramji has been perfectly accurate. I have always been complaining of the foreigners in India, not because they are foreigners, but because when they leave India, they deprive India of their stock of knowledge which they have gathered during their service of 25 or 30 years. That is the greatest loss to India. If gentlemen of the Indian Civil Service were to make India their own home, I would be the last to complain, because they would one day be able to establish better relations between Indians and Europeans by the spread of knowledge and by acquainting Indians with the knowledge which they have acquired in the course of their service: they would be able to instruct the Indian people in the proper way, and also to tell them how to carry on agitation on proper lines. What I complain of is this, that when these officers retire, they carry with them all the experience which they have gained during their whole period of service in India. We have not got trained men here to lead us, and to tell us where the necessary information would be available. Similarly, great advantage will be gained by Indians if larger numbers are employed in the High Commissioner's office in England. It may be that they will mean an additional cost to India, but when these people return to India, they will be able to enlighten people here and tell them the realities of the situation. Our deliberations suffer for want of proper information. I am for having all the advantage for Indians. Europeans have come out here, served here, stayed here. In that view we welcome them. But when they go away from here do they enlighten their own countrymen as to the realities in India, do they ever try to correct the ignorance that prevails among the English population? They do not try to correct that at all. I would therefore not mind any additional cost which India may have to suffer in consequence of the pay they might there deserve. I have been going through the List of the India Office for the year 1925. I find that there are numerous appointments indeed. I do not know that the publishers have given the latest information. I find that there are no corrections bringing us up to date, though the List is dated 1925. Still I find there are numerous people on the establishment, and the few Indians could be counted on the tips of one's

[Mr. R. P. Karandikar.]

fingers. Now, what strikes me is that, having had that answer in September 1924, one would have liked to know what progress has been made. I know, Sir, from the remarks which fell from my friend here that on 12 occasions endeavours were made to put in Indians, of whom 3 left the service or resigned for what reason, we do not know, while 9 remained on. If that is so,....

THE HONOURABLE MR. D. T. CHADWICK: Might I explain, Sir. I think my Honourable friend missed what I said. The number of Indians in the High Commissioner's office now, as reported by Sir Atul Chatterjee, is 30.

THE HONOURABLE MR. R. P. KARANDIKAR: I gathered from the evidence that was given on this point by the Honourable Mr. Roy.

THE HONOURABLE MR. K. C. ROY: What I said was that since October last Sir Atul Chatterjee has taken 12 men, of whom 9 are working and 3 have left.

THE HONOURABLE MR. R. P. KARANDIKAR: Now, with that advance, is that the Indianization that is claimed for the idea underlying the principle of Indianizing the whole service? If a real and efficient endeavour were being made by the India Office and the High Commissioner, we should hear better reports. Therefore, there is no reason for not supporting the Resolution that has been moved by the Honourable Mr. Sethna. He puts it in a nutshell.

THE HONOURABLE THE PRESIDENT: The Honourable Member is now doing what I asked him not to do. For the moment the Resolution is not before the House.

THE HONOURABLE SIR WILLIAM CURRIE (Bengal Chamber of Commerce): Sir, I rise to support most cordially the amendment proposed by the Honourable Sir Maneckji Dadabhoy. In fact, if I had had an opportunity of speaking to him before the Council sat this morning, I should have suggested underlining the words "economy and efficiency". One of the Honourable speakers this morning made a comparison with private enterprise in Bombay, namely, the Greek Office and the Japanese Office. One cannot, I think, in fairness compare a private enterprise with a Government Department. In the one case, if a Japanese wishes to start a firm in Bombay, he starts with his own money. It is at his own risk and, if he thinks that he can maintain efficiency and economy with people of his own race, then he is perfectly entitled to do so. But with regard to a Government Department, we are the people who pay for it, and we are entitled therefore to appoint the staff of such office in such a manner that we can say it is being efficiently and economically run. I therefore have much pleasure in supporting the amendment.

THE HONOURABLE THE PRESIDENT: The original question was:

"That this Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom."

Since which an amendment has been moved:

"That after the word 'taken' the words 'as far as is compatible with economy and efficiency' be inserted, and for the word 'staff' the words 'higher staff' be substituted."

The question I have to put is that that amendment be made.

The Council divided:—

AYES—26.

Abbot, Mr. E. R.	MacWatt, Major-General Sir Charles.
Aftab Ahmad Khan, Sahibzada.	McWatters, Mr. A. C.
Aman Ali, Khan Bahadur.	Misra, Pandit S. B.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.	Mitra, Mr. K. N.
Chadwick, Mr. D. T.	Mitter, Dr. D. N.
Charanjit Singh, Sardar.	Parsons, Mr. A. A. L.
Commander-in-Chief, H. E. the.	Raza Ali, Mr.
Currie, Sir William.	Roy, Mr. K. C.
Dadabhoy, Sir Maneckji.	Sarma, Sir Narasimha.
Dutt, Mr. P. C.	Sen, Mr. B. C.
Fazl-i-Husain, Mian Sir.	Tek Chand, Diwan.
Froom, Sir Arthur.	Umar Hayat Khan, Col. Nawab Sir.
Laird-MacGregor, Mr. E. G. L.	Zahir-ud-din, Khan Bahadur Saiyid.

NOES—8.

Ayyangar, Mr. K. V. Rangaswamy.	Ramadas Pantulu, Mr. V.
Borooah, Srijit Chandradhar.	Ram Saran Das, Rai Bahadur Lala.
Ismail Khan, Haji Chowdhuri Muhammad.	Sethna, Mr. Phiroze C.
Manmohandas Ramji, Mr.	Vedamurti, Mr. S.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: That decision of the Council makes it unnecessary for me to put to the Council the amendment moved by the Honourable Mr. Ramadas Pantulu. The question before the Council now is:

"That the Resolution, as amended, be adopted, namely:—

"This Council recommends to the Governor General in Council that steps be taken, as far as is compatible with economy and efficiency, to Indianize the higher staff and establishment of the High Commissioner for India in the United Kingdom."

THE HONOURABLE MR. PHIROZE C. SETHNA: Sir, the acceptance of the amendment of my Honourable friend Sir Maneckji Dadabhoy and Government supporting it is a clear indication that the principle underlying my Resolution is worthy of consideration. I opposed Sir Maneckji Dadabhoy's amendment for the reasons I gave. As the Resolution is amended, it will give an opportunity to Government always to take shelter under the words "as far as is compatible with economy and efficiency". However, I am sure that after the discussion which has taken place to-day, the Indianization of the High Commissioner's office will proceed at a faster rate than it has done till now.

[Mr. Phiroze C. Sethna.]

The Honourable Mr. Chadwick is perfectly right when he said that I had no intention whatever of turning into the streets the 245 men whom the High Commissioner had taken over from the Secretary of State's office. But what I do complain of is that these men should still be under the authority of the Secretary of State and the High Commissioner should not have the right to remove them, to suspend them or to decide in regard to their pay, promotion, etc. I am glad of the assurance Mr. Chadwick gave towards the end of his speech, that the one point which these 245 men urged, namely, that they should take precedence over others in the matter of the higher appointments, has not been agreed to. This is satisfactory.

The Honourable Mr. Chadwick has told us that the 120 men are not permanently appointed. I wish he had told us how many were permanent and how many were temporary. He has to-day given the total strength to be 368 and of them 30 are Indians. I think I mentioned in my opening speech that I was obliged to my Honourable friend Mr. Chadwick for the information he conveyed to me about two or three months back that the full strength was 365 and that the total number of Indians was 23. It would appear, therefore, that within the last few weeks, the total number has increased by 3, but what is very gratifying to me is that the number of Indians within this short space of time has increased from 23 to 30. Perhaps this is the indirect result of the notice of motion which I gave to this House.

We shall now come to the figures in the other offices, which my Honourable friend gave. He said that after knowing those figures the foundation upon which I built my edifice would certainly collapse. I shouted at the time, "Do not be so sure", and I will give my reasons for that interruption. Mr. Chadwick has told us that in the offices of the High Commissioners of Australia, South Africa and New Zealand, there are respectively 196, 128 and 119 men. Mr. Chadwick has not told us whether these numbers include messengers, packers and others in menial employ. The same were included in the reply given to me by Government more than a year ago and including these people, the total number on that date was 567. I should like to know from my Honourable friend whether these men are included or not in the numbers of the staff employed by the other High Commissioners. I assume they are not. Even assuming, for argument's sake, that he is correct, I would refer him to the point made by other Honourable Members. He told us that there are only 18 Australians, 14 South Africans and 16 New Zealanders and the rest Britishers. But the point of great importance to this House would be to know whether or not these 18, 14 and 16 persons hold the highest positions in the offices of the different High Commissioners or not. That is our contention. The higher appointments, I contend, and I say so after information I have secured myself, or the majority of the higher appointments are filled by men of the countries represented by those respective High Commissioners. Will my Honourable friend say that there are 18 Indians holding the higher posts in the High Commissioner's office?

I am extremely grateful to the Honourable Mr. Karandikar for very valuable information which I had lost sight of in the preparation of my speech. He referred to the answer given by the Honourable Mr. Corbett to the Right

Honourable Srinivasa Sastri. He said that it was given in September, 1924. Perhaps there was a mistake in the year, because the Right Honourable Srinivasa Sastri was not a Member of this House this time last year.

THE HONOURABLE MR. R. P. KARANDIKAR: It is so printed.

THE HONOURABLE MR. G. A. NATESAN: He was here last year.

THE HONOURABLE MR. PHIROZE C. SETHNA: I stand corrected. Now, Sir, Mr. Corbett distinctly gave the House to understand that there was one Indian official (Mr. Bhore), who got a salary of more than £500, only 4 Indians out of 76 on a salary of between £250 and £500 and 9 on salaries between £100 and £250. That is a point I very particularly want to refer to, namely, that the majority of the 23 Indians, or 30, as Mr. Chadwick told us the present number is, are filling very minor positions, and that the percentage of the pay—I want to lay stress on this fact—drawn by these 30 Indians cannot be even 3 per cent. of the total pay—indeed, much less. Therefore, if my Honourable friend Mr. Chadwick quotes the instance of the other High Commissioners I trust the Government of India will follow the example of the other High Commissioners and see that the higher appointments are filled by Indians and not by others in the office of the High Commissioner for India and that is a point upon which I lay great stress.

I have disposed of the point with regard to the higher cost in employing Indians because I have already referred to this before now. It cannot be a prohibitive cost.

My Honourable friend Mr. Chadwick was good enough to refer to my connection with a large insurance office. I am proud of that connection for the good reason that it is an office which does the largest business of any British office throughout the world year after year. My friend further went on to ask if I am appointing Canadians in India and why not. My answer is what the Honourable Sir William Currie referred to. Here we have a say in the matter of the appointments in the High Commissioner's office. In my own office perhaps I am not a free agent and I cannot do as I please, and yet, it will interest my Honourable friend Mr. Chadwick to know that whilst I could employ Indians in those posts, out of deference to the wishes of my employers I do employ as many as a dozen men who have connections with Canada and Great Britain. As the Honourable Sir William Currie very rightly pointed out this is the tax-payer's money which you are paying to the staff of the High Commissioner, and you have got to respect the wishes of the tax-payer.

Mr. Chadwick referred to the minor appointments and did not want poor Indians to go to London for those minor appointments. Mr. Corbett has replied to this point, and I am again grateful to the Honourable Mr. Karandikar for drawing my attention to it. Mr. Corbett says that there are Indians available in England itself, who are content with the pay paid to Europeans. This is so. I am sure Mr. Chadwick knows from his own experience that there is a large colony of Indians there who will be very glad to get the equivalent of Rs. 150 a month. There again, I say that the Government have not made out any case for not appointing Indians to these appointments. In the case of such Indians there will be no question of passage money referred to by my Honourable friend, Mr. Chadwick.

[Mr. Phiroze C. Sethna.]

Now, Sir, I think I have answered all the points of my Honourable friend, Mr. Chadwick.

It is some consolation to me to know from a remark that fell from him that the Government would like an Indian complexion and an Indian atmosphere in the High Commissioner's office. They have not had it so far to any appreciable extent, but I hope as a result of the discussion to-day, no matter however much it has been whittled down by the amendment made by the Honourable Sir Maneckji Dadabhoy, that it will have a desirable effect on the Government of India and consequently on the High Commissioner in London.

THE HONOURABLE MR. D. T. CHADWICK: I do not think the House expects me to speak again. But there are one or two points arising from my Honourable friend's last speech on which I desire to say a few words. In the first place, I am very sorry to disappoint him again. It is true that in the letter I sent him last April when he asked me how many Indians were in the High Commissioner's office I replied 23 or 24 from the information I then had. I worked it out from the latest establishment list I had. The 30 I gave is as a result of my writing to the High Commissioner and asking him to let me know what the latest figure was. Those 7 were not recruited hurriedly as a result of my letter. They had been recruited before. I do not think that the figures I gave for the other High Commissioners' offices included messengers, packers, etc., because in my letter to the High Commissioner I asked him for particulars of staff excluding those, but I will not be dogmatic on the point. It does not affect my point that the staffs of these offices were not wholly Australian, South African, etc.

My next point is that the House will be interested to see that my Honourable friend in his last speech has changed his ground very considerably from his first speech. In fact, he accepted the tenor of Sir Maneckji Dadabhoy's argument, namely, that he was referring to the higher appointments and not to complete Indianization. The House will remember that in his first speech he definitely said that every appointment in future should be given to an Indian—every new appointment. I think I have made the position of Government clear. Its policy is that embodied in my Honourable friend, Sir Maneckji Dadabhoy's amendment, that is the policy which commends itself to Sir Atul Chatterjee, and which I have not the slightest doubt will be followed by successive High Commissioners.

THE HONOURABLE THE PRESIDENT: The question is:

“That the following Resolution, as amended, be adopted:—

‘This Council recommends to the Governor General in Council that steps be taken, as far as is compatible with economy and efficiency, to Indianize the higher staff and establishment of the High Commissioner for India in the United Kingdom.’

The motion was adopted.

TRANSFER OF PROPERTY (AMENDMENT) BILL.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay: Non-Muhammadan): Sir, I rise to move that the Bill to amend the Transfer of Property Act, 1882, be taken into consideration.

It is a small measure consisting of two clauses only. The necessity for the Bill is fully explained in the Statement of Objects and Reasons. It arises from the fact that from the law as it stands at present, it is not clear whether assignments without consideration of certain actionable claims, those for example which consist in life policies, are governed by section 123 or by section 130 of the Transfer of Property Act. To make my point clear I will read both these sections. Section 123 runs as follows:—

“For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid, or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.”

Section 130 runs as follows:—

“The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorised agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not.”

Then follows the proviso with which I need not trouble the Council.

Now, the House will have noticed that the words used in section 130 are simply “the transfer of an actionable claim”. The word “transfer” is not qualified, and therefore the expression may include “transfer of an actionable claim *without* consideration” or “transfer of such a claim *with* consideration” and, therefore, it might well be held that transfer, by way of gift of an actionable claim comes within the operation of section 130 and can be effected by a written instrument which need not be registered. This would seem to have been the intention of the Legislature, and indeed it stands to reason that when a man assigns his life insurance policy to his wife or other relative, a mere written instrument ought to suffice, and that he should not be put to the trouble and expense of getting the instrument registered. If the transfer of an actionable claim with consideration does not require a registered instrument, as it certainly does not under section 130, there does not seem to be any reason why registration should be compulsory if the transfer of an actionable claim is *without* consideration. As a matter of fact, Life Insurance Companies have been making payments to assignees to whom life policies have been transferred simply by instruments in writing which have not been registered. On the other hand, however, section 123 would seem to be capable of an interpretation which might make registration compulsory in the case of written instruments transferring without consideration actionable claims. In this country, no distinction is recognised between “good” and “valuable” consideration, and therefore it might be said that transfers without consideration of actionable claims, such as assignments of life policies in favour of a relative are gifts *inter vivos*, and as they are not gifts *inter vivos*

[Mr. Phiroze C. Sethna.]

of tangible moveable property, such as can be effectually made by delivery of possession, they must be made by registered instruments. Thus, though it seems to be clear that such transfers of actionable claims are really governed by section 130 and that the Legislature intended that they should be so governed, there would seem to be, at all events, an apparent inconsistency so far as this particular question is concerned, between the terms of section 123 and those of section 130. It is this inconsistency which my Bill seeks to remove. It is intended to clarify the existing provisions of the law so that all doubt may be set at rest and no room may exist for unnecessary or avoidable litigation. With this object in view, the Bill adds an *Exception* to section 123 of the Act making it quite clear that a transfer by way of gift of an actionable claim if made by an unregistered instrument in writing is complete and effectual.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 2 do stand part of the Bill."

THE HONOURABLE MR. D. T. CHADWICK: I beg to move:

"That for clause 2 of the Bill the following be substituted, namely:—

'2. In sub-section (1) of section 130 of the Transfer of Property Act, 1882, after the words 'authorised agent and' the words and figures 'notwithstanding anything contained in section 123' shall be inserted.'"

I must explain to the House how I come to be moving this amendment. The Honourable Mr. Sethna in his speech on the motion that the Bill be taken into consideration has explained the scope of the alteration in the law which he wishes to effect. He has in mind the transfer by gift of a life insurance policy during the life of the person assured, as for instance, the gift of a life insurance policy from a man to his wife. He wishes it to be made clear beyond all possible doubt that such a transfer of a life insurance policy should be completely effected by a mere written endorsement. That is his point. Now, Sir, that is very largely the general practice. The Government agree that it should be so, and Government have always been of the opinion that that was what the law said. Section 130 of the Transfer of Property Act deals with transfers of actionable claims. The words are perfectly general. That section covers all transfers of actionable claims. A gift is only one form of transfer. Sale is another form of transfer and section 130 says that a transfer of an actionable claim is complete if effected by an endorsement in writing. However, there is another section in the Act, that deals with gifts. The legal advisers of some of the insurance companies feel a doubt in these cases which section ought to be followed though we do not think there is any doubt about it at all.

No case has so far been fought out in the Courts, and so there is no ruling on the point, but we are perfectly ready to remove our friend's apprehensions in the matter and make the law quite clear.

1 P.M.

The only reason why I am moving this amendment is this. The Honourable Member's Bill was examined, and our trained draftsman pointed out that the Bill was not

drafted in the way in which all amending Bills are usually drafted, and that it would certainly be simpler and much clearer if the Honourable Mover accepted the suggestions the Government draft man made. I have discussed this amendment with my Honourable friend, and he agrees with the amendment which I am now making. He did not however withdraw his Bill and put in a new Bill, because he had not time under the rules of business to do so if the Bill was to come for discussion in this Session. I am sure if he had had the time and opportunity he would have done so: I therefore propose certain amendments in section 130, so that that section will read as follows:

"The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or by his duly authorised agent, and notwithstanding anything contained in section 123 shall be complete and effectual."

We wish to insert the words "Notwithstanding anything contained in section 123". The insertion of these words will remove all doubt in the matter, and therefore, Sir, in agreement with my Honourable friend opposite, I propose the amendment which I have read out.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That for clause 2 of the Bill the following be substituted, namely:—

'2. In sub-section (1) of section 130 of the Transfer of Property Act, 1882, after the words 'authorised agent and' the words and figures 'notwithstanding anything contained in section 123' shall be inserted.'"

The question is that that amendment be made.

The motion was adopted.

The question is:

"That clause 2, as amended, do stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That in clause 1, sub-clause (1) be numbered clause 1, and that sub-clauses (2) and (3) be omitted."

This, Sir, is a purely formal amendment and consequential. I do not think I need say much about it.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That in clause 1, sub-clause (1) be numbered clause 1 and sub-clauses (2) and (3) be omitted."

The question is that that amendment be made.

The motion was adopted.

The question is:

"That clause 1, as amended, do stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That this be the Title of the Bill."

THE HONOURABLE MR. D. T. CHADWICK : I beg to move, Sir ;

“ That the following be inserted as the Title of the Bill, namely :—

‘ A

BILL

Further to amend the Transfer of Property Act, 1882 ’ ”

That is the usual form which is adopted.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the following be inserted as the Title of the Bill, namely :—

‘ A

BILL

Further to amend the Transfer of Property Act, 1882.’

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The question then is that that be the title of the Bill.

The motion was adopted.

The Title, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

“ That this be the Preamble to the Bill.”

THE HONOURABLE MR. D. T. CHADWICK : Sir, I beg to move :

“ That for the Preamble to the Bill, the following be substituted, namely :—

‘ WHEREAS it is expedient further to amend the Transfer of Property Act, 1882, for the purpose hereinafter appearing ; It is hereby enacted as follows.’ ”

This is also the customary form, Sir, and that is why I propose this amendment.

THE HONOURABLE MR. SAIYID RAZA ALI (United Provinces East : Muhammadan) : May I say two words, Sir ?

THE HONOURABLE THE PRESIDENT : I will put the question first and then the Honourable Member can speak.

The question is : “ That for the Preamble to the Bill, the following be substituted, namely :—

‘ WHEREAS it is expedient further to amend the Transfer of Property Act, 1882, for the purpose hereinafter appearing ; It is hereby enacted as follows.’ ”

THE HONOURABLE SAIYID RAZA ALI : Sir, I entirely agree with the draftsman of the Government of India that for the purposes of the Honourable Mr. Sethna, it was not at all necessary to amend section 123 of the Transfer of Property Act, as that object can be satisfactorily achieved by accepting the amendment of the Honourable Mr. Chadwick. But I cannot equally congratulate the Government draftsman on the amendment to the Preamble that has been drafted by him. Now, Sir, what is a Preamble, and what is the definition of a Preamble ? In legal language, Preamble means the introductory part of a Statute. The Preamble as such gives notice of the definite point that is going to be raised and dealt with in a Statute. I am free to confess that the Preamble proposed by the Honourable Mr. Sethna was rather lengthy, but, Sir, the Preamble proposed to be substituted by the Honourable Mr. Chadwick

does not fulfil the definition of a Preamble at all. Now, what is the Preamble that is proposed to be substituted ? It says :—

“ WHEREAS it is expedient further to amend the Transfer of Property Act, 1882, for the purpose hereinafter appearing.”

Now, Sir, we are absolutely in the dark as to what is the point that is going to be dealt with in the Bill, and what are the amendments that are going to be incorporated in the Bill. This is really the first preamble of its kind that has ever to my knowledge found a place in an Act. In all other Acts, Honourable Members will find that the Preamble gives some indication of the points that are going to be discussed in the Bill, whereas here the reader is left to go through the whole Bill to discover for himself what is the precise point. I freely acknowledge that the Bill is a short one, and it will not take the reader a long time to see what the real point is. But still, I am afraid, the change proposed, from the drafting point of view, is far from satisfactory. I do not think that at this late stage it is desirable for me to bring forward a counter amendment to the one proposed by the Honourable Mr. Chadwick, but I may say, Sir, that it would have been much better if the Government had omitted the words “ for the purpose hereinafter appearing ” and substituted some such words as “ relating to the transfer of actionable claims ”. This is a measure dealing with the transfer of actionable claims, and therefore, if the Government had said in the Preamble—

“ WHEREAS it is expedient further to amend the Transfer of Property Act, 1882, relating to the actionable claim.”

that would have been quite satisfactory. It would also have been consistent with the practice that has been established in such cases. I do not know whether the Honourable Mr. Chadwick will be prepared to accept these words, but to me, Sir, it seems that the language of the Preamble is extremely defective, and does not speak much about the skill of the Government draftsman.

THE HONOURABLE THE PRESIDENT : Strictly speaking, an Honourable Member is not entitled to reply on an amendment, but as the Honourable Saiyid Raza Ali has asked for a reply, I think it will be a matter of courtesy to the Council to ask the Honourable Mr. Chadwick to make a reply.

THE HONOURABLE MR. D. T. CHADWICK : Thank you, Sir, for your courtesy. I am sorry if I have offended my purist friend by the terms of this Preamble. As for precedents for this form of drafting, I see that in Act IX of 1924, the Preamble reads,—

“ WHEREAS it is expedient further to amend the Indian Ports Act, 1894, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—”

Then again the Preamble to Act X of 1924, reads thus :—

“ WHEREAS it is expedient further to amend the Indian Coinage Act of 1867, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—”

So I think we are correct in the terms of the Preamble which we have adopted.

THE HONOURABLE SAIYID RAZA ALI : I believe the same draftsman was responsible for drafting all these Preambles. But in any case it is not a very long Bill. I think anybody can find out its meaning and I suggest to the Council that we need not trouble ourselves at this moment, in trying to devise legal phraseology even for the Preamble.

The HONOURABLE THE PRESIDENT: The question is:

"That for the Preamble of the Bill the following be substituted:—

'WHEREAS it is expedient further to amend the Transfer of Property Act, 1882, for the purposes hereinafter appearing; It is hereby enacted as follows:—'

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question then is that that be the Preamble to the Bill.

The motion was adopted.

The Preamble, as amended, was added to the Bill.

The HONOURABLE MR. PHIROZE C. SETHNA: I beg to move, Sir, that the Bill, as amended, be passed.

The HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Sir, the Council will remember that on a former occasion it was my painful duty to oppose the introduction of a Bill proposed by my friend Mr. Sethna with regard to Insurance policies as I thought in that case it might add to the difficulties of people in recovering from the companies the amount due to them. I rejoice that on this occasion I am able to congratulate him on this measure, because it affords facility to policy holders to transfer the same to people to whom they may wish to make it over as a gift. On this occasion I am glad that this effort of my Honourable friend has had the cordial co-operation of Government and others. I am sure that many people will be greatly obliged to the Honourable Member for undertaking this piece of legislation.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): I would like to say, Sir, if I may, that the Government are in agreement with Mr. Sethna in considering it very desirable that there should be no doubt as to the manner in which these life policies may be transferred.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Transfer of Property Act, 1882, as amended, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the clock on Wednesday, the 9th September, 1925.

COUNCIL OF STATE.

Wednesday, the 9th September, 1925.

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

QUESTIONS AND ANSWERS.

LEAVE RULES AND FURLOUGH REGULATIONS IN FORCE ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

105. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Would the Government be pleased to state whether the leave rules and revised furlough regulations obtaining in the Bombay, Baroda and Central India Railway are in effect as follows:

- (i) The total amount of furlough, whether ordinary, on medical certificate, or on urgent private affairs with allowances, which may be granted, is limited to six years;
- (ii) Furlough earned is one-fourth of active service rendered;
- (iii) Furlough on medical certificate is granted for a period not exceeding two years at any time, on the production of a medical certificate, etc.;
- (iv) Furlough on urgent private affairs for a period not exceeding six months in all during an employee's whole service, may be granted at any time;
- (v) Leave without pay may be granted at any time to an employee, to whom no other leave is due;
- (vi) Under exceptional circumstances, employees who are actually laid up by sickness may be allowed leave of absence, either in instalments, or in one period to the extent of thirty days in each calendar year, without deduction of pay;
- (vii) Privilege leave on full pay may be granted to the extent of one calendar month for every eleven calendar months on duty without interruption; and
- (viii) Language examination leave on full pay is granted up to a maximum of two months in all?

THE HONOURABLE MR. D. T. CHADWICK: Yes.

APPLICABILITY OF THE LEAVE AND FURLOUGH REGULATIONS IN FORCE ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY TO EUROPEAN EMPLOYEES.

106. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is it a fact that the above rules are applicable to all Europeans in the superior

grades in the permanent employ, including probationers, and to all European subordinates drawing Rs. 300 per mensem and over, or on incremental pay, the sanctioned maximum of which is Rs. 300 or over, and that since April 1916 the Board have extended the application of these rules to the following employees:—

All European employees, drawing not less than Rs. 150 per mensem who have rendered ten years' continuous good service. In cases of those transferred from other lines ten years' service counts from dates of appointment on other railways?

THE HONOURABLE MR. D. T. CHADWICK: Yes.

LEAVE RULES APPLICABLE TO INDIAN EMPLOYEES ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

107. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is it also a fact that except where specially mentioned, these rules do not apply to Indians, and that leave to employees to whom the foregoing rules are not applicable are Indian officers, and Indian subordinates who are on incremental pay, the sanctioned maximum of which is Rs. 300 or over?

THE HONOURABLE MR. D. T. CHADWICK: Yes.

LEAVE RULES AND FURLOUGH REGULATIONS IN FORCE ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

108. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is it also a fact that in the case of sick leave on half pay sixty days in the year may be accumulated to a maximum of six months; and that leave on half pay may be granted prior to retirement as follows:

- 4 months after 20 years' continuous service;
- 5 months after 22 years' continuous service;
- 6 months after 25 years' continuous service?

THE HONOURABLE MR. D. T. CHADWICK: Sick leave on half pay can be accumulated to the extent of six months at a rate not in excess of 30 days in the calendar year. The reply to the latter part of the question is in the affirmative.

LEAVE RULES AND FURLOUGH REGULATIONS IN FORCE ON THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

109. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is it a fact that as a consequence of the above rules, even subordinate Europeans and Anglo-Indians enjoy the same rights as European officers which are denied to Indian officers whose subordinates the first mentioned Europeans and Anglo-Indians are?

THE HONOURABLE MR. D. T. CHADWICK: Yes.

LEAVE RULES IN FORCE ON GOVERNMENT RAILWAYS AND COMPANY-MANAGED RAILWAYS.

110. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Would the Government be pleased to lay on the table the corresponding rules in Government railways and other company-managed railways?

THE HONOURABLE MR. D. T. CHADWICK: Copies of the Fundamental and Supplementary Rules which apply to State Railway staff and of the rules laying down for the guidance of Railway Companies the limits within which the Boards of Directors of Company-worked lines can frame leave rules for their own employés are in the library.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is there any reason why the rules which my Honourable friend has just mentioned and the rules obtaining on the Bombay, Baroda and Central India Railway should not be on the same lines?

THE HONOURABLE MR. D. T. CHADWICK: We leave the question of fixing the leave rules for their subordinates to the Companies and the Boards of Directors who have been entrusted with the management of the railway. The Government restrict themselves to laying down the maximum leave rules within which the Railway Companies and Board of Directors have free scope.

THE HONOURABLE MR. K. C. ROY: Am I to understand that the Agents have full powers to act as they like under these rules?

THE HONOURABLE MR. D. T. CHADWICK: Yes, under the control of their Board of Directors.

EXPENDITURE INCURRED BY THE GOVERNMENT OF INDIA ON THE BRITISH EMPIRE EXHIBITION AT WEMBLEY.

111. THE HONOURABLE MR. MANMOHANDAS RAMJI: Will the Government be pleased to state:

- (a) the total actual expense incurred by the Government of India in participating in the Wembley Exhibition, 1924;
- (b) the total number of stalls reserved for India;
- (c) the total amount realised by the Government by the letting out of stalls;
- (d) the number of stalls let out to Indians; and
- (e) the total number of Indian exhibitors that participated in the Exhibition?

THE HONOURABLE MR. D. T. CHADWICK: (a) The total actual expenditure for three years ended 1924-25 was as follows:—

In India	..	..	..	Rs. 138,174
In England	..	..	..	£ 181,258

In addition, expenditure approximating rupees three lakhs has been incurred by Railways.

- (b) India had her own complete pavilion,
- (c) In India Rs. 3,34,825
- In England £ 22,019

(d) and (e). The total number of private exhibitors in the Indian pavilion were approximately 500, of whom over 90 per cent. were Indians.

The particulars given in this reply do not cover Burma, which had its own pavilion and made its own arrangements.

THE HONOURABLE DR. DWARKANATH MITTER: Will the Government be pleased to state whether the report on the working of the Exhibition has been received from the Exhibition Commissioner and, if so, whether they would lay it on the table?

THE HONOURABLE MR. D. T. CHADWICK: The Exhibition Commissioner has just finished his report and it will take some little time to be published. I do not propose to lay it on the table as it will be too bulky, but it will certainly be published.

THE HONOURABLE MR. G. A. NATESAN: Will the Honourable Member tell the House whether the one lakh of total expenditure incurred includes the expenditure incurred by the various Provincial Governments?

THE HONOURABLE MR. D. T. CHADWICK: That was expenditure incurred by the Central Government. It does not include the expenditure incurred by Provincial Governments or expenditure incurred in England by the Central Government.

RECEIPTS FROM AND EXPENDITURE INCURRED ON THE BRITISH EMPIRE EXHIBITION AT WEMBLEY.

112. THE HONOURABLE MR. MANMOHANDAS RAMJI: Will the Government be pleased to lay on the table a detailed statement showing the various items of receipts from and expenditure for the Wembley Exhibition, 1924, classified under separate and distinct heads?

THE HONOURABLE MR. D. T. CHADWICK: A statement is laid on the table.

STATEMENT.

Receipts in England.

Rents realised	£	22,019
Sale proceeds of the Indian pavilion .. .	£	18,383

Receipts in India.

Rents realised	Rs.	3,34,825
Amount realised from advertisements in the Exhibition Catalogue.	Rs.	5,626
Recoveries of service payments .. .	Rs.	5,522

Expenditure in England.

Building and fixture	£	131,708
Central exhibits	£	25,662
Establishment	£	10,627
Contingent and other charges .. .	£	11,932
Indian Band	£	1,329

Expenditure in India.

Establishment, contingent and other charges ..	Rs.	86,070
Central exhibits	Rs.	52,104
Railways	Rs.	3,04,000 (approx.).

RESOLUTION *RE* FRANCHISE FOR WOMEN.

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

"That this Council recommends to the Governor General in Council that he do proceed to make the amendments in the Electoral Rules required to give effect to recommendations Nos. 8 and 9 in the Majority Report of the Reforms Inquiry Committee."

I think, Sir, I shall discharge my obligations in regard to this Resolution if I explain as briefly and concisely as possible, firstly, what the genesis of these recommendations was; secondly, what the precise effect of the recommendations is, and thirdly, what procedure it would be necessary to adopt in the event of the House accepting this Resolution. Now, Sir, firstly as regards the genesis of these recommendations, we have to go back to the provisions of the Government of India Act and the rules framed thereunder, and the opinions expressed by the Joint Select Committee both on the Bill itself, as it then was, and on the Rules. The first point to observe is that the Government of India Act itself imposes no disqualifications on the ground of sex in the matter of admission to the electoral rolls or in that of the right to stand for a seat either on the Local Legislative Councils or on either Chamber of the Central Legislature. As there is no statutory provision of that character, it is open to the Governor General in Council to make such provisions in that respect as he considers fit. Now, when the rules were first under consideration, the Joint Select Committee expressed their opinion on the general question of franchise for women in the following terms:

"The question whether women should or should not be admitted to the franchise on the same terms as men should be left to the newly elected Legislative Council of each province to settle by Resolution. The Government of India should be instructed to make rules so that, if a Legislative Council so voted, women might be put upon the register of voters in that province. The Committee have not felt able to settle this question themselves, as urged by the majority of witnesses who appeared before them. It seems to them"—

and this is important—

"to go deep into the social system and susceptibilities of India, and therefore, to be a question which can only, with any prudence, be settled in accordance with the wishes of Indians themselves as constitutionally expressed."

The matter was further dealt with by the Joint Select Committee in their Report on the draft Rules, and they observed as follows. Their observation which I am about to quote relates to the electoral rules for the Legislative Councils of the provinces:

"The second proviso to Rule 7 for all Councils carries out the recommendation of the Committee in connection with the Bill relating to Women's Franchise. Without in any way modifying their views on this subject, the Committee think it essential that a constitutional change of this importance should be effected only as the result of a genuine and considered opinion of the majority of the Council, and they have therefore provided that before a Resolution on the subject can be moved, the mover must give not less than one month's notice of his intention to move."

Now, Sir, that is a reference—I should make this perfectly clear—to the electoral rules of the Local Legislative Councils, and the proviso referred to by the Committee stands in those rules in the following terms:

"Provided further that if a Resolution is passed by the Council, after not less than one month's notice has been given of an intention to move such a Resolution, recommending

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that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Local Government shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex."

The House will observe that this proviso contemplates that if a Resolution of the character described is passed by a local Legislative Council, the Local Government are bound to give effect to it by regulation. Now, Sir, from the case of the local Legislative Councils we pass on to the case of the Indian Legislature, and, in particular, to what we are directly concerned with to-day, namely, the Council of State.

The Joint Select Committee observe as follows :

"Changes have been made in the rules for the Indian Legislature similar to those described in paragraphs 8, 9 and 10. But with regard to women's franchise the Committee have thought it desirable to safeguard their original intention that the decision of this question for each province should rest with the Provincial Legislature, and they have accordingly provided that a Resolution by either Chamber of the Indian Legislature in favour of enfranchising women as voters for that Chamber shall have effect in a province only if the province has itself already taken this step for its own Council.

Now there are two points which I wish to emphasise arising out of this. The first is that these recommendations refer solely to the franchise, that is to say, to the admission of women to the electoral rolls as voters; they do not relate to the admission of women to the right to stand as candidates for either local Legislative Councils or for the Indian Legislature. That is a separate issue which I shall deal with separately. The second point to which I wish to invite the very close attention of the House is this, that the Joint Select Committee expressly contemplated that the initiative in this matter should lie firstly in the hands of the local Legislature, and, when the question developed into a question of whether women should be entitled to vote for a constituency of the Council of State, it should be necessary that there should be agreement between the local Legislative Council concerned and the Council of State. Effect has duly been given to the recommendations of the Joint Select Committee on this point. I read a few moments ago the proviso relating to women's franchise as it appears in the electoral rules of the local Legislative Councils. I will now read the proviso to electoral rule No. 7 as it affects the constitution of this House. It is as follows :

"Provided further that, if a Resolution is passed by the Council of State after not less than one month's notice has been given of an intention to move such a Resolution, recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Governor General in Council shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex, if they are not so disqualified for registration as electors for the Legislative Council of their province."

The effect of that is that before any Resolution of this Council admitting women to the franchise can be effective, it must be preceded or followed by a Resolution in the local Legislative Council concerned; that is to say, the Legislative Council of the province in which the constituency in point is situated. I hope that is clear. I will repeat once more that the recommendations of the Joint Select Committee and the rules which were passed in accordance with those recommendations deal only with the question of the vote, not with the

question of the right to sit, and in so far as the admission of women to the vote is concerned, no further amendment of the electoral rules of any province or either Chamber of the Central Legislature is necessary.

I pass next to the actual recommendation made by the Reforms Inquiry Committee. The recommendation made in paragraph 66 of their Report is not at the present moment any immediate concern of this Council. It refers to the two constituencies of Delhi and Ajmer-Merwara which return Members to the Legislative Assembly.

We are not therefore directly concerned with that question. If at any time in the future these constituencies were given the privilege of returning a member to this Council, then the question might conceivably arise. It is not at the present moment a practical issue. The recommendation of the Reforms Inquiry Committee which does directly concern this House is contained in paragraph 67 of their report and the effect of that is that electoral rule 5 which prescribes the qualifications of persons eligible to sit as Members of this Council should be amended on the lines of electoral rule 7, so that in the event of this Council passing a Resolution affirming that women ought to be permitted to sit as Members of this Council and of a similar Resolution being passed in the Legislative Council of the province concerned, effect will then be given to it in the same manner as it may now be given in the matter of right to vote. That, Sir, is the recommendation before the House.

I shall now briefly state what the present situation is. As regards the removal of the disqualification of women to vote, Resolutions of the character contemplated in the proviso have been passed by the Legislative Councils of Madras, Bombay, the United Provinces, and, I believe, recently of Bengal. In the other provinces either such Resolutions have not been moved or they have been moved and have been rejected. The case of Burma stands on a somewhat different footing. In view of the position traditionally occupied by Burmese women in Burma, when the electoral rules for that province were framed no disqualification in the matter of the right of women to vote was set up and the Legislative Council of Burma was given the same prerogative with regard to the admission of women for membership of that Council which will be the prerogative of this House and the Legislative Councils if this Resolution is carried; but no such Resolution, to the best of my knowledge and belief, has so far been moved and passed by the Legislative Council of Burma. The situation then in Burma is that women are qualified to vote in the constituencies for the Legislative Councils, but they are not as yet qualified to be candidates. If then the House approves of the Resolution which I have moved, the consequential procedure will be as follows. The Governor General in Council will proceed to amend the electoral rules of this House in order to enable the removal of the sex disqualification on women to stand for election which at present subsists. Thereafter, it will be necessary, after one month's notice has been given, for a Resolution to be moved in this Council confirming and taking advantage of the procedure allowed by the electoral rules and concurrently it will be necessary that a similar Resolution in the local Legislative Councils be passed. The consequential regulations having been made the procedure will then be complete and women, so far as this Council

[Mr. J. Crerar.]

is concerned and in so far as the provinces which have taken advantage of the provision of the rules are concerned, will be entitled to vote in constituencies of this Council and to sit as candidates for membership of this Council. I should remark that what I have narrated to the House applies not only to election but also to nomination, that is to say, women otherwise possessing the necessary qualifications for election to the House would also be eligible for nomination. And I further wish to point out that on the very important matter of procedure the Reforms Inquiry Committee say :—

"We would require that the Resolutions to be passed for the purpose should be in addition to the Resolutions necessary for the removal of the disqualification for being an elector in any of the legislative bodies concerned."

In other words, in order that the issues may be perfectly clear and precise, the question of the admission of women to vote and the question of their admission to candidature for the Legislatures should be considered and debated as separate issues. The question then before the House is that they do endorse these recommendations of the Reforms Inquiry Committee and they do move the Governor General in Council to amend electoral rule 5 in such manner that, if the Council subsequently affirms its desire that the restriction on women standing as candidates for election to this Council be removed, and if the necessary concurrent Resolutions are passed by the local Legislatures concerned, then that restriction will be removed. That is the issue before the House. I do not intend to say anything on the merits. I have contented myself with explaining the situation as it stands, the situation which this House must take into account. The object of this Resolution is not in any way to deflect or guide the conclusions of Honourable Members but simply to ascertain the sense of the House. I move, Sir, the Resolution standing in my name.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadian): Sir, while thanking the Honourable Mr. Crerar for the Resolution he has brought forward to amend the electoral rules in regard to women franchise, I beg with your leave to move an amendment to that Resolution. I shall first read the amendment and then explain my position. The amendment is :—

"That the following words be added at the end of the Resolution, namely :

'And to remove the sex disqualification in the matter of registration on the Electoral Roll of persons who are otherwise qualified to vote in the election to the Council of State.'"

Sir, on the 24th March 1925 I asked this question :—

"Will the Government be pleased to state whether any proposal is under consideration to amend the rules relating to election to the Council of State with a view to enable women who otherwise possess the prescribed qualification to vote and stand as candidates at the next election to the Council of State."

And the Honourable Mr. Crerar replied :

"Under Rule 7 (1) (b) of the Council of State Electoral Rules...."

THE HONOURABLE MR. J. CRERAR: I rise to a point of order, Sir. I much regret interrupting the Honourable Member, but I fear there is some misapprehension with regard to the amendment. I submit, Sir, that the second part of the Honourable Member's amendment is outside the scope of my

Resolution. If I understand the Honourable Member's amendment correctly, it is intended to be a Resolution of the kind provided for in the second proviso to rule 7 of the electoral rules. My Resolution does not refer to the second proviso to rule 7. It is an entirely separate issue raising chiefly, as I have already explained, the question not of the right of women to vote but the right of women to be candidates for election. I submit, therefore, that the second part of the Honourable Member's amendment ought to be moved as a separate Resolution and that it is not within the scope of the Resolution which I have placed before the House.

THE HONOURABLE THE PRESIDENT: Will the Honourable the Home Secretary say exactly what he means by the second part of the Honourable Mr. Ramadas Pantulu's amendment?

THE HONOURABLE MR. J. CRERAR: I understood, Sir, that the Honourable Member moved this as the second part of his amendment.

"and to remove the sex disqualification in the matter of registration on the Electoral roll of persons who are otherwise qualified to vote in the election to the Council of State."

THE HONOURABLE THE PRESIDENT: That is in fact the whole of the amendment moved by the Honourable Mr. Ramadas Pantulu.

THE HONOURABLE MR. J. CRERAR: That is the material part of it.

THE HONOURABLE THE PRESIDENT: The whole of it. The Honourable Member did not move the portion which possibly is in the Honourable Home Secretary's hands.

It seems to be very difficult for me to rule that the Honourable Member's amendment which he proposes to move to the Resolution is not within the scope of the Resolution. There are after all two parts of the Resolution moved by the Honourable the Home Secretary. The first part of it deals with the right to vote; but, as the remainder of the Resolution brings in both aspects of the case—the right to vote and the right to stand as a candidate—I think the Honourable Mr. Ramadas's amendment must be held to be within the scope of the Resolution. I find a little difficulty, I must confess, in understanding it, but perhaps the Honourable Member will explain it. He suggests the removal of the sex disqualification. The sex disqualification for voting has, as he is probably aware, already been removed in some cases, and it can be removed in others. I understand that his intention is to remove the sex disqualification absolutely and not leave it to the happening of certain contingencies. Perhaps the Honourable Member will explain that in his speech.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I shall just continue what I was saying. The Honourable Mr. Crerar gave the following reply to my question :

"Under rule 7 (1) (b) of the Council of State electoral rules, women are not entitled to have their names registered on the electoral roll of that body; but if a Resolution is passed by this House after not less than one month's notice has been given recommending the removal of the sex disqualification for registration, the Governor General in Council, under the second proviso to the said sub-rule, is required to make regulations providing that women or a class of women shall not be disqualified for registration as electors for the Legislative Council of their province. This question is therefore one for action by this Council and not by the Government of India. As the Honourable Member is aware such a Resolution was passed by the Legislative Assembly in February 1922, but that Resolution

[Mr. V. Ramadas Pantulu.]

affects electors for that body only. As regards the disqualification from being a candidate I refer the Honourable Member to paragraph 67 of the Report of the Reforms Inquiry Committee. The recommendation contained in this paragraph is at present under the consideration of the Government of India."

Sir, in pursuance of this reply, I sent a Resolution asking Government to amend the electoral rules so as to make it permissible for every woman to vote and stand as a candidate. The position is this. Under rule 5 of the electoral rules it is necessary to change the rules in order to remove sex disqualification against candidature. Under rule 7 all that is necessary is to pass a Resolution in this House in order to remove sex disqualification against voting and after that Resolution is passed the Governor General in Council is required to make regulations. Therefore, I am now moving in the form of an amendment the Resolution of which I gave one month's notice, by sending it on the 13th July, as the Honourable Mr. Crerar has himself brought a Resolution which is germane to my Resolution.

The Legislatures of four provinces have removed the disqualification so far as their provinces are concerned. But the Council of State has not yet removed this disqualification and it cannot be so done unless a Resolution for removing this disqualification is passed under the second proviso to the electoral rule 7, which runs as follows :

" Provided further that, if a Resolution is passed by the Council of State after not less than one month's notice has been given of an intention to move such a Resolution, recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Governor General in Council shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex, if they are not so disqualified for registration as electors for the Legislative Council of their province."

Therefore, Sir, the position is this. With regard to the five provinces, namely, Bengal, Bombay, the United Provinces, Madras and Burma, there is no disqualification for women so far as their local Legislatures are concerned. If my amendment is passed, the Council of State electoral rolls will be so revised as to include women of all these provinces. It does not impose any obligation upon the other provinces to do so unless they are so pleased. It would be open to any other provinces besides these five provinces to pass Resolutions later on to remove this sex disqualification in their provinces. Then the women of all these provinces by virtue of this Resolution, as the Honourable Mr. Crerar was pleased to observe, will be entitled to be registered on the electoral rolls of the Council of State. Therefore, my amendment only covers one part, namely, the disqualification covered by rule 7. That is what I venture to do.

I do not think many words are necessary to commend this Resolution, as amended by me, for the acceptance of the House. The Honourable Mr. Crerar has not raised any difficulties with regard to women being enfranchised, and I hope this House, which consists of so many gallant men, will also not see any difficulty in enfranchising women. The argument, Sir, which is generally advanced that the women of India are illiterate and are not in a position to exercise the franchise is not now accepted. There recently appeared in the

editorial of an Anglo-Indian journal, which is of a great standing in this country, the *Statesman*, a passage to this effect :

" The women of India as a rule are illiterate but illiteracy and ignorance are not the same and it is not necessary to suppose that Indian women are wanting in shrewdness or capacity. The whole history of the land is testimony to the contrary."

Therefore, that view is not really held by many. The other argument that is advanced is that men are superior to women in wisdom or capacity. It is now as dead as a door nail. I do not think this House will revive this argument. I therefore do not see any difficulty in commending this Resolution to this House. So far as my European colleagues are concerned, they know how their own women fought for political liberty in recent years in England. We remember very distinctly the vivid scenes described in English papers some time ago as to how those women " marched in resolute processions, chained themselves to railings at Westminster and were forcibly fed at Holloway." Therefore, my English brothers will certainly sympathise. To my Muslim brethren I will only say one word. This clause is an optional and enabling clause and it will not compel any Mussalman lady who observes *Gosha* either to attend a polling-booth or to record her vote. There are Hindu ladies who do not observe *Gosha* and who are willing to attend polling-booths and participate in the political life of the country, and I hope that Moslem brethren will not stand in their way.

I have not come across any other argument against this liberty. Only I heard the other day one Member remark—I thought it was a jocular remark—that I was trying to create more rivals in the field of election than there are already there. They think that their wives will be rivals in the election and their position will become difficult. Sir, the proceedings of our House are often very dull, and, if women are allowed to come in and sit as Members of this House, it will tend to enliven the proceedings of this House greatly. I think their presence in the Chamber will attract more visitors to the Visitor's Gallery than this House generally does. Women are very useful now-a-days as members of various bodies. I am myself a member of some bodies in which women sit with great advantage.

In the Madras Presidency we have in our university Women Senators who enlighten us with views which are worthy of consideration and which carry great weight with the Senate. In the Corporation of Madras we have lady councillors who render very valuable help to the citizens of Madras. Therefore I think that on the Councils also there ought to be women who will render very great help in politics. In fact only yesterday I came across a little poem which said that there is no place in which a woman is not and ought not to be. The poet said :—

They talk about a woman's sphere
As though it had a limit
There's not a place in earth or heaven
There is not a task to mankind given
There is not a blessing or a woe
There is not a whisper " Yes " or " No "
There is not a life or death or birth
That has a feather weight of worth,
Without a woman in it.

[Mr. V. Ramadas Pantulu.]

If she can be everywhere, I do not see why she cannot be in this Council. I am told however that she is not in one particular place. A clergyman, addressing a large audience of women in America, remarked, all of a sudden in the course of the sermon, while the ladies were conversing, that there was one place where women were not to be found and that was Heaven. When the women looked aghast he quoted the following passage from the Bible as his authority:

"Then there was silence in Heaven for one moment."

There may be no silence where there are women. But silence is not a virtue which this House need encourage. We are accused of recording many silent votes for Government. Women may relieve us in this matter.

Women are everywhere. We cannot get on without them and if we do not yield to them now of our own choice, we may have to do so out of necessity later on. Women have a right to rule this land along with men. The old saying is that the hand that rocks the cradle rules the world. If any great Kings ruled and misruled Empires women ruled and misruled great Kings. As a Councillor woman had a great past and has a great future. So let us have women in this House and they will be able to persuade us to do what is best for this country. I hope that the House will not raise any difficulties in the matter of enfranchising women both as voters and as persons entitled to sit in this House. With these words I commend my motion.

THE HONOURABLE THE PRESIDENT: The Honourable Member's speech has placed me somewhat in a difficulty, and his speech makes it necessary for me to revise something of what I said to the Council a short time ago. I asked the Honourable Member to explain exactly what his amendment meant. I understood that he was suggesting an amendment which would remove either absolutely or in some qualified manner the disqualification of the female sex for registration as electors in the Council of State constituencies. Rule 7, which is the rule which he must be referring to, in the first place absolutely disqualifies a female for registration as an elector, and the proviso which has already been quoted two or three times provides for the removal of that disqualification, where the disqualification has already been removed in a province for registration as an elector in the local Councils and a Resolution is passed thereafter in this Council. The Honourable Mr. Ramadas has explained to the Council that his amendment is really in the same terms as a Resolution of which he gave notice over a month ago, and that that Resolution was intended to be the Resolution contemplated by the proviso to Electoral Rule 7. I have certainly never regarded the Resolution of which he gave notice in that light. In the first place he made no reference whatever to any province in which the sex disqualification had been removed. But I understand from his remarks now that he regards the passing of his amendment by the Council as equivalent to the passing of a Resolution by the Council, as contemplated by the second proviso to Electoral Rule 7. That being so, I am afraid I must rule his amendment entirely out of order. He has tried to bring before us what the electoral rules regard as a substantive Resolution after one month's notice

by means of an amendment to a motion of which I personally had about ten minutes' notice. In that case, I am afraid the Honourable Member will have to bring up the matter in a different manner. I do not say his speech is wasted. No doubt the Council will not regard his speech as wasted. He has so ably and eloquently advocated the claims of the other sex.

THE HONOURABLE MR. RAMADAS PANTULU: On a point of information may I know, Sir, whether my Resolution just tabled for to-morrow the 10th, will be blocked by this Resolution, or whether I will be in order in moving it?

THE HONOURABLE THE PRESIDENT: I do not think the Honourable Member's point really arises on the motion before the House, but I may point out that the carrying of that Resolution will not be equivalent to the carrying of the Resolution contemplated by the second proviso. His Resolution recommends an amendment to the electoral rule. The Resolution which he should move is a recommendation to the Governor General in Council to make regulations to remove the sex disqualification in certain provinces where that has now been done in regard to the local Councils.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): The amendment being somewhat ungallantly out of the way, I desire to support the motion of the Honourable the Home Secretary, for the reasons that he has adduced, and for the further reason that the Minority Report has also supported this recommendation at page 188. It says:

"We recommend that women should be enfranchised by rules in every province and also should have the right to stand for election."

That is directly no doubt on the question of provincial franchise. The Minority Report is silent with regard to the question of the Central Legislature but by more than implication is in favour of the idea underlying the motion of the Honourable Mr. Crerar. When the proper time comes I have not the least doubt that the arguments and sentiments set out in the speech of my Honourable friend Mr. Ramadas with which not even the most ungallant of us will venture to disagree, will carry the day. In connection with this Resolution it is noteworthy that Government have not waited for the previous approval of the Legislative Assembly or this House for giving practical effect to the recommendation made in the Reforms Inquiry Committee's report. This is right from the point of view of the canon that I should like to have laid down and accepted, namely, that where the Majority and the Minority Reports do not disagree and where they do agree, Government should forthwith proceed to take action. It has already anticipated matters by moving a Bill for the removal of certain disabilities of members of various Legislatures, and to-day the moving of this Resolution also gives effect to another recommendation of the Reforms Inquiry Committee's Report.

That recommendation, as we have seen, is supported by the Minority Report, and I have great pleasure in supporting this motion.

THE HONOURABLE THE PRESIDENT : The question is :—

“That the following Resolution be adopted :

‘This Council recommends to the Governor General in Council that he do proceed to make the amendments in the electoral rules required to give effect to recommendations Nos. 8 and 9 in the Majority Report of the Reforms Inquiry Committee.’”

The motion was adopted.

RESOLUTION *RE* BOUNTY ON STEEL MANUFACTURED IN INDIA.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary) : Sir, I beg to move :—

“That this Council recommends to the Governor General in Council that a bounty should be paid on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927, subject to the following conditions :

- (1) The bounty should be paid only to firms or companies manufacturing, mainly from pig-iron made in India from Indian ores, steel ingots suitable for rolling or forging into any of the kinds of steel articles specified in Part VII of Schedule II to the Indian Tariff Act, 1894.
- (2) The bounty should be paid on steel ingots manufactured by such firms or companies; and the bounty should be paid at the rate of Rs. 12 a ton on 70 per cent. of the total weight of the ingots manufactured in each month.
- (3) The total amount of the bounty payable under this Resolution in the 6 months ending the 31st March of 1926 should be 18½ lakhs and in the year commencing the 1st of April 1926 and ending the 31st of March 1927 should not exceed 41½ lakhs, making a maximum total in all of 60 lakhs.”

I will endeavour, Sir, not to occupy the time of the House too long, but I hope above all to make myself clear in moving this Resolution which I have just read out. The first point I want to make clear to the House is that the principle of giving protection to the steel industry is not now in issue. Last year in June this Council accepted that by passing the Steel Protection Act. All that we are doing to-day is considering measures concerted to meet unexpected circumstances which have subsequently arisen. To make the recommendations clear, it is necessary however to hark back to the first report of the Tariff Board very briefly. The House will recollect that after the steel industry had made out a case for protection, the Tariff Board had then to determine what rates it should recommend to the Government and to the Legislature as protective duties. For this purpose it had to determine what it considered to be a fair basic selling price for manufacturers to tide them over a period of difficulty. It also had to make a forecast of the prices at which imported steel was likely to enter India, and thereby it got a lower limit. Its upper limits were Rs. 180 for ordinary steel bars and Rs. 175 for steel structural sections, and its lower limit was Rs. 140 for steel bars. In doing so the Board did not say that the company or the industry should be given a guarantee that they would always obtain the upper prices. The Board made no such statement or recommendation and such a statement would certainly not be endorsed; it would be entirely wrong to endorse a minimum price. Unfortunately, shortly after the passing of the Act, the unexpected happened: Continental prices

broke and proved the forecast of Rs. 140 as the price of imported steel to be wrong. A fresh inquiry was necessary in September and October last year. The report the Board then sent in was very dismal reading. It reported that prices of steel bars had fallen by 35 shillings a ton, steel beams by 30 shillings a ton and plates by some 24 shillings a ton below the figures that it had anticipated. It reported that imports had been on a very large scale, that the markets were depressed, that the stocks were large. It also reported that the Tata Iron and Steel Company was unable to sell its products freely. That was a disappointment to the Board as well as a disappointment to the Legislature, which had so recently voted heavy protective duties. Now, Sir, disappointments often have their consolations, and here there was, if not a golden at least a silvern consolation in the form of bounties to the extent of 50 lakhs. This was to be paid out through the year ending with the last day of the current month. A promise was also given that a fresh inquiry would be held and the position would again come under the consideration of the Legislature before the end of September. The Board's inquiry has been held, and its report is before you.

I should explain that the terms of reference to the Board on this occasion were wider than on the last. During the year Government had also received applications for a further inquiry from other industries which had received protection under the Steel Industry Protection Act, 1924. The Board was therefore authorised to inquire into all the industries which had been protected under that Act and to determine whether conditions were such that any supplementary assistance was needed. I therefore bring up to-day only a part of the final report. I have to thank you, Sir, for allowing me to bring up this Resolution before the Council within the period of notice, and I trust that the House will not complain that they have had a short time in which to read it. That arises from circumstances over which neither the Government nor the Tariff Board had any control. The House knows that one of the members of the Board, Mr. Kale, was called away by the Society of which he is an honoured member; Mr. Ginwala went on leave early in the year, and Sir George Rainy himself was seriously ill in hospital in June. The result was that in June the Tariff Board had practically disappeared. Sir George Rainy happily recovered but the commencement of the inquiry was delayed. He and Dr. Matthai have given us a report which is up to the high standard of the former reports of the Tariff Board, a standard which this Council I am sure expects to be maintained in future, however the Board may be constituted. The second portion of the Board's Report dealing with tinplate, fabricated steel and wagons, has only been received in instalments during the last 10 days, and it has been impossible to deal with them yet. They must wait. The report before us now is complete, it deals with raw steel and all forms of steel covered by last year's bounty. I described the report of last year as dismal reading; again the Board has recommended supplementary assistance, but this is not such dismal reading. It is much more cheerful reading. It reports an entirely different state of affairs from that of a year ago. Then stocks were heavy, the markets depressed, and the imports had been on a very large scale. Imports have continued on a large scale, but instead of the markets being depressed, their condition is healthy, stocks are normal, and the Steel Company, instead of being unable to sell their products, are

[Mr. D. T. Chadwick.]

selling well. I will just give one or two figures to let the Council realize what this means. The pre-war average imports of these articles of steel of which we are now speaking were about 636,000 tons a year. On account of the rise of prices, after the war, in 1921-22 they fell to 446,000 tons. In 1923-24 the prices were falling and including local consumption the quantity on the Indian market rose to 626,000 tons. The Board anticipated in its first inquiry that as a result of the enhanced duty which they were then recommending imports would fall in the following year, that is 1924-25, to 559,000 tons. As a matter of fact the imports and local production of these kinds of steel on the Indian market last year, in 1924-25, exceeded 808,000 tons, and the Board reports that all that quantity has gone into consumption. Markets are now healthy, they are not congested. The figure is a record. I think, Sir, the Council will realise that this is a striking illustration of the effect of a stabilisation of prices after a heavy fall in stimulating consumption. If so, it may not be without a message of hope to other industries now in difficulties through falling prices.

So, Sir, the general conditions are better, but still the Board reports that current prices are from Rs. 30 to Rs. 48 per ton below what they had originally anticipated in their first report. The majority of these disparities are round about 34-35. The Rs. 48 drop a ton is on galvanised sheets, which is one of the smaller articles which the Iron and Steel Company make. Now, Sir, the disparities are large. It is clear that some supplementary aid is required to carry out the intention of the original Act of last year. There are two other points which the Board has dealt with in its report. It recommends that that aid be given by bounties for the next 18 months and not merely for a year. Eighteen months hence the Steel Industry Act will itself expire, and before that there must be a full and complete inquiry into the conditions of the industry to determine what further protection is required and for how long. There will be no point in hampering those industries by any additional supplementary inquiry within the same period. Therefore, I trust the Council will not expect me to argue the case for bounties *versus* duties or the period of 18 months or the fact that additional assistance must be continued.

The question is at what rate the help should be given. That is the most interesting portion of this Resolution. I would like the Council to keep in mind for purposes of this Protection Act, the kinds of steel which the Tata Iron and Steel Company manufacture fall into two classes. First, there is the large number of miscellaneous articles, bars, angles, plates, sheets, structural iron, etc., which they sell in open market in competition with imports. It is in that class of article and in that class of article only that it is feeling the force of competition. There is another class of article, namely, rails, which are still being supplied under old contracts, and tinplate bars, which were not included in the Act for direct protection, as they got their protection through that afforded to tinplate itself. In this last class, namely, in rails and tinplates, the Company is immune, or practically immune, from the effects of foreign competition. It has sold its output under long contracts. The Government and the Legislature have given bounties on rails. The difficulty experienced in selling is in regard to the first

group of articles, to which, if the House will allow me to do so, I will apply the description "bounty steel" as these are the articles which are sold in open market in competition with imports and any case for supplementary assistance must rest and rest only upon the prices obtained for these goods.

THE HONOURABLE SIR MANECKJI DADABHOY: Have these long contracts now expired?

THE HONOURABLE MR. D. T. CHADWICK: No, Sir. They are expiring gradually in time. The Bengal Nagpur Railway contract expired last March, the Palmer group contract expires next March, and the contracts of the Railway Board run to the end of the Act, 18 months hence. As they expire the new contracts for rails have to be made in competition with the open market. Therefore in the figures which I will give for bounty steel I shall include rails for which new contracts are being or will be made. That is, bounty steel includes these miscellaneous articles, and also rails, for which the Company will be making new contracts in the course of the next 18 months. The total output of finished steel in the next 18 months is estimated by the Board to be 524,000 tons, of which 315,000 tons will be bounty steel, that is, practically three-fifths. The case for bounties then rests on this three-fifths of the output. For administrative convenience and not to interfere with the Works any more than is necessary and to allow the Works absolute freedom to make their steel into whatever form of steel article they think will be most profitable to them, we however spread the bounty over the whole steel production, but of course, at a lower rate. Therefore the figure of Rs. 12 per ton on finished steel which is proposed in my Resolution is in fact a bounty of Rs. 20 a ton on the production of those classes of steel for which any claim for supplementary help can be made out. I am in fact recommending bounties of Rs. 20 per ton on all steel sold in open competition.

The House will see from the report that the Board recommended a maximum bounty should be fixed at Rs. 90 lakhs. The question is how it got that figure. It got it by straightforward arithmetic. I have already mentioned that the gaps that it discovered to exist between the prices that it had anticipated and those now ruling were between Rs. 30 and Rs. 48, mostly about Rs. 34. It found that the effect of exchange on internal prices, which was one of the unforeseen things which it could not count on when making its first report, had caused reductions in cost of production of steel of Rs. 5 a ton: and taking that reduction on the bounty steel alone it reduced the gap to 25 and 43 mostly round about 30. The Board then multiplied these figures by the anticipated outturn of each class of article and added up the result. It came to Rs. 90 lakhs. That is a straightforward way of working it out. I think myself that this maximum is Rs. 10 lakhs too high, because the effect of exchange on internal prices affects equally the cost of production not merely on the bounty steel but of all the steel produced; and if at this stage the State is asked to give extra money, hard cash, on account of the unforeseen circumstances, of which this is one, we ought also to take credit for the advantages derived on the whole of their production from the same unforeseen causes. Taking that course, this reduces the maximum by 10 lakhs to 80 lakhs.

[Mr. D. T. Chadwick.]

Now, Sir, I have described the method and I have described how the Board obtained the figure. I admit, Sir, that that was the method that Government themselves followed last year in determining the 50 lakhs. The Board report that that 50 lakhs was too generous. After a full year's working, for which the accounts are available, the Board have shown that the State then gave more than was justified by arithmetic. I make no apology for that. The circumstances were then special. The company and the industry were then passing through probably the most difficult and critical moment that they have ever had, and I sincerely hope and trust that they will never again experience a time of difficulty similar to that. The Chairman in his last speech to the shareholders said that that action and the previous action taken by the State had saved the industry. Therefore, Sir, we were perfectly justified then in going right up to the full limit and I do not mind if we got a little above it. To-day the circumstances are not the same. They are better and it is only right that this Council should pause for a moment to examine the implications of a system of imposing protective duties and then supplementing them by bounties calculated by arithmetic up to a certain arbitrary figure. What is the idea underlying a scheme of protection? Under any scheme of protection, the country or the State impose certain duties, in a way they may be said to set the field or conditions within which industrial enterprise may have free scope. It is no part of a scheme of protection to guarantee prices to an industry; to say to it, whatever happens,—come misfortune, come good luck—you shall always get for anything you sell at least so many rupees. A guaranteed minimum price for commodities is no part of a scheme of protection. It is not inherent in the scheme; it is not contained in the scheme and it is very dangerous to give currency to any such idea. It will only stifle effort and lead to stagnation and ultimately to waste. We are in danger of giving currency to such an idea. We fixed protective duties and then a few months after held an inquiry with the result that we made up in cash to the company the probable difference between prices likely to be realized and a certain fixed price. It is now proposed that we should do the same again for another 18 months. This is getting very close in practice to guaranteeing the industry a fixed minimum price. We have definitely given protection to these commodities for three years. Had events gone differently and had the price of those commodities risen, would the surplus have been returned to the State or could we ever have asked for it? The State could not and would not have done so. That was not in the Act. It was not, so to speak, in the bond, nor was it in the bond that we should guarantee a minimum price. So much for the theoretical effect of supplementing duties by bounties calculated in this manner. There is also a practical side. In any protective scheme it is left to the industry to manufacture its products within those conditions set by the duties. Its receipts depend on its own efforts. It takes the risk of defaulting and dilatory buyers, it also takes the risk of the market. It is left to its own energy and the energy of its salesmen to push its commodities. Bounties are on a very different footing. Month by month a certain sum comes in. The bounty is paid on production and before the article is sold. I am sure every business man will admit that this characteristic of bounties

has a definite cash value and is a much more comfortable state of affairs than to have to rely for receipts when the customer pays. Bounties, in fact in comparison with what happens under an ordinary protective scheme, have a real business value, that is a cash value, above their actual cash figure. Therefore in using bounties to restore the equilibrium of a protective scheme it is justifiable and right to fix them at some figure below that given by straightforward arithmetical calculations.

The Government have given their careful consideration as to what that figure should be, and the figure that is put forward in my Resolution is a maximum of 60 lakhs. Now, Sir, I hope I have carried the House with me so far. There are many, I dare say, who will endorse me as far as I have gone and yet they will hesitate and say; "Are you sure that 60 lakhs is enough? We do not altogether like this paying out of large sums of money to one industry in addition to high protective duties. But at the same time we wish to see this industry established, if it can be established." I think many Honourable Members of this Council who have that feeling will probably go further and rightly say that they would also like to see that industry developed under the auspices of those who are the successors in name and also in title of the grand old man who had the imagination to conceive this great industry and who had the courage to attempt it. Therefore, I dare say the House will need some assurance. Although they may hesitate about these large sums, they will want some assurance that this 60 lakhs is a reasonable amount.

Now, the House will find in the first Annexure to the report of the Tariff Board a careful analysis of probable course of works costs and of the effects of their proposals both on a Company economically capitalised and financed and on the Company with its present financial commitments. They have there put forward points which are of vital interest to this Council and to the Legislature in giving this protection. The ultimate object of protection of the industry, namely, that it may meet competition unaided, cannot be attained without a very considerable reduction in works costs. And therefore this is a point to which this Council ought to pay close attention. I will give you the figures as reported by the Tariff Board. Following the method adopted by the Company the average works cost of production of finished steel in 1923-24 was Rs. 124 a ton, and the Company at the time of the first report expected in three years to bring it down to Rs. 106. The actual works cost in 1923-24 was Rs. 122-8-0, a reduction of Rs. 1½ per ton. In the first five months of this year they brought it down to Rs. 115, that is to say, they reduced it by Rs. 7. They have still therefore another Rs. 9 to reduce to reach their original figure which they expect to reach before the 31st of March 1927. The Board has gone very carefully into this question and it has pointed out that the Company ought to aim at a reduction which should be beyond that of the Rs. 9 which the Company hoped to achieve. The Board is more cautious in this report than it was in its first report and yet still considers that the Company ought to be able to obtain a reduction of Rs. 15 in the next year's working cost. I am perfectly certain that this Council will sincerely hope that the industry will be able to do so and I am also confident that the industry will attempt to do so. I am not however going to rely on these figures of future probability.

[Mr. D. T. Chadwick.]

ties. I am going to be more careful. I am going to assume that the works cost during this year is not brought down any further, that it is not brought down below the average figure for the first five months. I am going to assume that the works cost next year is only reduced by Rs. 5 instead of Rs. 9 which the Company originally said they will be able to do and instead of the Rs. 15 which the Board considers feasible.

On these conservative assumptions I have made, which the Council sees are below those of the Board and of the Company, this grant of sixty lakhs would mean that, next year, after allowing for depreciation and overhead charges, there would be a net profit for the steel industry of nearly 6 per cent., if it had been on the economical and careful financial basis at which the Board in its first report values the property. That is if the Company were clear of debt and capitalized at 15 crores. The Board in its first report calculates that Government help should be calculated on the assumption that a company or industry itself is on a sound financial footing and that its finances are carefully managed. But I do not say that these 60 lakhs will give the present company that return next year. It will not. The real fact is that for many reasons—I make no criticisms—I merely state a fact—the company is burdened with heavy charges on account of debenture and loan interest which have to be paid. It will be a very serious matter if it were unable to meet those charges. That fact has to be taken into consideration. The bounty of 60 lakhs will allow all these charges to be met and, provided nothing unforeseen happens, leave a surplus next year of 50 lakhs. If, however, the Board's anticipation of a reduction next year in working cost of Rs. 15, instead of the mere 5 which I have taken, is realised, the position is very much better. That reduction of Rs. 15 I hope will be realised. I put it to you that this is a time of depression, when the steel industry throughout the world is experiencing the most difficult times that it has ever passed through during the last 40 years, and if the State assistance given to this industry in India can bring it or ought to bring it from the condition in which it was three years ago into the condition which I have just described, it is as ample and as far as any State can reasonably be expected to go. For the industry to be placed on an entirely sound and healthy footing, its loan and arrear dividend position demands most careful attention. I am not now going into that matter. It is for the owners and the management to retrieve that position and clear up their arrear dividend position. That is a domestic matter. I will not go further into that. If the State is asked to help an industry, we can rightly expect large efforts from all interested in that industry including the shareholders no less than any else. That aspect of the question has been most admirably expressed by the Chairman at the last annual meeting. I cannot do better than repeat his words. After giving particulars of the bounties he said:

"And in addition we have the benefit of the tariff on other steel. In return for this the country expects us and you to build up as soon as practicable a strong and healthy industry able in course of time to stand without protection, capable of strengthening and supporting the industrial development of India."

I thoroughly endorse that and the aid that I am proposing should now be given to this industry will help them very much and very considerably in that object. I would ask the House that this aid should not be reduced further.

And now, Sir, it is only fair to let the House know the total extent of State aid that has been given.

THE HONOURABLE THE PRESIDENT: I would ask the Honourable Member to be brief. He has already considerably exceeded his time limit.

THE HONOURABLE MR. D. T. CHADWICK: The protective duties on steel bars are now 40 per cent. which are high. In addition we have given cash bounties on rails 93 lakhs, special bounties 50 lakhs and we now propose to give 60 lakhs. That gives us a total exceeding 2 crores 3 lakhs. This with the 21 lakhs for bounties for wagons brings the total figure to 224 lakhs. The question is where does this money come from? Last year there was a windfall due to the heavy imports. Over the full three years the higher rates on steel goods will probably bring in 280 lakhs. I assume in that figure imports will keep up but that 280 lakhs is not a windfall. The revenue derived from the higher rates in the current year are included in the ordinary budget receipts of this year and no expenditure has been entered on behalf of this new bounty. Therefore the 18½ lakhs that I now recommend for this year is an additional and unforeseen charge on the expenses of this year and the 41½ lakhs is a commitment against next year.

I hope that I have made the point clear and I shall close by saying that the position of the industry is better than it was but the struggle is not yet over. The country has given aid freely, amply and sufficiently in the past and that now proposed is fair and reasonable. I thank the House for the patience with which they have heard me.

THE HONOURABLE SIR WILLIAM CURRIE (Bengal Chamber of Commerce): Sir, my constituency is in the main a free trade one; we are not lovers of tariffs nor of artificial assistance. We prefer free competition and let the best man win. There are many pitfalls in a system of protection, the full effects of which are not always visible when the protective steps are taken, and the original request, of which the present Resolution is a continuation, is a case in point. Exchange upsets all the careful calculations on which the original protective duties were based.

When, however, the original proposals for protection to the Steel Industry were made, my constituency came to the conclusion that it ought to be assisted. For the great firm of Tatas had shown an initiative which commanded the highest respect and had rendered invaluable assistance to the State in times of stress which deserved the greatest consideration from the country. We therefore acquiesced in the grant of assistance, though criticising the form such assistance should take. And I am glad to say that our view that a bounty was the preferable form of assistance was eventually accepted by the Government of India.

Sir, we are now asked to continue the assistance for another 18 months. This I do not think is unreasonable, for trade conditions since May, 1924, when the original protection was granted, have been such that the process of putting one's house in order could only be effected to a moderate degree. And protection, if granted for a short period, cannot give the necessary confidence to the management for domestic reconstruction, whilst it must be most inconvenient

[Sir William Currie.]

to the Finance Department of the Government of India to be called upon to produce in the middle of a budgeted year a large sum for a bounty.

At the same time, Sir, I think it was very necessary for this House to have had the assurance of the Honourable Mover that they are definitely satisfied that, with the bounty now proposed and for the period requested, there is no reason to doubt that the industry will not pull through.

One of the conditions for protection laid down in the Fiscal Commission's Report was that the industry claiming protection must be one which will eventually be able to face world competition without protection; with the Honourable Mr. Chadwick's assurance on this point, I am satisfied. For I feel certain that, if at the end of this period of 18 months, further protection be required, there will be great difficulty in obtaining the tax-payer's consent.

If this Resolution be passed by this House, I would like to suggest to the Honourable Mover that he should consider whether it would not be reasonable for the State to have a nominee on the Board of Directors of Messrs. Tatas whose particular duty it would be to see that every effort is being made by the management to justify the burden which is being placed on the tax-payer.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, I think Honourable Members are aware that last time I was very much against protection to this industry on the ground that the public should not lose for the benefit of one company or certain individuals. Also, as we know in the Punjab which has not got this industry of its own, it is practically the same to us being so far away whether we pay for the protection to an industry on this side of the ocean or to an industry across the ocean. But as this time I have changed my views to a certain extent and would be voting on the other side, it is better that I should say why I do so. I have changed my views for this reason, Sir, that if anything big happens in the East, as it did happen in the West, like the World War, then there is danger to India because it is surrounded by the sea on three sides and if blockaded, articles of commerce may not come in freely from outside; and then if we have not got a big industry like Tatas or some other in the country, we may not have certain things which we require. As this is essential, I support the Resolution this time.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I have great pleasure in supporting this Resolution because it gives effect to a principle laid down by the Fiscal Commission. One important principle among many others which the Fiscal Commission enunciated was that in cases where protection was necessary for the preservation and maintenance of key and national industries, such protection should be given irrespective of the limit of time, and should be given to such an extent and for such period as would be necessary to enable the industry to maintain its position without the aid of financial crutches. This Resolution therefore is acceptable because, as I have pointed out, not that it effectively puts into operation a very important principle, but because the Government, aided by the advice of the Tariff Board, have come to the conclusion that further relief is necessary. The Honourable Commerce Secretary has rightly pointed out that the issue

before the Council is no longer whether protection should be given or not. That question, to use a legal terminology, is *res judicata*. The point has been decided by the Fiscal Commission and was given effect to by Resolutions both in the Legislative Assembly and in the Council of State, and in pursuance of the Steel Industries Protection Bill, a Bill permitting a composite system of tariffs and bounties was passed in the Legislature. My friend, the Honourable Sir William Currie, has referred to his constituency as a free trade one, and as I understood his speech, he has supported the proposition, though maintaining that such a policy of State aid is opposed to free trade principles. I shall not dilate on the subject, but I would remind my Honourable colleague that England also laid the foundations of her industries first by resorting to a policy of protection, and when she was strong enough and in a position to compete with the world, she went in for the free trade policy. Indian politicians have consistently claimed for India a protective policy for the last 40 years. That policy of protection to India has come unfortunately too late. If that policy had been brought into operation in this country 25 years ago, India would have been a very great nation industrially and would have been in a much stronger position financially than she is to-day. My Honourable friend, Sir William Currie, has also referred to a remark that in the middle of the year it is somewhat unfortunate for a large sum of bounty to be provided by Government. I wish I could see the validity of that argument. Unfortunately the same argument has been lately urged from a much higher and exalted quarter against the suspension of the cotton excise duty. I wish in that connection to point out one significant fact, a fact of recent date. My Honourable colleague knows that in the matter of the coal industry in England when the disputes could not be settled, the British Parliament gallantly came to the rescue of the coal industry in England only six weeks ago, and in the middle of the year promised a subvention of £10 millions to remove all tension between the coal owners and the miners and assist in the negotiations between them. Sir, it is a very gratifying feature of this Resolution to have the assurance of the Honourable the Commerce Secretary that the public money which is being earmarked is well spent, and that the amount which we shall now sanction has every prospect of being spent in the right direction and in such a way as to rehabilitate this tottering industry during a period of acute steel and iron trade depression. I think this assurance of the Honourable Mr. Chadwick will go no doubt a great way towards dispelling future anxieties in this connection.

Sir, another important feature of this Resolution is that the additional supplementary aid is sought to be given by way of bounties and not by an increase in the customs duties, and I congratulate the Government on coming to that decision.

That is a decision which was recommended by the Fiscal Commission in the case of all key and national industries requiring protection that the State aid should be in the nature and character of bounties and not by increase in customs duties. The Fiscal Commission laid down in unequivocal language that in all such matters the aid should be by way of bounties. When the Bill came up before the Council last year for discussion and when the aid was given, it comprised both in the nature of an increase in tariffs and a partial bounty.

[Sir Maneckji Dadabhoy.]

But on this occasion I am glad to see that it has been rightly decided that the aid should only be by way of bounties. The great objection to increase in customs duties is that once customs duties on any article are fixed at an enhanced rate, there is always a great temptation in the way of Government to maintain those duties either permanently or as long as it is possible. No Finance Member or Minister likes to sacrifice his revenues. He is very chary about losing any portion of the revenue and he sticks to increased duties as long as it is possible. But in the case of bounties, it is the general tax-payer who pays the money and not the private consumer who uses the commodity. It would be unfair in the case of industries requiring national aid that the individual tax-payer, individual consumer, should be indefinitely called upon to pay and not the general body of tax-payers. The principle of assistance which the Fiscal Commission recommended was aid from the collective body, the Government, in matters of this kind, and not that the interests of individual consumers should be sacrificed. I am also very glad to hear the assurance given by the Honourable Mr. Chadwick and which will weigh very heavily with any Member who may be opposed to the grant of this protection, namely, that the Directors have done their best to reduce the works cost and there is going to be a very substantial reduction in future in the general working cost. The Tariff Board has come to the conclusion that the works cost is likely to be reduced very considerably during the next 12 months. Mr. Chadwick has also given a satisfactory explanation why he thought it necessary not to give the full measure of protection recommended by the Tariff Board, which was 90 lakhs. I should have on this occasion preferred that the full amount of the sum recommended by the Tariff Board had been sanctioned because the industry is one which has done, as you all know, considerable service during the war; but for the existence of that industry I do not know how we would have carried on our military operations in Mesopotamia and in other places nearer India.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East; Muhammadan): What about the huge profits they made during the war?

THE HONOURABLE SIR MANECKJI DADABHOY: My friend here speaks of the huge profits made by the industry during the war. My friend forgets that those profits were of an ephemeral character, and that it was not the steel industry alone that made those profits. The jute industry, the cotton industry, and other industries made large sums of money and very probably my friend at the bar also made large sums of money....

THE HONOURABLE SAIYID RAZA ALI: At the bar it was the other way about.

THE HONOURABLE SIR MANECKJI DADABHOY: No. Because people were well off during the boom and lawyers also got something out of that by a prolific crop of litigation which then followed.

THE HONOURABLE MR. MANMOHANDAS RAMJI (Bombay: Non-Muhammadan): How were those huge profits used?

THE HONOURABLE SIR MANECKJI DADABHOY: It is too late to discuss that subject now, how those profits were used. It is all right to be

wise after the event. May I ask my Honourable friend there who is connected with the mill industry how

THE HONOURABLE THE PRESIDENT: We had better confine ourselves to steel.

THE HONOURABLE SIR MANECKJI DADABHOY: I will do so, Sir, but the Honourable Member has questioned me, and I would ask him to tell me how the profits were utilized by the mills at that time.

Sir, the object of this Resolution is to extend the period of protection from the 1st of October 1925 till the 31st of March 1927. That is the period when the Protection of Industries Act becomes extinct unless it is revived by further legislation, and I am glad that the period of protection has been decided to be 18 months. If any measure of protection should be given, it should be full and adequate and it should extend to the right period; and I do not think any objection will be taken to extending the period to 31st March 1927. I am much in sympathy with the Honourable Member in connection with one pertinent observation. But I have very little doubt that before the next 18 months expire we shall not only see a revival in the general trade of the country—and I take a very optimistic view in that connection—but I have no doubt that Tatas themselves will justify the grant we are now making by resourceful, judicious, prudent and skilful management of their big works and by production of actual facts and figures, if necessary. If they at all again come up for aid, if any protection is ever demanded, it should be based on circumstances which will justify both the tax-payer and their representatives in this Council to consenting to it. I shall probably not take such a hopeful view as the Honourable Mr. Chadwick has taken. I hope his prophecy that the surplus profits, if this protection is given for the steel industry, will ensure a return of 6 per cent. after the debenture interest has been paid.

THE HONOURABLE MR. D. T. CHADWICK: I must have been indistinct. I did not say that it would give the Company in the present state of its finances 6 per cent. It will not. But it is sufficient, after meeting all charges, also all loans and debentures, to leave a margin on all reasonable probabilities.

THE HONOURABLE SIR MANECKJI DADABHOY: I am very pleased to hear that. But I hope we will be in a position to save this great industry. The question of immediate dividends should not trouble us in this matter. I should certainly like the shareholders to receive a dividend. I am glad to say I am not a shareholder, but at the same time I must point out that this protection is being sanctioned by us not because we are anxious that the shareholders should receive a dividend, but we are anxious that a national industry should not be destroyed and that it should be maintained and because it is an industry which is of great natural strength to the Government and the people of this country. It is for these reasons, Sir, that I support the recommendation underlying this Resolution.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay: Non-Muhammadan): Sir, for the information of the House, or at least of those Honourable Members who know it not, I have to state that I happen to be a Director of the Tata Iron and Steel Company, Limited, and as such, in accordance with the Parliamentary practice, I shall certainly abstain from voting. But I hope,

[Mr. Phiroze C. Sethna.]

Sir, that it is quite in accordance with the rules if I offer any remarks from the point of view of the Company itself. I hope I have your permission, Sir.

THE HONOURABLE THE PRESIDENT: I think the Honourable Member is quite in order. So far as I am aware this point has not arisen in this House before. But in accordance with the practice adopted in the other Chamber of the Legislature, I think the Honourable Member is in order.

THE HONOURABLE MR. PHIROZE C. SETHNA: Thank you, Sir. My Honourable friend, Sir William Currie, informed us that his constituency consists of free traders, but his constituency has recommended bounties and Government have accepted its recommendation. So far as the country is concerned, as the result of the Fiscal Commission, India is committed to a protection policy. It is in consequence of that and of the recommendation made in the Fiscal Commission's report that the Tariff Board has been appointed. That Tariff Board, as pointed out by the Honourable Mr. Chadwick, has done most excellent work both in the opinion of the general public and of the Government. Mr. Chadwick told us that their report has given satisfaction. But we also have had testimony from no less a person than His Excellency the Viceroy himself who, in the speech which he made at the opening of the two Houses on the 20th of last month, observed with regard to the Tariff Board "that its reports were marked with that thoroughness which I have learnt to expect from its work." That is so, Sir. The present report is also marked by the same thoroughness, but it appears that the recommendation made by them has not been fully accepted by Government inasmuch as they have reduced their recommendation from Rs. 90 lakhs to Rs. 60 lakhs, and the Honourable Mr. Chadwick has given some reasons for this change.

In the first place, let me assure this House that the Tata Iron and Steel Company are most grateful to Government for the most timely help they extended to them in their hour of trial, if I may so call it. Were it not for the help rendered at that time, more than 20 crores of public money which has been sunk in the concern would have been at stake, more than 40,000 labourers would have been thrown out of employment and the city of Jamshedpur, which 20 years ago was a jungle and a place for wild game, would have again been reduced to the same state. All that, thanks to Government, has been avoided and the help that they gave them has enabled them to go on till now. The Company will surely cease to ask for protection the moment it is on its legs again. It is not so now, and I for one as a Director am not in a position to prophesy whether it will be so on the 31st of March 1927. But we hope that, if this is so, the Company will not come to Government and to the tax-payer for any further help or for help to the same extent.

My Honourable friend Mr. Chadwick endeavoured to give reasons as to why the amount Government proposed in this Resolution is not the same as recommended by the Tariff Board. May I be allowed to draw the attention of the House to very pertinent passages in the same Tariff Board Report which my friend Mr. Chadwick has so strongly approved of. In paragraph after

paragraph they give their reasons as to why the amount should not be less than what they have recommended. In paragraph 15 they say:

"We have considered the evidence bearing on this point and our view is that conditions are not likely to vary materially during the next two years. There is, as yet, no sign of reviving prosperity in the Iron and Steel Industry of Europe, and the excess of productive capacity over consumption still dominates the situation. We can find no ground for expecting that steel process will rise appreciably for many months."

In paragraph 17 they say:

"The additional bounty is limited to Rs. 50 lakhs, and the average amount received per ton of 'bounty' steel is Rs. 38.5. This figure is a little higher than can be justified by the output of 'bounty' steel October 1924 and September 1925 and the actual prices realised. The average difference between the realised prices and the standard prices is about Rs. 35 a ton for the twelve months, and on that basis a total bounty of Rs. 45.5 lakhs would have sufficed. It is, however, to be remembered that during the first 3½ months after the passing of the Sateel Industry (Protection) Act the prices received by the Company for all classes of steel were much below the standard prices, and a sum of Rs. 4.5 lakhs will not go far to cover the losses incurred during that period."

As one possessing inside knowledge, let me assure the House that the losses did not amount to 4½ lakhs but very much more.

Again, Sir, in paragraph 19 the Tariff Board say:

"So far as can be foreseen, it is not likely that conditions will change materially, either for the better or for the worse, before the spring of 1927, and there is therefore no valid reason for planning for a shorter period than eighteen months."

One more quotation, Sir, and that is from paragraph 21 which is headed "Necessity for making sure that the supplementary protection proposed is not excessive." They consider this from 4 different points and the first point is:

"The prices which the manufacturer is likely to realise."

And their comment is as follows:

"On this point we have nothing to add to what has been said in the section relating to prices, for we can find no reason for anticipating that the manufacturer will obtain, on the average, higher prices than those we have taken."

Sir, this shows conclusively that in the mind of the Tariff Board, at any rate, their recommendation is by no means excessive. But my Honourable friend opposite has given his reasons as to why Government have reduced the figure. He says that the Company is committed to reduce its cost in five years' time to Rs. 115. He himself admits that in the first year they were only able to reduce it by Rs. 1½. He expects the price of coal to go down so low that the cost of production would next year be reduced by Rs. 15. If that were so, surely the Company itself would be prepared to receive a lower rate of bounty. But, on the other hand, may I ask the Honourable the Commerce Secretary that if his expectations are not realised and coal prices do not go down and the cost of production is not reduced to the extent upon which he has based his figures, will Government agree to allow the Company to approach him again because of this important point? Similarly, on the last occasion figures were based on a certain rate of exchange. Exchange jumped up with a bound with the result that all calculations were upset and the Company had to approach Government again. At the present moment it does not appear to be likely that exchange will go up and let us hope that the recommendations of the Royal Currency Commission just appointed will

[Mr. Phiroze C. Sethna.]

help to stabilize exchange. But if exchange by some accident goes up again from 1s. 6d. to say 1s. 8d., as it did before and the Company has to compete with imported steel which will be laid down at far lower prices than what the Tariff Board have based their figures on, may I ask Government if the Company will be permitted to make a fresh representation and if Government will entertain it favourably? I quite realise that the Company—and I say so as a Director of the concern—is most grateful to both the Government and to the tax-payer. But the Government and the tax-payer do recognise that it is a basic industry and most certainly requires to be protected. We are to-day unfortunately in the position of a beggar and a beggar cannot be a chooser.

We cannot look a gift horse in the mouth. Government have extended a helping hand but Government might well have given the full amount recommended by the Tariff Board as pointed out by Sir Maneckji Dadabhoy. If they had done so they would have enabled the company to turn the corner earlier than it might now be expected to do.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): I rise to support this Resolution. I hold it is needless for me to say that our country is deeply grateful to the Government of India for coming to the rescue of our greatest commercial enterprises in basic industry. In case the needed protection had not been extended to the Tata Company in time, it would have ended in a great commercial disaster and would have put back our Indian industry perhaps a century at least. My friend the Honourable Sir William Currie has mentioned that the community which he represents, i.e., the Europeans, are free traders. The Honourable Sir Maneckji Dadabhoy has given him a reply that the British industries in England started with protection. I wish to add that even now after the Great War the British Parliament by its enacting the Industries Safeguarding Act has advocated the policy of protection in the interests of British commerce and industry, and if I mistake not that Act is still in force. I may mention that although we are giving a direct aid to the Tata Steel Company our railways are being greatly benefited indirectly by the traffic that the Tata Company offers. According to my calculations which are subject to correction, it offers something like 4 crores of maunds of traffic which certainly adds to the revenues of India derived from Railways. I hope, Sir, that this policy of protection will continue and it will be extended to other industries also which may be facing crises and are thus greatly deserving help.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I feel quite convinced that the Honourable the Commerce Secretary must experience a keen sense of gratification at the approval with which his Resolution has met and I am not going to utter any note of discord. For that reason I propose to be particularly brief. The Honourable Sir William Currie was the first Member of this Council to rise after the Honourable the Commerce Secretary and on that account, as is frequently the case, he has been quoted by the following speakers. I too wish to quote him because I lay great emphasis on condition 17 of the first report of the

Tariff Board. The Honourable Sir William Currie has quoted that condition which, Honourable Members will recollect, is that the industry which is aided must be one which will eventually be able to face worldwide competition without protection. Well, Sir, in accepting this Resolution, as I have no doubt this Honourable Council will accept it, we are committing Government to further expenditure in aid of the steel industry for another 18 months. With that I have no objection. I supported the Steel Protection Bill in June last year and I do not propose to withdraw my support or rather the support of my constituency on this occasion, but as I mentioned then in supporting it, I do not in any way bind my constituency to a policy of protection and bounties. To both, in principle, I am strongly opposed. When you give bounties you take away from one class of people and give to a particular class.

THE HONOURABLE SAIYID RAZA ALI: Rob Peter to pay Paul.

THE HONOURABLE SIR ARTHUR FROOM: That is what it amounts to. One industry which perhaps is prospering because it has been well managed has to pay for another industry. That is what bounties amount to. In fact, bounties are dangerous. I should not at all be surprised if my Honourable friend on my left (the Honourable Mr. Ramji) put in an amendment that the mill industry might receive a bounty. They also are going through a bad time. The mill industry employs labourers to the number of 200,000 men.

THE HONOURABLE SIR MANECKJI DADABHOY: We want justice done.

THE HONOURABLE SIR ARTHUR FROOM: The mill industry in Nagpur is probably in a happier position than that in Bombay. I am not going to vote against the Resolution, because, as I said in June last year, I should like to see the steel industry put on its feet, but what I do want to lay emphasis on, is that if in a few years it does not show that it can stand by itself, it is not worth spending further money on it.

THE HONOURABLE MR. MANMOHANDAS RAMJI (Bombay: Non-Muhammadan): I rise to support the motion that is before the House and in doing so I want to make a very few observations. I congratulate Government on their present proposal to give a bounty instead of raising tariff values. The principle of raising tariff values whenever protection is intended to be given to an industry means a rise in the price of commodities to the consumers who form a large class of the population, but in the case of a protection to an industry, when that industry is a national industry, it is right that the nation should contribute towards that protection and towards fostering that industry. Therefore the present action of the Government is a right one and I support it and I congratulate them for taking this action.

Then, Sir, the Honourable Sir Arthur Froom said that this system of bounties means taking away from one and giving to another. It is quite necessary when you want to introduce industries in a country, when the industry that you want to foster has to face competition with properly and well organised and thriving industries in other parts of the world. Under those conditions it would be impossible for any country to start an industry without

[Mr. Manmohandas Ramji.]

State aid and of course when I advocate that idea, I advocate it with certain reservations. My suggestion is that when an industry is to be protected the thing first to be taken into consideration is how long it will require protection. I am not one of those who advocate that such industries which would require help for 15 or 20 years should be encouraged readily; but those industries which are likely to develop to such an extent that they would need no protection beyond a period, say, up to 7 or 10 years. I should not go beyond a longer period.

The Honourable Sir Arthur Froom indirectly suggested something about the Bombay mill industry. I say, Sir, that the Bombay mill industry does not require any protection; they have never claimed any protection, and even at this moment they do not claim any protection. With these few remarks, Sir, I support the motion.

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Sir, as one who gave his support on the last occasion to the protection of steel, I feel called upon to give my support to this motion also under the circumstances narrated to us. But I feel at the same time compelled to make a few observations so that my support and the support of those one or two Honourable Members who sat on this side on the last occasion may not be misunderstood. They are not here. We wish that it should be made perfectly clear that the protection or bounty is given from the revenues of India, and the revenues of India come from the pockets of the people of India, and they are mostly poor; that therefore when Government with the aid of the Legislature are giving a protection or bounty, it should be definitely understood, and that is what is accepted in every other civilized country where protection or bounties are given that it should be given only to key industries, national industries and on the distinct understanding arrived at after a full and careful inquiry into the merits of the case that but for that help, but for the protection or bounty the industry in question would collapse. It is equally necessary for the Legislature which is a party to this and for the Government and others who urge such protection or bounty that they should understand they could claim it only for a very short time, and that the Government or the Legislature which gives that protection for a moment more than is necessary would not be discharging their duty to the people. I am obliged to make this remark because the moment the Government began giving protection to this industry, there have been similar applications from others. We therefore expect that the Tata Iron & Steel Company must during the period of protection and during the period of bounties make every strenuous and honest endeavour to see that a policy of retrenchment is thoroughly pursued, that expenses are reduced, and that they will so manage their affairs that they do not have to come to us again after the expiry of this period. I make these observations because one of my Honourable friends spoke as if the public wanted an assurance from the Commerce Secretary whether he would again consider applications from the Tata Company for further help. Yes, he would be bound to consider, and others would be bound to consider, such applications, only if we are thoroughly satisfied that every possible and genuine effort has been made by them to manage their affairs efficiently and that only as a last desperate step they should come to us for help.

My Honourable friend, Mr. Sethna—I am sorry he is not here—said that they had come as beggars. But let us realize what we realize every day that nobody likes beggars coming in again and again, and that there are beggars of different descriptions. I feel constrained to make this remark because I am quite sure and many others are also convinced that there are other industries which deserve help, and the revenues of India are limited: and those here and elsewhere who have so often pleaded for the proper administration of the revenues of India of this country must equally be careful that in voting for things like this, they are satisfied that there has been no other alternative. I hope that after the 31st March 1927 we shall not be put to the necessity of considering any other application from the Tata Iron and Steel industry; that by that time this Company would have made every possible effort to manage its affairs without coming to us. Sir, I feel compelled to make these observations because I do not want that in this matter, in which the Government have behaved very well in helping a great national industry, and have shown that in the matter of industrial development the interests of the people of India and of the Government are identical, there should be any abuse of the help given. No one with any sense of responsibility must make any proposals to the Government or to the Tariff Board pleading for protection or a bounty without feeling every moment of his life that when he asks for protection or a bounty, he is asking for money which is wrung from the tax-payers of India.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhammadan): Sir, I do not wish to give a silent vote on this point. Some months ago I sent in a few questions concerning the expenditure of the Tata Iron and Steel Works. The object of these questions was to find out how far the attention of the Government is devoted to the consideration of the question as to whether the bounty that is being extended to that concern.....

THE HONOURABLE THE PRESIDENT: Is the Honourable Member referring to questions that were disallowed?

THE HONOURABLE MR. R. P. KARANDIKAR: My point in referring to those questions is not to.....

THE HONOURABLE THE PRESIDENT: I must ask the Honourable Member to give me an answer. Is the Honourable Member referring to questions which were disallowed?

THE HONOURABLE MR. R. P. KARANDIKAR: Not to the questions but to the object in sending in those questions. With your permission, Sir, I shall proceed. My object in sending in those questions was to direct the attention of the Government to the desirability of seeing that when they extend bounties to such concerns, the latter must exercise the utmost discretion in the matter, that they do not make the management top-heavy, so that the articles that they send down are not of the quality which can be secured for the same price in the open market. My object in rising just now is the same. I am not opposed to bounties; I am in favour of bounties as I was in favour of protection. That is the only object which I have in view, and if I succeed in directing the attention of this House to the object with which I sent in my questions, I shall have gained my point. I am not opposed to this Resolution.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, my Honourable friend Mr. Natesan's charitable propensities are somewhat of the order that prevails in the riverside of Benares where old ladies are seen to go out in the morning with a handful of rice and giving grain to each in a row of beggars who spread their dirty bits of cloth before them for receiving alms. If there were many charitable ladies in the train, each giving a grain, the beggar in time might have a plateful. But the row of industrial beggars is large and the donor is one in this particular instance. I do not think, Sir, that any protection can be afforded to many industries on these lines. Nor do I think that there is any reason or sense in trying to run up credit ledgers with the Recording Angel in this style. We are in for protecting this industry within the limitations laid down by the conditions suggested in the original report of the Tariff Board to one of which reference has been made both by the Honourable Sir William Currie and the Honourable Sir Arthur Froom, namely, that the industry should be in a position in a given time to fulfil certain conditions. It must however be fully assisted to do so. We are now proposing to give to it 60 lakhs instead of 90, recommended by the Tariff Board in its report before us, a retrenchment that is difficult to follow even for the reasons that have been given by the Honourable Mr. Chadwick. I quite agree with the Honourable Mr. Karandikar that the working charges should be the minimum and the Company would be reducing the working charges further in the way proposed by it as appearing from the report of the Tariff Board. Sir William Currie has suggested, Sir, that the Government might have a nominee of their own on the Board. That is a suggestion that had been made before, but did not find acceptance and I do not think it will find acceptance now. To try to interfere with the management of a company in this inconsequential way is not likely to be helpful, but will on the other hand divest the company to a certain extent of its responsibility. The company had certain proposals for reduction of working charges. It proposed to add a third steel furnace to the duplex plant for which it wanted more than the amount that has been recommended and much more than is to be paid under the present proposal. That suggestion of its has not been acceded to, for reasons, I think, that will bear questioning.

"The Indian Iron and Steel Company, in a representation addressed to the Tariff Board,"—the report says—"have suggested that the supplementary protection needed for steel should be given in the form of an advance of the capital required to erect the third tilting furnace instead of by the payment of bounties. We were unable to entertain this suggestion for two reasons. In the first place, it would take at least a year, and probably longer, to construct the furnace, and it is most unlikely that it would add appreciably to the steel ingot production until January or February 1927, so that the benefit the Iron and Steel Company could derive from it before the 31st of March 1927 would be negligible."

I need not proceed with the second reason that has been given. I ask this House and the Government whether the 27th of March 1927 is the ultima Thule so far as the prospects and possibilities of this company are concerned. That may be the limit of the time for granting of the Government bounty, but the company have got to grow from more to more in order that the conditions that have been laid down in the clause to which reference has been made

might be possible of attainment. This kind of objection might not be out of place on the basis of what I may call liquidation arrangements for 1927, and not on the basis of assumption and the desire that many more years of a useful career should lie before the company. The Tariff Board have reproduced the cogent arguments put forward by the Company in regard to this matter. They say :

"The actual output in 1924-25 was close to the estimate, but the output for the next two years will, it is expected, be somewhat below it. In these circumstances, the Directors of the Iron and Steel Company have been considering the question whether it might not be advisable to instal a third tilting furnace in the duplex plant, so as to increase the steel production substantially in the near future. The plant has been so designed that this third furnace can be added with the minimum of fresh capital expenditure, and the consequent increase in the output of finished steel would not only lighten the burden of the overhead charges, but would tend to bring down the works costs, because the rolling mills would be more fully employed."

But due effect has not been given to this reasoning and the possibilities of reducing overhead charges have not been availed of. We are all interested in bringing the works charges to the lowest level, but reasonable assistance has to be given in this direction. The Honourable Mr. Chadwick has told us that the charges have to a certain extent come down, and I hope they will come down more, for there is undoubted room for retrenchment. What the company proposed would however have been a fair way of helping the company in keeping down charges further and it would add to the usefulness and ultimate prestige and stability of the company. That, however, has been denied and what more has been denied has been brought out by the Honourable Mr. Sethna in the various paragraphs that he read out, with which I need not weary the House. It is therefore, Sir, why we want to have it laid down in advance that, although we are to a certain extent handicapping the Company, we shall when the year of grace, 1927, comes round refuse further assistance irrespective of circumstances that would then prevail. Sir, if you do give a bounty, give it well, give it adequately, give it in time, so that it may really help the industry in being set up as it ought to be. I am relieved to find that one Honourable Member from the Punjab does not share the views of another Honourable Member, and suggests refusal of the bounty because the industry does not happen to be within the jurisdiction of the Punjab Government and because a vast tract of country lies between the Punjab and the seat of this industry for which reason he thinks that protection ought to be charily given. We have also heard the ill expressed and worse explained story of robbing Peter to pay Paul. We have also heard various other stories about one pocket being benefited to the prejudice of another. I do not think, Sir, that raising of questions like these at the present moment and in the present state of our deliberation should cloud the issues, particularly as shareholders are not to have interim dividends. Changing of horses midstream is never a practical and paying proposition. I certainly think that interference, or call it assistance of the kind that Sir William Currie has proposed, will help the company. For the present, we cannot go beyond the Government proposal, and although I should have liked to go a little further, I support the proposal of the Honourable Mr. Chadwick.

THE HONOURABLE MR. D. T. CHADWICK: I do not think that many points have been raised in the course of the debate to which I need reply. I thank Honourable Members of the Council for the generous view they have

[Mr. D. T. Chadwick.]

taken of this Resolution and the universal support given to it. Putting a Government nominee on the Board of the Company is really one point that has been largely answered by Sir Deva Prasad Sarvadhikary. It is very useful to have a watch-dog on a Board to see what is being done with the Government monies or rather with the monies that the State has given to the Company. On the other hand, we do not wish to get too closely entangled in the affairs of any one company.

THE HONOURABLE SIR ARTHUR FROMM: A debenture director is quite usual.

THE HONOURABLE MR. D. T. CHADWICK: There have been many suggestions of that kind made. I do not propose to give any definite answer for all time. There is, however, the difficulty that we foresee of being mixed up too closely with the management of a particular company. I did not follow my Honourable friend Sir Deva Prasad Sarvadhikary. The proposal to put in a new furnace is under consideration by the Tata Iron and Steel Company itself. The proposal which was put before the Board by another witness was that instead of giving any bounties now Government should give the Tata Company capital with which to build the furnace. The Board quite readily said that they were unable to entertain the proposal in the present situation. It afforded no relief for the present situation, which is the need to help next month. The Tata Iron and Steel Company did not ask for a furnace instead of bounties. Government do not put capital into companies. The question is only about bounties. I have also tried to make it clear that in taking Rs. 60 lakhs, I justified that not on the figures that the Board hoped works costs might be reduced to, but on the most conservative figures given in the Board's report. If the Company can get the reduction of Rs. 15 per ton in works cost, they will be so much better off. I did not count that reduction as being a safe asset. Sir, I move my motion.

THE HONOURABLE THE PRESIDENT: The question is:

"That the following Resolution be adopted:

'This Council recommends to the Governor General in Council that a bounty should be paid on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927, subject to the following conditions:—

- (1) The bounty should be paid only to firms or companies manufacturing, mainly from pig-iron made in India from Indian ores, steel ingots suitable for rolling or forging into any of the kinds of steel articles specified in Part VII of Schedule II to the Indian Tariff Act, 1894.
- (2) The bounty should be paid on steel ingots manufactured by such firms or companies, and the bounty should be paid at the rate of Rs. 12 a ton on 70 per cent. of the total weight of the ingots manufactured in each month.
- (3) The total amount of the bounty payable under this Resolution in the 6 months ending the 31st of March 1926 should be 18½ lakhs and in the year commencing the 1st of April 1926 and ending the 31st of March 1927, should not exceed 41½ lakhs, making a maximum total in all of 60 lakhs."

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Thursday, the 10th September, 1925.

COUNCIL OF STATE.

Thursday, the 10th September, 1925.

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

QUESTIONS AND ANSWERS.

EMPLOYMENT OF INDIAN LASCARS TO MAN STEAMERS DETAINED IN SOUTH AFRICAN PORTS.

THE HONOURABLE MR. G. A. NATESAN: Sir, I have given private notice to the Honourable Mr. Chadwick of two questions which I desire to put to-day. Have I your kind permission?

THE HONOURABLE THE PRESIDENT: Yes.

THE HONOURABLE MR. G. A. NATESAN: (a) Have the Government of India seen the report that the owners of certain steamers detained in South African ports propose to engage lascar crews in India to man those vessels?

(b) If so, can the Government state whether any lascars have left for this purpose?

(c) If not, whether the Government have taken action to prevent lascars from undertaking those duties?

THE HONOURABLE MR. D. T. CHADWICK: (a) The Government have seen the report in question.

(b) and (c) The Government of India have already made inquiries and are informed that no lascars have left the shores of India to join those vessels, and they do not anticipate that any will.

ELECTRIFICATION OF RAILWAY COMMUNICATIONS IN SOUTHERN INDIA.

THE HONOURABLE MR. G. A. NATESAN: Will the Government be pleased to state what progress has been made with the proposals for the electrification of railway communications in Southern India?

THE HONOURABLE MR. D. T. CHADWICK: The Government are awaiting the development of the sources of power from the various hydro-electric projects which are being investigated by the Madras Government. Proposals have been received from the South Indian Railway for the electrification of the suburban lines which are under examination.

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules I lay on the table a copy of a Bill to provide

[Dr. Sir Deva Prasad Sarvadhikary.]

that, when fire-arms are used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances, be given, which was passed by the Legislative Assembly at its meeting held on the 9th September, 1925.

RESOLUTION RE PROTECTION OF THE RIGHTS OF INDIANS IN SOUTH AFRICA.

The HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, I beg to move the following as a substantive proposal:

"This Council recommends to the Governor General in Council that in connection with the recent anti-Indian legislation and with the Bill now impending before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa."

Sir, I owe it to your indulgence and to the courtesy of the Honourable Member in charge of the Department, and to the Honourable Mr. Natesan that I am permitted to substitute these words as a substantive proposal in place of the words of which I had given notice originally. In speaking to this or any Resolution on this subject, one is weighted down with the sense of serious responsibility and of not a little embarrassment, although speaking in the calm and helpful atmosphere of assured Government support and sympathy. One feels, Sir, that not a word must be said on these occasions which may be prejudicial to the interests of those whom we want to help, and whose interests we want to safeguard as far as lies in our power. We feel, Sir, that whatever the irritation and sense of annoyance may be, we have to exercise restraint and self-control. I think it will be conceded that appeals in this direction have not been disregarded in this House or in the other House in the near past. Everyone who had occasion to speak has spoken with this sense of responsibility. The responsibility is not ours so much as that of the Government of India, and not only should we avoid giving cause of offence elsewhere, but we owe it to the Government of India, which we know is doing all that is possible to do in this direction, that their hands should be in no way weakened. All who know anything of the situation must accord the gratitude we owe to all the Viceroys from Lord Hardinge downwards, Lord Chelmsford, Lord Reading, every one has done all that lay in their power to advance the cause of our countrymen in South Africa and to protect them, as far as possible, with due consideration for prestige. And, Sir, when the history of this movement comes to be written, no small place must be assigned—and I say this with gratitude—to the Honourable Sir Narasimha Sarma, who will soon be leaving us, who to our certain knowledge has done all that could possibly be done. It is a matter of gratitude and assurance, Sir, that the Honourable Mian Sir Fazl-i-Husain has taken up the burden—this thankless and immense burden—in a proper spirit that I am sure will be helpful.

Sir, I do not want to take the House into the various phases of this anti-Indian legislation in the Union Government which has been always a sore subject with us. The Honourable Mr. Natesan will enter into the details of that legislation and of the situation as affected by it. We want to strengthen the hands of the Government of India in a way that will induce

the Colonial Office and the Cabinet to afford us—which speaking with the outside knowledge we have not got yet—that assistance and support to which we are entitled. The Imperial obligation in the matter, which are large, must be adequately discharged.

Sir, the immediate measure that has called attention to this question is the Bill recently introduced to make provision for the reservation of residential and trading areas in urban areas for certain persons having racial characteristics in common. They were so precipitate in moving that Bill that, according to newspaper reports, which are not always accurate, the mover of the Bill had not yet the text of the Bill before him. And it was with some difficulty that copies of this Bill could be procured in this country for detailed examination. That Bill, among other things, aims at reducing the Indian population in South Africa to an irreducible minimum. And what is that Indian population, Sir? Near upon 1½ lakhs, of whom more than 60 per cent have been born in South Africa. Whether they should be regarded as South Africans first and Indians afterwards, and whether their interests should not be safeguarded by the Colonial Office more than by our Government and the Secretary of State for India is a question which might be raised, but leaving that constitutional question aside, we have the fact that these 1½ lakhs of people did not go there of their own accord voluntarily, but their ancestors went there to start as indentured labourers, who manured the soil with the dust of their bones. They finished their work and settled down, and it is their families now who are to be interfered with by the proposed Bill. Whether they can be repatriated in the way proposed, or whether the pressure that is proposed to be brought to bear upon them is just, though it may be lawful, are questions that will probably not affect the issue. So far as the South African people are concerned, they are determined, by any means open to them, to have that number reduced to a minimum. Those who have had opportunities of conferring with representatives of South African opinion are fully persuaded that there is very little left for negotiations to achieve. We who speak with outside knowledge are therefore in a more or less despondent frame of mind, and so are, we believe, the Indians in South Africa themselves. But, Sir, Government, which have closer information, are not yet of that frame of mind, and it is believed that the time for negotiations and representations has not yet passed. That being so, although both Houses here adopted some time ago a Bill to take needful action by way of reciprocity, it would be premature, it would be undesirable and unfortunate to raise yet the question of reciprocity or retaliation as we may call it. What can be done in that direction later on is another matter. But the door for negotiations and representations being still open, we ought to do all we can to assist the Government and strengthen their hands and endeavour through representations and negotiations to bring about a better state of things, which it is believed will be possible to bring about in the not unlikely event of a change in the Government of South Africa.

Sir, the question there cannot be one of numbers. As I have said, the number of Indians is only 1½ lakhs in that vast country. There are six millions of coloured people who do not seem to trouble the South African Government or the South African people. Therefore it cannot be a question of numbers. The House will remember that, in view of the troubles that

[Dr. Sir Deva Prasad Sarvadhikary.]

arose in 1911, Government decided no longer to encourage or allow emigration to South Africa, and the understanding arrived at, generally known as the Gandhi-Smuts Pact, provided for no more than 18 people for all the districts and provinces of South Africa from India a year. That cannot be a menace to the South African people. In the same way, Sir, it cannot be the political difficulty that the South African people are exercised about, because even if every one of the Indians had all the franchise and municipal privileges that we would like to see them have, that would not make an appreciable impression on the situation. And, Sir, if the facts of which we have heard are to be credited, I am not sure that those opportunities would be used by the Indian population in any manner prejudicial to the interests that the South Africans naturally value. In a place called, I believe, Stanger, where the Indians have a preponderating majority in the municipal vote, not long ago, in spite of all the troubles and difficulties that they have been experiencing, they returned an Englishman as their representative. It would appear therefore that they are not animated by any adverse ideas with regard to the political or municipal situation. I am informed on very credible authority that in a border province, where there are no more than a hundred Indian people, the Mayor publicly declared that he had never known a more law-abiding, genteel and gentle set of people than the Indians. I do not know whether that testimony would be forthcoming if the number was appreciably larger than a hundred. Sir, I heard from Mrs. Sarojini Naidu, who was here the other day, that at a banquet given in her honour, there were 900 covers laid and as many as 400 white people joined the remaining 500 people. Therefore it cannot be political or social, so far as those particular grades of society are concerned from which that 900 came. I am told, Sir, that there is no colour bar at the Bar, nor is there any moaning at the Bar with the help of the cheap drink they pass out.

Is it then an economic question? One hears that it is not the labourer so much as the tradesman that the South African objects to. One hears the other story also, that it is not the trader so much as the labourer that he is really anxious about. If the latter were the case, one would have expected that minimum wages legislation would have been undertaken, which would have made it impossible for the Indian labourer to indulge in wage-cutting. I am sure the Indians, even under those conditions of handicap, would be able to hold their own.

What is it then that is really troubling the South Africans? I am not sure that we have always the right version of things. There are always two sides to a question. We have seen with regard to Kenya that some of those who were urging upon us to take steps that bordered on the extreme were in the end prepared to accept seats on the Legislative Council and the Executive Council. About this I asked a question a few days ago in this Council, the Department however said they had not the information yet.

Therefore, Sir, it is of the first importance to begin with to get the right facts, the real condition of things from the point of view of the majority of our countrymen in order that in any course of action on which we may embark

we may not, in attempting to help them, really hurt them. From that point of view, I thought a revision of the wording of my original proposal was necessary and I therefore place it before the House in its amended form. If that is accepted, together with the amendments that will be proposed presently, as complete and concrete a proposal as is possible for this House to present to the Government will have been made; and on that the Government of India through the Secretary of State, and indirectly through the Colonial Office, can bring pressure to bear upon the Cabinet and may yet be able to achieve some results, about which many of us are becoming despondent.

In those circumstances, we thought that we should bring up the matter before this House before it disperses. The other House has also taken an equally strong view upon the matter, and we who come in contact with public opinion outside know with what intense feelings, in spite of the seeming smallness of the problem many thousands of miles away from here, this matter is regarded.

We are taking this step on the eve of a discussion on grave constitutional questions. It has often been said with reference to our demands that we who demand rights for our countrymen abroad have yet to think about ourselves. That is a situation from which there is no getting away; but that is a situation about which we are trying to achieve improvements which sooner or later will come. That however ought not to be allowed to cloud the issue; where such rights have come to all citizens. Those who went away from their country many years ago upon representations that for a time were adhered to but that were gradually departed from as time went on, are our own flesh and blood, our own kith and kin. We cannot sit down with folded arms when all these troubles and difficulties are threatening their fortunes in the country of their adoption.

I shall not say any more. I confidently hope, Sir, that Government, which are taking the same view as us right through the trouble, will be further strengthened by what this House is going to say and that they will be able to achieve results by negotiations and representations, the door for which we are assured to be informed is not closed yet.

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-official): Sir, I do not think it is necessary that the time of this House should be taken up by a detailed account of the story of the sufferings of our countrymen in South Africa. In March 1924 I had the honour of drawing the attention of Government and this Council to the legislation which was then impending in the South African Union called the Class Areas Bill, and I am very glad to say that the unanimous desire of this House that the Government of India should take effective steps to prevent that legislation from being given effect to was accepted by the Government of India, and I am sure they have made emphatic protest in that direction giving expression to what was the opinion of the public with regard to the question. That Bill fortunately was dropped, not because the South African Union Government was willing to change its policy in the matter, but because the Government which introduced the Bill had a defeat which it certainly deserved, if for nothing else, for introducing that measure, and it went out of office. We are now faced with a Bill of a similar character but with provisions more drastic in their effect. My Honourable friend Sir Deva Prasad Sarvadhikary, who moved the Resolution, desired

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that I should state some facts in regard to the provisions of the Bill which is now impending and which we are now requesting the Government of India to examine very closely and try their very best to prevent from becoming law in the South African Union.

Sir, there is a great deal of literature luckily made available to us not only through the courtesy of the Department which is in charge of this Resolution, but we have also the advantage of having certain communications which have come to us from not only the Union Government of South Africa but also from the expression of public opinion as prevailing in South Africa through certain representative associations which have cabled to us about some of these matters. I find, Sir, that the immediate effect of this new Anti-Asiatic Exclusion Bill, so far as the Indians there are concerned, will be that it provides for allocating residential and trading areas within which only Indians may buy and lease property. In rural districts Indians are confined to 30 miles from the coast line wherein the areas may be defined. The result will be that thousands of Indian business firms must cease on the expiry of the present leases. It is compulsory segregation and deliberate deprivation of Indians' property. The ultimate aim is apparently repatriation with confiscation. The right of *bona fide* Indians to enter the Union is seriously jeopardised. Many provisions in the Bill will enable Indians being declared prohibited immigrants. The domicile rights will be practically forfeited. Mere absence of three years causes forfeiture. The wives and children of domiciled Indians cannot enter the Union after five years from August 1925. Thousands of ex-indentured Indians are now for thirty years there and their descendants may be declared prohibited immigrants and cannot claim domicile. A South African born Indian domiciled in one province must return to the province of his birth and there also into segregated areas. Indians born here could also be declared prohibited immigrants unsuitable to the requirements of the Union. Such prohibited Indians will lose all property and vested rights in the Union and be driven away.

This is, I think, a very fair and temperate criticism of the provisions of this Bill, and the criticism is made by Mr. Ahmed Bayat, President of the Natal Indian Congress, who has sent a cable in these terms to a number of public bodies, politicians and legislators in India, and also, I understand, to the Government of India. A short but telling comment upon the provisions of this Bill has been made by Mr. Gandhi and he remarks as follows :

"It reduces the position of the resident Indian population to such an extent that without the Union Government having to pay any compensation whatsoever there will be no Indian settlers in South Africa within a few years' time if the provisions of the Bill are applied with enough stringency. There will be powers given to the administration to freeze out every Indian, no matter what stake he may have in the land of his adoption and even of his birth, for the Bill makes no distinction between Indians born in South Africa and domiciled.

"The safeguards provided by the Bill are all illusory and can be rendered perfectly nugatory. The Bill is an indication of the determination of the Union Government to starve the Indians out of South Africa."

I do not think it is necessary for me to give this House any further details about this measure. The contention of our countrymen there, and I am very glad to state, the contention also of the Government of India which has taken

up the case of the people there, is that this is a direct violation of the Smuts-Gandhi Agreement. Honourable Members of this House are aware that as a result of the compromise entered into by General Smuts, who was Prime Minister then and Mr. Gandhi, on behalf of Indians, it was understood that though Mr. Gandhi, on behalf of the Indians, gave up the right of theoretical equality with the people there and though also Mr. Gandhi on behalf of the Indians agreed to give up the right of unrestricted immigration, it was understood, it was put on record, it was also subsequently ratified by General Smuts and his Secretary, that the rights of people already there, that is existing and vested rights, should not be interfered with and no fresh legislation which was in any way calculated to take away the rights of people there ought to be undertaken.

I very much regret to say that not only has the recent anti-Indian legislation to which reference has been made by my Honourable friend, Sir Deva Prasad Sarvadhikary, been adopted in Natal, but this Bill, the worst of all, which has been recently introduced, is a direct violation of the Smuts-Gandhi agreement and is a challenge to the 160,000 of our people who are domiciled in South Africa. Referring to the Smuts-Gandhi Agreement Mr. Gandhi said :

"The essence of the arrangement was that an assurance should be given that existing laws especially affecting Indians will be administered justly and with due regard to vested interests."

On behalf of the South African Union Government Mr. Gorges, the Minister of the Interior, gave the following assurance :

"With regard to the administration of existing laws the Minister desires me to say that it always has been, and will continue to be, the desire of the Government to see that they are administered in a just manner and with due regard to vested rights."

It was again stated that in accordance with that promise no further anti-Asiatic legislation would be passed by the Union Government. The understanding clearly was that the legal position of Indians would be gradually improved and that the then existing anti-Asiatic legislation would in time to come be repealed. You will recollect that the Government of India sent Sir Benjamin Robertson on the Asiatic Inquiry Commission, and Sir Benjamin Robertson expressed his views very clearly and definitely. He publicly stated in that document :

"Compulsory segregation in the eyes of many of its supporters is merely a means to an end. The ultimate aim is to force the Indians, and more especially the better class of Indians, to leave the country."

It is important in this connection to remember another observation made by Sir Benjamin Robertson :

"An undertaking to administer existing laws in a just manner is meaningless if the rights which Indians are entitled to exercise under those laws can be restricted at will by fresh legislation."

Sir, the Bill which is now before the South African Union Parliament is a direct violation of this agreement, and it makes the promise given by the South African Union Government not to interfere by new legislation with the existing and vested rights there meaningless. It is against this attempt that we request the Government of India to take effective steps to safeguard the interests of our people there. My Honourable friend, Sir Deva Prasad

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Sarvadhikary, very rightly pointed out that this House should not ask the Government of India to do anything which in the least is likely to jeopardise the interests of Indians in South Africa. It must be remembered that the 160,000 Indians there are domiciled Indians; most of them, or at least their parents, went out there at the request of the Government of Natal. They were induced or rather encouraged by the Indian Government here to go there; and therefore there is a great responsibility on our part and on the part of the Government of India to see that whatever steps may now be taken, or may have to be taken hereafter, due regard is paid to the protection of the rights and vested interests of Indians domiciled in South Africa. I am therefore anxious that nobody here or elsewhere should do anything or advocate any measure which is likely to defeat the very object we have in view. I find from a cable received from representative Indians in South Africa that a mass meeting of Natal Indians strongly protested against the Asiatic Bill; what is more important, the cable says:—

“The Indian case will be presented to the Union Cabinet at the end of September. If unsuccessful a deputation will leave for India and England to pray for support; otherwise it will mean extermination.”

This clearly means, Sir, that responsible Indians in South Africa propose at any rate for the present to adopt the only step that is open to them, the perfectly legitimate and constitutional step of presenting their case to the Union Government, and if that attempt fails then naturally they turn to the Government of their mother country, that is, the Government of India here. Whatever steps we may take, therefore, and whatever methods we request the Government to adopt, we must follow the policy which has been communicated in the telegram which I have already read.

We must remember one other matter. There are some here who, I find, speak without a correct knowledge and appreciation of the facts of the case. They say, “Let us agree to repatriation”. I venture to submit to the Government of India—and I submit that I am reflecting the opinion of those who have paid some attention to this question—that they should not agree to this proposal at all. I wonder if people who talk like this realise what the situation exactly means. As has been said more than once, there are Indians born in South Africa to whom India is nothing more than a mere geographical expression; they have been born and bred up there and have lived all their lives there—lives which though they might not have come up to the highest European standards are certainly to some extent of a higher standard than they would have lived in India. They are pursuing peaceful avocations; they are traders and they are competitors with the white traders there. It seems to me it will be suicidal to the best interests of these people if we were light-heartedly to talk of their repatriation to India. Then there is the talk of retaliation. That is a matter which has to be very carefully gone into, and no responsible Indian politician could talk of retaliation now without making a very careful examination of all the facts of the case. I do not say that we should not think of retaliation at all; but any wise man, any wise administrator, would like to have all possible weapons with him and he will not talk at once of using this or that unless his judgment tells him that at a certain stage he should use a certain weapon

keeping other weapons in hand at the same time. The very fact that the Central Legislature, with the authority of the Government of India, have passed a Reciprocity Bill shows that if the time should come for the Government of India to adopt that attitude they are willing to do so. I therefore think that under the present circumstances the best policy is the one that has been suggested by the Indians in the Union, namely, that they would first appeal to the Union Government, and if that appeal failed they would come over here. I do not wish to say anything further on this matter, except that we ought to be very careful in dealing with this matter and not express any hasty opinion on it.

I also think that it is absolutely necessary that the Government of India should give all possible facilities to the Indian deputation which might shortly come over here. The Government would be able to ascertain accurately from the people who come here what exactly is the situation; but at the same time I venture to think that the Government of India should not be content to ascertain only the opinions of this Indian deputation; I think they should also take steps to see if it is not possible for them to depute some people from here on behalf of the Government of India, official or non-official, to see whether they cannot persuade the Union Government to have our case at least heard. Sir, it is an anomaly, almost an irony of circumstance, that the Indian Government, which is at one with the people of India in this matter, should have to appeal for information to the Union Government who are trying to oppress our people. I think it is essential in the interests of the people, whose interests we are all most anxious to safeguard, that we should now try and create an agency, if not for all time, at least for this occasion—some instrument, some method of ascertaining exactly the situation of our people there. I do hope, whatever may be the predilections and previous opinions of General Smuts and the Union Government in not agreeing to the idea of our sending a representative that the Government of India will send some one there and try by all possible methods of diplomacy and constitutional weapons open to them to see and impress upon the Union Government the essential unfairness and injustice of the attitude which that Government is adopting in trying to deprive 160,000 Indians, subjects of His Majesty, of rights and vested interests which had been promised and safeguarded to them. It is but fair that the Government of India should be allowed to depute one or two representatives of their own to go and interview the South African Government so as to get at all the facts and ascertain the possible effects of this measure and also to see the various classes and communities who are there now and who will be affected by this measure. I do hope, therefore, that this will be successful.

There are some people, I am sorry to say, one or two over here, who gave expression to the sentiment that the situation was hopeless, and that there was no use for the Government of India to attempt to try to set aside this hopeless legislation, as we cannot get justice from the South African Government. Sir, I am willing to say that if one considers the past proceedings of the South African Government the situation may be hopeless, but so long as other measures are yet to be adopted, I will not say the situation is hopeless. Indeed, I am surprised that this idea of hopelessness should ever have entered

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into the minds of people who have always said that nothing was hopeless. In my opinion the situation may not be hopeful, but I certainly do not think it is hopeless. There are some people who say that we do not believe in the pronouncements of statesmen, particularly South African statesmen; but I venture to think for reasons already given, and in the face of the express pronouncements of the Minister of the Interior (Dr. Malan), who was in charge of the Asiatic Bill, that the situation is not so hopeless as it is stated by some. Dr. Malan has said :

"The first point was that the introduction of this Bill must not be taken as closing the door to any negotiations or communications which might pass between the Union Government and the Government of India in regard to the Indian question. The Union Government had been approached by the Government of India with a view to holding a round-table conference on the treatment of Indians in South Africa. These negotiations had not yet closed, and they had taken a very definite course."

If I had anything to do with this question I would certainly not say that I do not believe this statement. I would accept this statement and see that steps are taken to compel the Minister who has made the proposal to make it good. And, Sir, I also feel that something very unusual happened in one part of South Africa which seems to show that the better minds of the white people do not approve of this drastic method of Asiatic exclusion. I am very glad to be able to read to the House an account of a recent meeting of the Durban Town Council where the following Resolution was adopted :

"That the Government of the Union of South Africa be informed that, in the opinion of the Durban Town Council, the only true method of solving the Asiatic question, in so far as it relates to this country, and particularly Natal, lies in the direction of a round-table conference between representatives of the Union, Britain and India; further, that the Union Government and the Union Parliament be asked to take such steps as may be necessary for convening such a conference in this country without delay."

I regard this Resolution as indicating that it expresses the better mind of at least some of the white people. I have already read the pronouncement made in the South African Parliament by Dr. Malan and I appeal to this House to see that they strengthen the hands of the Government of India to insist on bringing about this round-table Conference. I am sure that the Government of India will do everything in their power to make the Union Government agree to receive a deputation from India. I am also sure that the Government of India will be careful to see that they sent men who will be truly representative of India, who will try all possible means of putting our case before the South African Parliament....

THE HONOURABLE THE PRESIDENT: The Honourable Member has exceeded his time limit.

THE HONOURABLE MR. G. A. NATESAN: I do not, therefore, think that we should despair. Even if this new legislation became law we should ask His Majesty's Government to disallow this legislation. On a previous occasion an attempt was made in that direction and let us hope that the combined effort of the people of this country in regard to this great question and the sympathetic manner in which the Government of India have been handling it, will result in obtaining justice to our countrymen in South Africa. The Government of

India will thus protect not only the interests of the people of this country but also the fair name of the British Empire.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhammadan): Sir, I propose to move the following amendment to the Resolution that is before the House. I propose to add to the Resolution moved just now the following words :

"With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provision) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges."

Sir, in moving this amendment I am trying not to repeat what has been so ably said in connection with the motion before the House, and I entirely agree with the observations that fell from the previous speakers that nothing should be said in this Council which might embarrass the situation any longer. Whatever the temptation in the way of the speaker on such a proposition, I am taking the greatest care possible to express my sentiments consistently with what is supposed to be the dignity of the House and the requirements of the situation. I will therefore restrict my observations to the amendment which I have moved, and in doing that, as I believe there will be speakers here who take various views, speaking from several points of view, I will restrict my attention to one or two points which may appeal to this House as being substantially necessary for a due and proper consideration of the proposal before this House.

As I am restricting my attention to the provisions of this Bill, I particularly wish to request the attention of this House to a measure which is alluded to in the Bill as Act III of 1885. That was an enactment passed by the South African Parliament in 1885. That Act made no distinction between Asiatics and Asiatics. Indians were classed as Asiatic coolies. I went into the history of the matter as to why the South African Government was induced to include Indians in the expression "Asiatic coolies". A little insight into the legislative enactments of the Viceroy's Council will satisfy one why the South African Government had been led to suppose that Indians were coolies. The Act of 1839 prevented the aiding and abetting of emigrants going out of India. Liberty to travel to any part of the globe was no doubt secured as one of the best principles of international law, but at the same time care was taken that anybody who was found aiding and abetting the emigration of any Indian outside India was liable to punishment. Relaxation of the law was made in the interests of the Colonies outside India. Enactments were passed one after another under pressure, as I take it, from the Home Government, to whom representations were made by the Colonies for indentured labour from India.

Just before the Act of 1839, slavery had been abolished, as Honourable Members are aware, in about 1834, much to the credit of Great Britain. Later on the pinch was felt as regards labour that was necessary for the purpose of developing the Colonies, and I am afraid the conditions through which India then passed created the impression that India was a depôt for labour. Every Colony, one after another, indented upon India and indeed the first expressions

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that the Viceroy's Council emphasized on the point were in terms which are unmistakable. Mr. Peacock, speaking in the Viceregal Legislative Council, in the year 1855, expressly laid down the principle that it was quite open to any emigrants who wished to go outside India to stay as long as their employers asked them to stay, but they might stay there if they liked. There was nothing to prevent Indians going over from here staying in the Colonies if they liked. That was the understanding in pursuance of which Indians were permitted to go out of India. About the year 1860 when the demand came from Natal, not only was the demand sent through the Home Government, but it was represented to the Viceregal Council here that the emergency of the occasion was such that a representative from the Natal Government had come here for the purpose of taking away the emigrants in expectation of the Indian Government passing a law to that effect. Such was the urgency of the occasion, and surely the Government which had indented on India for labour, were fully cognisant of the conditions under which the labourers had to go out and the prospect of their staying in that country as citizens of the British Empire. It was on that understanding that in 1860, when the representative of the South African Government was here for the purpose of taking away labourers, a measure was passed. Standing Orders were suspended and that measure was passed into law with as much urgency as was consistent with dignity. The measure was consolidated in the year 1864. I will not take the House through the expressions that fell from Members who were in charge of the Bills, but I will make a reference to one or two observations that fell from Members who consolidated these measures in the interests of the British Empire generally. They laid down the principles on which labourers and British citizens were to go to any part of the world, and one of the speakers actually referred to a danger that was awaiting India. It was said that there was this danger, that India would be looked upon as a *dépôt* for slavery; that this was another form of slavery when people went out from here and were not capable of selecting their own masters when they went to the South African Colony. It was represented that there were competitors who misappropriated the labourers that were sent out from here, and therefore they said: "Please tie them down so that they may belong to one master only, with the result that the man to whom they were indentured was able to transfer his own concern with the labourers as they were available from India."

This was a danger that threatened India, and one of the speakers said:—

"To the old and false belief that India was a country overflowing with wealth, had succeeded the new and equally false theory that it was a country teeming with men, and whenever benevolent statesmen in Europe were shocked by a revival of negro slavery in any part of the world, it was obvious that their first thought was to replace the demand for negroes by a draft on the population of this country."

He further went on:—

"Now India lay outside the circle of European diplomacy and let the Council suppose Her Majesty to be advised at some future time to agree to a treaty containing laxer and looser stipulations."

A contingency did arise in 1885. By the time the law of 1885 was passed more than a quarter of a century had gone by and the Natal Government were fully aware of the conditions under which Indian labour had settled there.

There was no intention on the part of the Government in South Africa that the Indian labourer was to continue as a labourer throughout his life. Any labourer in the world could carry his labour into any market where he could place it at the highest value possible, and it was pointed out in 1864 that it was the right of every citizen to travel to the farthest ends of the world if he could and there manage his business as he liked. Those were the conditions under which Indian labour was imported into the South African Colony. After 25 years, what happened?

THE HONOURABLE THE PRESIDENT: I do not wish to interrupt the Honourable Member, but I would remind him that he has only about four minutes left, and his history is still 60 or 70 years back.

THE HONOURABLE MR. R. P. KARANDIKAR: Yes, Sir, that is about my age, and I do not wish to hurry up until India gets freedom. I was just reaching my point. The Natal Government are therefore labouring under a misapprehension that all the Indians now inhabiting their country must be classed as labourers. They are placing themselves in a very false position, and if no other representation is successful, this one should be that the Indian people who went out there from here, did not go out as labourers, but as British citizens, and in that sense the South African Colony had no right whatever to wish to turn them out.

I will now refer to the amendment which I am proposing. The Government of India can scrutinize the provisions of this South African Bill which goes directly against British prestige. Mr. Sastri once said in a telegraph message to Dr. Sapru, "Kenya gone, everything gone," and I do really think that if India is gone, the British Empire is gone. It is the Colonies that decide the prestige which the British Empire possesses. Under these circumstances, I have great pleasure in moving this amendment, which merely requests the Government of India to scrutinise the Bill. I have no doubt that they have already done so. I believe the department in charge of this question has always been anxious to maintain the rights of overseas Indians, and not only that department, but the whole of the Government of India. Whenever any Resolution on the point has been moved, for instance when Resolutions were adopted in the year 1921, in the Assembly, and in 1922 in this House, the Honourable the Leader of the House spoke for Government on both those occasions. Then the prestige of the British Empire was maintained and Resolutions were adopted urging equal status for Indians, and I have no doubt the department at present too are looking after the concerns of Indians. India has every right to follow Indians wherever they are, in whatever capacity they may be working, whatever prospects they may have in those countries, and they have every right also to follow the generations of those Indians that may be in the Colony.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): When I get up, Sir, I do not get up to make an oration because I am perhaps not capable enough to do so, but I want to speak of practical politics. There

was once a man, who could talk and another man who could fight, and they began to quarrel. One man began to abuse the other and the other man began to beat him. When the second man was tired of beating the other

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man said to him "if you beat me again I will see what I can do". Then he started again beating him till he left him senseless. When he went home he said "No doubt he gave me a good beating but I also bombarded him with abuse!" In the same way our talking so much does not do any good. On the floor of this House this matter has come up so many times and the House knows that my remarks have been very bitter if not the bitterest. Whenever we have brought forward this Resolution, Government have always been ready to do what they can. But what can the Government do? And if they have not been able to do much hitherto, there is no prospect of their doing more in the future. I think the whole thing comes to this. Instead of being bitter in talk we should look at it from this point of view, i.e., what can be done in the matter? After all, it is their house, it is their country (*An Honourable Member*: "No!") Generally the house belongs to those who are stronger; and they do not care to listen to all we say, all our Resolutions, because they can do what they like in their own house. All we can do is to see what we can do here in India. And to this end I think various people have tried their best in talking matters over and they have even passed a law by which we can bring pressure to bear upon them (*An Honourable Member*: "Retaliation"). It is doing more or less the same thing to them that they have done to us. Now perhaps the men who come to India from South Africa are not more than 150 or 200. If we kick out these 150 or 200 men from India, the next day they will send whole shiploads of Indians back to us. So that is of no benefit to us. The next thing is perhaps they send coal to India. If we do not buy their coal perhaps we may do some little damage to them; but that too is doubtful because some specialists say even that is not of much use, so we cannot even do that. Then the next thing that remains to us is instead of telling these people "We will back you up" when we cannot do anything and only give them false hopes. I think the best thing is to tell them "If you consider you are not being treated well there you had better come back to us," and I think we ought to ask our Government that as they sent all these men abroad they ought to provide for them by bringing them back to this country. I do not think that is very difficult when there are thousands of bighas of land lying fallow which are now to be irrigated. I do not say the Government should give them all the money they want, but give them an honourable place and sufficient to eat. If they say "No, we do not want to go back to India, we get lots of money here", then we will say, in the words of the proverb: which means that the word 'Tama', i.e., greed is composed of three letters which are all devoid of any dot. If they choose to remain there dishonoured, let them do so and let not India try to do anything further for them.

Sir, I have the honour of India at heart perhaps more than many and for this I say, Sir, it is useless to go and ask them with folded hands "Please do this and please favour us". No body cares a bit about this. Our Punjabi saying has it if a man is strong enough and he comes and begs a thing of a man, if he does not do the thing he asks for, the next thing will be that his legs will be on his neck. In these circumstances the only thing I think we can do is to ask Britain and His Majesty's Government that when we are a portion of the Empire, of which we are all members, it is their

business to keep the balance even; because if nothing is done then the only thing we can do is either to keep quiet or to ask His Majesty's Government that for the sake of practice, for the sake of manœuvres, they should allow both their Dominions to settle mutually their differences by the force of arms. In that way we will both learn to respect each other and I am sure that if Government allow our illustrious present Commander-in-Chief with the Indian Army, it will not take much time—as it did the last time—to bring the Union to its senses. I think he can do that in a quarter of the last time because I know him so well. That of course is the last resort. But if we cannot do that, it is much better not to go in vain to ask like beggars for favours when we have no motive power at our back but simply tell our people that there we are helpless and we can only do this for them, to bring them back to their own homeland, and that is all.

THE HONOURABLE THE PRESIDENT: Before I call on the Honourable Mr. Ramadas Pantulu, who has an amendment also on the paper, I think it would be better to take the decision of the Council on the amendment of Mr. Karandikar. The question is that the following words be added to the original Resolution:—

"With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provision) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges"

The motion was adopted.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, with your leave I beg to move another amendment to the Resolution moved by the Honourable Sir Deva Prasad Sarvadhikary, that is, to add the following words to the Resolution:—

"and to ascertain the condition and the views of the Indians in South Africa."

Sir, I was hard put to frame an amendment to the Resolution. I put down several on the paper. At last I sent in one of which the Honourable Emigration Member finally approved. It struck me that the most sensible thing to do was to ask that this Council might be permitted to pray to God to grant wisdom and sanity to the South African Government and strength to the South African Indians to resist their oppressors. The situation seems to me to be as bad as it can be. However, as we are all satisfied that the Government of India are pledged to do their best for the Indians in South Africa, we may still hope that some good will come out of our exertions.

I shall not enter into the history of this South African struggle earlier than 1913. Up to 1913, up to the date of the passing of Act XXII of 1913, it was a series of humiliations to the Indians, and no effort made either by this Government or by the people proved of any avail. Therefore, on the 1st November, 1913, Mr. Gandhi, who was there then, thought that he ought to inaugurate a movement of passive resistance in order to impress the South African Government with the determination of the people to achieve freedom. On the 1st November 1913 he took 2,200 South African Indians

[Mr. V. Ramadas Pantulu.]

from the Natal Coalfields and marched them to Transvaal across the border in violation of the immigration law. From that time the real struggle ensued, and it came to an end quickly, because by the end of 1914 something was done to give immediate relief to the South African Indians in some matters. I shall mention those matters very briefly. Mr. Gandhi put before the South African Government four definite grievances: the *first* was the restriction on inter-provincial movements—movements from one province to another in the Union. The *second* was the ban put upon marriages celebrated under Hindu and Muhammadan law. The *third* was the imposition of a tax of £3 per head upon labourers as soon as the term of their indenture was over: this was subsequently extended in 1915 even to children. The *fourth* was the unjust administration of the existing laws, specially the Indian Immigration Act, XXII of 1913. There was an honourable settlement in 1914, when the Indian Relief Act was passed which in a way satisfactorily solved the first three grievances. With regard to the fourth, the Union Government assured Mr. Gandhi that they would do nothing to administer existing laws unjustly and that they would endeavour to see that they were always justly administered. Mr. Gandhi wrote back in reply expressing his satisfaction at the assurance given to him and this correspondence between him and General Smuts is what is known as the famous Smuts-Gandhi agreement. I mention this fact particularly because the Union Government by entering into this agreement has made itself morally and legally responsible for the continued existence of Indians in South Africa. If they had told Mr. Gandhi that they did not want Indians any more and that their idea was to extirpate the Indians and to complete the process of purification and disinfection of the South African Colony by driving out every Indian, it would have been a different matter. The struggle would have been continued to a finish or the Indians would have left South Africa once for all. The Union Government having agreed to this arrangement, they were bound to carry it out in its entirety, and I charge the South African Government with gross breach of faith and a gross violation of the pledge they gave by the Smuts-Gandhi agreement. After that they went on piling up *anti-Indian* legislation which was absolutely contrary to the spirit of the undertaking they had given not to administer their laws unjustly. The undertaking not to administer existing laws unjustly, certainly involves an undertaking not to enact more unjust laws. Nevertheless what we see is that as soon as the Great War was over they have enacted not less than six Acts which are all absolutely *anti-Indian*. In 1919, Sir, they passed Act XXXVII of 1919, which prevented the acquisition of new leases in proclaimed areas and the acquisition of properties outside those areas. In 1922-23, they passed no less than three Acts—the Durban Land Alienation Ordinance, the Borough and Township Land Ordinance and the Natal Retail Dealers Licensing Ordinance. The purport of all these Ordinances is to restrict the rights of Indians both in regard to acquisition of property and franchise in townships and boroughs. I have no time to go into those details, but they are all very stringent laws. In 1924, they passed the Natal Boroughs Ordinance—XIX of 1924—which prevents the acquisition of future franchise in boroughs, so that Indians may lose whatever rights they had of electing members to local bodies and of getting anything done for

them. In 1925, there was the "Natal Townships Ordinance" which was to the same effect as the previous one—only it related to franchise in townships. Sir, since then there are a number of enactments which are on the legislative anvil of the South African Parliament, all intended to further restrict Indian rights there. The Natal Townships Ordinance of 1925 is now sought to be supplemented by another draft which is now pending, in which even the existing franchise is sought to be taken away, whereas the laws of 1924 only aimed at the acquisition of future franchise. Then, Sir, there is the Bill to amend the South African Mines and Works Act, which prohibits the grant of a license to a man who is engaged in trade if his trade requires the use of machinery—so as to prevent him from pursuing any trade which is lucrative. Finally, Sir, we have got this Asiatic Act which most of you may have read and which is very drastic. It consists of three parts. The *first part* deals with the restriction of class areas both with regard to trade and residence and also the acquisition of land except in certain areas. That, Sir, is a very stringent measure. The number of people who are engaged in trade in South Africa is as follows: according to the census figures I find that nearly 12,374 are engaged in trades; 7,361 in industries and 3,469 are engaged in transport and communications; while as many as 22,000 are engaged in agriculture. Therefore this hits a very large proportion of the population now resident in South Africa. The *second portion* of it which deals with the immigration law has got some very curious and stringent provisions. I shall just quote one or two of those provisions in order that you may realise the gravity of the measure. Hitherto people could go from one province to another freely. Now in order to go to the Cape of Good Hope or Natal from a neighbouring province you have got to satisfy a literary test, otherwise you cannot get in. Another clause in Chapter II deals with the children of persons domiciled in the Union. If they are born outside the Union they cannot get into the Union if they are over sixteen years of age. Now, the number of women in South Africa is something like 65,000. If these women are sent to India for their confinement and if the child is born there, the child should go back to his father and mother in South Africa before he is sixteen years of age, otherwise the child is prohibited from going there.

Another clause says that on economic grounds all children born outside the Union will be treated as prohibited immigrants. A new clause provides that the children born in the Union itself may be treated as prohibited immigrants in provinces other than that of their birth. A proviso to clause 17 states that after a certain time the wife or a child of an Indian resident in the Union may not enter the Union. There is thus a limitation to a wife asserting her right to live with her husband or child. There is another clause which tries to kill the very domicile of Indians by three years' absence. If a man resides three years outside the Union he loses his domicile.

There are many other provisions which I do not want to read. These are so very drastic and therefore I have moved this amendment in order to enable the Government of India by such methods as they think fit to place before the South African Government and the Home Government the condition of Indians in South Africa. I claim that the present attitude of the South African Government is a gross abuse of the power of self-government.

[Mr. V. Ramadas Pantulu.]

bestowed on them by the Union Act of 1809. In 1899 one of the causes of the war was said to be the ill-treatment of Indians in South Africa. If that was so, I do not understand how the British Government can to-day tolerate such action.

I do not know, whether it is true as my knowledge of Eugenics is limited, but it said that if people are segregated and made to live in separate locations they develop fecundity. So the action of the South African Government tends to increase the Indian population and frustrate their object. Moreover such action tends to antagonise the oppressed people and make them more and more hostile. Such people will ever be a growing danger to the South African Government.

I cannot, while thanking the Government of India for all they have done, acquit the Indian Government and the Government at Home of having failed to discharge their responsibility in this matter. If the Government of India had taken steps to make India free by granting her self-government, this oppression would not have come about. The mere fact that we are slaves and have to depend upon a foreign bureaucracy makes the South African Government bold enough to promulgate such measures against Indians. The Cabinet at Home do not do their duty by us. It is now open to the South African Governor General under section 64 of the South African Act to disallow anti-Indian legislation and to advise His Majesty the King not to assent to such legislation or to veto such legislation. All these things were open to them, but they have done nothing, lest they offend the susceptibilities of the white population. The attitude which Mr. Chamberlain took in 1922 on the Kenya question showed the indifference of the Imperial Government to Indian interests. I cannot therefore acquit the English Government of all blame in this matter. When Indians were oppressed in South Africa, it was the duty of the British Government to put a stop to it. I beg therefore to move that the following words be added to the Resolution :

“and to ascertain the condition and the views of the Indians in South Africa.”

THE HONOURABLE MR. K. C. ROY (Bengal : Nominated Non-Official) : Sir, my friend, the Honourable Mr. Ramadas Pantulu has pointedly called attention to the responsibility of His Majesty's Government in this matter, and it is on this I should like to say a word or two. The House will recollect that Mr. Thomas before the Labour Government went out of office visited South Africa and made a notable pronouncement at Pietermaritzburg. There he drew pointed attention to the Imperial responsibility and suggested a conference at which His Majesty's Government, the Government of India and the Commonwealth Government should be equally represented. Since then Mr. Thomas has gone out of office,—a fact which I greatly deplore. Mr. Amery, who succeeded him is an Indian by birth, he is fully acquainted with the South African conditions. He has not repudiated Mr. Thomas's suggestion for a round table conference, and I therefore take it, Sir, that the British Government is committed to the idea of having such a conference in order to safeguard and protect the interests of Indians in South Africa. Then again, Sir, there is the Secretary of State for India, who was the Lord Chancellor. We have seen no visible or tangible sign

of his sympathy in our troubles in Africa. Then, there is our Viceroy, His Excellency Lord Reading, whose consistent and persistent support we know of and fully appreciate. These are the four gentlemen, statesmen of great repute, who are primarily responsible for the solution of this question. It is not this House nor the Government of India who are so much responsible as His Majesty's Government. I submit, Sir, that there is a clear case for intervention, and it is time that His Majesty's Government should seriously take into consideration the grievances of Indians in South Africa. I am here to support a round table conference not because it emanated from this House nor because it has received support from Indians, but because it was a suggestion thrown out by Mr. Thomas. I should like to add one word. We fully appreciate the difficulties of the Union Government and we want them fully to appreciate ours. It is precisely on this account that we want a round table conference which may help us out of the difficulty in solving the Indian problems. The problem will not be solved in the interests of India alone nor in the interests of the Commonwealth of South Africa alone, but in the bigger interests of the British Empire to which we all belong. I therefore support this Resolution.

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) : Sir, the problem of Indians in South Africa is a very important, a very difficult, and an extremely delicate one. It is not my intention to state in detail the various measures passed or orders issued by the South African Assembly or the South African Government during the last six or seven years, nor is it my intention to state in detail the various steps taken by the Government of India in connection with those measures or those orders. That would serve no useful purpose. I will take up this problem from more or less its recent stage. It was on the 20th January 1925 that His Excellency the Viceroy, when addressing the Honourable Members of this House and of the Assembly, referred to the fact that the Governor General of the Union Government had given his assent to the Natal Boroughs Bills in spite of the representations that the Government of India had made, and proceeded to say :—

“Every endeavour will be made to discover a remedy, but in view of the powers of Dominion Governments in internal and domestic affairs, the position is one of delicacy, and a solution will not be easy to find.”

Well, Sir, it is no use pretending that with a little ingenuity it is possible to solve this extremely difficult problem. And when one sees measure after measure adopted to the prejudice of the Indians in South Africa, in spite of the efforts that the Government of India have been able to put forward on their behalf, I venture to think that there is justification for Indians in India and Indians in South Africa to feel that the problem is altogether hopeless. And yet the proverbial patience of the Orient ought to come to our aid. There are not many rays of hope, but there are still, I feel, a few faint ones. The Honourable Mr. Natesan referred to the speech of Dr. Malan, the Minister for the Interior, who introduced the latest measure on the subject only last July in the Union Assembly. He stated definitely that the door had not been closed. He stated to the Assembly that the Government of India had been pressing for a round table conference, and he also stated quite definitely that the proposals of the Government of India had not been turned down or rejected by the South African Government.

[Mian Sir Fazl-i-Husain.]

Therefore, when I say that I am not hopeful and at the same time that I am not altogether hopeless, I have justification for making that statement. I recognise, Sir, that when we were negotiating for a round-table conference, this Areas Reservation and Immigration and Registration (Further Provision) Bill really came like a bombshell on the Indian public. It is true that it created a strong feeling of resentment all over the country, and I am glad to be in a position to say that that outburst of resentment was led by the English press, edited by Englishmen. It does great credit to India's cause in this struggle that all Indians, including Europeans in India, are united in this matter. And, Sir, the Honourable Members of this House will recollect that it was, I believe, on the 8th of January 1925 that a remarkably representative and influential deputation of Indians and Europeans waited upon His Excellency the Viceroy in Delhi, and His Excellency, while recognising the remarkably influential character of that deputation, and paying a tribute to their moderation, stated :—

“ At this moment when the action now taken in Natal, following on other measures taken or proposed in Natal or elsewhere, suggests that the position of Indians in South Africa has reached a crisis, I should be unresponsive indeed if I did not fully appreciate the sentiment which stirs the country and is well expressed by this remarkable deputation, exemplifying in a striking manner the co-operation of Indians and Europeans of varying shades of opinion and varying interests, firm in the faith of the future of India within the Empire. I am deeply concerned at the turn of events and at the possible reaction on Imperial relationships.”

Therefore, Sir, it is for the benefit of those Members of this House, who have assumed a more or less desponding tone, or a tone of a little bitterness at the possible inaction of the Home Government, that I felt it necessary to remind them of the observations of His Excellency the Viceroy, conclusively establishing how well he had appreciated the Indian point of view and the Imperial point of view in this struggle. And while holding out some hope, I cannot do better than ask the Honourable Members of this House to remember that the Government of India have definitely adopted a very clear and simple policy in this matter. There is nothing that an Indian publicist could suggest should be done for the benefit of Indians in South Africa that the Government of India are not prepared to do, provided it is within their competence to do it. I, Sir, venture to submit that no Government can do more than that. Whether all our efforts will prove fruitless in the future, as to a very large extent they have done in the past, it is impossible to say, and yet, as I have said, the answer to this question must very largely depend upon one's temperament. I, Sir, am not a pessimist, though I may not be a very strong optimist. I feel that the South African Government in course of time will realise on the basis of representations received from us that its true interests lie not in proceeding with a policy which may for the time being appear to it to be economically beneficial, but will look forward to the future, and discover that the co-operation and contentment of the Indians in South Africa is in the best interests of their own country. It is towards that policy that all Indians should act, and, when acting, realise that the South African Government is a Dominion power and as such entitled to a great deal of independence. We Indians, Sir, who hope in the near future to occupy that position ourselves, cannot really be so very anxious to call upon the Imperial Government to

interfere so lightly in the home affairs of the South African Government. As a matter of fact, Sir, I feel it my duty here to mention that when I took over the charge of my office as a temporary Member, due to the enforced absence of the Honourable Sir Muhammad Habibullah on account of illness, which we all regret, I was altogether ignorant of the ins and outs of this complicated case, and as this new contemplated legislation had come at about that time some action was immediately called for. In my dismay I naturally turned to the Emigration Committee, and in order to make sure that I had not only the help and advice of the permanent members of the Standing Committee, but of other leading members of the Indian Legislature, I invited the co-operation of the Honourable Dr. Sarvadhikary, Pandit Motilal Nehru and Mr. Jinnah. They very kindly responded to my invitation and we had a most interesting discussion, wherein the Committee displayed not only a great independence of views, but also a great sense of responsibility. The Committee realised that at this stage they had not the slightest intention of asking higher authorities to interfere with the autonomy of the South African Government or Dominion, or in any way to interfere with the administration of their home affairs. What they advised me to do for the present was to find out what the condition of the Indian people in South Africa was, what their problems really were, so that the Government of India may be in a position to use their good offices in the interests of the Indian people in South Africa and the South African Government.

This was in the hope that such misunderstandings as may exist can be removed and the extent to which help can be rendered by the Government of India to either side can be ascertained. I am very much indebted to the Emigration Committee for giving me most valuable assistance. In that Committee we discussed all sorts of questions in a most dispassionate manner altogether devoid of bitterness and rancour and trying to appreciate the position of the South African Government in this matter. It was really as a result of those deliberations that the Honourable Members of this House, Sir, who had put down their names for certain Resolutions and amendments requested you to permit them not to move those but to substitute others in their place. I am glad to see that the Resolution actually moved is in wide terms allowing the fullest possible liberty to the Government of India to take such action as they deem advisable in the best interests of the Indian community.

The Honourable Mr. Karandikar's amendment, which was adopted only a short while ago, asked the Governor General in Council to have the provisions of the Areas Reservation and Immigration and Registration Bill scrutinised. Well, Sir, I may state to the House that Government have already taken steps to do so. The Honourable Member's amendment further asks that steps be taken without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges. I may state, Sir, for the information of the Honourable Mr. Karandikar and the House, that we have informed the South African Government that a detailed representation on the objectionable items in the Bill will be submitted to them later. Therefore what the Honourable Mr. Karandikar's amendment asks the Governor General in Council to do has already been done.

The last amendment moved by the Honourable Mr. Ramadas Pantulu is to the effect that the condition and the views of the Indians in South Africa

[Sir Fazl-i-Husain.]

should be ascertained. It has been suggested that the deputation which is mentioned in one of the telegrams from South Africa as coming out to India should be received. Sir, for the benefit of the House I may state that a few days ago a telegram was sent to the President of the Indian Congress there that in case their deputation materialises the Government of India will be very pleased to see it. We ourselves are contemplating what further steps can be taken to ascertain the condition and the views of the Indians in South Africa, to find out the conditions under which they are living and to study the position with a view, as I said before, to render assistance to them and to the Government under which they are living. I have therefore no difficulty whatsoever in accepting the recommendations which Honourable Members of this House have made in speeches of studied moderation. As I have already said, Sir, nothing that can be done to help the cause of Indians in South Africa will be left undone. You can, Sir, and the House can, put implicit trust in the desire of the Government of India to do all they can to safeguard the interests of Indians in South Africa. We must not, we cannot, fight out this battle on the ordinary political plane. We ought to appeal to the South African authorities not in a spirit of strife, not in a spirit of begging or humility either; we must appeal to them in the interests of their own country. Our point is not that we want certain privileges, certain licenses for the Indian there. No, we want them to treat the people under them with the sole object of so acting as to serve the best interests of the country as a whole. Nay, we may take the discussion on to a higher plane still and appeal to them, to the Empire and to the civilised world not only on the political plane, not only on the plane of statesmanlike diplomatic discussion, but on the still higher plane and in the name of justice and fair play; and when we fight on that plane, our cause being a righteous one, I do think there is some justification for the faint hope of a fair settlement.

THE HONOURABLE THE PRESIDENT: The question is:—

“That the following words be added to the Resolution as amended:

“and to ascertain the condition and the views of the Indians in South Africa.”

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The Resolution then before the House is the Resolution moved by the Honourable Sir Deva Prasad Sarvadhikary with the addition made on the motion of the Honourable Mr. Karandikar and with the further addition made on the motion of the Honourable Mr. Ramadas Pantulu. The question is:—

“That the Resolution, as amended, be adopted, namely:

“This Council recommends to the Governor General in Council that in connection with the recent *anti-Indian* legislation and with the Bill now impending before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa. With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provisions) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges and to ascertain the condition and the views of the Indians in South Africa.”

The motion was adopted.

INDIAN PENAL CODE (AMENDMENT) BILL.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, I move that the Bill further to amend the Indian Penal Code, as passed by the Legislative Assembly, be taken into consideration.

This Bill, Sir, embodies a humanitarian measure of some importance. Honourable Members will naturally be surprised to associate with an amendment of the Indian Penal Code a humanitarian measure, which I have described to be of some importance.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Is it not all humanitarian?

THE HONOURABLE SIR NARASIMHA SARMA: I have no doubt that if a careful analysis be made of the provisions of the Penal Code the net result would be an appreciation that the object of the Penal Code is humanitarian in its widest and largest sense; but unfortunately penal laws are not always so appreciated, and that is the reason why I think it necessary for me to explain that this measure is intended really to effect the object set out, is calculated to do it and should receive the hearty appreciation of all true lovers of this country.

This measure has received the support of an overwhelming majority of the Members of the Legislative Assembly, as many as 84 having voted for the Bill as against 11 opposing it. It may be stated, therefore, that as far as public opinion can be ascertained from the views of the elected and other representatives of the communities inhabiting this land, the Government have every reason to believe that the measure which they have promoted in the other House in the first instance has a fair measure of public support behind it.

But I think I should at the outset state for the information of the House in very brief terms the exact effect which this Bill, when passed into law, would have upon the social life of the people. The effect would be merely that sexual intercourse with girls aged thirteen and below, whether with or without their consent, would be unlawful within marital relations, and outside marital relations would be so unlawful up to the age of fourteen. It has also been provided by the Bill that in the case of an offence committed within marital relations the punishment to be awarded should be of a light character and should not be as severe as in the case provided for already by the Penal Code. Numerous other safeguards to which I shall allude later have also been provided.

The history of this legislation may be summed up in a few words. The question has come up before the Government of India on numerous occasions. It was considered in 1913, and later it was brought up on several occasions before the Assembly by the Honourable Members belonging to that Assembly—one from the Punjab—when the measure was thrown out, and then on a later occasion by Dr. Sir Hari Singh Gour, when an effort was made to ascertain the wishes of the outside public and of Local Governments; and after the ascertainment of such wishes and views the Legislature referred the Bill to a strong and representative Select Committee containing all shades of opinion.

[Sir Narasimha Sarma]

The Select Committee made its report and the Bill was taken up for discussion in March last. The difficulty of the Government then was to prevent the Members of the Assembly from going forward at what the Government considered an unduly rapid pace, because the various amendments that were suggested in the lower House provided for the extension of the age limit to fourteen within marital relations and sixteen outside marital relations. The Government although they knew that, if they were neutral, the measure would be passed by the Assembly, felt that it was impossible for them to take up that attitude and opposed the passing of the measure at the last stage and the measure was rejected. But it showed clearly to the Government the strength of feeling evinced at least by a section of the community for progress in social reform being aided by the Government and the Legislature; and the Government felt that it was desirable that a measure of their own on somewhat cautious lines should be brought forward. Honourable Members who have watched the debates of the Assembly would have noticed also that the difficulty which was experienced in the earlier months of 1925 was experienced during the last discussion; but the Assembly wisely perceived that it would be desirable and safe to proceed along cautious lines and agreed to this measure.

I may say at once that the question may be divided into two parts—firstly, that dealing with the offence outside marital relations. I do not think there is any difference of opinion whatsoever, within the Councils or outside, that the age limit should be extended up to 14. In many cases Members who opposed the revision of the law in regard to marital relations went so far as to say that they would be prepared to have an extension, in the case of non-marital relations, up to the age of 16, 18 or even 21—so that a gentle mockery was made at their expense and they were represented as saying that it would be right to extend it up to the age of fifty! We may take it, therefore, at any rate I can assume that there would be no difference of opinion whatever anywhere that so far as the Bill provides for its being an offence to have sexual intercourse with a girl of fourteen or below, with or without her consent, outside the marital relations, that the provision would receive universal acceptance.

With regard to the other category, namely, the relation between husband and wife, there has been some divergence of opinion, and it is but natural that we should expect such a divergence. Here, again, it may be stated that there is no difference of view that it is desirable, nay, that it is absolutely necessary and vital to the interests of the nation and to the future well-being of the people of this country that every effort should be made to raise the age at which young men and women should begin to lead their married lives. Those that have watched especially in some of the coast provinces these baby marriages, if I may so call them, and recognised the effects thereof, premature decay, consumption and tuberculosis, feeble babies, early widowhood, have all been equally strong, whether social reformers or conservatives, to do all that lies in their power to eradicate this evil. The only difference is whether we should proceed further and help what is in the mind of everyone by means of legislation, namely, the arrival, possibly speedier arrival, at the same goal.

And herein I ask for the sympathy of the House with the Bill which has been brought forward in the Assembly. I know that

1 P.M.

there are some who are awfully distressed that the Government has failed to do something more in order that the measure may be really useful, namely, to raise the age to 14. They are deeply dissatisfied at the undue conservatism of Government, at the temerity and fear that they exhibit on some occasions. But Honourable Members will bear with me when I say that no Government can proceed too cautiously in a matter of this description where misconceptions may easily arise, unnecessarily no doubt, but still may easily arise and may be difficult to remove. Although, therefore, the Government have every sympathy with those who wish to raise, with the consent of all concerned, the age to a higher limit, still I venture to think that every reasonable person will agree that it would be a very wise course to set their face decidedly against any further increase in the age limit. Sir, in some quarters the cry is raised, though feebly, that some sort of interference with religious practices is inevitably bound up with this measure. I will ask Honourable Members to remember that there is not much foundation for that criticism, that the same objection could have been levelled, and was levelled against the Government in 1891, when the age was raised from 10 to 12. The smooth working of the Act from 1891 to date may be calculated to inspire confidence in us that no untoward results would eventuate from the passing of this measure. It is but a small step forward, but a wise and prudent step.

I do not propose to take you into the ancient Hindu texts on the subject on the ground that this is one which may be considered to affect largely the *dwijas* of the Hindu community. I do not want to take you into those texts, unless the point is raised here, but I think I am right in stating that if we are to pursue the ancient ideals, if we are to reverence the ancient ideals which were healthy and life-giving, there is no doubt that we shall have to look upon marriage not merely as a sacrament, which it is, but also as a gift and contract of whose nature it partakes. No doubt the ancient texts contemplated that husband and wife, with the consent of the parents, were contracting parties in a limited sense, and that they knew what they were doing. The *saptapati sanskar*, the seven steps, and the other *mantras* which are repeated are clear indication that the husband and wife at the time of marriage knew very well the implications of the marriage ceremonial, and were contracting parties in the true sense of the term. If there should be any objection raised, I think it might be necessary to trouble the House, but at this stage I think it is unnecessary to proceed further. But whatever it may be, the first step had been taken in 1891, and the only point now is whether it is desirable in the interests of society that Government should give a helping hand towards the introduction of a measure which is calculated to help Indian society. I have no doubt that this House will give in no ungrudging manner its support to this measure.

Sir, I will read but one extract to show the baneful effects of the present system upon Indian society. In the Census Report, dealing with Tuberculosis in India, Lankester writes:

"Everyone is aware of the consequence of sexual excess, the weakness of mind and body which results, and the extreme slowness with which restoration comes, if indeed it comes at all. Many people seem to think that such excess is only harmful if unlawful, forgetting the fearful strain upon the constitution of delicate girls of 14 years or even less,

[Sir Narasimha Sarma.]

which results from the thoughtless incontinence of the newly married boy or, still more, the pitiless incontinence of the re-married man. Serious as these causes or strain are upon the health of the young married girl they sink into insignificance in comparison with the stress of maternity which follows."

I may say that the death-rate of females, per thousand, compared with those of males, in Bengal and the United Kingdom, bear out these results most forcibly. The death rate per thousand in Bengal, between the ages of 15 and 20 amount to 1,254 as against 880 in the United Kingdom, and between the ages of 20 to 30, 1,214 as against 850. Between the ages of 10 and 15 it is 735; but it is in the later stages that the effects are felt.

Honourable Members will therefore realise that both from the point of view of the future generations of the race, as well as from the point of view of humanity, speaking mainly from the point of view of the welfare of the girls themselves, this measure has not been undertaken a day too early. I am glad to say, however, that so much importance need not be attached to this measure in the case of Upper India as in the case of the coast provinces from which all the opposition comes. I am glad that those who have dissented from the lower House are only some of the representatives from Bengal, Madras, Bombay and Berar. I may say at once that I realise fully the difficulties of the Members coming from those provinces, because I am one of those who belong to that very orthodox community which believes fully in many of those practices to which a check would be given by means of this legislation.

No one can therefore more fully sympathise with and appreciate the difficulties of the communities from which a voice of doubt, difficulty and hesitation comes. But I would ask whether it is not in the true interests of India that these intellectual classes, who may be said to possess in a large measure the brain power of those provinces, should not ungrudgingly and unhesitatingly assist their brethren elsewhere and the Government by accepting this measure which, after all, will be more for their benefit than for the benefit of others who may not require it. It has been said that this measure will only apply to very small communities, and therefore the Government need not worry themselves about it. If it affects only such small communities, may I not ask for their co-operation for the benefit of the wider humanity at large in India, because I know in communities which do not think they need observe the later Shastric injunctions or to be more accurate practices the example of others has been very baneful indeed. I was surprised to hear that among the cultivating community, in one of the villages I own, there was not a single unmarried girl. They had had two or three years of plenteous crops. The result was they, being mutually related to one another, arranged the marriages imitating the others and there was not a single unmarried girl. This argument may cut both ways. I fully realise that, but the age of puberty does not play the same important part in those classes as in the higher classes where the pernicious effects are more clearly felt.

Sir, I have no doubt that this measure, when the safeguards are duly considered, will inspire confidence. Honourable Members will realise that nothing can be done under this Act without the matter coming up fully before a Chief Presidency Magistrate or a District Magistrate. The case cannot be

taken up and cannot be tried by any officer of a lower grade, and the smooth working of similar provisions in the past may fully justify our hopes that the administrative machinery which will lend a helping hand in the working of this measure will in its personnel be no less prudent, no less wise, no less gifted with discretionary power than in the past, and that it is only when it is absolutely necessary that the machinery will move for the vindication of justice and the upholding of the majesty of law. I began by saying that this is a humanitarian measure, and I hope the House will recognise it as such. I have no doubt in my mind that it is such. There has been a tendency in some quarters lately to cultivate a reverence for the past and for ancient ideals. I hope therefore they will follow the ideals of the past when their doctors laid down the ages of 16 for women and 25 for men and when their lawgivers contemplated the marriage of adults, and that those ideals will again become the normal feature of life throughout India. India is ambitious, is eager, is anxious to become a nation, to become a vigorous, healthy nation, and this is but a small step, a feeble step, but a step in the right direction, which will enable the community to achieve that ambition. I would ask all those who love children, I would ask all those who have tender hearts, to realise in their own minds the harmful effects of some of the existing practices in some parts of India and to assist the Government and assist the Legislature in bringing on to the Statute-book a Bill embodying provisions which will after all ensure for the benefit more of the intellectual class than of others, and I have no doubt the House will respond to my appeal unanimously.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, at this stage I rise to say a few words with reference to the general principles underlying the Bill. I welcome this small measure of social reform because it is really the case that a representative Assembly, an Assembly truly representing the people, can introduce measures of social reform with a freer hand than a Government, such as the Government of India. I must acknowledge that whatever charges may be brought at the door of the Government in regard to the slow pace with which it chooses to walk in the field of political reform, Government's action in the domain of social reform has very frequently anticipated, often been ahead of, public opinion. Indeed I would go further and say that at a time when there was hardly any public opinion in this country, the Government introduced such vast measures of social reform as the abolishing of *sati* and slavery. In this spirit I welcome this small measure also. But, Sir, much has been the credit claimed for the Bill introduced by the Honourable the Law Member. Let us see whether it really satisfies the present demand. On going through the Bill carefully, Honourable Members will find that it makes two important departures from the existing law. Sir, the existing law with reference to the age of consent makes no distinction whatever between marital and non-marital relations. Section 375 puts the age of consent at 12 years, both in the case of married and unmarried girls. The very first departure which this Bill makes is that it creates a distinction between marital and non-marital relations.

It raises, and very rightly raises, the age of consent from 12 to 14 in the case of unmarried girls, but it fixes, and very wrongly fixes, the age applicable

[Mr. Saiyid Raza Ali.]

to marital relations at 13 only. This is a violent departure from the existing law. As I have pointed out section 375 of the Indian Penal Code makes no distinction between the case of married and unmarried girls. I would have expected Government, supported as it is by a very large representative Legislative Assembly and the Council of State, which after all is not unrepresentative in its character, to have fixed the age of consent at 14 in both cases. I for one would be curious to know what are the reasons which have induced the Government to make a distinction between the two cases.

The second departure is more sad, more deplorable, than the first. And what is that? This Bill creates a minor offence, if a husband commits the offence of rape on his own wife whose age is above 12 but below 13. Sir, the existing law makes absolutely no distinction in the case of an offender, be that offender a husband or be he not a husband, when he commits the offence of rape. The difference prescribed in the Criminal Procedure Code is one relating to procedure. The only concession that at present the offending husband has is that he can be let out on bail. As regards the sentence that is to be passed on him if he is found guilty, it is exactly the same as in the case of one who is not a husband. Let us see what the present Bill lays down. The present Bill creates a minor offence, and that minor offence is that if a girl's husband ravishes her before she has attained the age of 13, then the law would be so indulgent to him that it will not treat the offender in a harsher manner than it treats one who is guilty of an offence under section 354, namely, the offence of outraging the modesty of a woman. The procedure made applicable in both cases, namely, the offence of a husband against his wife under 13 and over 12 and an offence under section 354, is identical. There is no distinction made between the two cases. Sir, in the name of the public opinion of India, in the name of this Council, in the name of the larger public that is outside this Council, I must protest against the policy that has been adopted by the Government.

Sir, the present measure represents a small measure of advance in the domain of social reform. I am entirely free to admit it. But having regard to the enormous difficulties with which the prosecution is faced, if they have to prosecute a husband for an offence under section 376 and those difficulties cannot be unknown to the official Benches, I submit this lenient procedure puts a premium on breaches of the law by a husband on a wife who has not attained the age of 13. The Honourable the Law Member himself gently hinted that there had been no difficulties since 1891 when the age limit was raised from 10 to 12 in the smooth running of the legal machinery. That in other words, reading between the lines, means that it is extremely difficult to bring home his guilt to a husband as regards a breach of marital relations. I entirely agree with my Honourable friend Sir Narasimha Sarma. But is it reasonable to suppose that we will be living under a new heaven after the passing of this Bill and that everything will be changed under the proposed law? Sir, the effect, I must sadly confess, will be only this, that an offending husband, secure in the knowledge that though he is committing the offence of rape on a wife above 12 but below 13 yet he is not amenable to the stricter provisions of the law, will at times not

seriously mind committing these breaches of the law. I submit whatever else might have been the case, whether the Government might have fixed the age limit in the case of marital relations at 14, or whether they are right in fixing the limit at 13, as is the case in the Bill, I have not the slightest doubt that they are positively wrong in introducing a fresh procedure which is to be made applicable to the case of a husband of the description I have been discussing. Sir, in saying what I have said, let me make it clear that I do not represent any particular community. I represent the educated people of my country.

THE HONOURABLE SIR MANECKJI DADABHOY: I thought you said you represented the Council sometime ago?

THE HONOURABLE SAIYID RAZA ALI: I represent what others in the Council do not seem to represent, namely, the educated, the enlightened public opinion of the country, be it Christian, Jewish, Sikh, Hindu or Moslem. Sir, after what I have said it will be seen that as a matter of fact in my own community the question hardly arises, and as a Mussalman I am perfectly prepared to support the measure of my Honourable friend; but as one belonging to the bigger, larger community which I have described as the enlightened public opinion of the country, I do not think I would be right in opposing this Bill. However, I must record my and that enlightened public opinion's extreme sense of disappointment at this small measure of reform.

The Council then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Council re-assembled after Lunch at Twenty Minutes to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN. (West Punjab: Muhammadan): Sir, I do not know if I will be in order if at this stage, with your permission, I put forward an amendment to the effect that the Muhammadan community should be exempted from the operations of this law.

THE HONOURABLE THE PRESIDENT: The Honourable Member will not be in order at this stage.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Very well, Sir. I wish like the previous speaker who preceded me I also could say that I represent the educated classes, but I represent the uneducated classes of my constituency as well. But, Sir, in this matter I cannot, as the representative of any classes, express my own opinions, because the Muhammadan religion is such that everything is written in our Koran, and if any Muhammadan goes against the opinion which is written in our book and puts forward his own individual opinion, he will not be called a Muhammadan, that is he cannot remain a Muhammadan, because he breaks the religious law enjoined on all Muhammadans. Sir, the Muhammadans are allowed to marry when they are minors. If the girl is a minor, her father or *wali* enters into a contract of marriage, and the same is the case with regard to boys. But when the girl reaches the age of puberty, she is authorised even to break the *Nikka* or contract; that is to say, on attaining

[Colonel Nawab Sir Umar Hayat Khan.]

the age of puberty, she is given complete liberty even to break the whole *Nikka*, that is marriage. If she does not break the *Nikka* on attaining her puberty, it will mean that she has practically consented to the contract and that she will remain as a wife. Of course, the climatic considerations of each country will have to be taken into account when we are considering this matter. There are some hot countries, and in such countries generally the age of puberty is reached earlier, whereas in cold countries the girls reach their puberty somewhat later. In the same way, each individual differs from the other so far as his or her constitution is concerned. Some may get some kind of disease when they are young, and their bodies may not develop even at the age of 15. Therefore, for Muhammadans it is entirely against their law to lay down any age limit. Sir, it is very kind of Government to have pledged themselves not to interfere with the religious law of any community in this country. It is really a great pleasure to us, and the Muhammadans are particularly thankful to Government in this matter, because for this they can say their Juma prayers. Juma prayers are allowed only in a country where the religious law of the Muhammadans is not interfered with. Therefore, Sir, I submit that when the Government have decided not to interfere with the religious laws of the Muhammadan community, it will be a great pity indeed if they make a law now which is contrary to our religious law. Some people might say that the law already has got an age limit. Well, to that my answer is, if that law is against our religion, then the limit already imposed is not also right. There is, Sir, no question of custom among Muhammadans, because there too one has to stick to what is stated in our book.

Then, Sir, nature is such that it would be a great mistake for anybody to interfere with its laws and substitute for them artificial laws. This is an ordinary thing. In our religion it is distinctly said that one who interferes with the religious law in this connection should be very severely punished; the punishment is very deterrent. If a married man commits a breach of our law, then he is half buried alive under ground and is beaten with stones to death; and if he is unmarried, he is beaten by 80 *durras*, a sort of club. It is really the old Mosaic law, but we Muhammadans consider it all right and now our law. The great Khalifa Umar, when his own son made such a mistake gave orders that his son should be given 80 *durras*, but finding that he was all powerful, he thought that his servants who generally administered this sort of punishment in other cases, would not administer it properly where his own son is concerned, and therefore he gave the punishment himself. He gave 70 *durras* to his son until he was killed, and the other ten *durras* were given to his dead body. Such is the law. I therefore think that it is wrong to introduce a measure of this character and make it applicable to Muhammadans. I would therefore ask the Honourable Member in charge, who is representing the British Government which have given their pledge not to interfere with the religious law of any community, to consider the case of Muhammadans and exempt them altogether from the operation of this measure. If he cannot exempt Muhammadans alone from the provisions of this Bill, then let him exempt everybody, because certain customs of orthodox Hindus differ from the present law, though I do not know whether it is against their religious law to accept the present measure or not. Now, Sir, when everybody is against this Bill,

I do not know why such a law should be thrust down our throats. There may be a few social reformers who may not care about their own religion, but the masses do care for their religion, and if a few Members in this House consider that the law should be changed in this matter, I do not think their view should prevail, because the view of the masses is entirely different in these matters.

THE HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, I wish to oppose this motion on three grounds. The first is that the principle of the Bill appears to me to be wrong. The Preamble says it is expedient to amend the Code. I humbly submit it is not expedient to amend it. I say so not because I say it. I quote a passage from the speech of the Honourable the Home Member:—

“Three Judges of the Calcutta High Court, two of whom are Bengalis and the other a Muhammadan, consider that there is no necessity for legislation so far as married persons are concerned.”

He goes on to give an analysis province by province showing how it is opposed by certain provinces. The Central Provinces Government state that officials and non-officials are strong against any advance within the marital relations, so my province has opposed it. Nearly all the other provinces opposed it. I do not quite understand how it is made out to be expedient. It was also admitted that a similar Bill was rejected in March last. If so, according to the ordinary rule the matter could not come up again within one year, but it has come up now because Government have introduced the same provisions under another name and in a distinct Bill. Under this heading I also say that anything which transgresses nature and tries to improve nature is neither utilitarian nor expedient. In this case we know that nature itself gives warning. There is here a thing by which nature herself says that a person has attained puberty. Ladies especially when that event happens, in the Hindu law as well as Muhammadan law, know that a girl is fit to do the duties of a wife and also to have the pains and pleasures of being a mother. That matter is a fixed matter and is a sort of sliding scale given by nature. Different individuals may have different natures, different dispositions and constitutions, and nature in each case gives a warning that here it is, this event has happened, this girl has attained puberty. Different ancient lawgivers laid down that on the attainment of puberty, as shown and evidenced by nature herself, the duties of motherhood and wifehood would be now upon the girl. Our marriage merely is a ceremony, consummation is the important thing among Hindus, so the consummation of marriage is a sacred thing. We have to wait till puberty is attained, that being the principle. This idea of overriding that principle and fixing it within a certain number of years appears to me inexpedient, wrong, and perhaps not even at all humanitarian, because in the case of some, more suffering will be inflicted, in the case of others the limit will be no limit at all. So on principle I submit that this Bill is wrong and not correct.

My second objection to this Bill is that it is imperfect; it is rather daring on my part to say that it is imperfect, as the amendments when they have been dealt with will show. It means that a thing is lawful to-day; when this Bill is passed it becomes unlawful, and to-morrow a person who has been living as a husband with his wife becomes a criminal and can be brought up and

[Mr. G. S. Khaparde.]

punished under this law. Acting on the old law, one day before this Act comes into force he may not be punished, but the next day when this comes into force he can be punished. There is nothing to show that such a person will be protected. There is an amendment moved and I shall speak of this when it comes up.

Thirdly, my objection to this is that this Bill seeks to introduce social reform by legislation. I always think that legislation is the last expedient to which a reformer should have recourse, for this reason that legislation, when forced upon a large number of people who do not approve of it, leads to evasion, often to disobedience, and ultimately results in greater misery than the evil sought to be cured.

THE HONOURABLE MR. YAMIN KHAN: Sir, I rise to a point of order. Is the Honourable Member moving his amendment or is he only opposing the whole Bill?

THE HONOURABLE THE PRESIDENT: I understand the Honourable Member is discussing the principle of the Bill.

THE HONOURABLE MR. G. S. KHAPARDE: I have all my life opposed social reforms by legislation, more especially when those social reforms are not purely social but partly religious and partly social. Marriage is a religious sacrament, this ceremony of consummation of marriage is also a sacrament. Brahmins are invited and the whole thing is treated as a religious ceremony. So an affair which is partly religious and partly social I do not think is fit to be put in the shape of legislation, because such legislation leaves no option; a man has to obey or go to jail for breaking the law. In this particular case what will happen is this, that this amendment is introduced as a side wind. They only want to amend section 375 and for 12 they want to substitute 13. This will not attract public notice, people will not understand this. It is only the lawyers who will be able to say what the difference is. It passes people without their knowledge, and many of the people in their villages will not know that the law has been altered. In that case there will be much infringement of the law, more than the Magistrates will be able to manage, and it would spread a great deal of disaffection; so taking together all these things it is wrong in principle because it is not humanitarian when it leaves nature behind and becomes ideal. Therefore it is wrong in principle, imperfect in its conception, and, lastly, inexpedient because being brought in so to say by a side-wind and introduced as an amendment to the section, it does not attract that amount of attention that it ought to attract. I do not think this sort of mandate was given to anybody.

On these three grounds I oppose the motion that this Bill be taken into consideration.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to oppose the motion. I fully endorse what my learned friend the Honourable Mr. Khaparde has said in this matter. It is needless for me to say, Sir, that the devotion and sacrifice of an Indian wife stands unparalleled in the world, and it seems to me, Sir, that it is a loathsome thing that a devoted wife should be an instrument of conviction of her husband, in

case her husband makes the mistake which this Bill wants to remedy. I agree with the Honourable Mr. Khaparde, Sir, that social reform through legislation is not a proper thing. I hold, Sir, that social reform ought to be left to social bodies, and as far as the Punjab is concerned I might mention for the information of the Council that usually girls and boys in the Punjab are not now married in tender years. The average age for marriage for girls now stands somewhere near 16, if not more. I quite agree, Sir, that it is fully a humanitarian measure, but at the same time, Sir, I think that in so far as the "Pativrata Dharm" of the Indian women are concerned, this Bill gives a death-blow to it.

Even in case this Bill is passed, it will result in turning married life into a very unhappy and miserable affair for those who have been convicted under this Bill. After all man is a human being, and if he finds his wife is the instrument of his conviction, he will throughout all his married life, have a great dislike for her, and thus his domestic life will be doomed to unhappiness.

With these few remarks, Sir, I oppose the Bill.

THE HONOURABLE DR. DWARKANATH MITTER (West Bengal: Non-Muhammadan): Sir, so far as the Penal Code is sought to be amended with regard to the age in non-marital relations, I welcome the Government's introduction of this measure in the other House, but I am inclined to doubt the wisdom of the measure when it seeks to raise the age of consent from 12 to 13 so far as marital relations are concerned. Sir, I have always believed, and very strongly believed, that there should be no legislative interference in matters of social reform, unless the evil is of such a kind that no civilized country can tolerate it. Reference has been made by my Honourable friend Saiyid Raza Ali to the abolition of *sati* in 1833. That is a position which I can understand. That was a barbarous and inhuman practice, and the Government of Lord Bentinck did not interfere a day too soon when it stopped that barbarous practice, although it was sanctioned by some canons of Hindu law. But in a case of this description, where there are divergent opinions with regard to this change which is now sought to be introduced, I think the Government should stay their hand. And as I understand the genesis of this legislation, the Government did not in the first instance move it. It was a lawyer in the other House who drew the attention of the Government to it and wanted to increase the age to 14 years, and his Bill was circulated for opinion to the different provinces and, as far as I can gather, the Bill met with unfavourable comment from practically all the provinces. The opinions were distinctly against raising the age of consent to 14 years, but at the same time some of the opinions which were then collected by the Local Governments, mainly the opinions which were collected from my Province, will show that there is no justification to raise the age even to 13 years. The last Age of Consent Act, which was introduced by the Government of Lord Lansdowne, had worked smoothly as it was rightly said, for so many years. Where then is the necessity of raising the age to 13 years? I am prepared to recognise this, Sir, that in the town of Calcutta the marriageable age of girls has, by the natural course and progress of ideas, been raised to 13 years, but the same thing cannot be said with regard to the major parts of the Bengal mofussil, where

[Dr. Dwarkanath Mitter.]

girls are still married at the age of between 12 and 13 years. What I submit to this House, Sir, is that where social ideas change, where there is an advance in the direction of social ideas, society should be left to work out its own salvation, especially in a country like India, where social ideas and social rules are intermingled with rules of religion. The Honourable the Law Member, the Leader of our House, said there was no canon of Hindu law which fixed an inflexible rule with regard to the age of marriage. It is true that an excellent, but now somewhat obsolete ordinance of Manu enjoined 12 as the age of marriage, but of course that is not followed in practice. It always takes some time before you can discover a suitable bridegroom for your girls. Consequently the marriageable age has in some parts of India been raised to 13 years. Why for that purpose should legislation interfere with the fixed routine of social life, for what does the interference by legislation mean? If there is even one case where there is a violation of the law as it is now sought to be amended, it would undoubtedly interfere with the peace and happiness of both the husband and the wife, and this has to be recognised in bringing in such a Bill. In India amongst the Hindus marriage is an indissoluble tie; it is a sacrament; it is sacred. Once a person has been united in the marriage bond, it can never be dissolved, and if there is one case it will lead to perpetual unhappiness and life long misery of both husband and wife. Sir, I can well recall to my mind the time when I was very young, when the Government of Lord Lansdowne wanted to introduce the Bill which was known as Sir Andrew Scoble's Bill, the Age of Consent Bill, and I can remember the huge demonstration which took place outside Government House, Calcutta, at a time when, clause by clause, this Bill was being discussed under the presidency of Lord Lansdowne, the crowd clamouring with a loud voice that they did not want any such legislation, and they had to be dispersed by the police. Notwithstanding the advance in public opinion, I think, if Calcutta had been fortunate to be still the Capital of British India, the same scene would have been repeated to-day. Sir, in this connection I have also to draw the attention of the House to the fact that three Judges, two of Bengal, two of whom are representatives of the educated community, two of whom are of course very orthodox Brahmins, have raised their voices against the raising of the age to 13 years. Another Judge, who is a member of the Muhammadan community, has similarly raised his voice. The Vakils' Association, which consists of 400 representative educated Indians have on the last occasion when their opinion was asked, said in reference to this measure, that this legislation is unnecessary. I find the opinion of the British Indian Association in Bengal, of which my friend Sir Provash Chandra Mitter was Secretary, was that the raising of the age to 13 was wholly undesirable. I submit therefore, having regard to the volume and the strength of the opinions on the previous proposal—and the Government have not on the present occasion asked for opinions, or circulated for opinion the question whether the age should be raised to 13, and having regard to the previous opinions collected in so far as Bengal is concerned, it should not be so raised. Whatever my personal views may be, I am here to represent to the House the views of the community which I represent. I am of course, a very humble member of the educated community of Bengal and not having

perhaps the enlightened views of my friend Saiyid Raza Ali have to oppose the Bill. There is one word more in regard to this matter which I want to say before I conclude, and that is this, *viz.*, with regard to the matter of social reform. I am inclined to agree with the view insisted on by Horace Bushnell that "the soul of all improvement is the improvement of the soul." If the soul of the Indians requires reform let them improve it, and the reform which we are seeking by legislation will come by itself.

This is, I submit Sir, really an indirect attempt by legislation to raise the marriageable age. I can understand this, that the Honourable the Leader of the House may wish to raise the marriageable age to 13. Well, it often happens that when girls are married before 12 some of them are without guardians; and it is impossible, (and you have not got the organisation) to prevent husband and wife from meeting together even if she has not attained the age of 13. Those are circumstances which should be taken into account before the House can be asked to assent to legislation which it is true has been assented to by the other House. I do not know if in every instance the other House can be said to represent the true opinion of the people. If a referendum or mandate were taken from the country I think the majority of the people would be inclined to the view that the less interference in matters of social reform by penal legislation the better. I therefore oppose, Sir, the principle of the Bill in so far as it seeks to raise the age to 13 inside the marital relation.

THE HONOURABLE MR. P. C. DUTT (Madras: Nominated Official): Sir, I rise to support the Bill. The Bill which is now before the House for consideration aims at a very modest measure of social reform and it is a matter for surprise and regret that it should have met with any opposition at all. The Government have been very cautious in framing their proposals as the history of this Bill will show. In February, 1924, Sir Hari Singh Gour introduced a Bill to amend section 375 of the Indian Penal Code by raising the age of consent from 12 to 14 years both within and outside the marital relationship. The Select Committee which considered the Bill introduced many changes and the Government thought fit to circulate the Bill to Local Governments for opinion. The Bill was sent back again to a Select Committee, and that Committee by a majority fixed the age of consent at 13 years within the marital relationship and 14 years without it. When the Bill came before the Assembly for consideration this was changed and the age was raised to 14 years within the marital relationship and 16 years outside. The Government thought it fit to oppose it and the result was that the Bill was thrown out. The Government have now however brought forward this Bill fixing the ages at 13 and 14, as finally proposed by the Select Committee.

Sir, like my Honourable friend Dr. Dwarkanath Mitter I too remember very well the agitation which was set up in Bengal in 1891 when Sir Andrew Scoble's Bill was introduced to raise the age of consent from 10 to 12 years. In Bengal the cry was raised that religion was in danger. A tremendous agitation was set up in support of what I consider to be a most scandalous and outrageous wrong perpetrated on little children. The people of Bengal are proud of some of the agitations which they have carried on from time to time on public questions, but I believe they are sincerely ashamed, they are

[Mr. P. C. Dutt.]

thoroughly ashamed, of the part they took in the agitation over Sir Andrew Scoble's Bill. The religion which was alleged to have been in danger has managed to survive and the age of consent was raised from 10 to 12 years in spite of the protests made. This time it is matter for congratulation that the same cry has not been raised at least to the extent it was raised on the last occasion.

THE HONOURABLE LALA RAM SARAN DAS: People are being westernised.

THE HONOURABLE MR. P. C. DUTT: There is a considerable body of opinion in the country which supports the Bill, otherwise the elected Members of the Assembly would not have passed the Bill and would not have been ready to pass another Bill more stringent in character. I know of no truer measure of the moral advance which the country has made since 1891, none more significant than the changed attitude of the people of this country towards the present Bill.

Sir, one of the grounds on which the Bill has been assailed is that we ought not to legislate on a social question like this affecting as it does the most intimate relationship of man and wife. Sir, I consider this an extremely untenable position to take up. Is the Legislature to be barred from remedying admitted social wrongs? Is the Legislature of any civilised country barred from remedying any such evils? What does the Legislature exist for if it is not to remedy these social wrongs? All the world over it primarily and increasingly exists to remedy social wrongs. In this country we seem to have an idea that the Legislature exists mainly to extort political concessions from the Government and for baiting the bureaucracy as the officials are called. The sooner we disabuse our minds of this idea the better it is for us and for our country. The late Mr. Ranade once remarked that no country in the world suffered more from self-inflicted and therefore avoidable evils than India. That is undoubtedly and very unfortunately too true. That is more the reason why we should try and remove those evils. There was some justification for the situation when the legislating bodies in this country were composed mostly of European officials. That is not the case now. If the Legislature is representative enough to claim self-government for the country, as it does every day in the name of the people, is it not representative enough to legislate on social questions?

THE HONOURABLE LALA RAM SARAN DAS: This is a religious question.

THE HONOURABLE MR. P. C. DUTT: And also legislate on religious questions. If the Legislature has a mandate from the country to demand Swaraj, as we are often told it has, has it not a mandate from the country to pass this very small measure of social reform? Whatever we do or fail to do, I do trust that we shall at least be straightforward and sincere and above all not try to deceive ourselves.

Sir, another objection has been raised, namely, that the Bill, if passed, will be ineffective and so it is not advisable to legislate. There are many sections of the Indian Penal Code under which cases do not come up often before our Criminal Courts. For that reason it cannot be said that those sections are

ineffective. The would be wrong-doers would know that if they violated the provisions of this Bill when passed into an Act they would do so at their peril. In any case the Members of the Imperial Legislature have the right and the duty of giving a lead to the country in a matter like this. You are the chosen of the people and the ordinary people have a right to know from you what you think on a question like this. If you say in no uncertain voice that no relationship should be established between a man and a woman before the age of thirteen, then they will try and shape their conduct accordingly, even if they do not approve of what you say at present. So I think that even if there be very few prosecutions under the amended Act, it cannot be said for that reason that the Act will remain ineffective.

Sir, if any objection can be taken against the Bill with any show of reason, it is that it does not go far enough. The age ought to have been fixed at the lowest at fourteen both inside and outside the marital relationship. I think sixteen would not have been unduly high. I think at the same time that the Government were wise in fixing the age at thirteen and fourteen as they did not want to antagonise any section of the community, and as they wanted to take with them even the most orthodox. From that point of view I think they are very wise and very prudent and we ought to be thankful to them for that. After all this is a compromise between the progressive and the orthodox sections of the communities inhabiting this land and the orthodox sections ought to know that the progressive sections cannot yield to them any more than what they have done. Sir, I support the Bill most whole-heartedly.

THE HONOURABLE HAJI CHAUDHRI MUHAMMAD ISMAIL KHAN (West Bengal: Muhammadan): Sir, I must voice the sentiments and feelings of the Muslim masses who are extremely agitated over this Bill. This piece of legislation under consideration before the House is one for the solution of a very difficult problem and for the removal of a social evil. I am an individual who always welcomes social reform. I admit the evil which this Bill seeks to eradicate is one of the worst type. But I cannot agree with the method going to be adopted for its removal.

Sir, the societies of the west and the east are not the same. The manners, customs and ways of living of the people of the two parts of the world are not the same. The age of puberty depends also on the climatic conditions of a country. So if in spite of all these differences we want to import western methods for removing the eastern social evils, I am afraid it will do more harm than good to the country.

Now I come to the practical utility of this Bill. I take it for granted that the Bill is passed into law. Suppose a man commits rape on a girl of 12 or 13 years of age in marital relations. Is there anybody here, Sir, who believes that the guardian of the girl will ever think of going to a court of law to send his own son-in-law to jail and thereby to end the happiness of the girl for life? I think my colleagues who are under the idea that criminal cases of the type mentioned will ever come to the courts of law for adjudication are under a false delusion. The Bill will remain in future as in the past a dead letter. In the circumstances, where is the utility of passing such a legislation which simply militates against the sentiments of the masses without doing any good to the country? In my humble opinion this Bill, if passed into law, will do

[Haji Chaudhri Muhammad Ismail Khan.]

more harm to the different communities of India and will turn out to be an engine of oppression. Sir, I have no objection to the raising of the age of consent to the fourteenth or even up to the fifteenth or sixteenth year in non-marital relations. I may inform the House, which is already aware of it, that the ordinary age of puberty in tropical countries is about twelve years, and as such the age of consent should never be raised above twelve years in marital relations.

Lastly, Sir, I being a Mussalman am bound to bring to the notice of the House that Islam has never fixed any age as the age of consent, and as such I think the present Bill which wants to fix it at thirteen years in marital relations is directly against the tenets of Islam. I may further add that Islam has never put any bar to the consummation of marital relationship after a girl attains puberty at whatever age it may be.

There are many other things which may be said against this Bill; but I do not like to take up much of the time of the House and therefore with these few remarks I feel it my duty to oppose the passage of the Bill in consonance with the sentiments of the masses.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I consider this as an epoch-making legislation. This Bill marks a most momentous stage in the history of social legislation in this country. I use the word "momentous" advisedly, momentous because it seeks to protect the helpless, it seeks to guide the unwise, it further seeks to punish the wrong-doers. I quite realise that there should be opposition to this measure from some of my Honourable colleagues. I have no desire to belittle that opposition. I know that that opposition is based on deep conviction, on sentiment and on religious feelings which have been inherited from generation to generation. As such it is entitled to our respect. But, if I felt that this legislation in any way came into conflict with the true religious principles of Hinduism, I, for one, in deference to the wishes of many of my Honourable colleagues, would stay my hands from supporting this Bill. But the past history of social legislation in this country and the past history of sentimental opposition which gradually disappeared convinces me that the opposition to a measure of this kind is founded more on sentiment than on religion. What does this Act seek to do? Does it cause any catastrophic changes in the everyday life of the people? Does it cause any revolutionary change in the sentiment of the Hindu religion or of the Vedas? I fail to see that that is so. Since the time of Lord Macaulay, when the Indian Penal Code was prepared and when first the age of consent was fixed at the age of ten, and subsequently in 1891 the age was raised from ten to twelve; and after an interval of a generation when the ideas of the people have materially changed, when education has been widely diffused, when even the phases and aspects of religion have been viewed from standpoints entirely different from those from which they were viewed at one time, would any of my Honourable colleagues sincerely say that this Bill is going to make catastrophic or revolutionary changes in the conditions and ordinary life of our people? How does then this enhancement by one year in the matter of consummation of marriage affect the position in any way? If it is against the religion of the Hindus, even the limit of 12 years which the

legislation has imposed for consummation of marriage cannot be upheld. If you upheld the limit of 12 years in the past, with what show of reason, with what argument, can you now come forward and say that merely because one year is added to this limit, it is so grossly sinful, it is entirely against the religious tenets, it is barbarous, the Government are interfering with our religious matters, and that we should throw out this piece of legislation? If Honourable Members will view the matter from the aspect which I have laid before them, I am sure they will be convinced that really no serious objection could be taken to a measure of this kind.

Sir, it has been said that the Government have no right to introduce social legislation of this character, and that it ought to emanate from the people themselves; it should grow by custom among communities and become crystallised into unwritten law. That is all very well. I do not for a moment dispute that proposition. But is it not a fact, does not our Statute-book afford abundant testimony, abundant proof, of the Government having acted with caution and with circumspection, in matters of social legislation? Honourable Members are aware that slavery at one time formed a part and parcel of our ordinary life in this country, but it was abolished by legislation. Reference has been made this morning to *sati*. Now, *sati* was abolished by legislation; infanticide was abolished by legislation. We have even gone to the extent of providing legislation to prevent the injustice caused by the disinheritance of property by conversions from one religion to another. We have prevented by legislation funds which are subscribed for the maintenance of temples and deities from being misappropriated by Mahants and others. If legislation of that character could be undertaken, can any one tell me why legislation in a case like this, where great physical injury is inflicted on unprotected girls, should not be undertaken? I think the Government have moved in this matter with great caution and circumspection. I believe that the Government rejected the proposals which were placed before the Assembly in March last to raise the age of consummation to 14 and against strangers to 16. That very fact is abundant proof of the concern of Government not to interfere unduly in religious matters. And when the large public demand elicited by the circulation of the Bill and the opinions received thereon have been found to be satisfactory, is there anything seriously wrong in raising the age by one year?

Now, Sir, let us just consider the humanitarian aspect of the case and let us compare it with our ordinary affairs. If a man hits me, or if a man strikes me, I can go to a court and ask for a remedy. If a man cuts my hand or my ear and causes grievous hurt to me, I can get redress. But if a helpless little girl of 12 is raped by her husband, causing grievous hurt—sometimes such an act in the case of young girls causes death,—is there to be no prevention of such crime? If such acts cause death in the case of young, unprotected girls, they fall under the category of culpable homicide not amounting to murder. Are we, as legislators, to sit quiet and take no notice of such things? Is that consistency in legislation? Does our religion, be it the religion of the Hindus, or the Muhammadans or Parsis, prevent us from saving innocent girls and children whose lives would be otherwise ruined? I think I have shown that from the point of view of social matters, the Government are not in any way unduly interfering.

[Sir Maneckji Dadabhoy.]

I shall now deal with some of the objections which have been raised in the course of the debate this morning. My friend, Saiyid Raza Ali, who I am sorry to see is not here, has told the Council that the present Act makes no distinction between marital and non-marital sexual intercourse, and that the Legislature has no business to make such a distinction now. It is true that the existing legislation has fixed a limit of age of consent both against the husband and the stranger at 12 years. But is it such a novel departure, is it such a momentous change that we are now trying to introduce? Many of my lawyer friends fully know that the English law makes a distinction. When an offence of rape is committed on a girl who is below 13, it comes under the denomination of felony, and when the offence is committed on a person between 13 to 16 it is a misdemeanour. The English law makes that important distinction. Is there anything very objectionable in making a similar distinction in this country and does that distinction affect the question? On the other hand, it mitigates the severity of the law. At present the limit of 12 years is kept irrespective of any consideration whether the girl is a wife or a stranger.

Now, if a man has sexual intercourse with his own wife, not being under 12 years of age, the punishment is imprisonment of either description for a term which may extend to two years, or with fine or with both. If the sexual intercourse takes place with his wife being under 12 years of age, the punishment is transportation for life or imprisonment of either description for 10 years, and fine. In the latter case where the offence is committed with a girl below the statutory age the punishment is more serious.

My friend, the Honourable Mr. Khaparde, objected to this Bill on three grounds. Most of his observations were based on the ground of expediency. He asked what was the expediency in introducing a measure of this kind. To my mind the expediency is very great. Apart from protecting innocent children, legislation of this character would indirectly have the effect of improving the physical condition of our people. If early consummation of marriage is avoided, we shall have in course of generations a race of people physically much stronger than what we now have, and when India is trying for self-government, when every day we are fighting for the Indianisation of our armies, is it not necessary, is it not expedient, I may ask my friend, the Honourable Mr. Khaparde, that we should have a nation of men physically strong, intellectually robust and able to take part in the martial activities of the country? View it from that point of view and you will find this proposition absolutely undisputable.

It has also been said that when the Bill is passed, married lives will be unhappy; the unfortunate little girl will have to come forward as a witness. There will be police harassments and all sorts of atrocities. May I ask Honourable Members since 1891 when the limit of age was raised from 10 to 12, how many such cases have come before the public? Can they tell me the number of oppressive and harassed cases, the number of unjust prosecutions, how often a young girl has come into the witness box and her married life totally ruined, and the married life of her boy husband similarly ruined?

Sir, then there is one further argument which is of an important character which was urged by my friend the Honourable Mr. Khaparde. He said that nature in the case of a girl has fixed the limit and when she attains puberty she is free to have intercourse with any person.

THE HONOURABLE MR. G. S. KHAPARDE: With any person?

THE HONOURABLE SIR MANECKJI DADABHOY: I mean with her husband. Sir, my Honourable colleague is distinctly wrong. As far as I know Hindu law it does not prescribe any limit either for marriage or for the consummation of marriage. Hindu law only says that consummation may take place after puberty has been attained, but it does not say that consummation must take place on attaining puberty. I have great respect for Hindu law. The Hindu lawgivers and jurists had more regard for the sacredness of the human body than many of my Honourable colleagues here now seem to have. The old laws of the country did not tolerate a practice which is now being attempted to be defined in this House.

Then my friend talked about sexual intercourse taking place on the attainment of puberty and relied on a passage which was quoted in another place. I will give a significant answer to my friend. It is from a medical book. It says:—

"Menstruation is not a sign of bodily maturity. It is in most cases merely a sign of puberty and ovulation, with a possible pregnantability or capacity to conceive."

It is quite a different thing from stating that a woman no sooner she attains puberty is physically fit for the performance of natural sexual functions. I therefore state, Sir, that if we view this Bill dispassionately and considerately, we will come to the conclusion that there is no such serious objection to pass this Bill as many of my Honourable colleagues seem to think. As pointed out by the Leader of the House, it is a humanitarian measure. We are all interested in the protection of humanity, that part of humanity which is defenceless, which is not able to take care of itself, which is prevented by false notions of religion and sentiment from repelling such cruel acts. I therefore submit that my Honourable colleagues will certainly consider this measure. We are progressing very rapidly, we are asking for a good many political privileges and concessions. If we reject a simple Bill of this kind, what will the world say, what opinion will the world form of us? They will judge us in this connection by our actions. They will judge of our capacity and enlightenment by the manner in which we view a fundamental and vital question of importance like this.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhammadan): Sir, I rise to support the Bill. Unless I had a few things to mention in this House I would not have risen. During the course of the last few months we had a sort of conference of Hindus at the capital of His Highness the Nizam of Hyderabad. I was present on the occasion. Learned people assembled to consider the question of the marriageable age of girls. From what I learned and heard there I have come to the conclusion that it is desirable to raise the age as the Bill contemplates doing. I cannot say much on Hindu law, but if I mistake not, it leaves it open to the girl, after she attains puberty, if the parents do not want to get the girl married, to wait for three years and then

[Mr. R. P. Karandikar.]

make her choice. That means that the age of free consent approximates to 15 or 16 years.

There is no harm in raising the age of consent to that period in other cases. I was much struck by some cases where the marriage takes place as early as 12 and below that. I have seen child mothers succumb to the effects of early marriage, and the only way of putting an end to this is to raise the age of consent. We will imperceptibly, in consequence of this amendment, raise the age of marriage.

There is another question which affects the consideration of the social problem. It affects the education of girls. Directly a girl is married her education ends. Parents put her to school for a certain time. She is given in marriage and the education ends, unless the family into which she has married care for education, a thing which rarely happens. Raising the age must therefore assist female education, which we want in order to advance.

There is a nother side to this question and that is that, unless we make an endeavour in the Indian Legislatures as they are at present constituted, it will take a very long time to improve the social condition of the masses generally. It was said that social questions should not be dealt with in the Legislatures of the country. I was one of those who witnessed what happened in 1891. I must confess that I was of the same view as others who held that it would not do for the Legislature of the country to interfere in social matters and customs. Those were the days when, as was pointed out by my Honourable friend on my right, the Legislature of the country contained very few real representatives of the social customs and manners which were affected by that particular enactment. We people here do represent the people who are affected by these social conditions. In order that it may not be said outside that we are merely hankering for political rights, we must set our own home right first. Unless we do that there is no prospect of our progressing. We do not educate our women and the education of women is stunted. Where can we find assistance in the discharge of the political objects we want to further? It is because of these considerations that I am convinced in my mind that it is the duty of the Legislature to further the cause of social reform, even at the cost of the little odium which usually exists in connection with any interference in social matters.

THE HONOURABLE MR. YAMIN KHAN (United Provinces West : Muhammadan): Sir, this Bill has got two portions, one is that which deals with the offence where the carnal knowledge of a girl below 14 years of age has been had by a man. As far as I can see, no Honourable Member who has opposed the consideration of this Bill, has opposed this part of the Bill at all. This means that they are really not opposed to the consideration of the Bill, but they want certain amendments which are discussed at this stage when we are discussing whether the Bill should be taken into consideration. When I find that, as far as I understand, nobody is opposing that portion of the Bill, I think it is generally accepted by the whole House, and there only remains the other portion when the case of a husband is concerned. I doubt whether the interpretation of Muhammadan law, which has been put forward by several Honourable Members here, is a correct one. I have studied Muhammadan law very care-

fully, and I have found nowhere that it is essential for a girl that as soon as she reaches the age of puberty, she must have sexual intercourse with a man. It is nowhere laid down that it is incumbent on the parents to allow their daughter to go to her husband for sexual purposes, and it is not incumbent on the husband to have sexual intercourse with his wife as soon as she reaches the age of puberty. This is not laid down in Muhammadan law. It is an absolutely different thing that a woman has got a free choice to have sexual intercourse with her husband when she has attained the age of puberty. That is an absolutely different thing.

Now, Sir, the expression "when a girl attains the age of puberty" is an absolutely vague expression. This must differ in different countries under different climates and different social conditions under which she has been brought up. It is found in a great portion of this country that the age when a girl first attains puberty, that is when she starts having menses, is about 13 years of age. It is in very very rare cases that we find she attains it earlier. If it is admitted that she attains the age of puberty at the age of 13, then I do not see where the objection of my Honourable friend Nawab Sir Umar Hayat Khan comes in. If she attains puberty before she is 13, then of course that involves only one question, and that question is, whether she should compulsorily have sexual intercourse or not. I do not see that there is any such thing in religion which forces a woman to act in this way. So from the Muhammadan point of view there is no objection at all to the passing of this Bill.

One point which had been raised by the Honourable Nawab Sir Umar Hayat Khan is that if a girl is married when she is a minor by her father or grandfather, she has got the option of nullifying her marriage as soon as she attains her puberty. About this there are various conflicting rulings. Some doctors of Muhammadan law have laid down different ages. Of course, Sir, after all, it was found that the consensus of opinion was that it should be left to the country and the climate where she is living, and it is to be strictly proved when she attains her puberty. Before she has had sexual intercourse with her husband, she can nullify her marriage, so if she is not allowed to go with her husband until she is 13, she has the option to nullify that marriage. That objection of Nawab Sir Umar Hayat Khan will be safeguarded because she will have the option of nullifying her marriage if she had been married during her minority, until she is 13.

Of course once she has sexual intercourse she has no option. So in her own interests, if she had been married by her parents against her will, she not knowing what kind of man she was marrying, if between the ages of 12 and 13 she learns that her husband is not a fit and proper person, she can nullify that marriage. It is more in the interests of the girl than in the interests of the man that this age of consent should be raised in the case of married girls.

Another point that puts us into a little difficulty is from my Hindu friends' point of view. The Hindu law undoubtedly lays down—I do not say that is believed by everybody, but it is believed by some ignorant classes of people and of course it is based on another Hindu principle, this is derived from that,—the Hindu law lays down the duty of a woman is to produce children just as the duty of every man is to

[Mr. Yamin Khan.]

have a son because for a man to have a son is essential for the performance of *keeria karum*. Just in the same way it is laid down as the duty of every woman to produce a child and on this principle some people have thought—I am not concerned to prove whether it is right or wrong but that is what my Hindu friends say, that is the law as it is believed by a good number of Hindu gentlemen—that as soon as a woman attains the age of puberty she must have sexual intercourse in order to produce children (Cries of “No, no.”). Well, that was the view adopted in the Legislative Assembly when a similar Bill came under consideration there.....

THE HONOURABLE SIR MANECKJI DADABHOY: There is no such text.

THE HONOURABLE MR. YAMIN KHAN: In the Legislative Assembly when I was a Member of the Assembly that view was brought up as an objection by a gentleman, when a similar Bill was introduced by a gentleman from the Punjab. If that is not an objection from the Hindu point of view then there is nothing left to say. In accepting this Bill, I found myself in some difficulty in that respect, but as I hear “No, no” from some corners of this House and I think most of the voices are of Hindu gentlemen though very prominent among the dissentients I think I heard the Honourable Nawab Akbar Khan; if it is not true, then my difficulty is to a great extent removed.

The only other point which remains for consideration and a difficult point is this. How are the proceedings going to be taken under this Act? In the case of an offender being a husband, are you going to allow the prosecutors, that is the police, to interfere in the marital relations or the domestic and private life of people or not? Of course there is a safeguard, that the offender shall not be arrested without a warrant. But how is the warrant obtainable, how will the warrant be issued? That must be issued on certain information received by the Magistrate and that information of course need not necessarily be from the police. That may be from a relative of the girl concerned. But in many cases it might be on account of some enmity. It might be intended to involve the person in question on account of certain domestic quarrels. That places me in a difficulty as to how the proceedings will be taken. I cannot think how and by whom these proceedings are to be begun, and what will follow when these proceedings are taken against the husband. But at the same time this point has been made by the Honourable Mr. Dutt, that up to now the age of consent has been 12 and if the offender is a husband of course he is liable to be prosecuted. But very few cases have come, practically as far as I know no cases have come, before the courts. There is no reported case at least under this head, in which a husband has been found to be an offender. So if the age is raised from 12 to 13, this difficulty will not arise in practice; it will lie in abeyance. The other point is that it will do some good. What will be the benefit by raising the age. Of course that may be a dead letter, but in other respects it will have a good effect and that effect will be that if the age of consent in the case of a wife is raised from 12 to 13, the parents of the wife will be very careful in sending their daughter to her husband's home before she attains the age of 13. Although she may be married she will not go. She may have undergone

the marriage ceremony but she will not go to reside in her husband's home until she has attained the age of 13, because if the parents deliberately send their daughter to the house of the husband, knowing that he will have sexual intercourse with the girl, they may be prosecuted as abettors under this section. That will have a great effect in persuading parents to take great care not to send their daughter away before she is 13. So in this way, Sir, I think there will be a moral effect created by this law even if it may remain a dead letter in practice as was pointed out by my Honourable friend Mr. Dutt. There may be no prosecutions but parents will not send their daughters away through fear of consequences.

Sir, a very pertinent remark has been made by my friend the Honourable Saiyid Raza Ali. He could not understand why the age in the case of a husband is 13 and in the case of a stranger 14. We all know, Sir, that the House is divided even when the age is to be raised from 12 to 13 in the case of a husband; and perhaps that was the reason why the Government made this distinction. If the Government had raised the age up to 14 from 12 in the case of a husband, I do not know how much opposition they would not have found in this House to day. That is one consideration I suppose that induced Government to make this distinction. Of course, the analogy of English law, as given by my Honourable friend Sir Maneckji Dadabhoi, is quite correct. That to a great extent led to the adoption of this difference in this measure. The other distinction about the difference in punishment has also been taken from English law, under which if a person has carnal knowledge of a girl who is below 14 the offence is one of felony and he receives a much higher punishment.

THE HONOURABLE THE PRESIDENT: The Honourable Member is repeating something that the House was told just now. If he intends to use that as an argument, the House will be glad to hear the argument but not to hear the same statement.

THE HONOURABLE MR. YAMIN KHAN: Sir, the Honourable Saiyid Raza Ali said that since he was the representative of the educated and enlightened classes therefore he supported this Bill and objected to this distinction between 13 and 14 years. I suppose, Sir, that all the Honourable Members who are here are representatives of the educated and enlightened classes—at least, Sir, I think my constituency is very enlightened and educated; and there is no Member here who represents the uneducated and unenlightened classes. Everybody represents educated and enlightened opinion; even the nominated Members here represent, I suppose, very enlightened classes.

THE HONOURABLE MR. R. P. KARANDIKAR: I represent the masses as well.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: What is the proportion of uneducated people to educated people in your constituency?

THE HONOURABLE MR. YAMIN KHAN: I do not know what is the proportion of uneducated to educated people in the Honourable Nawab Major Akbar Khan's constituency.

[Mr. Yamin Khan.]

This Bill, Sir, does not change the present law in the case of husbands when the girl is below 12 years and prescribes the same punishment which exists at present. I do not make any observations on it. Otherwise I would have thought that even in that case there ought to be lesser punishment and that there should be a distinction between an offending husband and an offending stranger in all cases.

With these few words, Sir, I support the motion.

THE HONOURABLE SIR NARASIMHA SARMA: Sir, this subject has been discussed fully on the floor of the House this evening and at this late hour I do not propose to make any very lengthy remarks. I was not surprised when I saw a certain amount of opposition developing amongst Honourable Members because on such a subject as this there is bound to be a conflict of opinion. But I may assure the House that as far as can be judged from public opinion expressed in the Press, in the other House as well as here, the Government are satisfied that they have moved cautiously and not too much in advance of public opinion and only in response to public opinion. I remember the feeling of dismay, disgust and dissatisfaction expressed on the countenance of many of my Honourable colleagues and Members of the lower House when the Government resolutely opposed the passing of the Bill as amended, which proposed to raise the age to 14 and 16. There was a certain amount of disappointment, keen disappointment I may say, expressed throughout the Press that the Government should not have been cognisant of the real public opinion on the subject amongst the classes which were affected by this legislation. Well, Sir, we steered a middle course and I think we were right. We have not undertaken this legislation ourselves, of our own accord, but in response to public opinion, and we have proposed a measure which was a measure supported by a majority of a strong Select Committee appointed on the subject, supported by public opinion as far as we could judge, and I think this House will endorse that view when it comes to the question of voting.

The Honourable Sir Umar Hayat Khan has asked whether the Muhammadan community might not be exempted from the operation of this Bill. May I suggest to him that he might reconsider his position, when I inform him that there was only one Member belonging to the Muhammadan community who opposed the Bill in the other House and he was from Bengal? Muhammadan Members from all other provinces cordially supported this measure. The *Muslim Outlook* which represents the views of a certain section of the Muhammadans at any rate of the Punjab, if not of the whole of India, is very enthusiastic about the passing of the Bill and stoutly denounces the opposition that was raised to the measure, specially by certain Hindu Members; and it goes on to say:

"The Muslim conception of law is very definite on the point that the Legislature owes it as a duty to the people to enforce social reforms".

I am not now endorsing every word of what is stated here, but I am only quoting it for the purpose of showing that there is a strong opinion on the Muhammadan side that the Government have taken a correct attitude in this matter.

Government, Sir, always respect the religious usages and practices of every community, be it Hindu, Muhammadan, Parsi or Buddhist, and they have not the slightest intention of offending the susceptibilities of any class. But in this case they have felt that it was a duty they owed to the communities in this land to keep pace with public opinion as expressed in the manner I have suggested, and give a helping hand to the various communities so that the social structure may be placed on a sound footing. And in this I feel confident that they have followed and not transgressed the true principles of religion of every community.

I may invite the attention of Honourable Members to the fact that we are at the stage of consideration of the Bill, and as has been pointed out by my Honourable friend, Mr. Yamin Khan, there is a consensus of opinion in this House that the age limit should be raised in the case of non-marital relations. That is one of the principles of the Bill; and I would also draw attention to an amendment which is proposed by my Honourable friend, Mr. Khaparde, with regard to the law being kept as it is in the case of marital relations. I dare say that question will be considered when that amendment comes up after the consideration stage is passed. Indeed I am sure that there will not be any necessity for any lengthy discussion of the question because all that could be said has already been said.

I therefore ask Honourable Members, especially those from Bengal, to remember that this Government and this House have taken cognisance of the real needs specially of Bengal in this matter. They would, therefore, do well to extend their helping hand in placing the Bengali community on the road to social reconstruction which would help them and India as a whole. I can understand their opposition, because the community to which I belong is also to a certain extent in the same plight as the Bengali community. But I heard with great pleasure from my Honourable friend Dr. Dwarka Nath Mitter and others that there is really nothing except custom which stands in the way of this legislation. I hope, therefore, that they will recognise that it is the duty of the Legislature, of the Government and of every enlightened Indian to advance, by enacting the necessary laws, in the desired direction. But this, as I have said, is but a feeble step, and I ask the House and all those Honourable Members who have some doubts in the matter, to revise their opinion and unanimously support this measure.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Penal Code, as passed by the Legislative Assembly, be taken into consideration".

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That Clause 2 do stand part of the Bill".

THE HONOURABLE MR. G. S. KHAPARDE: To this clause, Sir, I move as an amendment:

"That the words 'and in the *Exception* for the word 'twelve' the word 'thirteen' shall be substituted' be omitted."

Now, the effect of this amendment is, that so far as the marital relations go, the age of consent will remain at 12, and will not be increased to 13. Well,

[Mr. G. S. Khaparde.]

It has been said in arguing the matter that this age is raised by one year in order to have a strong nation, an able nation, an intelligent nation, a virile nation, a patriotic nation, and everything else of that kind. But I wish to point out in this connection that until 1919, in England the age of consent was only 12. It was only after 1919 some changes were made, but I do not think that England produced a very weak population before 1919. Therefore, the argument that, if we raise the age from 12 to 13, we will be able to produce a strong progeny and such things, entirely falls to the ground in the light of the English law itself.

Then the next point which I wish to urge is this. It has been pointed out to me that if we raise this age to 13, we will not revolutionise the world, the skies will not come down and so on. But my reply to that is, because we had committed a wrong previously, it does not follow that we should commit another wrong now, because two wrongs do not make a right. There was certainly interference in the framing of the Indian Penal Code, but in those days there was not proper representation, our views were never represented, we were not vocal. We got representation only after 1919 when our Council was constituted.

Then the next point that I should like to refer to is this. It has been said that this measure has been accepted, but as a matter of fact the opinions which I read out show that all the provinces like Madras and Bombay have rejected this Bill totally, taken together without any exception all the provinces have rejected this Bill. So if those opinions count for nothing, and if, as my Honourable friend says, the Bill has been universally accepted, I can only ask the House kindly to verify those opinions. It is said that this is a very small thing, there are no difficulties, and so on. To that my reply is that all things which are introduced by a side-wind are always dangerous. I believe I told the story before that in the days of the Tudors or the Stuarts,—I forget which, a Knight of the King said—"Sire, I knocked off the hat of the Bishop. Will Your Majesty pardon me?" The King said, "Well, I pardon you," the Knight added: "When I say that I have knocked off his hat, the head of the Bishop also was in the hat and I knocked it off also," which meant that he had cut off the head of the Bishop and had asked for pardon. So in this way, you will increase the age from 12 to 13, 13 to 14 slowly and revolutionise the whole life and bring about changes in the Hindu and other laws. Therefore, I say, Sir, that this Bill has not been carefully considered; it has not attracted the attention of the people; it was brought in in a surreptitious way and by a side-wind, and even then it is urged that the opinions that have been received fully support this measure, though as a matter of fact, as I have shown to the House by citing the opinions received from the different provinces, there is strong opposition to this measure. Now, about the age of the stranger being raised to 14, I have nothing to say, it might be raised to 16 or 21, or it might even be raised to 50. That does not much matter to me. But in the case of marital relations, it does seem to me that the change will bring about a great difference, it will revolutionise the home life, it does introduce many changes, and at this rate, I suppose some day we will have to bring in a Bill to the effect that the age should be brought back to 12. With these words, Sir, I place my amendment before the House.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I beg to oppose this amendment most emphatically. I consider, Sir, that the most important part of the Bill is really that which relates to marital relations. The other portion is not of great consequence, because, it is of rare occurrence. I felt, Sir, some difficulties in practical life with regard to consummation of marriages at a very early age. As a member of several Committees of my University, I found that when I tried to advocate some kind of compulsory military training for the boys or to enforce the rules of the University Training Corps, many of the students in the University classes pleaded inconvenience on the ground that they had young wives at home and that some of them were encumbered with children. That is really a very deplorable state of affairs, and the sooner we get rid of this state of things the better it will be. In the name of a cruel custom, I am bound to say, that we are perpetrating an outrage against humanity. We are taking, as Sir Maneckji Dadabhoy said, of Indianizing the Army and things of that sort. I do not think that my friends on the Treasury Benches will take any Indian seriously when he says that he wants to serve in the Army, if he insists in the name of an old custom that a girl below 13 should be married to him and that she should be encumbered with a young and weak child. It was all very well, Sir, in the old days when the fighting classes like the Kshatriyas had to fight and the other classes looked to their respective professions. But in these days, everybody has to fight, the Brahmin has to fight, the orthodox man has to fight. Therefore, I think the sooner we get rid of this custom the better, and we should try to invent some means by which we may develop a strong and virile nation.

Sir, I do not wish to take up much time. I only wish to say this that the social opinion in this country is strongly in favour of raising this age. Though there are some people who object to legislation on social matters, yet they concede very gracefully that they would personally like the age of consent put at 16. If it was a matter of not legislation but merely conviction and opinion, men like Pundit Madan Mohan Malaviya would vote for the proposition in any Assembly in which it was proposed to raise the age of consent even to 16 years. I do not see why this modest measure of social reform which Government are trying to effect by means of this legislation should be opposed. I therefore strongly urge the Members of this house not to oppose this very modest attempt at removing a social evil and not to vote for the Honourable Mr. Khaparde's amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to support the amendment made by my Honourable friend Mr. Khaparde. The Honourable Sir Maneckji Dadabhoy asked what material difference will it make in case the age of consent, as far as married people are concerned, is raised by only one year to 13. I take it, Sir, as a religious question and I say that as far as the age of consent limit of 12 years is concerned, it is in consonance with Hindu law.

THE HONOURABLE SIR MANECKJI DADABHOY: What is the text?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Not being a lawyer I do not remember the text by heart, but I shall give it to my Honourable friend later. As far as religious questions are concerned, it is

[Rai Bahadur Lala Ram Saran Das.]

unwise to bring in piecemeal legislation. One day a certain measure is brought and then another, and it is brought about because unfortunately the orthodox community is not very well represented in the Legislatures. All the same, Sir, I will say that I am an advocate of social reform and as far as my own community is concerned, we are working social reform at a good pace. I must say that in the Punjab without any legislation we have raised the age of marriage. You will find girls in the Punjab in many educated families who are 25 years of age and have not been married. If you take the average of the marriageable age of girls, 16 will be the average. As I have already informed the House, no legislation has brought about that change. It is the result of our own social organisations which are accomplishing this. I think Honourable Members of this House who having failed in organising such social organisations will be showing great weakness on their part by seeking protection of legislation, which I think is not right. We ought not to break the Hindu law piecemeal. Many Members have said that marriage is a social function. As far as Hindus are concerned it is not a social but a religious function, so I humbly say that, though I agree that it is a humanitarian measure, and I also say we are already following it and advancing at a good pace, in many provinces I see no reason why we should ask Government to legislate in a matter which is already in our hands and in which we are progressing rapidly. The Honourable the Law Member said that in Madras Presidency and in one of his own proprietary villages he knew of baby marriages being celebrated. I might inform the Honourable the Law Member that in the Punjab and in Upper India baby marriages are quite unknown. No baby marriages take place in Upper India, and in case Madras requires such a law, let the Madras Legislative Council undertake it. We are advancing with the times and we do not want recourse to legislation. Therefore, Sir, I have to ask the House not to interfere in religious matters and to accept the amendment of my Honourable friend.

The Honourable Mr. Dutt from Madras said that it is a social measure and in social measures Government ought to legislate. Government started with *sati* and went on to other things. I may inform the Honourable Member that to abolish *sati* was not against the Hindu religion. To abolish slavery was not against the Hindu religion, but I think this measure is. I have full sympathy with the proposal to legislate to raise the age of consent for those outside the marital relations and give my full support to the measure, but as far as the age of married people is concerned, I strongly object.

THE HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras: Non-Muhammadan): Sir, the present Bill proposes to change the criminal law of the land. What is legal to-day is to be made illegal to-morrow as soon as the Bill is passed. For this the reasons given are that civilisation has advanced and so they want to change the law of the land. For effecting a social reform they are bringing the offence under the rape section. Unless it is proved that the age of puberty has advanced from 12 to 13 years and the country has become cooler than what it was before, no case can be made out for this enactment.

Sir, I am an orthodox Brahmin, but I am for this reform. On other grounds also as for instance to restrict the population in India I will welcome this measure of reform that the age of marital relations should be raised even a little higher; but what it is proposed to do now is to bring the proposed reform under the rape section and penalize the poor husband. Sir, I also want to ask this question, and that is who is the aggressor and who the aggressee. In many cases I know the poor husbands are the victims of temptation and the other side is the main aggressor. I am very sorry that this aspect has not at all been considered when this measure was taken into consideration.

Sir, the Honourable Mr. Ramadas said that this measure should be considered when the other sex come to this Council and exercise its franchise. I agree with him and the case made out by that argument is that we may wait for some time until the other sex exercises the franchise and comes in numbers to this Council to vote for a measure of this sort. Sir, I do not agree that the *Shastras* are in danger, that orthodoxy is in danger and that Hinduism is in danger, because by raising the age by one year nothing will be lost, and the country will certainly be benefited; but what I object to, what I do not approve of, is the penalty of imprisonment. I do not approve of the proposal that in the case of the marital relation, intercourse with the girl when she is less than 13 years should be penalised with two years rigorous imprisonment and within 12 years with transportation for life. Sir, this section, which deals with rape, means generally that intercourse should not be committed before puberty, and as I have already said, unless it is proved that the age of puberty of our girls has risen from 12 to 13 years, no case can be made out for this measure. I therefore support the amendment of the Honourable Mr. Khaparde that at least in the case of marital relations, the raising of the age from 12 to 13 need not be done, but I agree to the raising of the age of consent in the case of others from 12 to 14. With these words, I support the amendment of Mr. Khaparde.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Sir, I support the amendment because I think in a tropical country 12 is nearer the puberty age than 13. It has been said, Sir, that in another place all the Muhammadans were in favour of this change.....

THE HONOURABLE SIR NARASIMHA SARMA: Except one.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: I may say this Sir, in the present educational system of the country unfortunately religion is not made compulsory, and those who pass their B.A. have got so much hard work to do that they have not got time for learning their religion. I fortunately, Sir, learnt my religion instead of becoming a B.A., so when I say something in the matter, it requires particular consideration. I was misunderstood perhaps when the Bill was put in parts by a speaker, and the age of 14 was specified in cases outside marriage. If my friend knew the religion, he would have said that it is not only at 14 years, but even at the age of 50 years if a man who is not married commits anything of this nature he commits a sin. There is nothing in the age.....

THE HONOURABLE THE PRESIDENT: The Honourable Member is discussing the clause itself. What is before the House at the moment is Mr. Khaparde's amendment, which is merely to restore the age of 12 instead of 13 in the Bill.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: The only thing I wanted to say in this connection was that we were not laying it down that we should marry at such and such a time in life; we are allowed not to marry till 30 or 40 if we like, but at the same time, puberty being the proper time, and that being near 12, I say that the age of 13 should not be fixed because it will be interfering with that particular age. Supposing puberty did occur at 12 or 12 years and six months, if any Act stopped any one from marrying till 13, or prohibited intercourse till 13, that will be against the law of religion and I am glad that, when my friend was trying to contradict me, he could not get over this point. This is the point that I emphasized.

Then, Sir, it has been said that, as the people marry very early, perhaps they are not strong enough, and as it is wanted that everybody should take part in fighting and get into the Army, those will be made fit for it. I will say this. Before this the age was not more than 12 in the law. Was the army any less fit under the present law with the age of 12? That is not the case. The point is that those fighting classes, which have been fighting classes, will remain fit for that work and as to the others, no marriage, early or late, will help them to become that.

Then, Sir, there is another point worth consideration. If the age of 13 is fixed, and if any young man who was married to a girl of the age of 12 did commit breach of the law—we are making the law such that it would not be respected; that is not good for the law itself—then what will happen? Suppose there is a good family and the police will like to come in and accuse a husband and say we will take your wife to the doctor. How bad that will be for the parents of that girl as well as for the parents of the man, her husband? The police will be able to extract any amount of money from them which they will give to save their honour. That is a thing the police will be able to do. And there will be some people who will marry their girls at an early age, and then some of those to bring the husband into trouble will institute a case and get the husband into trouble and marry the girl to someone else. All sorts of such difficulties will occur. One thing I want to say, if the Government say they are doing a favour to the people by bringing in this very nice measure, I say thanks, and I hope they will not force this on to us. I think the House is sufficiently sharply divided on this issue, and if the people like it let them decide it themselves; do not come and help them. We are here Hindus and Mussalmans, take our votes, and if the Bill is passed it will be passed, but I do not think it is at all right for the officials to come in and help one side to win. I hope they will consider this.

THE HONOURABLE SIR NARASIMHA SARMA: Sir, this question was argued fully when the Bill was at the consideration stage, I think my Honourable friend Mr. Khaparde is drawing no real distinction between marriage laws and the laws relating to intercourse with girls. Of course the marriage laws of England might permit marriage at the ages of 14 and 12, but it is felony to have intercourse with a girl below 13, with or without consent, and it is a misdemeanour to have intercourse with a girl between the ages of 13 and 16, and the age has since been raised to 18.

And we are following the analogy of the English law exactly. We are not prohibiting any marriage; we are not restricting the marriage of any girl or of any man.

5 P.M.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, on a point of personal explanation. I was speaking about the age of consent in England for purposes of rape which was only 12 until 1919.

THE HONOURABLE SIR NARASIMHA SARMA: It is 13. I may point out the name does not make much difference. It is either a felony or a misdemeanour. It has always been a misdemeanour beyond 13. Up to 13 it corresponds to rape but we have reduced the punishment to the punishment for misdemeanour. In the case of marital relationship between 12 and 13 the maximum will be two years and not transportation. We have therefore reduced it to the category of a misdemeanour providing a light punishment and have done everything that we can in order that the Act may be worked smoothly, without any friction and without any hardship being inflicted.

Now, Sir, I think my Honourable friend was also overstating his case when he said that several Local Governments and others were opposed to this particular piece of legislation. The question referred to them originally was whether the Bill which provided for the raising of the age to 14 was one which was acceptable to them. Naturally there was considerable difference of opinion. Opinion was not all one way; opinion was divided; and we were advised that such a measure should not be accepted; and the Government therefore refused to accept the proposal to advance the age from 12 to 14. I admit that there was opposition to any raising of the age. All the papers and opinions relating to the subject were placed before a strong Select Committee composed of all shades of opinion, including Pandit Madan Mohan Malaviya and other very orthodox men, and they came to the conclusion by a vast majority that although it was inadvisable to raise the age to 14 it could be raised to 13. Our difficulty then was to induce the others to agree to 13; they were for insisting upon the age of 14 being fixed. The Government naturally refused to be a party to any legislation which raised the age at once from 12 to 14 and as a compromise this Bill has been put forward fixing the age at 13. I submit, Sir, that this is a very reasonable modicum of advance and I have already said it has received the approval of the vast majority of the public as we may gather from opinions in the Press and the other indications to which I have alluded.

There is naturally some doubt as to the manner in which this Act would be worked. I have already stated that there are sufficient safeguards provided which will be strictly enforced in the working of the Act. I have said that no Magistrate other than a District Magistrate or Chief Presidency Magistrate in a Presidency town can take cognizance. It is not open to a 3rd class Magistrate, or a 2nd class Magistrate, or even a 1st class Magistrate as such to take cognizance. The matter can be inquired into only by officers above a certain rank and from the fact that hitherto there have been absolutely no complaints against the manner in which the machinery has been enforced under the existing law. Honourable Members may rest assured that the Government, in their own interests, in the interests of the people and in the interests of the peaceful administration of the country, will see that this Act is worked

[Sir Narasimha Sarma.]

with moderation and worked in a way which will not really inflict any hardship upon the people.

I do not think I need add any more to what I have already said. This raising of the age from 12 to 13 is a compromise. It is a very very small rise and as far as I can gather the Honourable Lala Ram Saran Das is taking up the cudgels not on behalf of his own province or of the people he knows but on behalf of provinces with whose conditions he is not acquainted. It is of course very chivalrous of him to take up the case of other provinces and speaks well for his catholicity of outlook, but I would submit that if really the Punjab has raised the age it does not inflict any hardship whatsoever upon the people of the Punjab. With regard to others, I can see a certain trepidation on behalf of Bengal and on behalf of a certain section of Madras and Bombay, specially among the Brahmin and Vaishya communities who may be particularly disturbed by this legislation. But even with regard to them I may assure you that the women now have progressed to such an extent that, as far as I have been able to see, their real sympathies are in favour of some outside help being forthcoming for the purpose of protecting their daughters and their sisters. At any rate I noticed that in my own part of the country where people are very very orthodox indeed. I have already alluded to the fact that I belong to a very orthodox community and the orthodox community is therefore not unrepresented either here or on the Government Benches at any rate for the time being. If I agree it is because I believe that apart from national interests there is a growing sentiment even among the orthodox class and among women particularly, who are now realising the baneful effects of early marriages, which we hope will to a certain extent be discouraged effectually by this piece of legislation. I hope therefore that the doubters will again revise their opinion and that the Council will wholeheartedly support the measure.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, on a point of personal explanation. I took my stand on the religious ground and in religious matters there cannot be any compromise.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA (United Provinces: Nominated Official): Sir, as one of the most orthodox Members of this House, if not decidedly the most orthodox, I rise to oppose the amendment proposed by my Honourable friend Mr. Khaparde. I think, Sir, that this Bill has not come a day too early, and the provision which the Honourable Mr. Khaparde seeks to amend is really the crux of the situation. We are dealing really mainly with marital relations rather than with others. As a matter of fact it is really marriages that are completed early which we seek to put an end to, rather than sexual intercourse outside marital relations. Those are rare instances, and they do not count very much. What really counts is the consummation of marriages at an early age. It has been pointed out, Sir, that this is against religion. The Honourable Lala Ram Saran Das has laid emphasis upon this; but when my Honourable friend Sir Maneckji Dadabhoy asked him to quote the text he was unable to do so. Well, I do not claim to be a lawyer, but as a Brahmin I think I should know Hindu law better than Lala Ram Saran Das who is after all a Vaishya.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am not a Vaishya; I am a Kshatriya.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA: Well, even then I think a Brahmin ought to know Hindu law better than a Kshatriya.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will you cite the text, please?

THE HONOURABLE PANDIT SHYAM BIHARI MISRA: I will cite one text which he might have cited himself—

(Text cited in the vernacular.)

This in effect means, Sir, that a girl had better be married before she is over eight years of age.

This is one of the texts which might be taken to support him; but at the same time I say that this text was rightly set aside when the law of 1891 was passed, and was passed in spite of the opposition to which my Honourable friend, Dr. Mitter, has referred. I am glad that the present Bill has not been brought forward in Calcutta, as he says there might have been a crowd outside to oppose this Bill also. If that is the condition of Calcutta, I am glad that the capital has been removed from Calcutta to Delhi. I expected a better lead from Calcutta, and my own opinion is that if this Bill were really introduced in Calcutta, probably there would have been more supporters for it there than here; but what really count are the representatives of the people in this House, rather than the mob knocking at the door outside; and after all, all the Honourable Members here represent all classes of the community. An Honourable Member said that he represented the educated classes: I am not an elected Member, but I do believe and strongly believe that the Government nominate only those people whom they consider to be representative individuals and not those who do not represent anybody. Government after all do represent the whole of the country, and it is for Government to look after their interests; I think the Government have proved most emphatically on the present occasion that they do look after the interests of the people more than many people seem to suspect. It is quite clear that in the Assembly a Bill which went much further was about to be passed, that is, in the case of marital relations the age of consent was to be raised to 14 and outside marital relations to 16. But Government in deference to the wishes of the majority of the people, orthodox as well as heterodox, decided not to go so far, and they very wisely refused to allow that more drastic Bill to be passed: they have been very cautious, in deference to the wishes of the people, and they have brought forward this measure as a compromise. I see no reason why this measure, which is a compromise and which has been passed by the popular Assembly by an overwhelming majority, should not be passed by us here. I oppose the amendment and support the Bill.

THE HONOURABLE DR. DWARKANATH MITTER: Sir, if I rise at this very late hour it is only to make a statement with regard to the appeal which has been made by the Honourable Leader of the House as to whether it is not possible for us to revise the opinions which we furnished just a few minutes ago stating that we are opposed to the principle of the Bill. So far as my personal will is concerned, the position might be different. But we are here to put forward our views as representatives of the community and of the electorate

[Dr. Dwarkanath Mitter.]

to which we belong. So far as Bengal is concerned I referred to the views of the Vakils' Association which consists of about four hundred graduates of the Calcutta University who are picked from all parts of the province, from East as well as West Bengal, who are opposed to the provisions of this Bill so far as it affects marital relations. I ought to have referred also to the view of the Bar Library of the High Court of Calcutta which consists of 250 barristers, the majority of whom are Indian barristers (*An Honourable Member*. "Returned from England")—all of whom have of course crossed the seas and have had at least three years' training in the Inns of Court. What is their view with regard to the provisions of this Bill so far as it affects marital relations? They sympathise with the motive of the proposed amendment as affecting marital relations, but they are of opinion that the time is not ripe for such interference by legislation. In view of the social conditions and sentiments prevailing at present in India it appears to them that such an enactment would, instead of being generally welcomed, be likely to cause considerable opposition and resentment. They recognise that the age at which marriages really take place in India is being perceptibly though slowly raised owing to certain causes, mainly economic, and they are of opinion that it would be more expedient to let such causes have their way unassisted by legislation. Further, they are of opinion that the proposed amendments so far as it affects marital relations would be extremely difficult to enforce and may on the other hand be utilised by unscrupulous persons for purposes of harassment and oppression.

This is the opinion of persons who are regarded as enlightened persons who have had full training in the Inns of Court in England.....

THE HONOURABLE SIR MANECKJI DADABHOY: And nurtured in the Dayabhaga school of Hindu law!

THE HONOURABLE DR. DWARKANATH MITTER: Yes, and eminent lawyers and jurists in Calcutta: that is not the monopoly of barristers outside Calcutta. Therefore, my Honourable friend, Pandit Shyam Bihari Misra is not right when he says that he seems to know more about Bengal than I do, and that if this Act were passed at Calcutta public opinion there would have been in any way different from what it was when the Act of 1891 was passed under the presidency of Lord Lansdowne.

I will wind up this debate by stating as my view, notwithstanding the appeal of the Honourable the Law Member, not the opinion of an Indian Barrister or of an educated Indian but of a distinguished European Judge of the Patna High Court, Mr. Justice Foster. He says:

"In my opinion the proposed amendment of the Indian Penal Code is not only uncalculated but is likely to have mischievous consequences."

* * * * * The present law fixes the limit of age at twelve years. Not if the act of the male person is not essentially criminal, but is to be made criminal by a fiction which will not appeal to the community at large, it cannot be expected that the criminal courts will have much assistance from the general public. You cannot improve the morality of a people by the agency of the police and the magistrates. All that you can look for is the negative result, namely, the prevention of crime. * * *

* * * * * These limitations have been recognised in the law as it exists, and I do not see how any alteration of the law can work any good. I have no sympathy with the proposed amendment of the Penal Code. I consider it misguided and meddling."

Sir, that is exactly the view which I submit to this House and I support the amendment of the Honourable Mr. Khaparde.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 2 do stand part of the Bill."

Since which an amendment has been moved.

"That in clause 2 the words 'and in the *Exception* for the word 'twelve' the word 'thirteen' shall be substituted' be omitted."

The question is that these words be omitted.

The Council divided:

AYES—7.

Akbar Khan, Major Nawab Muhammad.	Khaparde, Mr. G. S.
Ayyangar, Mr. K. V. Rangaswamy.	Mitter, Dr. D. N.
Ismail Khan, Haji Chowdhuri Muhammad.	Ram Saran Das, Rai Bahadur Lala
Umar Hayat Khan, Col. Nawab Sir.	

NOES—25.

Abbot, Mr. E. R.	McWatters, Mr. A. C.
Amiruddeen Ahmad Khan, Nawab Bahadur.	Misra, Pandit S. B.
Chadwick, Mr. D. T.	Mitra, Mr. K. N.
Charanjit Singh, Sardar.	Nateson, Mr. G. A.
Commander-in-Chief, H. E. the	Parsons, Mr. A. A. L.
Crerar, Mr. J.	Ramadas Pantulu, Mr. V.
Dadabhoy, Sir Maneckji.	Sarma, Sir Narasimha.
Dutt, Mr. P. C.	Sen, Mr. B. C.
Fazl-i-Husain, Mian Sir.	Tek Chand, Diwan.
Karandikar, Mr. R. P.	Thompson, Mr. J. P.
Laird-MacGregor, Mr. E. G. L.	Vedamurti, Mr. S.
MacWatt, Major-General Sir Charles.	Yamin Khan, Mr.
	Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

THE HONOURABLE DR. DWARKANATH MITTER: Sir, I beg to move the amendment that stands in my name which runs thus:

"That the following be added to clause 2 of the Bill:

'And after the *Exception* the following proviso be inserted, namely:

Provided however that sexual intercourse by a man with his own wife shall not constitute rape if at the date of the passing of the Indian Penal Code (Amendment) Act, 1925, the wife had attained the age of twelve but had not attained the age of thirteen years."

This is really a saving clause. This Act will come into force on a certain date in the near future. It is not intended that persons who have entered into marital relationship soon after the passing of this Act or on the date of the passing of this Act should be affected by this if the wife has already attained the age of 12. It will take some time before this law filters down to the masses. One has to get oneself acquainted with the provisions of the law, it will take some time before the people at large come to know of the passing of this law. Therefore, Sir, I think some time should be given before the offence can be regarded as an offence under the Indian Penal Code

[Dr. Dwarkanath Mitter.]

(Amendment) Act. It is a very necessary provision, Sir, and it is really a saving clause, and I submit it ought to be accepted. I fully recognise that it really spends its force after the period of one year. But the whole intention is to give the public exemption for a period during which they may get themselves familiar with the provisions of this law. I therefore propose this amendment.

THE HONOURABLE SIR NARASIMHA SARMA. Sir, there is no point of substantial difference between the Honourable Dr. Dwarka Nath Mitter and myself with regard to the object which he proposes to attain by means of his amendment. Honourable Members will see that the same object or substantially the same object is sought to be attained by another amendment standing in the name of the Honourable Mr. Karandikar, and the Government are willing to accept that amendment. But they cannot, I regret, accept the amendment moved by the Honourable Dr. Dwarka Nath Mitter, for this reason, that as the amendment is worded an offence of rape which might have been committed by a married person before the passing of this Act may possibly be construed as being condoned under the amended clause. Supposing a man is married and commits this offence on a girl, 11 years and 9 months old, and she attains the age of 12 on the passing of this Act. The law at the time of the trial may be the amended clause with the proviso running as follows :

"Provided, however, that sexual intercourse by a man with his own wife shall not constitute rape if at the date of the passing of the Indian Penal Code (Amendment) Act, 1925, the wife had attained the age of twelve but had not attained the age of thirteen years."

The law that would be administered should be clear and not be open to subtle arguments, and when we are drafting an amendment, I would suggest to the House that we ought to be somewhat cautious. The very same object which the Honourable Member has at heart will be achieved by accepting the amendment which seems to have been examined in our Department. I would therefore ask my Honourable friend Dr. Dwarka Nath Mitter, if he has no objection, to waive his amendment in favour of the second amendment. But if he persists, I regret, for reasons I have already stated, I would have to oppose his amendment.

THE HONOURABLE THE PRESIDENT: The question is :

"That the following be added to clause 2 of the Bill :

'and after the *Exception* the following proviso be inserted, namely :

Provided, however, that sexual intercourse by a man with his own wife shall not constitute rape if at the date of the passing of the Indian Penal Code (Amendment) Act, 1925, the wife had attained the age of 12 but had not attained the age of thirteen years."

The motion was negatived.

Clause 2 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is :

"That clause 3 do stand part of the Bill."

THE HONOURABLE MR. R. P. KARANDIKAR: Sir, after what has been said by the Honourable the Law Member, I do not think I need ask for more indulgence than to allow me to read the amendment standing in my name.....

THE HONOURABLE THE PRESIDENT: The Honourable Member's amendment is not strictly to clause 3. It comes a little after clause 3. I will therefore put clause 3 first.

The question is :

"That clause 3 do stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

THE HONOURABLE MR. R. P. KARANDIKAR: Sir, I beg to move :

"That the following clause be inserted after clause 3, namely :

'4. Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife had not attained the age of thirteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date.'

As I find there will be no difficulty in this amendment being accepted, I will not weary the House with any speech.

The motion was adopted.

Clause 4 was re-numbered clause 5 and added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR NARASIMHA SARMA: Sir, I move that the Bill, as passed by the Legislative Assembly and amended by the Council of State, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Friday, the 11th September, 1925.

COUNCIL OF STATE.

Friday, the 11th September 1925.

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

MEMBER SWORN :

The Honourable Mr. Frederick Austen Hadow, C.V.O. (Chief Commissioner, Railways).

RESOLUTION *RE* RECOMMENDATIONS OF THE MAJORITY REPORT OF THE REFORMS INQUIRY COMMITTEE.

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

"That this Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

Sir, when I first set myself to consider by what arguments I could best commend this Resolution to the House, the feeling predominant in my mind was a sense, an almost overwhelming sense, of the magnitude of the problem implicit in what appears a simple, and in the opinion of some, a limited or even an unimportant proposition. What we have immediately to deal with may be an episode, but it is an episode in two great, as I believe, converging streams in a very great transaction, the contact and ultimately the identification of the political future and destiny of India with the contribution made by British institutions not only to India but to the civilized world. The first necessity is to endeavour to see this problem in its true perspective, a perspective not only of dimension but of time. England has succeeded, whether for good or ill only a remote generation can judge, in impressing upon western civilisation her own ideas of political institutions. We are now engaged in the formidable task of applying those ideas to an eastern civilisation and an eastern environment. Whatever view may be held of the wisdom or of the probable success of this enterprise, no one at any rate can deny that it is heroic. In the attempt to organise human society on a rational and comprehensive basis it has only one parallel in human history, and that is only an imperfect parallel, which exhausted its effort at a stage where the English genius had the courage and the inspiration to begin. The parallel I have in mind is the system of Roman law, arising at first as the common law of a small city state, and culminating as the unifying and governing element of the whole of the then western civilized world and a considerable proportion of the eastern. That, Sir, was a great and memorable achievement, so great and so memorable that, unless all record of human thought is lost in some great catastrophe, it is inconceivable that any system of civil law should now be devised or continued without reference to the great canons of the Roman tradition. But in

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the realm of political institutions the English tradition has taken a place certainly not inferior to the Roman tradition in law, and it is with this, in its application to the needs and aspirations of India, that we are now concerned. Now, Sir, we have seen the English Parliamentary system gradually adopted, more or less completely, and with greater or less success, not only in all western countries but also in nearly every new political organisation throughout the world that has come into being since the time of the French Revolution. We have seen it continued and developed in all the overseas Dominions, which, from their foundation, took with them the soil and the seed from which those institutions originally sprang; and we have seen it transplanted or imitated in circumstances greatly dissimilar from those of its origin. But even in its native soil, with all its vast extensions, new conditions have arisen, new problems have been propounded, which are now the anxious pre-occupation of statesmen, and will be a text for the historian; new conditions and new problems, which, it seems probable, are destined seriously to affect and perhaps profoundly to disturb this ancient and deep-rooted structure itself. Here in India we have set ourselves to apply these institutions on a scale and under conditions for which we have absolutely no guide or precedent. We are applying principles which were devised for their own purposes by a comparatively small, homogeneous community, to a country with a population of 320 millions, and perhaps a greater diversity of race and culture than is to be found in any equal area of the world's surface. The enterprise is formidable and I should find it appalling had I not the faith that in these institutions, if they are wisely and prudently applied and with due observance of the spirit which informs them, there is an inherent virtue of adaptation, of development and of catholicity. I think I am not alone in that faith. I think it is now clear, and I may draw that inference from the amendments which are on the paper to-day, I think it is clear that the leaders of political thought in India have themselves definitely elected and declared that the political progress of India must proceed on and be governed by these principles. But while I welcome that election and that declaration, I must entreat those who make it to recognise the vast dimensions of our common enterprise.

Sir, I said that we had to view it in a perspective not only of dimension but of time. I quoted, as a parallel in some respects to Parliamentary government, the case of the Roman law. Now from the promulgation of the Twelve Tables to the great codification in the time of the Emperor Justinian was a period of nearly 900 years and neither of these events was either the beginning or the end of that great impetus of thought, the effects of which have extended from the Thames to the Ganges and from the old world to the new. Sir, if we reckon the history of Parliamentary institutions only from the reign of Edward I, that was over 600 years ago, and this history so far from having yet reached any finality is now at a stage of crisis and of new development—in depths and in regions hitherto unplumbed and unexplored. Now I am not suggesting that India too must wait for her share of the heritage for a period of centuries. We have the great advantage of being able to start at a point which took many generations of human experience to achieve; but I do urge that the fact that

the inception of responsible government in India is not yet 6 years old must be alleged, not simply as a political plea, but as a practical truth of the greatest weight and significance. I would therefore ask the House to enter upon this matter with a clear recognition of its magnitude and its moment, to recall the conditions by which our further progress must be regulated and to examine in that spirit the Resolution which I have moved. On the magnitude of the problem I have said as much as is perhaps necessary and certainly as much as in the time at my disposal is possible. In the conditions which must regulate our further progress I include those which proceed from the law and the constitution and those which, independently of all such considerations, are necessarily and inevitably inherent in the task itself. The first of these, the legal and constitutional conditions, are sufficiently recited in the preamble to the Government of India Act, 1919, which states the fundamental doctrine of the responsibility of Parliament; the doctrine that the time and manner of each advance towards responsible self-government in India can be determined by Parliament alone. It is as unnecessary as it would be impossible for me to examine this doctrine on its warrant in history, in law or in morals. It is unnecessary because, Sir, I think that all responsible political opinion, however divergent in other matters, is agreed on this; or at least it is prepared to accept it as the basis of all practical discussion. We must satisfy Parliament, as we must satisfy the tribunal that Parliament is to set up to examine and report on all the claims and on all the evidence, we must satisfy Parliament in regard to every step that we propose should be taken.

Now, Sir, apart from these the constitutional and legal conditions under which we must work, I spoke of other conditions which need no constitutional warrant and are inherent in the task. Of these the most important in my judgment are these. Firstly, we must use to the full all the resources in our possession, discarding none till its utility has been fully tried and found wanting. Secondly, having regard to the vast interests committed to our charge and the disastrous consequences of yielding to a hasty impulse or to a rash speculation, we must be patient, prudent and circumspect. Thirdly, and most important of all, we must all work together, for this enterprise is too great to be undertaken by any single authority or by any party or by any school of thought working in isolation or, still worse, in antagonism with others. Now this cannot be done without much patience, much mutual forbearance and assistance. As I see it, the co-operation invited and required by the Secretary of State and His Excellency the Viceroy is not merely a stipulation made by one party to the negotiation. It is a plain and candid statement of a fundamental condition for the solution of the problem which lies before us both and without which neither can succeed. I earnestly invite the House to consider the Resolution in this spirit. In the first place, it affirms a principle, the principle which defines the main divergence between the majority and the minority report. What is that principle? It is this, that the Government of India Act is a great measure of political advance which has yielded most important and valuable results; that its potentialities should be further tried and utilised, and that the measures requisite to remove any administrative imperfections experienced in its working can and should be adopted. At least one section of the critics of that report take the position that the Act is radically incapable of working or is so defective that no adjustments or running repairs

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are worth the time or the attention devoted to them. Now I contend that such a position is wrong, wrong in its premise and doubly wrong in its conclusion. It is wrong in fact because the Act is undoubtedly in operation. Legislatures are meeting, laws are being enacted, supplies are being voted or refused, and with two exceptions the existence of which cannot reasonably be imputed to the Act, the administration of this great country is being carried on in accordance with the provisions of that Act. To those who despise adjustments and running repairs I would suggest that in operating a great and complex machine these may be the immediate and sufficient requisites for its efficient working. At any rate those critics can only prove or provide practical evidence of their contention by an honest and persevering attempt to work it in accordance with the intentions of the designers. If such an attempt is made by the joint efforts of all those for whom it was designed, and if their attempt clearly and definitely fails for causes clearly and definitely to be attributed to the machine, then at least we shall have some presumptive, some tangible evidence, but not till then. We have no reason to suppose that such an effort is doomed to failure because it has not yet been made.

Sir, any premature and impatient discontent with the very real achievements of the last five years is not calculated to accelerate our progress. You will not achieve a difficult and distant goal by constantly changing your starting point or quarrelling with your companions in the caravan. Continuity is one of the essential conditions of development and in the constitutional history of England continuity and adjustment are the most fruitful and the most familiar incidents. If we are indeed committed—and of this there can be no doubt—to the task of adopting for and adapting to Indian requirements British political principles and methods, should we be wise—to say nothing of logical and consistent—if at the outset we repudiate and discard the most characteristic and the most essential, if not of those principles at any rate of those methods? Continuity and adjustment are and have always been the deliberate and instinctive aims of English constitutional policy. They have permeated its history, they have been present in an active form in every phase of that history which records any permanent stage of progress, however arbitrary or violent the concomitant events may have been. Continuity and adjustment are, if you will examine it, the pith and the marrow of the majority report, not as things drawn from an obsolete and stereotyped code, but as the application to a new range of conditions and demands of a tradition which is not only ancient and well-tried, but vital and active, a force which is still the most hopeful and energetic in a world which without it might well be a world of despondence, disillusion and despair.

Sir, the great system of government which was set up in this country before there was any clearly defined or deliberate intention of instituting self-government, was based on another and perhaps an even more fundamental element in the British tradition—the rule of law, the impulse of construction and the ineradicable instinct of inducing order and liberty out of chaos and oppression. It may be that these conceptions go deeper and are destined to be more permanent than the expedients, more generally recognized and accepted, of Parliamentary Government itself. But this

great system of government, elementary as in many respects it was, had two characteristics which proclaim its origin and its legitimacy. In the first place it was directed in an austere and practical spirit to the immediate requirements of the country at that time, and it was directed, consciously or instinctively, towards a wider and further goal which would permit of an ultimate ideal of self-government. That system has perhaps fulfilled its purpose and delivered its message. We are now at the stage for which it prepared the way. That system derived its main direction and inspiration from England, though it did not reject the wisdom and experience of its predecessors in India. But we have now arrived at a new order of things in which unity and co-operation between England and India are essential. India has elected to accept British conceptions of self-government as the basis of her own political evolution. But let us remember that if these institutions offer a great prize they demand also a severe discipline. In the words of Milton: "The immortal garland is to be run for not without dust and heat".

Sir, is it unreasonable for us to ask that those who deem it to their interest to enter with us into this great tradition and to be co-heirs with us in this great heritage should also accept the limitations, the discipline and if necessary the delays which we, a nation not remarkably patient of limitations or of discipline or of delays, have been compelled to accept by the hard lessons of our own long experience and by the ineluctable dictates of our convictions?

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay, Non-Muhamadan): Sir, I beg to move the following amendment:

"This Council recommends to the Governor General in Council"

THE HONOURABLE THE PRESIDENT: Will the Honourable Member move it as an amendment?

THE HONOURABLE MR. PHIROZE C. SETHNA: I did say so, Sir.

THE HONOURABLE THE PRESIDENT: Will the Honourable Member move it as a substitution for the original Resolution?

THE HONOURABLE MR. PHIROZE C. SETHNA: Sir, I move to substitute the following for the original Resolution:

"This Council recommends to the Governor General in Council that he be pleased to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying the following fundamental changes in the present constitutional machinery and administration of India:

- (a) The Revenues of India and all property vested in or arising or accruing from property or rights vested in His Majesty under the Government of India Act, 1858, or the present Act or received by the Secretary of State in Council under any of the said Acts shall hereafter vest in the Governor General in Council for the purposes of the Government of India.
- (b) The Governor General in Council shall be responsible to the Indian Legislature and subject to such responsibility shall have the power to control the expenditure of the Revenues of India and make such grants and appropriations of any part of those Revenues or of any other property as is at present under the control or disposal of the Secretary of State for India in Council, save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India:
 - (i) Expenditure on the Military Services up to a fixed limit,
 - (ii) Expenditure classed as political and foreign.

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- (iii) The payment of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India.
- (c) The Council of the Secretary of State for India shall be abolished and the position and functions of the Secretary of State for India shall be assimilated to those of the Secretary of State for the self-governing Dominions save as otherwise provided in clause (b).
- (d) The Indian Army shall be nationalised within a reasonably short and definite period of time and Indians shall be admitted for service in all arms of defence and for that purpose, the Governor General and the Commander-in-Chief shall be assisted by a minister responsible to the Legislature.
- (e) The Central and Provincial Legislatures shall consist entirely of members elected by constituencies formed on as wide a franchise as possible.
- (f) The principle of responsibility to the Legislature shall be introduced in all branches of the administration of the Central Government subject to transitional reservations and residuary powers in the Governor General in respect of the control of Military, Foreign and Political affairs for a fixed term of years :
Provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as 'Defence' shall be submitted to the vote of the Legislature; but that the Governor General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed.
- (g) The present system of Dyarchy in the Provinces shall be abolished and replaced by Unitary and Autonomous Responsible Governments subject to the general control and residuary powers of the Central Government in inter-provincial and all-India matters.
- (h) The Indian Legislature shall after the expiry of the fixed term of years referred to in clauses (b) and (f) have full powers to make such amendments in the constitution of India from time to time as may appear to it necessary or desirable.

This Council further recommends to the Governor General in Council that necessary steps be taken :

- (a) to constitute in consultation with the Legislature a convention, round table conference or other suitable agency adequately representative of all Indian, European and Anglo-Indian interests to frame with due regard to the interests of minorities a detailed scheme based on the above principles, after making such inquiry as may be necessary in this behalf;
- (b) to place the said scheme for approval before the Legislature and submit the same to the British Parliament to be embodied in a Statute."

Sir, the Reforms Inquiry Committee was appointed by the Government in answer to a general demand from the Legislature and the general public for a further advance in the reforms and also for improvements in the existing machinery of Government as laid down in the Act of 1919. The Report was published six months back. No action was taken on it till now. This, I take it, was principally due to the proposed visit of His Excellency the Viceroy to London to consult the Secretary of State for India. The public did not mind this little delay, because it was expected that as a result of those deliberations between Lord Reading and Lord Birkenhead the outcome would be such as would enable us to expect the fulfilment of our wishes and aspirations even

to a limited extent. In this we have been disappointed. All that we have had are two speeches, one about two months ago from the Secretary of State and the other about three weeks back by His Excellency the Viceroy on the occasion of the opening of the two Houses on the 20th of last month. These speeches do not take us any forrader and now on the top of it all we have a Resolution proposed in this House by the Honourable the Home Secretary asking us to accept the principle underlying the majority report and to request the Governor General in Council to give effect to the recommendations made in the majority report.

Sir, the Committee consisted, as we know, of nine members, five of them formed the majority and the other four formed the minority. If one of the majority had sided with the minority, the tables would have been turned, and what is now the minority report would have become the majority report. And I ask, if that event had occurred, would Government have pressed the acceptance of such a majority report? I may proceed to answer the question myself by saying that, judging Government from their present attitude, they would most certainly have not done so but would have endeavoured to wriggle out of the position as best they could.

Let us now examine the *personnel* of the Committee. Amongst the majority were three eminent Government of India officials, the Chairman was the present Home Member of the Government of India, Sir Alexander Muddiman, who, we are all pleased to see, is present here to-day in this House, over the deliberation of which he presided with such distinction for full three years. Then there was the then Law Member, Sir Muhammad Shafi, and you yourself, Sir, were the third and you then held the position of Secretary to the Government of India in the Legislative Department. Then there was the Maharaja of Burdwan, himself an official, for he had only a few months previous ceased to be an Executive Member of the Council of the Government of Bengal, but who had his eye on another high Government appointment with which rumour very strongly associated his name. Therefore, we had four Government officials, and however disinterested they may be, however open-minded they may be, it is in the nature of things,—I do not blame them because it happens in India as well as elsewhere,—that they were bound to look upon the questions placed before them from the Government point of view. The fifth member was a non-official, a Member of this House, the Honourable Sir Arthur Froom. Now let us turn to the minority. Amongst them, there was Mr. Jinnah, who has never held any Government appointment, who, comparatively speaking a young man, has for the last quarter of a century taken the keenest interest in Indian politics, who has himself taken an active part in them and is in complete touch with Indian views and aspirations. Who were the other three in the minority? No less Indian personages than Dr. Sir Tej Bahadur Sapru, Sir Sivaswamy Aiyer and Dr. Paranjpye, men who are looked up to by Government themselves, men who are esteemed by Government as well as by the public alike, and men who had the additional advantage of having held high positions under Government. That being so, if this minority, composed as it was of four, in three of whom Government had absolute confidence, have made certain recommendations with a full sense of their responsibilities, they must of course have done so with the certain

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knowledge that the reforms they propose are all workable and will not adversely affect the work of the administration of the country. Is it fair on the part of Government completely to brush aside their recommendations? Has it ever occurred to Government to pause for a while and consider why it is that every single Indian, without a single exception, who has held the highest positions in the land, men like Lord Sinha, Sir Ali Imam, Sir Sankaran Nair, Sir Tej Bahadur Sapru, Sir Chimanlal Setalvad, Mr. Chintamani, Mr. Jagat Narayan and others, all of whom without any exception whatsoever, as soon as they left Government service, have expressed themselves more freely, have sided with and supported the popular view which as we can well understand they could not very well do when holding Government appointments. That, Sir, is a fact which Government cannot deny, but if I have made this remark in regard to Indians who have held high Government appointments I say that this applies equally to Europeans, for are we not aware of the fact that even amongst Europeans there are many from Vice-roys downwards who have expressed themselves reservedly when in office, but once they have left office, they have let themselves go and have sympathised with Indian aspirations that India should advance faster in the matter of political progress. I emphasise this point, because I hold that if the Committee were held some months later, and if it had the same personnel, Sir Muhammad Shafi, because he would have ceased to be Law Member, would have unmistakeably sided with the minority which perhaps he could not very well do as Law Member. I am not making any rash statement nor am I hazarding a guess. I draw my inference from what fell from Sir Muhammad Shafi himself when he was interviewed by a representative of the Associated Press soon after he gave up office. And were not his words quoted in the House of Lords by Lord Olivier who attached the same significance to Sir Muhammad's words? Therefore, it is a positive misnomer to call the reports majority and minority reports. It would be very much better to call them report A and report B.

Sir, is it any wonder, in spite of all that has fallen from the Honourable Mr. Crerar, that the Indian public and the country at large do not attach that importance to the majority report as they do to the minority report? Is it fair on the part of the Government, I ask, to brush aside all the recommendations which have been made by the minority? As the Government know, the Committee were almost equally divided, and it would have been only fair, therefore, for Government to have included in their Resolution to-day, if not all, at least some of the most important recommendations made by the minority. You, Mr. President, I understand, were personally responsible for the preparation of Appendix II to the majority report in which you have given a list of the sections of the Government of India Act and details in connection therewith to show the legal and constitutional possibilities of advance within the Government of India Act. My Honourable friend Mr. Crerar in this Resolution has absolutely ignored those recommendations.

It seems that the Government must possess a very curious notion of the intelligence of the Indian Legislature and of their sense of responsibility if they expect the Indian Legislature to subscribe to this Resolution as it has been framed, a measure which I consider both illiberal and unstatesmanlike and

which so flagrantly and definitely, and may I add so defiantly, runs counter to the wishes of both the Legislature and the public, and what is more, a Resolution which is not subscribed to by such eminent men as Sir Tej Bahadur Sapru, Sir Sivaswamy Aiyer, Dr. Paranjapye and Mr. Jinnah, for all of whom Government as well as the public have the highest respect and on the first three of whom Government when it suited them to do so have on more than one occasion showered encomiums for the moderation and the sobriety of their views.

I take no credit for drafting this amendment. As the House is aware, it is identically the same amendment as was moved in the other place and carried there three days ago by the overwhelming majority of 72 to 45. I say advisedly an overwhelming majority, because the minority consisted mainly of Government officials and perhaps of the European elected Members. I make bold to say that if the Indian officials in that House were left free to vote according to their conscience, they would not have helped to swell the number of the minority to 45. Sir, the views that are embodied in the amendment are the considered views of the leaders of the different nationalist parties in the other place and elsewhere. It is their joint draft, and it is a draft which is in consonance with the views expressed by the Chairman of the Liberal Federal Association only the other day in Poona. I compliment my Swarajist friends in agreeing to the proposals as embodied therein and I regard that as a distinct gesture on their part of their willingness to co-operate with Government, and it will be a positive mistake on the part of Government if they do not take advantage of that gesture.

Sir, in the limited time at my disposal it will not be possible for me to explain to the House the amendment clause by clause nor is it necessary, because it is nothing else but a summary of the recommendations of the minority report and what the country has been clamouring for for quite a long time. What I wish to point out to the House to-day is that evidently the attitude of the Government as also of the Secretary of State to-day is very different from the attitude of both the Government of India and the Secretary of State displayed two or three years back. I will take the House back to the year 1921 when in the other place, on the 23rd September, one Member, Mr. Majumdar, brought forward a Resolution for further reforms. The Government did not actually oppose it. What was its attitude then? The then Home Member, Sir William Vincent, requested the House to accept his own amendment. The amendment which that House passed almost unanimously (for there was one dissentient, Mr. Price of Karachi) was the Government amendment, and it was as follows:

"That the Assembly recommends to the Governor General in Council that he should convey to the Secretary of State for India the view of the Assembly that the progress made in India on the path to responsible government warrants a re-examination and revision of the constitution at an earlier date than 1929."

That, I repeat, was the Government amendment. The Home Member evidently did not speak for himself alone. He spoke for the Government of India and I would not be surprised if he spoke as he did with the approval of the then Secretary of State, Lord Peel. Sir William Vincent was most sympathetic in his speech, but he was not alone in such sympathy. I will ask the

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House to listen to the words of the then Finance Member, Sir Malcolm Hailey, now His Excellency the Governor of the Punjab. In supporting the amendment, he observed :

"Surely now the only practical and reasonable end to this debate is, that we should convey to Parliament the opinions that we have heard expressed in this House that it ought not to wait ten years before the Parliamentary Commission investigates the whole question of further amendments in the constitution which has been granted to India".

The House waited for the opinion of the Secretary of State. That followed nearly 18 months later, and it was

"that it was too early to ask Parliament to revise the constitution but the Act contained within itself sufficient materials for expansion of the existing constitution".

That was the opinion of Lord Peel. It was on this opinion that another Member of the other place, Dr. Gour (now Sir Hari Singh Gour) on the 18th July, 1923, moved his Resolution that "the further possible powers within the Act should be put into force". That was not done and last year Pandit Motilal Nehru, again in the same House, moved his Resolution in regard to further reforms, in answer to which the Reforms Inquiry Committee was appointed. I have given these particulars to show that the attitude of the Government of India two or three years back was entirely different from what it is to-day. The Government of India then as now was presided over by the same Viceroy, Lord Reading. Evidently, therefore, Lord Reading's opinion has not changed. We have not Sir William Vincent now as Home Member, but we have Sir Alexander Muddiman, whom, knowing as I do personally, and as Members of this House know themselves, we credit with having equal, if not greater, sympathy than Sir William Vincent towards Indian aspirations. Where then is the rub? The explanation is simple. The opposition is evidently not from Delhi or Simla but from Whitehall, and we need not be surprised, because the party in power to-day is the Conservative Party, and for the Secretary of State we have a Conservative in the person of Lord Birkenhead. This, explains the present attitude of Government.

The gist of my Honourable friend Mr. Crerar's speech, as far as I can make out, is that we should be patient, prudent, and circumspect, and we should not try to run too fast. He has told us that it took 900 years from the promulgation of the Twelve Tables to the codification of the laws by Justinian. He has also told us how long it has taken the British Parliament to advance to its present stage. All I would like to say in reply is that there is some little difference between human beings and quadrupeds. The lower animals have to start at the bottom every time. Human beings begin at the stage left off by those who went before them. Therefore, if we begin to-day we can undoubtedly proceed at a much faster rate profiting by the experience of others. I can give my Honourable friend no better instance than that of America and Japan. America did in 150 years what it took Europe more than a thousand years to accomplish, and Japan has done within less than half a century what America did in 150 years and what Europe took a thousand years and more to do. It is therefore perfectly legitimate for us to ask for further reforms. We are confident that we have progressed to an extent that we

are now ripe for them, and if we are to take Government at their word and at their professions we regard it as their bounden duty to give us what we ask for in my amendment.

Sir, the Secretary of State in his speech has asked all parties in India to unite and to put before him a scheme which he will consider. His Excellency has asked us to co-operate with the Government. The amendment which was moved in the other House and which I am placing before you to-day answers the demands made both by the Secretary of State and His Excellency the Viceroy.

Here we put before you a concrete scheme. Here is willingness on the part of that national party which opposed Government at all times to drop such opposition and to co-operate.

And if Government do not choose to accept it, the blame will lie with Government and not with us. Until our demand is favourably entertained it will be the bounden duty of the Indian Legislature and the Indian public to persist in such demand because we regard it as our due and which we ought to obtain as soon as possible. I cannot expect Government Members to support my amendment but I appeal to all elected Members that they will vote with me and thereby convince Government that the elected Members of both Houses of the Central Legislature are in perfect unanimity on this very important question.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That for the original Resolution the Amendment read by the Honourable Mr. Sethna be substituted".

I do not think that I should weary the Council by reading it over again.

THE HONOURABLE MR. V. RAMADAS PANTULU (MADRAS: NON-MUHAMMADAN): Sir, the amendment which stands in my name is substantially the same as that moved by my Honourable friend Mr. Sethna. The House will notice that there are only certain verbal alterations in clause (c) of the first part of the amendment on page 1, and in clauses (a) and (b) of the second part on page 2. With your leave I shall mention that in clause (d) of the first part the word "Assembly" seems to be a mistake for "Legislature". I remember to have corrected it when I sent it to the office. It must be a *lapis calami*. I hope I have your permission to correct it.

THE HONOURABLE THE PRESIDENT: Yes.

THE HONOURABLE MR. V. RAMADAS PANTULU: In order to understand the full import and implications of the amendment which stands in my name I think it is my duty to give you a brief history of this amendment. The origin of it goes back nearly to the commencement of British connection with India. This debate involves three issues which were very pertinently raised by the Honourable Mr. Crerar in his opening speech. The issues are, one, has Britain a divine, legal or moral right to continue to rule India as a dependency? The second issue is, have the Indians got a right to govern themselves, or in other words, is, Swaraj their birth right? If the first issue is answered in the negative and the second issue in the affirmative, the third issue arises, namely, what is the best and the quickest mode of transference of power from the British to Indians? I think, Sir, the

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Resolution deals with the third issue. Unless we dispose of the first and second issues the third issue does not arise. Therefore, I beg to state very briefly, as the Honourable Mr. Crerar himself has done as regards the British case, what the Indian case is. On the first and second issues our case is unhesitatingly that Swaraj is our birthright. We are entitled to govern ourselves and the British have no divine, legal or moral right to continue to rule this country as a dependency. I use the word "dependency" advisedly because we are at present not necessarily wedded to a policy of attaining Swaraj or self-government outside the British Empire and are not unwilling to continue as partners with equal rights. Our formula is to attain self-government within the British Empire if possible and, if not, without it. The creed of the Indian National Congress is deliberately made elastic to admit of these two positions; it is the attainment of Swaraj by legitimate and peaceful means. Therefore, Sir, in the first place in answering these issues we deny most emphatically the claim of the British Bureaucracy to play the role of Deputy Providence to Indians. Their theory of trusteeship, their talk of a civilising mission and all thatrodomontade we emphatically deny. We hold also that apart from the divine or legal claim the British have also no moral claim to continue to rule India. That moral claim is based upon its past record and the great good which it is alleged to have done to the Indian people. Here again we deny that. We hold that after 150 years of British rule we are poorer, weaker, and more disunited, and disorganised than we were before they came to this country. You claim that peace and order are the two great achievements which you have accomplished in this country. But, Sir, we hold that the peace which you claim to have established is the peace of death, of a disarmed and helpless nation, and the order which you claim to have established is the order of slaves and human cattle who are dumb driven, which is the order of the prison house. With regard to economic and other conditions I can quote the testimony of many authorities to show that India has not improved under British rule. But I will quote a small sentence from a predecessor in office of Lord Birkendhead, the Duke of Argyll, who said:

"We know indeed of poverty and destitution, more or less temporary in European countries. But of chronic poverty and of permanent reduction to the lowest level of subsistence such as prevail only too widely among the vast population of rural India we have no example in the western world."

That is the testimony he gives to British rule in India. And after 150 years of exploitation India is poorer, economically crippled, industrially helpless and dependent upon foreign imports for subsistence. Therefore we are agitating for Swaraj. In the course of the agitation there emerged the declaration of August 20th, 1917, and later on the Government of India Act. That declaration and the Preamble to the Government of India Act are both unsatisfactory and opposed to the aspirations of Indians. Nevertheless there is one point in both of them which disposes of the first two issues. There is a recognition of India's right to self-government and also a recognition of the fact that Britain is not to rule for ever over India. The right to attain self-government is conceded. Therefore it is we have really entered on the third issue as to the mode of transference of that power from Britain to India. Recognising the

limitations of that struggle we wanted to get a measure of responsible government and all our agitation has only resulted in the Government of India Act, 1919. The Congress disapproved of it, the Moslem League disapproved of it and the public of India disapproved of it. Therefore the Congressmen, who disapproved of the machinery devised for the transference of power from Britain to India, have not taken any share in the working of the reforms in the first stage of their inauguration. We have left it to those people who had faith in it to do so. I will at this stage refer to page 152 of the minority report which says that as non-co-operators stood out of these Councils in 1920 the people who had faith in the reforms entered the Councils and worked them in an atmosphere which was most congenial to their success. Nevertheless they have found that machinery to be insufficient, inadequate and unsatisfactory, we then entered on the second stage of the struggle. In 1923 we, the Congressmen, thought that if Government were not going to devise a machinery which is proper and suitable to attain this object, the best thing would be to go into the Councils, to destroy the one which they have set up and to get another instead. No doubt we began with the object of destruction. We thought that no construction was possible without destruction.

THE HONOURABLE SIR ALEXANDER MUDDIMAN: I am sorry to interrupt the Honourable Member, but does he still adhere to that policy of destruction?

THE HONOURABLE MR. V. RAMADAS PANTULU: We began by destroying. We are attempting to try and see whether it is possible to build up. In 1924, when the Swarajists entered the Assembly, they presented the united demand of the nation. That demand stands good to-day. The only answer that was given by Sir Malcolm Hailey was that Government would only set up an official committee to inquire into what progress was possible within the Act. His statement was followed by the appointment of an official committee which held its meetings in secret conclave, and made a report. That was followed by the report of the majority of the Reforms Inquiry Committee which majority was practically composed of a majority of officials. Therefore there is no virtue in calling it a majority report. The minority report, and every Indian who had any stake in the country, every Indian who had held any responsible office under the Reforms Scheme and every publicist of note who had the welfare of India at heart, condemned the system of dyarchy which was set up by the reforms; only the Indian Civil Service and the European half of the reserved departments spoke in favour of dyarchy. Nevertheless the majority report without any evidence held in favour of the continuance of dyarchy. If the decision of the majority is carried on appeal to a court of law, it would have called upon the respondent and reversed the judgment embodied in that report without hearing the appellant. There were nine jurymen on the bench. The verdict was 5 to 4. One of the jurors gave his verdict while he was in duress under official shackles and he afterwards said that his verdict was wrong. If the verdict was 5 to 4 in a criminal trial no criminal could be convicted and the jury should be discharged according to our criminal jurisprudence. The verdict should at least be 6 to 3 to be valid. So the verdict of the majority report is worthless and should be scrapped.

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That is the report which you now want to enforce. We say we shall not be parties to it.

There have been two pronouncements since the report was issued, one on the 7th July by Lord Birkenhead and the other on the 20th August by Lord Reading. In both these pronouncements there are two matters of outstanding importance. One is that we should work the scheme for what it is worth and the second is that if we find it unworkable we should propose some other constitution. With regard to the first, we absolutely refuse to work the scheme. It has been pointed out that the scheme is unworkable and we are not going to try to do a thing which is impossible. Within the time at my disposal it is not possible to quote authority in favour of my position that it is unworkable. It has been fully established by evidence. With regard to the second portion, we have suggested a scheme in this amendment. We have got a scheme which consists of two parts. In the first part we have indicated certain definite principles upon which any negotiation between you and us is possible. If you accede to these principles we go to the second part. You may have a round table conference, convention or whatever you like. We will sit together and try to frame a scheme which will suit the needs and requirements of India and which will be in accordance with the principles which we have enunciated here. Those principles are very clear. There should be transference of power from British to Indian hands. The Secretary of State for India's Council is to be abolished. He has to become responsible to Parliament in the same way as the Colonial Secretary. The Indian Legislatures shall be wholly elected, and so on. The scheme is not a new scheme. Ever since the Indian National Congress came into existence we have been agitating for these things. There is a consensus of opinion in the country. Yesterday I read a speech by Mr. Chintamani in which he said that this amendment is really a page torn from the proceedings of the Liberal Federation. This amendment embodies a demand on which there is a unanimity in the country. In the Assembly, Hindus, Mussalmans, Parsis, Christians, all joined in voting for it. Therefore this is now the united demand of the nation. This is the demand which we bring before you. In some quarters it is suggested that the Swarajists have receded from their original demand. I emphatically deny this allegation. The Resolution as passed in the Assembly has a preamble, reiterating and affirming its demand of 1924. Not a word of this amendment is inconsistent or incompatible with the demand that was made in January 1924. I omitted that preamble because it would not be in order in connection with this Resolution in this House. Therefore the demand of the Assembly remains unaltered. We are going to agitate for it and for its acceptance by the Government. When it is accepted and a declaration is made in Parliament, accepting its principles, then and then only shall we sit in a round table conference or agree in any other way to discuss with you. If you discard these principles, then we come to the parting of the ways.

Even Moderates have joined in the demand as embodied in the amendment and no difference of opinion exists. It was pointed out by Sir Maneckji Dadabhoy the other day that all Moderates are at heart Swarajists. It is said: "scratch a Moderate and you will find an Extremist." It is true because all of us want Swaraj as against the foreign rule.

THE HONOURABLE SIR MANECKJI DADABHOY: You are not correctly representing me.

THE HONOURABLE MR. V. RAMADAS PANTULU: I say, Sir, let Government accept this as the common amendment of all parties in the country and as a complete answer to Lord Birkenhead and Lord Reading. Many proposals have been put before Government in the past. There was the 19 memorandum. There was the Congress-League scheme which they never considered. And what are they going to do now? It does not matter to us whatever they may do. We are willing to co-operate with them on honourable terms. But if they throw our co-operation to the winds, there will be again only one course left open to us, namely, non-co-operation, passive resistance, and civil disobedience. It is the creed of the Congress to achieve Swaraj by all peaceful and legitimate means. Our determination stands there. We only want to give Government an opportunity to show that we are willing to co-operate. If they do not co-operate with us, and do not accept this amendment and make a declaration of policy embodied in it the whole blame will be with them and not with us.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, instead of moving the amendment as it stands on the paper in my name I shall with your permission try to amend the amendment that has been proposed in a way that would fit in with the structure of my own amendment. In the first instance, I ask your permission to move that in the place of the first paragraph of the opening preamble of the amendment moved the opening paragraph and preamble of my amendment be substituted. In the second place, I would ask that in the place of the last three paragraphs of the amendment moved beginning with the words "This Council" and ending with the words "embodied in a Statute" the concluding words of my amendment beginning with the words "This Council" and ending with the words "minority report" be substituted.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member move an amendment to substitute the last two paragraphs? They both begin with the words "This Council".

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Yes, Sir. The Honourable Mr. Ramadas has explained to the House why he found it necessary to make some amendments to the amendment moved in the other House. I find it necessary to make other amendments regarding matters which probably had not been thought of at the time. I do not propose to go into the minor matters embodied in the body of my amendment; so far as that is concerned, I shall let the amendment stand as it is. Both these amendments, Honourable Members will perceive, are in the main the same, and all non-official parties in both the Houses are agreed upon the fundamental principles. This is in response to the invitation of the Right Honourable the Secretary of State and the Viceroy to which more detailed reference need not be made now. Sir, after the emphatic pronouncement in both the speeches, whatever our own feelings might be, there is little room for a request for an initial parliamentary pronouncement for which a request has been made in the amendment of the Honourable Mr. Sethna. The only practical course left

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to us is therefore to ask to have set up a convention on the lines of my original proposal which stood over at the request of the Government which now can no longer be moved. Sir, we are in perfect agreement in response to that invitation so far as the basic ideas are concerned and these have been arrived at, I assure the House, in no hurry but a long course of preparation has been taken in one shape or another for near upon half a century. Those who are upset by reference to history, the modernmost of which is soon ancient, even if you do not go back to Edward I, as has been done to-day, must have the generosity to remember that Babu Surendra Nath Benerjee's demand for Dominion status for India was as old as the eighties of the last century; and this demand has been repeated, naturally with necessary variants, during this long period. For the present no more than an enunciation of basic principles which are to be the bed-rock of the constitution we suggest is attempted. There must of course be all necessary inquiries and consultations, and neither a parliamentary pronouncement nor a Royal Commission are excluded or barred out by the terms of my amendment, though they are not expressly mentioned for obvious reasons. (Laughter.) Sir, I therefore claim that all parties of the same way of thinking in both the Houses have risen to the occasion, sunk their differences, presented a united and unbroken front, and have made a unanimous demand, unmindful of the fetish of dots and dashes. Only ill-conditioned and captious criticism can aver to the contrary.

One cannot congratulate Government on the terms of their Resolution which has taken so long in conception and frame. And even the announcement that Sir Frederick Whyte has been put on special duty on some academic work the practical aspects of which could and should have been dealt with by the Honourable Mr. Crerar in his Department in a most speedy and perhaps acceptable form (Laughter) hardly improves the situation. To-day the Honourable Mr. Crerar has been good enough to say that during the last five years real achievement can be claimed on behalf of the Legislature; and on the strength of his opinion I should give the go-by to Milton's "heat and dust" and all that they connoted in those ill-starred times. The party to which I have the honour to belong, the Liberal and Moderate Party, has made its pronouncements and they have found support at the hands of the other party in an unmistakable way. Co-operation thus vouchsafed should not be lightly put on one side, and Government should help in the further cohesion of the parties so that more and real co-operation may be bespoken.

Sir, Lord Birkenhead was pleased to call that Party the "so-called" Liberal Party whatever that qualification might mean or imply. His Lordship, who is himself no Liberal, was however pleased to say that:

"The party is neither inconsiderable in numbers nor lacking in the leadership of enlightened men, who have refused to associate themselves with the ill-starred course of non-co-operation".

His Lordship further said that it is still possible that this party, perhaps to be gradually reinforced by fresh moderate elements, may play a great part in the constitution-fashioning of the future. And so it will, if Government

will let it. His Lordship, if he was in earnest, must be quite gratified by the unexpected fusion of ideas and opinions in the other House leading to complete acceptance by all parties of the Liberal programme, the programme frankly of the National Liberal Federation.

Sir, I shall not go into the details of the minority or the majority report as there is not time. But, Sir, I venture to think that the cleavage of opinion demonstrated by what has been called the minority report would in a clearer and less biassed atmosphere have been enough reason for a further searching and immediate inquiry. Even a most hurried analysis of the evidence there will show why the opinion of the majority with regard to dyarchy has not been acceptable and cannot be: and yet, Sir, the majority pins its manifestly shaken faith to that broken reed.

Sir, the minority has however in many important details agreed with the majority recommendations, and where such coincidence occurs, and the points are many, I confidently insist that action should be taken, as indeed Government have already started it. This is the second point of my divergence from the other amendment.

I submit, Sir, that the attachment of greater than its due importance to the factor of non-co-operation would be an unjustifiable premium upon its continuance and accentuation. Of what use and value, I ask, is our co-operation, though given at a great disadvantage and with serious handicap, if the non-co-operator is to prevail and triumph by purposefully standing out, obstructing or attempting to obstruct, as the case may be? An English paper, Sir, *The Daily Herald*, says in a recent issue:

"The only hope of avoiding serious outbreaks in India seems to lie in the possibility of all parties uniting in making the demand that the British Government shall think again, and that is now being done in the Central Legislature".

I have not the least doubt, Sir, that that will also soon be done in the Provincial Legislatures and all over the country. We naturally want to come more and more into our own, our natural and inalienable rights. And this we can do only under a freer constitution, which would no doubt have its unavoidable handicap for the time being, but which would have assured and growing advantages.

Whether co-operation exists to a sufficient degree or not will, it is said, depend upon the testimony of responsible people, when the question comes under parliamentary examination in 1929 or before. Among such witnesses no mean place will be assignable to Sir Frederick Whyte who has done so well as the first President of the Indian Legislative Assembly. Speaking at a dinner given by the civilian members of the Executive Government of India on the 22nd of August at Simla, and disclaiming all idea of making a political speech, Sir Frederick Whyte generously testified to the abundant co-operation on the part of the Assembly during the five years that he held office and to the rapidity and efficiency with which parliamentary methods and traditions were imbibed. He repeated the same testimony at the dinner that His Excellency the Viceroy gave in his honour the other day. With testimony such as this, the plea that owing to the existence of some non-co-operation, that is steadily on

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the wane, further advance in constitutional progress must be delayed and that even the preliminary inquiry for collecting facts and materials must also be delayed, cannot possibly hold the ground.

The Twelve Tables might have been necessary for those who began the work in another age and clime, but they cannot be necessary in India in spite of its diversities where there was and is a live civilization and with the western models which are for some reason or other now being attempted to be deprecated and sought to be placed in an Oriental setting.

The clean slate, or the comparatively clean slate, that is so constantly demanded cannot come into existence. It was not there when the existing constitution was ushered in. It never had existence even in imagination. And if further writing on the slate, as one finds it from time to time, is refused or delayed, all because eight maunds of lubricants cannot be provided to ensure the fabled dance of Radha, the inexorable finger of fate will write and having written will pass on.

I would in this connection and with reference to the terms of the amendment for a moment turn to the draft of the Commonwealth Bill of India issued by the National Convention, India, 1924-25, for presentation to Parliament of Great Britain. According to advices received from England, a private member may make himself responsible for presenting it to Parliament at no distant date. We do not want to have exaggerated hopes raised in connection with the likelihood of such a procedure, by no means an unlikely procedure. But if the attempt fails, as probably it will, the Commonwealth Bill as drafted and the present amendments may be a basis of consideration by all seriously minded people who earnestly want to apply their mind to the questions involved. Let that not be delayed and let the machinery be found and let not "Too Late" be writ large on our portals.

THE HONOURABLE THE PRESIDENT: Further amendment moved:

"That in the amendment moved by the Honourable Mr. Phiroze C. Sethna the following amendments be made, namely:

1. That for the first paragraph beginning with the words 'this Council recommends' and ending with the words 'and administration of India' the following be substituted, namely:

'This Council recommends to the Governor General in Council that all necessary steps be taken early to have constituted in consultation with both the Houses of the Central Legislature, a convention or other suitable agency (which shall be representative of both the Houses of the Central Legislature, of the Provincial Legislatures and of all sections of public opinion in India) for the purpose of framing a draft constitution for India on the basis (among other things) of fundamental principles enumerated below and with due regard to the interests of minorities, namely:

2. For the last paragraph beginning with the words 'This Council further recommends' and ending with the words 'to be embodied in a Statute', the following be substituted, namely:

'This Council further recommends to the Governor General in Council that such constitution when framed and approved of by the Central Legislature should be presented to the British Parliament with a view to being embodied in a Statute.

This Council also recommends to the Governor General in Council that without prejudice to the above recommendation and as a tentative measure, effect be given to such recommendations of the majority report of the Reforms Inquiry Committee as are consistent with the recommendations of the minority report."

THE HONOURABLE SIR ALEXANDER MUDDIMAN (Home Member): Sir, before I proceed to deal with the points raised by the amendments which have been moved which are in effect in spite of the change made by my Honourable friend Sir Deva Prasad in all essentials the same, I propose to make a few observations with reference to certain remarks that have fallen from the previous speakers. Now, I always listen to my Honourable friend Mr. Sethna with great interest. I know I shall hear a well reasoned and clear cut speech; and if I express some disappointment to-day, it is because I feel that the amendment is one that even his eloquence could not adequately support. I must in the first place point out that it really is quite a matter of frequent occurrence that if you take away a certain portion of the majority it becomes a minority. I leave his point at that. Further, as to his remarks on the personnel of the Committee, I will only make one or two reflections. I have never yet heard that the fact that men have grown grey in the service of the Crown was any disqualification for assisting in deliberations connected with work on which they had spent the whole of their lives. That, however, is a small matter no doubt. What I do regret is that my Honourable friend should have thought fit to refer to the Maharajadhiraja Sir Bijay Chand Mahtab Bahadur of Burdwan as an official and to suggest that he is tainted with official views and so disqualified as a patriot. Let me tell my Honourable friend that the Maharajadhiraja is one of the largest zemindars in Bengal and has a stake in the country not even inferior to that of my Honourable friend. If Indians of high standing who serve the Crown in responsible positions are to be tarred with the official brush and regarded as disqualified from giving impartial judgments, India will not be so well served in the future as she had been in the past.

Turning to the amendment, I really wonder whether my Honourable friend has read the minority report with any care. He refers to the recommendations of the minority report. In effect there is only one recommendation, that is, an immediate Royal Commission. The sting of that report is contained in the tail. It is true that the minority were pleased not to be quite hostile to certain recommendations of the majority report: perhaps even in one or two instances they were favourable; but their general attitude was that the constitution is not worth amending, they contended it wants ending. They recognised however that before this could be effected some kind of Royal Commission would be necessary.

Now, my Honourable friend who sits behind Mr. Sethna (the Honourable Mr. V. Ramadas Pantulu) who also moves the same amendment, though, I think, he fights under a somewhat different banner, was pleased to observe that his plan of campaign was Swaraj within the Empire if possible, but if not, outside. I do not know whether Mr. Sethna would assent to that proposition. At any rate I may tell this House at once that Swaraj outside the British Empire has no possible interest for me. My Honourable friend also observed that if he lived 150 years ago, he would have been far stronger and far more powerful than he is now. Where does my Honourable friend live? I believe

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he lives in the Kistna District of the Madras Presidency. I am quite sure of one thing, that 150 years ago he would not have been speaking in Simla in peace and safety. My Honourable friend says that whatever amendments may be made within the scope and purpose of the Preamble, he will not work this constitution. Does he really mean that, I wonder. Well, I hope he does not. At any rate I should have thought that the very amendment he has put down, unless it was meant as mere empty verbiage, indicates that he might possibly be prepared to do so under certain circumstances. What is it that this amendment really means? I find great difficulty in following it. I have heard three or four speeches in this House and three or four speeches in another place and I have not yet understood whether what is offered to Government is an ultimatum or an offer. One speaker refers to it as a thing to be asked for; another speaker speaks of it as a thing to be demanded. The extraordinary thing about the amendment is that the reasons given for it are entirely different and that different speakers in supporting it assign different meanings to its terms. Indeed, the actual meaning of the amendment is still to this moment somewhat doubtful to me. Let me examine it. It falls into three parts. In the first place, this Government are to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying certain changes, which are, frankly, Dominion Self-government; that is to say, you are going to ask Parliament to pass with one leap to a declaration of this kind. We are to go to Parliament and say: Whatever may have happened in India, whatever the Secretary of State may have said, and whatever may have been said in the Preamble of the Government of India Act (and I will not again read that Preamble which I have read so often), the whole position is to be altered with a stroke of the pen, and the British Government are to make a declaration to Parliament of a kind which, I think everybody will agree, is a very remarkable advance on the present constitutional position. Now, Sir, this is clearly in contravention of the minority report. That report contemplates that before any structural changes could possibly take place, there must be something in the nature of a Statutory Commission. We have heard this on the authority of the men who signed the minority report—persons, I admit, of weight, for it has never been my custom to impugn the authority of those with whom I may have had the misfortune to disagree on certain points. At any rate the signatories of that report recognised that any violent step forward must be preceded by a commission, if not the statutory commission, at least an authoritative commission. As I said in another place, the first part of the amendment which we are discussing is therefore a virtual repeal of section 84A of the Government of India Act. That is the section under which there must be a statutory commission not later than ten years from the commencement of the Act; that is to say, after some four years from now. That is the first point I want to make against the amendment, namely, that it is in contravention of the recommendation of the minority report.

It was suggested in another place that the second part of the amendment was intended or might be read as covering a statutory or Royal Commission. No one in this House has apparently even dreamt of that. Nor do I think, if we apply the ordinary rules of construction, such an interpretation is possible.

Moreover a Royal Commission will determine fundamental principles and not details, and must precede and not follow such a determination.

Now, Sir, my Honourable friend Mr. Crerar in his speech touched lightly on what I think, at any rate, is a definite and interesting point in this amendment, which has been supported for so many different reasons and in so many different places. It is, I understand, intended to be a definite statement from all the persons who support it in this House and in another place that they do desire to proceed upon the basis of western institutions, and that they desire to see democracy established in India. Those who put forward this amendment must be taken as admitting that they do not want to proceed on the lines of any Oriental form of constitution, and that they have abandoned the idea of an indigenous product in this sphere. They have accepted the principle that India's future progress must lie along the well known paths of western representative institutions. Now, in that connection I will draw attention to what the Secretary of State said. He said, and this is what my Honourable friend was referring to when he spoke of the reply of India to the Secretary of State:

"It has been the habit of the spokesmen of Swarajist thought to declare in anticipation that no constitution framed in the West can either be suitable for or acceptable to the peoples of India."

Then he goes on to say:

"It has always seemed to me that a very simple answer might be given to such a contention."

He does not claim that Britain has any speciality in framing constitutions and he expressed himself as quite prepared to consider a constitution framed on a different basis from that on which the British constitution rests. But I assume from this amendment that that has been definitely rejected by them who support the amendment.

Well, Sir, we are asked to make this startling declaration and that in the face of the speeches that have been delivered by the Secretary of State and His Excellency the Viceroy. I am not prepared to go into an examination of the theoretical position. I do not believe that in this House such a course will command any support at all. I believe this House to be a House pre-eminently of practical men who look at problems, which are submitted for their consideration, in a practical way, and that is the way in which I want the House to approach this great problem. What is the position? I have no desire whatever to stir up ill-feeling or to refer more than is necessary to what has happened in the past. The facts are clear. When this constitution under which we now sit here was brought into operation, a large body of prominent Indian thought declined to have anything to do with the constitution at all. They said that it was a device of the devil. They said that they would have nothing to do with it and they remained outside the Legislatures. I am glad to say that they are here to-day, and I do not care myself for what reasons they came in. They came in, I think, to curse, for my Honourable friend said that there ought to be destruction and not construction. I trust that they may remain here to bless and that they will pass from destruction to construction. Sir, constitutional advance can be secured by constitutional

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means in one way only and that is by the good-will of the British Parliament. I have no desire to reiterate that. It is known to you all but it is a fact that you must never lose sight of. You can secure advance by the good-will of the British Parliament and you can secure it subject to a condition that I will refer to later. Parliament has laid down that in four years' time from now there must be an examination by a Statutory Commission into the working of the present constitution. Now, Sir, I myself have never attached any great importance to the question of date. Undue importance has, I think, been attached to this question in some quarters. There is no doubt that the eagerness for a statutory commission must be attributed to the fact that those who claim it so ardently feel that with a statutory commission some advance will be gained. I do not think there is any doubt that this is the reason of the call for early examination by the Commission. Therefore, the really important matter is not the particular year when the Commission meets, but the evidence and the facts which can be put before the Commission which will lead that Commission to the conclusion that further development on constitutional lines is both feasible and desirable in India. That is the whole point. Now, the Secretary of State has told you—and I need hardly repeat it here—that the British Government are not slaves of dates. In other words, he distinctly indicates that, given certain conditions, the date of the Statutory Commission could be advanced. Sir, that might not be an unmixed benefit for India. You have been told—and that I think was the most conclusive answer that you could have got—by His Excellency the Viceroy that in his judgment to hold a Royal Commission immediately would be disastrous to the best interests of India.

Now, that is not advice that this House is likely to regard lightly. It is advice from the head of the British Government in India, a man who has been nearly five years in India. It is furthermore the advice of His Excellency Lord Reading, a statesman trained to know the signs of the political sky, and moreover a statesman who has recently returned from a visit to England which has brought him into contact with politicians of all schools of political thought: therefore that is advice that this House will, I know, give very, very great weight to.

The amendment to my mind—to any practical man—must mean that before you can ask Parliament to make all or any of its presumed declarations you would have to present to Parliament the report of a statutory commission. No great constitutional change—I think I am correct in saying—has ever been made with regard to India by the British Parliament without some inquiry of that character. Therefore, as a condition precedent, you must have the appointment of a Royal Commission. That statutory commission cannot be appointed at present, nor is it desirable to appoint a Royal Commission at present. I think the advice given by His Excellency Lord Reading establishes that beyond the shadow of a doubt.

Then you ask, is there no means by which the date of this commission can be advanced, or is it that we have no hope of speeding up things and that you bang the door in our faces? The Secretary of State has given you the

answer to this in his speech. With regard to the rise or acceleration of constitutional progress he says:

“The door of acceleration is not open to menace; still less will it be stormed by violence. But there never has been a moment since the Constitution was adopted in which the Government of India, acting in harmony with the Government at Home, has not been vigilantly and attentively considering the spirit in which the present reforms have been received in India. It has indeed been an imperative and urgent duty for my predecessors and myself so to consider them. . . . Developments have been easily conceivable to me—are still not wholly inconceivable to me—in which the acceleration of the date of the Royal Commission might have been recommended even by very cautious statesmen”.

Then, Sir, I turn to the next portion of the amendment which proposes, after a declaration to Parliament has been made, which I have shown the House is not possible to constitute, a convention, round table conference, or other suitable agency adequately representative of all Indian, European and Anglo-Indian interests to frame with due regard to the interests of minorities—and here let me pause and make a comment—the interests of minorities is not one of those fundamental principles to be laid down by Parliament. They are to be referred to this convention. This convention is to be constituted in consultation with the Legislature presumably, since the amendment is now in this House, both Chambers of the Legislature.

It is evident, therefore, that the framers of the amendment recognise that although the fundamental principles are to be recognised by Parliament merely on the verdict of the Indian Legislature, still when it comes to consider the details, then it is desirable to call in representation of a wider nature. The amendment recognises, in other words, that as at present constituted the Legislature cannot be regarded as fully representative of all the interests mentioned in that portion of the amendment.

Then the next thing is that the details are to be referred back to the Legislature, and there they are to be considered and solved. They are then to be submitted to the British Parliament to be embodied in a Statute.

And there, Sir, again I have felt very great difficulty in understanding the position taken up by different persons who have spoken on this amendment. I was told in another place that this clause meant that when the details had been considered by the Legislature, they were to be submitted to Parliament, and Parliament, without any further consideration, without altering a dot or comma or a semi-colon, was to enact them as an Act. On the other hand, I was told also on this very same point: “Oh no, that is not the case; obviously no one wishes to interfere with the supremacy of Parliament, and therefore Parliament would be able to amend the Statute if it wished”. Well, Sir, I have heard nothing in this House on that point; I have not heard my Honourable friend Mr. Sethna say whether he would admit any liberty to Parliament in the matter, or whether Parliament would be required, as indeed they did in connection with certain Colonial constitutions, to enact without amendment. The point is one not lacking in importance. . . .

THE HONOURABLE MR. PHIROZE C. SETHNA: Except any reasonable amendment.

THE HONOURABLE SIR ALEXANDER MUDDIMAN: I am glad to hear my Honourable friend would accept any reasonable amendment. If he got

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his fundamental principles accepted as he proposes, he might well agree to accept any reasonable amendment.

Well, Sir, I have now, I hope, dealt faithfully with the amendment. It only remains for me to say that I should be the last to desire to throw obstacles in the legitimate progress of the constitution of India. I have every desire to see India advancing on the lines which are dear to many of you. I have every desire to see that happen, but I have no desire to see that happen if it is to bring in its train consequences which are not favourable to the people of India as a whole. None whatever. There has been a great appeal by His Excellency the Viceroy for co-operation. Co-operation, as I said in another place, is of course a course of conduct, not a phrase. It does not mean that I should stand here and say I am going to do something in the future; it does not mean that you should say you are going to do anything in the future; it means that reasonable men will be able to conclude from facts, from facts and actions, that Government have received that measure of co-operation which the Secretary of State says is essential before there can be any reconsideration of the date of the inquiry.

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Sir, they say no constitution is perfect and no Code will be free from flaws and would not give an opportunity to lawyers to argue either way. With this observation I rise to support the amendment though some of its clauses may be open to criticism. But I would like to point out that, if to-day I support this amendment, I do so for some reasons which I consider sound, and which I trust will appeal to my Honourable friends on the opposite side. In the first place these proposals embody in substance, if not materially in many cases, the proposals for reforms which have been advocated for some years since the introduction of the Montagu-Chelmsford Act by the Party to which I have the honour to belong and to which I belong even now, despite the epithets and obloquy and calumny thrown on some of its honoured members.

In the second place, I rely upon the fact that the Government of India, through the mouth of its Home Member some years ago, also undertook to report to the Secretary of State that there was a desire in the Assembly and in the country that some changes in the present constitution ought to be effected. In the third place, I rely upon the fact that when the recommendations of the Muddiman Committee were published, in almost every Provincial Council a sense of dissatisfaction in some form or other was expressed at the recommendations of the majority and the desire that the recommendations of the minority should be given effect to. There is yet another reason, Sir. The Minister and the Members of the Executive Government of the various Provinces and some even in the Central Government, most of them belonging to my Party who undertook to work the reforms facing a considerable amount of unpopularity, have stated as the result of their experience that dyarchy does not satisfy the requirements of the country, that the aims, the aspirations and the ideals for which I and my countrymen are yearning for could not possibly be reasonably satisfied by a continuance of the present system, and therefore some better system more suited to the genius and the requirements of the country should be adopted. My strongest reason

for supporting this amendment, however, is the declaration of His Lordship the Secretary of State in Parliament, Lord Birkenhead. I do not take the same view of that speech as some of my friends and colleagues and fellow-workers have done. In another place where I had the opportunity to write about it I said I would take Lord Birkenhead's statement as genuine, particularly that portion where he said he would be glad to see signs of co-operation in this country and he would be glad also of any attempt on the part of all classes and politicians of all shades of thought to evolve a scheme which could be put before Parliament for consideration. Now the condition precedent His Lordship the Secretary of State made was that there should be a "co-operation." Now, Sir, as far as the Party to which I have the honour to belong is concerned they have been co-operating with the Government. They undertook to work this machinery in the face of considerable criticism at the hands of others. They have done it well, they have done it honestly and they have earned the encomiums of my Honourable friends opposite and other officials who have had anything to do with them not only in the Central Government but in the Governments of the various provinces. So far as the attitude of what are called the non-co-operators and Swarajists is concerned, it is undoubtedly true and it would be idle to conceal a fact so patent, that they came here "with the determination to use uniform, unyielding, consistent obstruction in order to make government impossible." But as the Honourable the Home Member very rightly observed, no good will be served by raking up the past. But if we are to take the word of the leader of that Party and of other of its responsible officials for what it is worth, I take it that there is a genuine desire on the part of most of them to co-operate; and I find further that ample proofs to that effect have been given. In the first place, the leader of the Party, in moving this Resolution elsewhere, said that:

"he was more or less adopting this attitude because it was exactly the sentiment expressed in the minority report of the Muddiman Committee".

Another gentleman said that the Swarajya party had really accepted the Liberal Federation's programme. Not only that. I found the other day testimony borne by officials themselves and by a member of the Government of India to the way in which many Swarajists were actually helping Government. If a newspaper report can be relied on, I read this morning that Sir Basil Blackett said that he personally believed that there had been a great deal of co-operation over the Steel Protection Bill and in the separation of Railway finance from general finance; he also added that the Secretary of the Swaraj Party was now a very valuable colleague on the Public Accounts Committee; and it is hardly necessary for me to give public expression once again to the great tribute which the late President of the Legislative Assembly, Sir Frederick Whyte, paid to the Secretary of the Party. He said that though a professed non-co-operator he was every morning assisting him in enabling the Assembly to do its work satisfactorily. Sir, I state at once and I state it honestly and sincerely—and not in any spirit of derision—that we all thought that the policy they had adopted was wrong. Government thought so, I thought so and the Party to which I belong thought so; and we are glad that in this matter of doing something for the future re-generation of this country those

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who have hitherto been pursuing a policy, if I may so term it, of ploughing the sands, do now realise that it is high time to try and work, realising the conditions actually existing, and do something which is practical and practicable. I therefore think that the condition stipulated by Lord Birkenhead has been satisfied to the extent of the declarations and actual course of conduct pursued by the leader of the Swaraj Party and others of their way of thinking. I shall not labour this point any longer. But even granting that some of these people did not co-operate with Government, may I ask have you treated justly and fairly the Moderates and Liberals who supported your scheme, knowing full well that it could not be worked with complete success, but yet worked it to the best of their ability? Let me also point out that from the very beginning the Liberal Party have been stating that a certain amount of responsibility in the Central Government was absolutely necessary. I happened to be the general secretary of this Party for over two years and I claim to have attended most of its meetings and read its literature; and I may state here that in every successive session of the National Liberal Federation they insisted that the government of this country could not be carried on satisfactorily in consonance with the aims and aspirations of the people so long as an element of responsibility was not given in the Central Government. Do you not think that these people at least who have worked your scheme should be taken somewhat more seriously? What after all is the report of this minority? I do not like the idea of entering into a discussion of the personnel of the minority, but my point is this: the report of this minority is the opinion of people who have served the Government in one way or another. One has served in the Government of India under the Montagu-Chelmsford Act; another has been a Minister of the Crown; and a third came by election into the Assembly as an Independent Member and continues even to-day as an independent in his judgment and is able to carry others with him, while not suffering himself to be drawn by others. But, Sir, I have got a still higher case than that. I happened to read this morning a very careful analysis of the views of a number of Indian Ministers and Indian Members of the Executive Council, who have worked the scheme. It is not necessary for me to quote all these opinions—they are taken word for word from the statements of Ministers and Members. But I would add this—and this is a factor which should be taken into consideration by the Government of India—that since then I find such an important measure as the Commonwealth of India Bill has won the sympathy of the Honourable Sir C. P. Ramaswami Aiyar who is now a Member of the Madras Executive Council. Such eminent men as Sir Krishna Gobinda Gupta, Sir Sivaswamy Aiyer, Sir Ali Imam, Sir M. Visveswarayya, Sir P. Rajagopalachariar, who was the first President of the Madras Legislative Council, all these have expressed their disappointment at the majority report.

More than anything else I would mention another reason as helping our case. When the system of dyarchy was contemplated the members of the Indian Civil Service thought that it was not workable. Not only that. Lord Birkenhead himself, the present Secretary of State for India, has declared that he too at one time was certainly not in favour of it.

If all these facts are taken into consideration, I think a very reasonable case has been made out. On the evidence of those who have had to work this scheme for a number of years, on the evidence of publicists and others who have watched its working, on the evidence of officials who have had long and intimate connection either with the Central or the Provincial Governments, on all this evidence, I think, treating it as a matter of pure evidence, an impartial student who wishes to study the question and arrive at a fair conclusion, will come to the conclusion that a good case has been made out to show that the acceptance of the statement in the majority report that the present constitution is satisfactory and that it could be mended in certain respects, is far from actual facts. I also know that there are some people in the Civil Service who have had to work this, who seem to think that it is high time that dyarchy was done away with, and that a form of Government, unitary and more satisfactory, should be adopted for the good government of India.

There is one more point, Sir, that I should like to urge, and that is this. Even in the Provinces—and I come from a Province where I think, in spite of our unfortunate differences over communal matters, dyarchy cannot be said to have failed even in the Provinces where it has been found to be working fairly, even in these cases it is not because the principle of dyarchy was strictly applied, but because the principle of dyarchy was not actually put into practice. And we had a Governor who tried as far as possible to have in practice the theory of joint responsibility; if I am correctly informed, it is being done in some matters even at the present day.

Another important proof to show that this is not the opinion of certain politicians only. On the 9th of March last the *Times of India*, a leading Anglo-Indian daily paper, which is respected by Anglo-Indians and by many Indians as well as for its sobriety of judgment, in commenting upon public affairs, wrote thus on the Reforms Committee Report:

“The question is, is India to make a further democratic advance. That is a question which must be faced and answered by the Government of India and the British Parliament. It is precisely the question which the Committee have not been allowed to consider and to which they provide no answer”.

I think, Sir, this may be taken as a fair statement of the case. Sir, the Honourable the Home Member has tried his best at a very critical time in the history of the Legislative Assembly to adopt a conciliatory policy, and I hope that he will not seriously stick exactly to the terms of his Resolution, and even if it is carried, will not allow matters to rest there. The very fact that he thought it necessary to make an announcement in the other place the other day that Sir Frederick Whyte has been put on duty to examine, study and report on the relations of Central and Local Governments in other countries shows that he, at any rate, thinks that the time has come for an examination of this question, and I take it that is an index that things are not quite satisfactory now, and that therefore some sort of inquiry at least in one direction should be undertaken.

I would now like to make one more observation on this amendment. It may be that certain parts of it may not be quite satisfactory. I personally do not like some of the clauses. Perhaps I should not rake up the question of

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the Preamble, and being a nominated Member, I enjoy to-day the privilege of giving my views as I consider the matter to the best of my judgment; and I certainly do not like to state at once that every seat should be elected. I say it in no spirit of selfishness. I happen to have taken an interest in public life for over a quarter of a century. Knowing full well the actual conditions, I know that there are classes and interests which perhaps require special representation. There are perhaps a few things which you may not find quite satisfactory. But let me tell you—it was pointed out in another place and I acknowledge it myself—that even in this amendment, while we are anxious to get rid of dyarchy, we feel that in the Central Government some sort of dyarchy is necessary. What does it show? In my opinion, it is a genuine and an honest realisation of the existing difficulties. We feel that we cannot immediately come and tell you, “Look here, take this as our political programme; bring this scheme to-morrow.” This amendment in substance asks you to take steps—mark those words. My interpretation of it is this, that the Government of India, having regard to the facts disclosed in the report of the Muddiman Committee should try to take steps.....

THE HONOURABLE SIR ALEXANDER MUDDIMAN: Immediate steps.

THE HONOURABLE MR. G. A. NATESAN: immediate steps to make all possible arrangements to have a round table conference or committee consisting of all classes and interests and see how far all these points should be considered.

THE HONOURABLE SIR ALEXANDER MUDDIMAN: I am glad to have yet another interpretation.

THE HONOURABLE MR. G. A. NATESAN: This is an interpretation which will be reasonable from my point of view, and it is the only interpretation which I would ask Honourable Members opposite and others to put upon it. Consider all these proposals of ours. It is quite possible that when you take steps, you may find that one or two things in it could not be carried out. It is quite possible, when you convene a committee or round table conference that various other views would be put forward; some difficulties would be experienced. But what does this show? It shows that it is the interest of all political parties in this country to propose to Government the immediate, the urgent necessity for an inquiry into the present state of things, to express clearly that if the evidence of the Report of the Muddiman Committee is to be taken seriously at all, dyarchy has not been successful, or at any rate that it could not be worked satisfactorily under the present conditions, and there is a great need to take a further step in advance.

Some reference has been made to the fact that some of us have dropped the idea of a Royal Commission. Assuming it is so, what does it show? That also shows that the leaders of the various parties have combined together, have put their heads together, to adopt this amendment, realising that if a Royal Commission was not possible, other steps should be taken to have the whole case examined and put before the responsible authorities.

I have only one word more to say, and it is this. I recollect about 10 years ago talking to a Civilian in the Madras Presidency with whom I happen to have intimate personal relations, who is now out of the country, and with whom I am still in touch. He said, “I quite agree with you. Perhaps some of the reforms should be adopted, but I cannot possibly reconcile myself to the altered conditions it would involve.” The answer that I gave him was, “You will be leaving a legacy of trouble to your successors.” I know that in the present Government of India there are men who have served for over a quarter of a century. Some of them are my personal friends who have laboured hard in one field or other, whether as official or non-official. We also have at the head of the Government of India a Viceroy, a great statesman with a great reputation. I appeal also on behalf of others for whom, though I have no authority, yet I venture to speak.

I do not think that the present state of things can continue. You cannot possibly prolong the present state of things without adding to the discontent which prevails in this country. I think the needs of the country do demand a further step. It may not perhaps be exactly the steps in the direction in which we want. It may be that we do not approve of the steps which you propose to take. But certainly is it beyond all the possibility of good statesmanship and political wisdom for you and for some of us here to sit together and confer together, to realise exactly what the difficulties are and then frame a scheme which will suit you, satisfy us and above all enable this country to move onward to the destiny to which I think we are rightly entitled? My Honourable friend Mr. Crerar in his speech, whose literary diction and elegance I admire, naturally referred to the fact that the British constitution is one of long growth. If the British constitution is one of long growth, the British character also has been unique. There is no country in the world like India which has been governed and administered in the fashion in which it has been by the British. I admit all the good that the British Government has done. It has done many things to its credit. But may I also tell him that it is too late at this hour of the day after the Great War, after the pronouncements of her great statesmen who said that day after day the world was changing and nations which once were dormant were waking up to think of new spheres, new ambitions and new ideas of government to expect them to stand still. You must remember your own statesmen have made declarations during the War and talked also of self-determination, you must realise the responsibility you owe to the people of this country, and you, at least those who compose the present Government of India and those who preside over it, ought to be able to say at this juncture, at a time when there was a conflict between the people and the rulers, when there was a serious divergence of opinion as to the scheme to be adopted, “We were not unwilling to give them a helping hand in the onward march to the goal which they are looking to and fighting for”.

THE HONOURABLE SRIJUT CHANDRADHAR BOROOAH (Assam: Non-Muhammadan): I have been in this House for a pretty long period not to be able to foresee the fate of an amendment like the one moved by the Honourable Mr. Sethna. But, Sir, we are here to speak what we think right. Now what is this quarrel about? The Government of His Majesty have

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already declared that full responsible government will be given to India. We know that and the Government of India know that. There is no quarrel whatever about that. We know that our goal is full responsible government and that it will come to us step by step. "Progressive realisation" is the term used. The only quarrel is about the rate at which this progressive realisation should proceed. We know very well that, unless and until the Government of India make a recommendation, the British Government will not let us proceed from one step to another.

Take the case of a small zemindari. Suppose the *raiyats* ask for some privileges and concessions. Do you think that the zemindar will ever grant them, so long as his manager, the man on the spot, assures him that the time has not yet come for those privileges and concessions, and that he will be able to manage the *raiyats* for a long time, even without those privileges and concessions being granted? It is exactly the same here. We are quite sure that as long as the Government of India would not propose that we should make a move, the British Government would not let us make any.

Now, we want to go at a greater speed towards our goal. That is what the Liberals want. That is what the Swarajists and what the Independents want. And that is what the Muhammadans and the non-Muhammadans want. But the Government say "No. We won't let you go so fast". But why? We know that there will be a Royal Commission in 1929, but can you find anything whatever in the declaration, which says that we should not proceed faster, that we should not accelerate our speed, even if the circumstances would justify our doing so? Do the authorities at Home ever say that they will refuse to consider our case, even if we are able to make out one in the meantime? You have tried and tried us enough. I beg to ask you—have you ever found us wanting? Have you ever found us unfit? Have our Ministers and Executive Councillors been found unequal to the work entrusted to them? We have given you some of your best Judges, best lawyers, best executive and administrative officers. Would not our Assembly and Councils compare most favourably with any new Parliament in any part of the world? You have found us quite up to the mark whenever and wherever you have given us a trial. If some have sometimes gone against you, it is not because they are unfit for their responsibilities, it is not because they are not willing to shoulder their responsibilities, it is not because they cannot realise their responsibilities, but simply because by harassing you, by embarrassing you by putting more difficulties in your way, and by making your existing difficulties more complicated, they want to bring you round to their way, which they have so long failed to accomplish by any other means. We do not ask you to hand over at once to us the Army and some other important departments. Even those, which we ask you to put us in charge of, we are willing to manage under your guidance and your advice. Why then should you not let us go to our goal a little faster than we are now doing? Sir, there is very little justification for this, if they are really willing to help us in the matter. I know that the Government give us things always too late. The Indian National Congress grew tired

of demanding self-government ever since the year 1885. A declaration has come at last but it has come as late as 1917 and still there are so many obstacles in the way. The same may be said of the simultaneous examinations for the Indian Civil Service. I beg to ask you, if you give a thing at all, why don't you give it at the proper time when the people will appreciate it, when by giving it, you will earn not only the co-operation of the people but also their heartfelt gratitude? Why defer it till then, when the people become tired of asking for it when the thing loses all its charms for the people, and when probably they will not be satisfied with what you give them, but ask for something better? Is this statesmanship? Is this a good policy?

We happen to know something about our masses. They are no longer as indifferent or as ignorant as sometimes they are believed to be. Indeed during the last four or five years they have learnt a lot of things which they did not know before, and in these few years they have learnt things which they would probably have taken an age to learn through the education imparted in the schools and colleges. They can now, to some extent, think for themselves. We have been brought up here at their expense to represent their views; and I feel it my duty to say that, unless something on the lines of the amendment which has been proposed is done, the task of governing India will be far more difficult, far more embarrassing and far more serious, and the Government alone will be responsible for the consequence. Sir, I lend my full support to the amendment moved by the Honourable Mr. Sethna.

The Council then adjourned for Lunch till Fifteen Minutes to Three of the Clock.

The Council re-assembled after Lunch at Fifteen Minutes to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, when we were given all these new reforms, they were given to us by His Majesty's Government and the British Parliament. Now when they were given to us, it was then decided as to the course of action which was to be taken. According to that course, progress has to be made. Some of us who were naturally impatient wanted that the further reforms should come earlier, and for this, as we all know, the Reforms Inquiry Committee sat. All the difference between the two Reports, the majority and the minority reports, is that one wants further reforms immediately, and the other wants to improve the matters as they stand. Well, when we have to get these reforms from Parliament, we cannot very well take them by force. If they were to be taken by force, I would say to those who want to do it, "better try it and not worry in this matter here in the Council." But for those who do want to please the British Government and Parliament and then to ask for more reforms, the best thing is to take what we can get now gratefully and then ask for more. Now asking for more has got no limits: and you can ask for the moon. The first thing is what the Swarajists or Extremists want. One of my friends said that their idea is to have it within the Empire if possible, and if not, without it. I am one of those who would like in the beginning at any rate, Swaraj without the Empire. And why? Because if we got Swaraj later on in the Empire that will be more stable. What will happen if we have Swaraj at once? The

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first thing will be that we will see that the power does not remain for an hour in the hands of all those classes into whose hands our Government have been playing and to whom they have been giving mostly the reforms and power. It will be useful for us, because my country and my friend's country (the North-West Frontier Province) is not very wealthy: at any rate most of us are not wealthy. We will make a fortune. We will sweep the whole country which will not be under the British Raj. Then when the people see that it is much better to remain under the Empire which has got a good army and which is organised, and knowing that it takes time for us to be in a position so as to look after ourselves, they will ask for the proper Swaraj within the Empire. Then it will be more stable and we would not hurry as we are apt to now and then.

Now, Sir, I will say something about the reforms since they have come. The reforms were not meant for the few people who take part in the debating society here; they were really meant for the masses. Now, what have the masses since got? We people who live amongst them in my own province know that corruption has increased, because with this transitional period the Government's hands have become so weak in forcing law that they give protection to all political parties who break it; and when we try to bring them to book, thousands of rupees of the public money are spent and directly they are sent to jail, thereby making them sufficiently angry, Government let them off. Naturally they do the same thing again, and more money is spent. This is what we have got from the reforms, breaking of the law and spending of the money of the poor innocents who do not want to make trouble in the country. Then, Sir, the political consciousness also has come about. Those of us who used to say that the Government do not give us this and do not give us that, now find that we have to get these things from each other. We have to divide these loaves and fishes among ourselves. Then of course we begin to fight with each other. And in India which is full of castes and creeds, and not only two or three religions but these religions have got sub-sections again, the difficulty comes that one party says that they have not got sufficient men in the Government Service and the other says that they are not properly treated by such and such a community. In my own province there have been riots, there is not a department of the Government where one community is not complaining of the head of another. There are rings amongst them and even the ablest men of one religion are kicked out of office and those who are in the greater numbers see that the others do not come in. Things do not only rest here. Recently our people have accused even the highest men serving under the Government. One community says that such and such a man is not giving us our due, and others whenever they have got a head of a department who belongs to another religion accuse him also by saying that he does not give them their rights. This is the case from top to bottom.

Again, we find that, although we have been burdened with extra expenditure because of the creation of these Legislative Councils, we have not got any benefit out of them. The poor zamindars, who are so much overburdened by the moneylender that they have to pay four times more than they

have taken from him, find that as yet no law is enacted by these Councils to give them relief from these moneylenders. In fact, they are so angry that they are looking forward to the day, which is so much wanted by our Swaraj friends, when India should have Swaraj out of the Empire. They are simply longing for that day, because then there will be nobody left to ask for the heavy interest as perhaps their books will be burnt when the whole country will be in a state of chaos. This will be the result of the extremists reforms that are so much wanted by them.

Now, Sir, people have been quoting from history and I would also like to refer to it. History from the very beginning shows that whenever there has been an invasion from without, India has been unable to withstand it. I have heard in another place that we had a very old civilization at that time. I would like to know where was this civilization when year after year Mahmud Ghaznavi invaded India and not even once could his invasions be stopped. It will be seen that my co-religionists ruled in India for something like eight centuries and then naturally we had to stop some day and the British Government have followed in our footsteps.....

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Why naturally?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Because the sun, after it rises to the Zenith, goes down. There is no nation and no country which can always remain stationary; it must go up and then come down. It is the same way with yourself. You were young and strong at one time and now you are getting old and weak—(Laughter)—and one day nature will get the better of you. So, Sir, Government when they are thinking of giving over the powers to some one should take into account the Muhammadans from whom they took the reins of government, and give them a trial to see if they can do better this time. If you were to look at the tropical countries and also the countries in a temperate zone, you will find that there are very few countries which are not under the influence of people belonging to the northern countries, because there the climate kills the weak and thus there is the survival of the fittest. Now, if there have been invasions from outside as I have shown historically, what is the use of asking for a change if the same old thing is to happen again? Why don't you keep the present Government? To-day we are quite all right and are getting these reforms. We should not try to have the reforms in a hurry only to lose them later on. Suppose the Government were to leave the country to-day, what would happen? The Punjab would take as large a portion of the country as is near it; Nepal would take another part and the Ruling Chiefs would take all the territory around them, and so on, till perhaps our friends from the Frontier would come down upon us and sweep us, or perhaps another Eastern nation might attack our seaports. Our friends in down country do not mind this change because whenever there has been trouble in India it has been in the north. It is we in the Punjab who get killed and no trouble reaches the people down country.

But this time, I believe, that our friends saw something of the *Emden*.

3 P.M.

Now these sea powers will attack Bombay and Madras, and thus the Punjab alone will not be attacked. Had they had

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any experience of invasion they would have thought twice about taking such hasty steps?

Then, Sir, to get reforms is all right but it is very difficult to retain it unless one has got some power. And what is that power? The Army. We see now, Sir, that political parties have begun to meddle with that best of machines. The Army ought always to be kept aloof from politics. We now see a committee in which politicians are invited to help and the others are only poor ordinary soldiers who perhaps will be unable and unequal to argue with these politicians who may thus get the better of them. If that happens, they will Indianize it naturally with their own sons. A man was asked "Go and bring a beautiful child" and he brought his son—an awful ugly looking child. He was asked, "Why did you bring this ugly child?" He said, "See him with my eyes, and you will find him most beautiful." The same thing will happen when these people try to meddle with the Army. They will bring in their beautiful sons and we know what the result will be.

What I mean to say by all this is that it is all very well to open one's mouth and ask for everything. The difficulty is whether we can digest it. Our house is a house that when any ill-advised or hasty step is taken, it is our business, our duty to stop it, and though we have got some men who perhaps have got the same views as elsewhere, I think the majority of the House will see that we should take gratefully what we are given so that those who have to give further may be pleased to give more.

Then, Sir, I would again suggest to the House that the best course that we can adopt is to agree with the majority report and then wait till the Commission comes, and if we all unite, which we have not hitherto done, and can show that we are united as a nation, then perhaps the Commission may see that we can get further reforms. But the thing which does not exist is that nation about which we hear every day, whether the nation is Muhammadan or Hindu. We are also afraid that if our new reforms come, anything that comes up for the good of the Muhammadan community will be at once lost, because three-fourths will be against it on one side and one-fourth on the other. We, Muhammadans, are not very keen that such a time should come very soon.

THE HONOURABLE MR. K. C. ROY (Bengal: Nominated Non-Official): Sir, I can assure the House that I accept without hesitation the underlying principle of Mr. Sethna's amendment. I know of no Indian, not even the Malik Sahib, who will not accept that ideal; but the only thing that troubles me is the character of Mr. Sethna's motion as it stands on the agenda. The Leader of the other House has told us this morning that we are a body of businessmen, and so we are. I look upon Mr. Sethna's amendment not as a business proposition at all. What does it mean if we accept even a fraction of what Mr. Sethna suggests? It means a new Parliament Act. Now what is the position of Indian affairs in London? Mr. Sethna has given us only partial details. We have got at Westminster a strong Ministry representing the Tory democracy of Great Britain. There we have got some men who honestly believe that western institutions are unfit for an eastern country; we have got reactionaries among them, who think the Montagu-Chelmsford Act was a great mistake, and if

they were given the opportunity they would not hesitate to go back upon the element of direct responsibility. I think both this House as well as the other House have not been fully alive to the great service which Lord Reading has rendered to us. He has at least committed the Baldwin Ministry to the acceptance of the Preamble of the Government of India Act, and that is a great deal. Then again, Sir, His Excellency has managed to commit the Baldwin Ministry to the statement that there is no bar to the appointment of a Royal Commission before 1929. If that is not an achievement, I ask the House to answer what it is. Then again, Sir, let us take the Liberals. They are all more or less Imperialists. I know many of them; I enjoyed the hospitality and courtesy of these people last year, and I know what they think of the Indian position. As for Labour, they are very difficult; when they are in office they are not in sympathy with us; when they are out of office they are all in sympathy with us. Many of us have read with astonishment, particularly my friend Mr. Rangachariar and myself who had personal contact with Lord Olivier, what he has recently said. I know what he told us when he was in office and I know what he has told the House of Lords now that he is not in office. Then again there is the Independent Labour Party. Politically to-day they do not count for very much, and I can only use the words of my own countryman, Mr. Saklatvala, who told me definitely that any party, be it Labour or Independent Labour, when thrown into the present Imperial political system, will think of the Indian question in the same strain as the two older Parties. This is the outlook for India to-day.

I will now come to an analysis of the amendment which my Honourable friend Mr. Sethna has moved. The Council, it is suggested, should ask for a new declaration in Parliament. What for? The declaration of 1917 was made, and the Act of 1919 was passed not in a spirit of panic, but in the hour of victory and were given with the utmost good-will and benevolent intentions. I think, Sir, the House will recognise that it is a risky experiment at the present moment to ask for a new declaration. Then, Sir, there is the question of revenue and expenditure. The revenues of the Government of India are vested in the Crown. I think, Sir, in any devolution of power to the Government in this country, the Crown will always remain as an indispensable factor of our political existence, provided we are agreed to remain in the British Empire. Under the circumstances, Sir, I see no case has been made out for the change. And as for expenditure, I have always been a warm advocate of the view that expenditure should be vested in the Governor General in Council. We made a serious attempt in this direction in 1919 when Lord Crewe's Committee examined this question. As we all know Lord Crewe's Committee recommended the abolition of the India Council, but owing to strong agitation in England in 1919, the Council still exists. Then again, Sir, a dyarchy has been proposed in respect of revenue and expenditure. The military and political expenditure is to be controlled by the Secretary of State, while other expenditure will be controlled by the Government of India. I do not know what is the proposal of my friend Mr. Sethna about revenue for the Army as well as for political purposes. Who will control this? Then again, Sir, the payment of all debts and liabilities lawfully contracted by the Secretary of State in Council on account of the Government of India is to be under the control of the Secretary of State. This matter

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has for long been before the country and has often been discussed. I know that the experts think that these transactions should be vested in our High Commissioner and not in the Secretary of State for India. This is the expert view, and I do not know how a businessman like my friend Mr. Sethna has induced himself to accept this proposition. Then comes the question of the Secretary of State. If the Secretary of State is to be shorn of all the powers that we want to deprive him of, there will be no need for the Secretary of State. The Secretary of State for India will cease to exist, and India will be handed over to the Secretary for the Dominions.

And next, Sir, comes the question of the Indian Army. This is a matter, which although I am a Bengali, I have taken great interest in. I have been a warm advocate of Indianization of the Army. I was a witness before the Military Requirements Committee and also before the Esher Committee, and I gave my views there in unmistakable terms. Last summer there was a deputation of Indians who waited on the Prime Minister and I was one of them. There also I raised the question of the Indianization of the Army, and the answer which the Prime Minister gave us must be treated as confidential because the conference was confidential; but before we Indianize the Army we should try and obtain an Indian Army Council on which there should be a strong civilian element. I do not wish to abolish the Commander-in-Chief. Nothing is further from my thoughts; but what is needed, if we want to Indianize the Army, as the first essential factor, is an Army Council with a strong civilian element on it. If you leave it to the purely army man, the day of complete Indianization will perhaps never come.

Sir, as I am a nominated Member I do not desire to express my views on the elective character of the legislative bodies, but I feel very strongly that opportunities will have to be found for Elder Statesmen, who cannot fight an election, in the Senatorial Chamber, by nomination. I should like to tell the House only this, that it was Lord Morley who had to sit in the House of Lords, and it was only the other day that the Baldwin Ministry promoted Lord Oxford and Asquith to the House of Lords.

Then, Sir, I come to the functions of the Central and the Provincial Governments. I see that Sir Tej Bahadur Sapru and his colleagues have proposed dyarchy for the Government of India. This is by no means a new proposition. This was a proposition we placed before the Selborne Committee, and neither the Committee nor we could come to an understanding. The Honourable the Leader of the other House who was connected with the reform movement from its very inception was present in London on behalf of the Government of India and he knows all about it. I need hardly say any more on this point. Sir, as regards dyarchy I should only like to say a word or two. The best brains of India were present in London in 1919. There was the late Mr. Tilak, there were Mr. Rangaswami Iyengar, and Mr. Ramachandra Rao, there was Mr. Jinnah, there was the Right Honourable Srinivasa Sastri, there was the late lamented Sir Surendra Nath Banerjea. Thus political opinions of all shades and creeds were represented there, but we could not really invent a better form of government than dyarchy, and in my opinion dyarchy as a transitional institution has not done badly.

Now, Sir, I come to the main point. I am quite prepared to support the Honourable Mr. Sethna's amendment if he would tell me how he proposes to enforce it. What is the sanction behind it—an inquiry which was very pertinently made by Mr. Goswami in another place. We can enforce it by three means and three means only. The first is by armed intervention. Can we do it? His Excellency the Commander-in-Chief can give a better answer to that than I can; but I know a little about the Indian Army, having been a student of it for many years, and I know that the Indian Army is very contented and loyal. They are looking forward to improvement and advance in the soldiers' sphere and they now know their equality with their brethren, the British soldier. The second method we can adopt is non-violent non-co-operation. Well, we tried that only three years ago,—with what result? We know what Mr. Gandhi had to say about his Himalayan miscalculation. We know the movement has failed; we know it cannot go on unless we are nationally united and disciplined. The third means is good-will and co-operation. It is on that third means I rely for constitutional progress in India. I know, Sir, my country has a high destiny before her and I believe in the high mission of British Government in India. I am therefore not pessimistic. When my amendment comes on I hope to say something more, but in the meanwhile I am sorry I cannot support the Honourable Mr. Sethna's amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, the question before this Council for consideration is whether the existing constitutional machinery of government is or is not suited to the present day needs of the people of this country. The test by means of which we can judge its suitability is whether it does or does not hamper our future progress and development on sound constitutional lines. If under the present constitution of government we can grow to the full extent of our capacities, then we need not ask for a revision of the constitution; but if on the other hand the present system of government dwarfs and checks our growth and development in any directions, then it is quite legitimate for us to ask for the immediate revision of the constitution; and I believe it is the duty of the Government of India which claim to be the trustees of the dumb millions of India to change the present system of government. I will not appeal to the sentiment of the Honourable Members of this Council, but I will, Sir, from the practical business man's point of view, try to show in a few words that the present system of government, which does not profess to be responsible either to the people of this country or to their representatives in the representative bodies, mars our progress and hampers our development in many directions. Under the existing constitution the Government of India is, in the words of the late Lord Curzon, only a subordinate branch of the Government of Great Britain. The Viceroy and Governor General of India is merely a local agent of the Secretary of State for India. The Indian Cabinet is responsible to the Secretary of State for India. And what is the consequence? The Government of India has naturally to be carried out in the interests not of the people of this country but mostly in the interests of the people of the British Isles. The people of India have been crying themselves hoarse against the imposition and continuance of the excise duty on Indian cotton goods, and I also believe the Government of India are in favour of its abolition; but

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as the Secretary of State and the Cabinet are against its abolition the Government of India cannot afford to offend the Lancashire people. The excise duty on our textile industry cannot be taken off for this reason. The Government of England set aside a million of pounds for the encouragement of their coal industry in the middle of the year; the Government of India are also considering the grant of a further protection to the steel industry in the middle of the year; but when the Indian cotton millowners in deputation approach His Excellency the Viceroy in a time of crisis they are told that the cotton excise duty cannot be taken off in the middle of the year. Take other industries, Sir. The Government of India find it difficult to prevent the dumping of foreign railway locomotive engines and wagons on India, and they are unable to grant protection to the cement industry which has been recommended by the Indian Tariff Board. Again, we have now been crying ourselves hoarse against the present day currency and exchange policy of the Government of India. All Indian economists and Indian business men are agreed that the recent exchange policy of Government has ruined Indian industry and is driving out our goods from various foreign markets and has thrown a large number of people out of employment. But the Government of India are helpless and cannot without the permission of the Secretary of State for India help us. Again all Indian economists are agreed that it is in the interests of India that the Gold Standard Reserve and the Paper Currency Reserve should be kept in India and not in England, but here again, Sir, the Government of India cannot, without the permission of the Secretary of State for India, move an inch. The personnel of the recently appointed Currency Commission is.....

THE HONOURABLE THE PRESIDENT: Order, order. It seems to me that the Honourable Member is anticipating his budget speech.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am dealing with matters, Sir, which under the present constitution the Government of India are unable to meet well. I brought in the currency question, Sir, because the personnel of the Currency Commission did not meet with the approval of the people of India. Then, again, Sir, take the problem of the defence of India. Other countries under nationalist Governments are rapidly training their people in the modern methods of warfare. But the Government of India, in the matter of the Indianization of the Army, are moving, I am sorry to say, at a snail's pace. It is in the interests of the country as well as of the Army that all sections of the Indian population should get military training and should be recruited for the Indian Army, and that a very much larger number should be recruited for Sandhurst. Evidently, the Government of India, as at present constituted, cannot move in this matter more rapidly. India's sons, under the present system of government, are denied admission into the Air Force or into the Royal Artillery Force. Then, again, when we come to consider the position of Indians overseas, in the British Colonies or elsewhere, the Government of India, as at present constituted, are able to do very little for us. Even in Burma, which is supposed to be a province of India, attempts are being made to shut out Indians from that country. In all matters of industry, trade and

commerce, in the Indianization of the Army, in the treatment meted out to Indians abroad, I mean in countries outside India, we find that the Government of India as at present constituted, cannot look after our interests as well as they should do. Our interests are practically neglected. This indifference will continue as long as the Government of India are in practice treated merely as a subordinate branch of the Government in England. If no restrictions are to be placed on the development of Indian industries, if India's trade is not to be hampered by imposing invidious restrictions in the matter of rates and freights on railways, if India's trade and industries are not to be killed by the present exchange policy, if India is to be made fit to defend herself from foreign aggression, and if we want that Indians overseas should not be insulted and humiliated, then it is very necessary that the Government of India should be made responsible to the Indian Legislature and should be released from the shackles put upon them by the Secretary of State for India. The Council of the Secretary of State for India can be of no benefit to India. It should therefore be abolished, and the position and status of the Secretary of State for India should be made identical to that of the Secretary of State for the self-governing Dominions.

Then, Sir, in the provinces too, we all know that dyarchy has failed. It has weakened the Government. Under the present system the Finance Member is entirely in charge of the provincial funds. He and his department, practically speaking, are the paymasters of the transferred departments. We hear the complaint almost from every province that the Ministers are not able to get enough money for the development of the departments under their charge. We also find that it is very very difficult in actual practice to draw the line between the transferred subjects in charge of the Ministers and the reserved half.

Then again the presence of a nominated element in the Provincial Councils has weakened the position of the Legislatures, and has prevented them from keeping the Ministers under their control. No amount of tinkering with the existing system of dyarchy can remove the present defects and establish a system of responsible government in the provinces. We must therefore do away with dyarchy and make the provinces quite autonomous in the administration of the departments handed over to them.

Sir, four and a half years ago when the Montagu reforms came into force, the men who came to the Councils and the men who were appointed Ministers and Executive Councillors, honestly and sincerely tried to work the reforms, but at every step they found that the machinery devised failed to protect the interests of India, and it was soon discovered that under the dyarchical system, responsible Parliamentary government, as intended by the authors of the reforms, could not be established in the provinces. Dyarchy is dead and it is no use sticking to the deadhorse. I freely admit, Sir, that India owes much to England and I also admit, Sir, that she has established peace and order in the country and has put us on the road to progress in Western civilization. But, Sir, I would urge upon Government to fit India for larger responsibilities in the comity of nation. I would ask them not to have a superstitious regard for dates. I hope they will not postpone the revision of the constitution till

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1929. I, therefore, request Government to accept the amendment moved by my Honourable friend Mr. Sethna and substitute what he has moved in place of the Resolution moved by the Honourable Mr. Crerar.

My Honourable friend Sir Malik Umar Hayat Khan said something about digestion. I might say, Sir, that the digestive powers of various persons differ. In case our gallant Malik has not been very well able to digest the present constitution, I am sorry for him. He has also mentioned that the Councils have proved a burden to the country. That itself shows that he has not digested the present constitution. He says, and I want to correct him in this matter, that the British Government took possession of this country from Mussalmans and so Mussalmans should have a better share in the government. I hold Sir, that this is wrong. The British Government took possession of the Punjab from Maharaja Ranjit Singh, who was a Sikh ruler, and as far as the rest of India is concerned, the facts are well known, and I need not dilate upon them. Our gallant Malik has also made an unwarranted attack on the Sken Committee. I was sorry to hear his observations on this subject. We hope a great deal from the Sken Committee. I think it is one of the most important Committees which have been constituted by Government. Generally it is said that these Committees bring about no result. But I think that this Committee will bring about good results and open the door to Indians to a much larger extent to get an entry into the Indian Army.

One thing more, Sir, which I want to say. Our friend, the Honourable Malik, has said that the Legislatures have done nothing to protect the agriculturists from the hands of the money-lender. I think, Sir, he is quite wrong there. In the Punjab, and India as a whole several Acts have been passed to protect the money-lender. (Laughter.)

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN; That is right. That is the fact which has come out.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am sorry, Sir, I mean the agriculturists. I can also say, Sir, that by these Acts money-lenders have developed even among the Zamindars who are following in the footsteps of non-agriculturist money-lenders and who are charging much heavier interest from their own brother agriculturists.

One point more, Sir, and I have finished. Our gallant Malik has also said that India is not a nation. I entirely differ from him. India is a nation in all its aspects. I need not dilate much upon this point, because from Peshawar right down to Cape Comorin, India is under one rule, under one law and under one Government. With these few words, Sir, I strongly support the amended Resolution put forward by the Honourable Mr. Sethna.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, if I were convinced that the two proposed amendments had anything to do with the matter before the Council and had any reference even of the remotest kind to the Resolution proposed by the Honourable Mr. Crerar I should be prepared to give them my very serious consideration.

The debate which has taken place on the amendments, on the other hand, convinces me that the Members who have supported the amendments and the Movers of the amendments have gone off the rails. The immediate issue before the Council as embodied in the Resolution is that certain alterations which are permissible within the scope, structure and purpose of the Government of India Act and which the majority of the Reforms Inquiry Committee have recommended should be carried out. That Resolution is met with a formidable arraignment of the policy of the Government in the past with proposals of a somewhat reactionary character. The Muddiman Committee was appointed not for the purpose of overthrowing the Government of India Act, not for the purpose of recommending suggestions beyond the scope of that Act, but that Committee was appointed for the purpose of helping towards an easier and smoother administration of that Act. This morning as well as elsewhere a great deal has been said about the majority and the minority reports. I for one attach no significance to numbers. I do not care which report is signed by a majority and which report is signed by a minority; nor will I enter into the arena of the verbal jugglery which has been indulged in here as well as in the other House regarding which is the real majority and which is the real minority report. I look to the substance of the recommendations. I look to what is practicable and what is attainable. I discard the ideal, also the imaginary and chimerical calculations. Sir, even when the Muddiman Committee was appointed, Sir Malcolm Hailey made absolutely clear the scope of that inquiry. He said:

"If our inquiry into the defects of the working of the Act shows the feasibility and the possibility of any advance within the Act, that is to say, by the rule-making power provided by Parliament under the Statute, we are willing to make a recommendation to that effect. But if our inquiry shows that no advance is possible without amending the constitution then the question of advance must be left as an entirely open and separate issue on which the Government is in no way committed."

Sir, that is the gist of what the committee was really intended to do. Attempt has been made to mix up that "open and separate issue" with the result of the recommendations embodied in the majority report. Now, Sir, it has already been pointed out that the real scope of the inquiry was expressly limited within the structure and purpose of the Act.

That fact itself was acknowledged by the minority report and I quote a passage from that report in this connection. The minority report says:

"So long as this Act continues to be on the Statute-book, it is impossible to dispense altogether with the classification of subjects into reserved and transferred. It therefore follows from clause 2 of the terms of reference by which we are bound that the utmost limit of any positive suggestions open to us is the transfer of more subjects or the amendment of certain rules or even of the Act itself in matters of detail for the rectification of administrative imperfections."

Sir, the minority committee knew the significance of the inquiry. They knew that the inquiry was limited and they proceeded upon that. In the concluding paragraph of their report the minority committee after discussing at great length some suggestions beyond the scope and purpose of the reference, after travelling beyond the actual scope of the inquiry stated as follows:

"To our mind the proper question to ask is not whether any alternative transitional system can be devised but whether the constitution should not be put on a permanent

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basis, with provisions for automatic progress in the future so as to secure stability in the Government and willing co-operation of the people. We can only express the hope that a serious attempt may be made at an early date to solve the question. That this attempt should be made—whether by the appointment of a Royal Commission with freer terms of reference (not so restricted as these terms of reference) and larger scope of inquiry than ours or by any other agency—is a question which we earnestly commend to the notice of the Government.

It would clearly appear from the statements to which I have drawn the attention of the Council that though the minority report discussed in detail certain proposals beyond the scope and purpose of the Act they confined their recommendation to the earlier appointment of the Royal Commission to take all these matters into their consideration. Therefore, Sir, it is astonishing that both in the other House and in this House these two formidable amendments should be tabulated for the purpose of discussion, and the Council will be asked to divide on that amendment. I am also greatly astonished that two of the most distinguished signatories to the report of the minority were the strongest supporters of the amendment in the other House. It is very difficult to understand the position taken up. I have therefore shown that though the principles and demands embodied in the amendments may fairly form the subject matter of a discussion as a separate issue, they have nothing absolutely to do with the main proposition before us and that the amendments really do not arise out of the Resolution which the Honourable Mr. Crerar has proposed.

THE HONOURABLE SAYID RAZA ALI: Is the Honourable Member in order in impugning the authority of the Chair? The Chair has allowed the amendment.

THE HONOURABLE THE PRESIDENT: The Chair is capable of looking after its own interests.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, what do the amendments ask us to do? I have pointed out that the amendments are in the first instance irrelevant. I also go further and say that these amendments could not be constitutionally moved in the face of the Preamble of the Act of 1919 and in the face of the existing constitution. The amendments now in question ask, in other words, for immediate full responsible government, if not Dominion Government. I do not know whether under a Dominion system of Government you would have any more real and important powers than what are embodied in this Resolution. Now, Sir, Honourable Members are aware that Parliament has laid down a distinct principle as regards the advance to be sanctioned. Parliament has not even delegated that authority to the Government of India. The Government of India are also not to have any voice in the matter of the decisions to be arrived at regarding the progressive advancement of the privileges under the Act of 1919. The House of Commons has kept that privilege jealously to itself. I shall not trouble to read that Preamble. Everybody is aware of it, everybody knows it, that the British nation as represented by the British Parliament is to be the sole judge of the progress made in this country and the stages by which responsible Government is to be allowed. If that principle has been laid down rightly or wrongly—I am not concerned at present with the morality of that

Preamble—if that Preamble has been laid down rightly or wrongly, is it within the power of this Council, is it within the power of the Government of India; to come forward with a catalogue of these formidable demands and ask that by a stroke of the pen the present constitution should be set aside, and that a new constitution tantamount to full responsible Government should be substituted? Sir, even the authors of the Montagu-Chelmsford reforms did not contemplate such a swift change. I shall read one small paragraph from the Report of the authors of the reforms which will make my position absolutely clear:

“The final form of India's constitution”—it is paragraph 350—“must be evolved out of the conditions of India and must be materially affected by the need for securing Imperial responsibilities. The dominating factor in the intermediate processes must be the rate at which the provinces can move towards responsible government. At the same time the change obviously cannot be confined to the provinces. In proportion as they become more responsible, the control which the Government of India exercises over them must gradually diminish.”

Here is an explicit pronouncement which was embodied in the Preamble of the Statute which was subsequently passed in Parliament: and in the face of these definite pronouncements, I submit that any demand like the one which is embodied in the amendments before the Council is in my opinion somewhat unwise and unachievable.

Sir, I have referred to the legal and constitutional aspect of the case. I shall say a few words on the expediency of these amendments. I yield to none in this Council, not even to Mr. Ramadas Pantulu, in my love and affection for this country. I yield to none in my patriotism. I have at heart the interests of India. I have a large stake in the prosperity of this country, and I therefore distinctly state that the policy now adopted of attempting to defeat this Resolution by submitting these amendments is a short-sighted and a doubtful policy. Sir, I am profoundly grieved that the Assembly has spurned, and that even an attempt should be repeated in this Council to spurn, at the great opportunity given by the English people to India through their representative in the House of Lords. I feel profoundly sorry for the country. If this opportunity had been rightly grasped, if it had been sympathetically caught hold of, if it had been graciously acknowledged, it would have resulted in infinite good to this country and the beneficent advancement of the people of this country. That appeal was reiterated in no unequivocal terms by Lord Reading. He asked India, he asked the representatives in the Indian Legislature, to extend to him their hands of fellowship, to extend to the Government of India their co-operation, so that he may be in a position to do something substantial, something solid and material in the direction of the advancement of the country. That offer has been discarded with contumely; that offer has been painfully thrown away. The co-operation which he asked for has been responded to by arraigning the Government of India with a long, and formidable catalogue of charges against them, by reciting their sins in the past, as my friend on my right (the Honourable Rai Bahadur Lala Ram Saran Das) has just done. That real opportunity which was given to the country has been thrown away by asking for the shadow and discarding the substance. Does any sane man outside this Council, does any Honourable Member in this Council really think that the House of Commons is going to accept immediately these

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proposals? I have just returned from England and let me tell you what I have been able personally to gauge in England. I have had long talks, long discussions, with many influential Members of the House of Commons and I tell you sincerely, if you accept my word, that the feeling in England is altogether changed. The feeling is very very hostile to this country. That hostility has been mainly brought about by the unsagacious action on the part of our legislators. I was distinctly told by many Members of the House of Commons that India need not expect any sympathy from Parliament unless she sincerely and genuinely comes forward and endeavours to meet them half-way and extends to them her good-will. I assure you, Sir, this has been the result of my personal interview with many eminent and influential Members of that august body. If any of our legislators think that by force, by threat or by passing these amendments they are going to gain their object, they are seriously mistaken. I speak with great sorrow to-day on this subject, because I feel that the great chance which was made available for the advancement of the people of this country has been spurned and spurned without rhyme or reason, that it has been thrown away only for the purpose of following the ideals of some of the people whose imaginations outrun their judgments. I am sorry that such a state of things has happened and I trust that this House will not commit the same mistake. This House contains many statesmen of great experience and with a knowledge of the world and with a knowledge of parliamentary procedure. I appeal to them with all earnestness that the right way for the advancement of our dear country and for the promotion of the interests of our country, which are at the heart of every one of us here, is not by frantic and unexplained opposition but really by co-operation and by extending our good-will. It is from that standpoint I hope that this Council will consider the original Resolution on the subject. The original Resolution does not ask anything more than the removal of certain defects and certain imperfections in the administrative machinery which have been catalogued at the end of the majority report. Power should be given to the Government of India to carry out those recommendations as early and as far as possible. There is nothing wrong in that. It is not even inconsistent and incompatible with your demand as embodied in the two amendments. Let those demands be brought forward at the right and proper time. Let the Royal Commission come to this country as early as possible. And, when the Royal Commission meets in India, it is open to our statesmen and political leaders to press these demands on the attention of that Commission. We will not lose anything. We shall then be able to press these demands with greater weight and we may get their sympathy towards at least some of our demands. As I have, therefore, pointed out, do not mix up and confuse the issue regarding further demands with the matter before the House, and I trust you will pass this Resolution—I cannot say unanimously—but at least with a large majority. Remember one thing. These amendments may have the effect of exciting attention elsewhere, but they will never weigh seriously to-day with any prudent and right-minded man or with His Majesty's Government. Also, pray, remember that our action to-day is watched by the outside world and you will justify your statesmanship and the existence of the Council of State by the decision you adopt to-day.

THE HONOURABLE SIR WILLIAM CURRIE (Bengal Chamber of Commerce): Sir, may I as a member of a community which appreciates the natural political aspirations of India express very shortly how the position appears to us. As business men we want a stable government, reasonable taxation, no restrictive or racial legislation, and as little State interference as possible. The history of the past few years of the politics of the province from which I come, namely, Bengal, is a sad one. It is one of entire non-co-operation, and, looking back on these past five years in Calcutta, we can see little evidence which can justify the hope that, if larger political powers be now given, the interests of minority communities will be protected. There have been no actions on the part of the opposition which can inspire confidence in their sense of responsibility and which can lead the mercantile community to believe that that peace and quiet, wherein we wish to carry on our ordinary avocations, will be available. If we are given proofs in the next few years of an earnest desire to co-operate—and by proofs I mean deeds and not words—proofs that minority communities and business interests will be protected, then I think I may say that support towards the goal of Indian political aspirations will not be withheld by the European commercial community, amongst whom the Honourable Mover has so many friends, and who, I am sure, like myself, value his friendship most highly.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muham-madan): Sir, I readily confess in all humility to a sense of inferiority in the matter of listening to the opposition remarks with that commendable equilibrium which appertains naturally to the Honourable Sir Alexander Muddiman. He has been able to listen to an onslaught on his opinions and his views with a sort of forbearance which is marvellous. I am trying to copy him but do not think that I shall be able to attain my object. I am anxious here to scan the position in the very limited time, though not the extended time which some speakers had this afternoon. I should like to see where the difference lies. There have been reports by what is generally known as the Muddiman Committee, call it the majority report on the one side and the minority report on the other. I have ventured to think out the situation. What is the difference between these two opinions? The one relies thoroughly on the Preamble and the dictum that the stages for Indian political advancement should be set by Parliament; the other school of thought appertaining to the minority report considers that India should advance on the lines of self-determination, the stages being determined by India herself. Now, there is a third school, which thinks out the matter in quite a different way. People who have understood the situation from the deliberations in the Assembly last year think that perhaps the limitations that were imposed upon this Committee, as well as the personnel of the Committee, were responsible for the rejection of the considerations and deliberations and conclusions of this Committee altogether. There is a school of thought which holds the limitations severe, the personnel that formed the Committee as unjustifiable. All this pertains to the third school.

Now we are here considering a certain proposition. We have certain amendments before us, and when I consider the amendments I really consider them relatively to the Resolution before the House. It is impossible to consider the amendments altogether

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shorn of the important original proposition to which these amendments relate. In that view perhaps it is legitimate and quite justifiable for one to consider the whole matter together. I am not here to dilate on the various aspects of the Resolution, but I am struck with one point in it which perhaps has escaped those of us who have been considering the whole situation very anxiously, like my friend the Honourable Sir Maneckji Dadabhoy, who in his peroration perhaps skipped over the principal point in the whole Resolution itself, which asks the Governor General in Council to accept the principle of the majority report. Now I must declare at once that if it was shorn of this statement, and if the Resolution were merely limited to the acceptance of the recommendations of the majority of the Committee, there would be less opposition than what the Resolution has called for in the Council. What offends most is the insistence upon the acceptance of the principle underlying the majority report. I have taken the principle to be that the Preamble is not to be shaken, that the stages have to be determined by some one else and not by India. That is the principle which India can no longer allow to be maintained. That is the difference, I make no secret of it. There have been endeavours made here to point out that it is the business of India, in the first instance, obviously not without the help of our fellow citizens and our brothers in the West and the Mother of Parliaments, to decide the capability of India. Therefore it is that I am going to accept one or two propositions that have been laid down by the Honourable Mr. Crerar in his very lucid introductory remarks. He has been appealing to the whole Council, the whole country, to satisfy Parliament. Every one is willing, and considers it his duty, to satisfy Parliament. In the next place, he says fully utilise the resources. I quite see the point. It is upon those principles that we are fighting our case. Every school in India adheres to the proposition that under the circumstances it is Parliament that will decide the fate of India. The difference is what kind of Parliament will decide the fate of India and who are going to instruct that Parliament? Who are going to determine how to utilise fully the resources? Therein lies the difference. One school in England considers that it is the man on the spot that will decide. Hence it is we independent men are asked to look to the man on the spot here, and are told that whatever is supported by the Executive Council here, or by members belonging to the Government, who sympathise with us will carry more weight than any agitation in India for India's advancement. It is thus that we are looking out to see how we can enlighten the man on the spot, or rather the generous men on the spot. Those here are trying to convince people who have it in their power to approach Parliament, to approach the Home Office, to approach the Secretary of State with a real representation of India's needs. If the amendment is conceived and put forward in a very very long document it is in the hope that perhaps if anyone wants to find out for himself what is the method being suggested by the other side he will find it there. If no method had been suggested the attack would have been on the ground that it was merely a nebulous statement without any concrete form, nothing suggested "and consequently we will accept the better defined official view." It is in that hope, Sir, thoroughly loyal, loyal to the interests both of Great Britain and of Greater India that I am putting forward this situation simply for the

consideration of those who nervously think that this amendment is likely to frighten Parliament out of its wits. I am quite willing to accept the confidences which have been extended to us unasked by my Honourable friend Sir Maneckji Dadabhoy on the result of his interviews with leading men in England who may perhaps at the moment be ruling the destinies of India. But I have full faith in history, the history of Parliament as it was made and as it is being made now. The Parliament of 1917 is not the Parliament of to-day. I am quite willing to satisfy any Parliament if we are given the chance to-day. We ask for that chance by this Resolution. For instance take the first point in the amendment, if we satisfy this House and this House recommends to the Governor General to put forward our views, he will say these are the views of Indians focussed, crystallised, in the form of a Resolution. If we want some agency to speak to Parliament, here it is. All we want is that Parliament should give us a chance.

Then I come to the next point. The Honourable Mr. Crerar says, "Use the resources you already have." That is just what we ask for: give us the chance of using our own resources. Do not say "Thus far and no further." We appeal to you to give us the fullest chance and then to judge us. Allow us at least to see whether we can use our resources to our own advantage, whether we can satisfy them or not with all our resources at our fullest disposal. Now, I put it to His Excellency the Commander-in-Chief, do Indians have the fullest rights and privileges in the matter of military employment? Of course he is trying his level best, for which we are grateful to him and his department; but the chances are very few and rare. We want to enlarge our opportunities. Take every department possible and you will see the same thing. We are told that the hand of fellowship should be extended in co-operation. Everybody here says, "This is in fellowship, this is in co-operation." But where is co-operation? Liberty, where hast thou fled? Everyone here is trying to say "I extend my hand in co-operation." One gentleman says "Co-operation? No, no, nothing of the kind. It is the mailed fist that will do the trick and nothing else!" But the nations which have relied on the mailed fist in the past have suffered. We hold it is the open palm extended for co-operation, for India, that will give us everything. Now our amendment may be faultily worded. The method in which the Resolution is put in the amendment may not be all that can be desired. I quite see the force of that. We are all deficient in the art of phraseology to which the bureaucracy or diplomacy attaches so much importance. Well, help us with your better knowledge. We have done our best. It may be possible with your co-operation to put this amendment in a better form, in a form more acceptable to everyone with the principal points given therein. We want our resources to be placed fully at the disposal of Indians. Then we will appeal to that Parliament which is the Mother of Parliaments and show it that given the opportunity India can succeed in spite of all appearances to the contrary. In every country, in all civilisations, we find that some people though sunk at the bottom of the abyss still hope on, and I am one of those who clings to hope. Not that the amendments themselves are quite in order or represent everything that is desired; but if it is to be accepted by the whole nation in spite of the eminent verdict that was passed elsewhere by

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the other House whose opinion I respect, I should think really that that is all the greater reason for us not to support the principle as is enunciated in the Preamble, which I refuse to accept; and I would advise every Indian and every European that feels with Indians not to accept the Preamble as enunciating the principle which ought to guide the destiny of India in the future.

THE HONOURABLE DR. DWARKANATH MITTER (West-Bengal: Non-Muhammadan): Sir, I must in the first instance congratulate the Honourable Mr. Crerar on the remarkably able and lucid exposition of the case for the Government as embodied in the Resolution which stands in his name. The questions involved in that Resolution and in the amendments seem to me to be of very great complexity. They involve a basic or structural change in the constitution of the Government of India of very great and immense magnitude, and any statesman, however bold or wise he may be, has to pause before he could ask the British Parliament to accept a cut and dried scheme in the form of the amendment at once and without further examination. Sir, the principle underlying the amendments is undoubtedly acceptable to the House. The British Government is committed by its declaration of 1917 to the goal of self-government and all of us, whether Moderates or Extremists, Independents or Swarajists, are committed to that goal; but that goal, it must be recognised, is to be attained by successive stages and not by a sudden leap into the unknown. Sir, in this connection one has to bear in mind to whom we address this appeal to give us this constitution which the amendment seeks to put on a permanent basis as the constitution of British India. We are addressing it to the British Parliament. Honourable Members will not forget in this connection that the British are a practical people, not quick to respond to ideas, although remarkably ready to adopt themselves and their institutions to the exigencies of a new situation. Sir, the Honourable Mr. Crerar has rightly reminded us that the reforms in India are based on the lines of western representative institutions, and as such they must partake of the character and the processes of development of the said institutions in England. Now, Sir, in England itself, what has been the attitude of the British Government towards democracy? I see it stated on very high authority that the movement even in a free country like England of the British people towards democracy has been slow, irregular, empirical and illogical. The British people appeal to precedent and not to principle; they appeal to history and not to philosophy; to the law of the land and not to the natural rights of the human race. I entirely agree with the Honourable Mr. Crerar that no people has so consistently developed on historic lines as the British people. To none is it so necessary that historic continuity should be maintained. If we judge the amendment in the light of these characteristic of the British people, we have to proceed with cautious steps; slowly but surely we have to proceed towards the goal which is adumbrated in this amendment, which is a very good ideal which we are to keep in view.

Now, Sir, we have been faced with two reports, the majority and the minority reports. There are four of my distinguished countrymen who have subscribed to the minority report. They lay down the policy which is

involved in these amendments. On the other hand the majority suggest that there can be changes made in the structure of the constitution as laid down by the Government of India Act, 1919.

It is stated by the majority, on the one hand, that dyarchy has not been given a sufficient trial; on the other hand, it is stated in the minority report that dyarchy has entirely failed in the major provinces. Now that is really the verdict of 9 very distinguished jurymen, five of whom are divided as against the other four. In such circumstances, what strikes me as the real solution of this question is that there should be, in view of the divergence of opinion which was presented before the Reforms Inquiry Committee, an independent examination by a very great or impartial tribunal. And that leads me to suggest, Sir,—it may be covered by the subsequent amendments and therefore I am not in a position to state that the amendment which we are discussing now should be accepted as a whole, that leads me to think that a case has been made for a Royal Commission to examine the whole question. As to when the Royal Commission should come, whether now, or not later than the year 1929, that is a question for the Government to decide. But what strikes me is that there should be, as I have already submitted to this House, a further examination of this question, I mean an examination into the principles underlying the amendments by a body of men in whom the British Parliament and the Indian people may have confidence.

The Honourable the Home Member has reminded us that the British people are no slaves to dates. He has quoted from the statement made by Lord Birkenhead that the British people are not bound, they are not fettered, by dates. If so, having regard to the divergence of opinion, I would submit to this House, whether a case has not been made out for the appointment of a Royal Commission in the near future, if not exactly this year, at least next year or the year after. I appeal to Government to consider this aspect of the question. Of course, I would have been very glad to support this amendment if it had suggested the appointment of a Royal Commission as an alternative. I do not know if it can come within clause (a) of amendment IA "to constitute a convention, round table conference or other suitable agency adequately representative of all Indian, European and Anglo-Indian interests". It does not come within that, for IA (a) will have to be read with the Preamble:

"This Council recommends to the Governor General in Council that he be pleased to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying the following fundamental changes in the present constitution of the machinery and administration of India".

All that I suggest is that there should be an examination of the whole question by a Royal Commission.

Now, with regard to some of the remarks which have been made by my Honourable friend Sir Maneckji Dadabhoy that the amendment is reactionary and revolutionary in character, I say with regret, Sir, that I join issue with him. It places an ideal before us. It is a goal which we have to attain by successive stages, though not all at once.

Sir, in submitting my views to this House on this question, I want to make it quite clear to the Government that this is not an ultimatum presented

[Dr. Dwarkanath Mitter.]

on behalf of any party. It is not a question now, as my Honourable and learned friend Mr. Karandikar has just pointed out, for the Indian people to decide; it is not left to the Indian people to determine what shall be their constitution. We are bound by the Government of India Act. The Preamble to that Act lays down in clear terms that whatever has to be determined about the future of India, it has to be determined by the British Parliament.

So long as destiny has placed us under the British rule, we have to accept this position that whatever changes have to be made have to be made by appeal to the British Parliament, whose good wishes in this respect we have to value and consider. With these remarks, Sir, my position is this that I cannot support the amendment, but I want to steer a middle course and ask the Government to consider seriously whether a Royal Commission could not be appointed either at once or within a short time.

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, when looking at the list of business for to-day, I wondered whether the Home Secretary had any sense of gratification at the lengthy amendments which his short Resolution had called for. I have no quarrel with the amendments either for the reasons put forward by my Honourable friend Sir Maneckji Dadabhoy or for any other reason. In fact, on the whole I think they indicate some sort of advance in this country, because two parties have come together and at least they have put forward some sort of constructive proposals. Whether we agree with their constructive proposals is altogether another matter. These two parties, after putting forward their constructive proposals in another place, have put their heads together and were very clever in asking one of the best speakers in this House among the non-official Members to propose the amendment here. I feel sure that if these amendments were carried, it would be due to the great speech made by my Honourable friend Mr. Sethna, and I congratulate him on his speech, because he spoke in a calm and reasonable manner without going into absurd platitudes. The Honourable Mr. Sethna was followed by a Member from Madras. He said we should all have been happier 150 years ago. I understood him to say that India was happier 150 years ago. Well, Sir, we have been referred to in another place as elder statesmen, but I do not think we can go back 150 years; so, perhaps, we cannot give a satisfactory reply to the Honourable Member. Personally I would rather live in India at the present day. Then I am sorry to say the Honourable Member uttered threats. I do not suppose these threats frightened the Honourable the Home Member or any of the other Members of Government, nor do I suppose they frightened my gallant friends from the Punjab or any other Member of this Council. I do regret that any speech uttered here should have taken the form of threats of some sort of reprisal if the subject which the speaker had at heart was not given heed to. Fortunately another Member from Madras got up and paid a tribute to the Government of the British in India over this long term of years. He paid a great tribute, and of course most of us think he was quite right. He then went on to say that dyarchy does not suit the aspirations of this country. Nobody thought it would. Dyarchy was only intended as an intermediary stage. It is not the final goal. No one ever said that it was the goal. It was an intermediary stage, and as an intermediary stage, I consider

it was one—it might still be one—if worked well, of considerable beneficial education.

Now, Sir, we have heard a good deal of talk about these amendments which are before us. But let us get down to hard facts of the case. The Honourable the Home Member has repeated here to-day what he has said before, that the final judge of the progression to constitutional Government in this country is the British Parliament. Certain people in this country may not like this, but it is a fact and there is no getting away from it. I can only assure my Indian friends in this House that we, Europeans in India, are ready to support any well thought-out scheme towards progressive government step by step. We have repeatedly announced that fact, but we have always deprecated any undue hurry. We do not say it should be too slow, but we have advocated that precipitancy in this matter would probably set the clock back.

Now one word more and I have done. I appeal to Honourable Members of this House not to throw over the recommendations of the majority of the Muddiman Committee. I feel perhaps a little diffident in putting this before the House since I was one of the signatories to it. But I can only tell you that we sat for many weeks, we heard evidence from all over the country and the recommendations of the majority were only put down on paper after the greatest consideration and thought. And then again, the minority came with us nearly the whole way and it was only towards the end,—I am not revealing any secrets,—it was only towards the end that they broke off and wrote their minority report. I appeal to Honourable Members of the Council to accept the recommendations of the majority and to accept the main Resolution which is before us, that is, the Resolution put forward by the Honourable Mr. Crerar. It seems to me that we are all in one boat, but perhaps bow is not quite keeping time with stroke and wants to set a faster pace. We are all in one boat and I appeal to Honourable Members of this House to pull together and then I feel sure that we shall attain the goal which we are all aiming at.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, some Honourable friends have put their cases for taking into careful consideration the recommendations contained in the minority report in such a manner that it makes it very difficult for me to say that I think the time is most inopportune to consider these recommendations. I have read this report of the minority on the working of the reforms in India with some amount of attention, although not very critically or fully. But from what I have read, it seems to me that it is diametrically opposed to what has been reported by the majority in this connection. It requires as soon as possible the appointment of a "Royal Commission" with freer terms of reference and a larger scope of inquiry into the working of the reforms in India, whereas the majority submits a number of recommendations for changes to be made in the existing system of administration under the Government of India Act, 1919. I have no intention to insult the intelligence of the House by dilating upon the working of the reforms, since it is unanimously agreed by nearly all that they have not worked satisfactorily. The question therefore devolves itself into whether it is expedient to give effect to the recommendations made in the majority report or to comply with the suggestions expounded in the minority report.

[Major Nawab Mohamed Akbar Khan.]

Before jumping to give a practical shape to the opinion held by the latter, let us first examine into the causes for this unsatisfactory working of the scheme of administration under the Government of India Act. I don't think the reasons for this unsatisfactory working are far to seek, for every Honourable Member in this House seems aware of the fact that the reforms were launched in this country in circumstances of exceptional difficulty. They came into operation in 1921, when the non-co-operation and the Khilafat movements were at their height. These movements deprived them of the participation of a number of leaders of Indian opinion. Their antipathy did not cease with the failure of the movement, but it dogged the footsteps of the reforms, throughout their course, with a growing hostility against the Government. It contributed much to the hatred and disrespect of authority and to quote the words of the report itself:

"it deprived the first Legislative Councils of the interest and credit which they might have won from the public in normal conditions".

But circumstances have changed since then and I don't think it will be inadvisable to see it worked in an amended form as recommended in the majority report for another period of three years, after which the Government will see their way to appoint a Royal Commission to examine into their operation. I fully appreciate the impatience of those politicians who think that the time has come for taking step forward in the path of reform, but I am afraid this impatience of theirs might not prove the impatience of a patient to eat everything, when the stomach in consequence of a prolonged sickness is not capable of digesting heavy food.

To me there appears no justification for such hastiness in taking a step forward in the path of reform. In my opinion, it would be better if we allow another chance to the operations of reforms—of course along with the recommendations of the majority report—and see how it works. It would be much better to act on the principle "better half than none" and accept with all willingness and gratitude what is extended to us by the Government at this juncture. Three years will not take long to elapse, after which, I believe, Government will have no hesitation in appointing the Royal Commission so vehemently asked for in the minority report of the Reforms Inquiry Committee. I do not think I will be going wide of the mark if I say a few words about the North-West Frontier Province. Endeavours are being made by an underlying selfish motive to put forward a demand on behalf of the North-West Frontier Province for a reformed constitution. I cannot say whether these endeavours will be successful or not but this much I can say with certainty that the granting of full reforms to the North-West Frontier Province at the present juncture will be premature. The people of the province, both Hindus and Muslims, are quite content with the present form of administration, but I cannot bind myself to the statement that they will never aspire to the introduction of a reforms scheme, although for the present there is no demand for it.

THE HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-Official) : In a grave issue of this constitutional nature now under consider-

ation by this House, it is quite natural that there should be difference of opinion. Opinions have been expressed by the majority and the minority of the Muddiman Committee. For my part, with the greatest respect to both, I shall put forward my own views on their recommendations. Both parties have put forward their views very clearly. Perhaps the one party is more constitutional, the other party is more advanced. That is what I consider to be the essence of the case; but, of course, their respective views must be received with all due deference as emanating from persons all good and true. Having made this preliminary observation I may remark that I am now the only survivor left of the old Congress which was founded in 1885, and which was established for the very purpose of instituting constitutional reforms in the administration of the country. Well, Sir, 40 years have passed by. All my best friends who distinguished themselves and who were instrumental in afterwards getting the reforms, first in 1892 and afterwards in 1909, all, alas, have gone—and the last of them and the most brilliant only passed away the other day, my old friend, Sir Surendra Nath Banerjea. Well, Sir, if I can give my experience, I will say this—that during the 40 years and more of my public life I have learned and unlearned many things, and the greatest lesson I have learned is this, to *hasten slowly*. It has made me more cautious, and being cautious I repeat, that in a grave matter of this kind namely, constitutional reforms, we ought to hasten slowly. Hastening slowly does not mean that we should be only stationery; rather we should be progressive, but progressive step by step. As the architect builds his house brick by brick, we must build our constitutional house brick by brick; and brick after brick is never put together without the necessary experience of the architect. One has to see that the bricks laid are dry and do not soon loosen endangering collapse. The bricks should be well baked, strong and sound to last many years like a marble monument. Constitution building should be of the character just described and my advice to all my friends here as well as outside this House that we all should hasten slowly. It may be that Government are sometimes too slow, and it may be that we are sometimes too much in advance of sterling, enlightened and mature public opinion. Bearing in mind this fundamental maxim, it is always best to have a golden mean, and that golden mean is—"neither to go too fast nor too slow." As Tennyson says, if going up the hill we find the horse is going slowly, examine the pace and try and make it go a little faster; but if the horse goes too fast down the hill and we find that we may go down very soon to the ground and meet with a catastrophe, then it is needful to apply in time the brake and whip so as to make it go slow. That is exactly the position in which we must act in this matter whilst going uphill. If we want to be sure to reach the top of the hill, the Pisgah of our aspirations, then the pace at which we have been going must be deemed the best. I personally consider it so; and I only give the benefit of my experience to my fellow-Councillors here and in the other House if they are wise and willing enough to follow up. I am speaking, I repeat, from my own experience: and having been in the public life of this country for more than 40 years, I can say that the safest and surest way for ourselves to reach the goal of our aspirations is not to go very fast, as we are now doing. It is the only way to win. The difference in view between me and my friends, the authors of the minority report, with reference to the Resolution which has been moved by Mr. Crerar

[Sir Dinshaw Wacha.]

here is one of caution and time. I will refer to one important point here on this subject. I should like to read what the late Sir Courteney Ilbert has said. You know very well he was the real draftsman of the constitution now in operation and particularly of the Preamble. I suppose Honourable Members, at least the Indian Members, know very well that he was the Law Member of the Government of India years ago, somewhere about 1883, and that he was the author of the famous legislation known as the Ilbert Bill. It was a very good Bill but about which much ado for nothing in particular was made. Well, he was the draftsman of the constitution, which it ought to be tinkered with. He has written a small book which perhaps very many of you have seen and read; I cannot say it is really a compendium; but it is a most useful explanatory memorandum or commentary for popular use; and here I shall give you at least the substance of it in almost his words:

"The new constitution enlarges enormously the powers of the Indian Legislature. Under the Morley-Minto constitution all that the Central Legislature could do (apart from the purely legislative functions) was to discuss the annual financial statement, to ask questions and to make recommendations to the Government."

He then proceeds to explain what are the outstanding features of new constitution:

"The new Act deals not only with the Central Legislature but with the composition of the Governor General's Executive Council."

And here is the most important part of it:

"Part III of that Act changes the relations of the Secretary to the Parliament who sits at Westminster, remodels the constitution and procedure of the Council of India and sets up a new office, the holder of which is charged with important functions and styled the High Commissioner of India."

These are the reforms, additional reforms, I say of a most extensive character. I request the Council to carefully consider the far-reaching effects of the many salient sections of this constitution. That is the same constitution before you now which the amendments contemplate trifling or tinkering with. Now I say that this constitution is only three years old. We have had no fair and reasonable experience of its working. Some of us who were too wise said: "We will not have it. It is unacceptable." Others thought that it was useless to enter the Council and work it. Some there were who thought of entering the Council in order to wreck the constitution. Can it be said that those who entered and those who did not have obtained that experience which all practical men of business sitting in a deliberative assembly should possess? Have they really understood the value or appreciated the far-reaching and most beneficent effects of this very constitution so generously granted to us. If you do appreciate it, then I say please study well and closely the Preamble. And if the Preamble, which is so comprehensive, is well understood, then nothing could be better for us all than to unite and vote for Mr. Crerar's Resolution, which is the most useful and practical, than oppose it by the many amendments put before us. The amendment of my Honourable friend Mr. Phiroze Sethna, which he so

lucidly explained in his vigorous speech and others are well known all over the country for the last six months, ever since the publication of the report of the Muddiman Committee. These are replicas and replicas and 2nd, 3rd and 4th editions of the original one broadcasted. Here of course in this House and in the other House you only hear the echoes of what has been said *ad libitum* outside. No doubt these amendments are good in themselves in a way; but what I contend is that this is not the time to legislate for them. They are too previous. The time will come, in all probability in 4 or 5 years more, when they could be safely introduced for a general approval. The time is bound to come and when it does come I feel sure that every one of us will be able to consider and approve of the very best of these amendments. I am quite conscious of that, but in the meantime if we are wise, if we are patient, and if we want to move slowly, if we have the true interests of our own selves and our country at heart, then I do say, it is far better to go slowly and adopt the Resolution which has been so ably and lucidly put forward by Mr. Crerar and supplemented so well by my Honourable friend Sir Alexander Muddiman. I have nothing more to say save this that the present is a crucial time, a critical time, when we have to pause, consider and go cautiously. Some people may say "Go forward, don't be afraid; we have no faith in Government and we cannot depend upon Government. The Preamble may go to the dogs, Parliament may go to the dogs." That is not the attitude which public citizens experienced in public life should assume or approve, as responsible people like us act in a statesmanlike way. Parliament certainly is the ultimate arbiter. Parliament is the master of the Governor General. Remember that. People here have said that the man on the spot should have all the power. The man on the spot is doing it very well indeed. He has been most generously doing all in his power with sympathy and keen political sagacity. But after all, there is the Parliament and the Parliament alone which is the master of the Governor General, and as you know Parliament is composed of many very wise men, practical and cautious men, with traditions of several hundred years of constitutional Government. We have not got experience of even seventy months. I therefore say let us obey Parliament and have full faith in it as I have, that our cherished aspirations will be duly realised in good time. The Preamble is very good indeed. I tell you so once more Sir Courteney Ilbert himself has expressed himself so, and you will understand it better as you grow in experience and wisdom. Having said so much, I do hope in conclusion that this House will refrain from following the hasty example of the other House. We are supposed to be more elderly, although we are not all elderly here, but we possess greater acquired knowledge and experience of public affairs and we should at least correct those who want to be hasty, and do the right thing in the interests of the country. I believe, Sir, the interests of the country will be better served by having a modicum of Mr. Crerar's Resolution than the amendments which may perhaps bring more catastrophe. Reasoning so, I appeal to the House not to prolong the discussion any further but accept Mr. Crerar's Resolution. (Applause from Government Benches.)

THE HONOURABLE NAWAB BAHADUR SIR AMIRUDDIN AHMED KHAN (Punjab: Nominated Non-Official): Sir, the Resolution moved by

[Sir Amiruddeen Ahmed Khan.]

the Honourable the Home Secretary and the views expressed by the Honourable Sir Maneckji Dadabhoy have my heartiest sympathy and support. In my humble opinion there has so far been no indication of any genuine co-operation of the responsible Indian political leaders in working the existing constitution and there is therefore absolutely no occasion for an immediate inquiry into the constitution. Apart from all this it is my most firmly established faith that any alteration in the constitution on the lines contemplated in the proposed amendments will be highly disastrous to the genuine interests of the country at large and would throw the country into a state of chaos and confusion, because in the long run it would mean the elimination of the entire British tone from the administration of the country and leave it entirely to the care of the people of the country who, I am sorry to say, have given abundant proof of their total incapacity to rule their country during a considerable time in the past. This position, as a well-wisher of the country, I am not at all prepared to accept. I am one of those who have by life long practical experience and observation of the state of affairs in the country learnt to look upon the continued close connection of the British King and Government with the administration of India as a blessing to the people of the country and I fervently and most sincerely hope and pray that this connection may continue undisturbed for centuries to come. Sir, I oppose the amendment.

The HONOURABLE SIRDAR CHARANJIT SINGH (Punjab : Nominated Non-Official) : Sir, I rise to support the Resolution of my Honourable friend Mr. Crerar. The Resolution seeks to remedy the defects which have been found to exist in the working of the reforms. We have heard several speeches against the Resolution, but I do not think any Honourable Member has told us why we should not remedy those defects. Much has been said about the majority and minority reports. A perusal of the minority report will show that the minority themselves admit that the recommendations of the majority, if accepted, may remedy some of the defects of the administrative machinery. The only difference between the majority and the minority seems to me to be that the minority report asks for a Royal Commission or some other agency to revise the whole situation. Now, the Resolution before this House does not touch that proposal at all. That is a proposition which, I think, is beyond the scope of the Resolution and was beyond the terms of reference of the inquiry itself. Beyond this, the minority does not make any recommendation at all. Therefore it cannot surely be said that this Resolution is against the minority report or that the amended Resolution is in support of the minority report. The reforms have been a great step forward and more than that we have got the assurance of the Secretary of State and of His Excellency the Viceroy that there is no reason why a Commission may not be appointed before 1929.

But, Sir, the basis for that achievement must be sincere and mutual co-operation. No doubt many Indians have given or are willing to give co-operation in working out the scheme, but I am afraid it cannot be said that that phenomenon has been general or that co-operation has been given on a wide scale. So at the present moment we would be wise in accepting the Resolution of the Honourable the Home Secretary. I therefore cordially support it.

THE HONOURABLE MR. MANMOHANDAS RAMJI (Bombay : Non-Muhammadan) : Sir, I rise to support the amendment moved by my Honourable friend, the Honourable Sir Deva Prasad Sarvadhikary. The time has arrived when the demand of the Indian nation for allowing them a Government responsible to their elected representatives should be met by the grant of a larger measure of reforms. This demand is not only from the intelligentsia of this country but also from the masses.

Sir, the amendment that is now proposed by my Honourable friend in a slightly modified form, as this House is aware, has been accepted by a very large majority of the other House ; and therefore, it does not require any discussion at any great length. Convincing arguments in favour of this amendment have been advanced there. The present Government as is well known is not now carried on solely in the interests of this country and to the satisfaction of its people. The Legislature has no real power of the purse, and the Executive is not responsible to the elected representatives of the people. The Government of India, as it is at present constituted, is faulty. We therefore desire, Sir, to improve upon the present constitution. If the Government were responsible to the people of this country, our commerce, industries, education and other nation-building activities would have been far more advanced than they are now. The position and status of our countrymen abroad would have been far better. At present, Sir, India is allowed to be exploited without any check whatever, and our brethren abroad are suffering under many disabilities and humiliations, even within the British Empire. Sir, see what the British Government in England have done after the War. They have taken measures to protect their commerce and industries from being ruined. They have taken measures to find credit abroad. They have taken measures to protect their industries from unfair competition and from dumping by the passing of the Safeguarding of Industries Act. That, Sir, is what a responsible Government is expected to do for a country. What do we find here ? One of the most prominent industries is passing through a critical condition. The Government look on complacently ; and suggest an inquiry in the matter, which might take a long time and possibly by that time serious damage to that industry might be caused. Sir, it is well known that in a similar situation, the British Parliament in England found readily ten million pounds to avert the miners' strike and thus saved the country from the national loss of a much greater magnitude. The Government of India are unwilling to provide one crore of rupees to the pioneer industry to relieve it from its present difficulty of unfair foreign competition.

The expenditure of the present Government is top-heavy ; the needs of the country are not adequately provided for ; the provinces cry for money for education, sanitation and medical relief. These are neglected to such an extent that no other nation would tolerate it. Under the circumstances the only course left open to the people of this country is through their chosen representatives to change the mode of Government. The Government therefore will be well advised in accepting this amendment which is very moderate and reasonable. Sir, in conclusion I do not wish to make any comment upon the very lengthy speech of my Honourable friend Sir Maneckji Dadabhoy. His speech speaks for itself. Therefore I do not think it is

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[Mr. Manmohandas Ramji.]

necessary to reply to his speech at all. I congratulate my European commercial friends, Sir William Currie and Sir Arthur Froom, on their moderation and I join hands with them in the view that Indian commerce and European commerce are standing in the same category, and therefore the commerce of this country as a whole, irrespective of whether it is British or Indian, is to be benefited by good government, and that is what we want by these amendments. Sir, at last I hold the same opinion as was expressed by my Honourable friend, Mr. Karandikar. What we want the Government to do is to take the condition of the people and their wants into consideration, and do the needful as the occasion demands. With these few words I commend the amendment.

THE HONOURABLE THE PRESIDENT: The original question before the House was that the following Resolution be adopted, namely:

"This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

to which an amendment was moved:

"That for that Resolution the Resolution* standing on the paper in the name of Mr. Phiroze C. Sethna, and moved by him by way of amendment, be substituted."

To that amendment again two amendments were moved by the Honourable Sir Deva Prasad Sarvadhikary:

"To substitute for the first paragraph of Mr. Sethna's amendment, the first paragraph of that† which occurs in Sir Deva Prasad Sarvadhikary's name in the paper, and to substitute for the last paragraph of Mr. Sethna's amendment the last two paragraphs‡ of his amendment."

The question I have to put to the Council is that the two amendments proposed by Sir Deva Prasad Sarvadhikary be made in the amendment proposed by the Honourable Mr. Sethna.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: 'May I suggest that the two amendments may be put separately because they are matters of substance and some Members may be inclined to vote for one and not for the other.

THE HONOURABLE THE PRESIDENT: I have no objection to putting them separately, though it seems to me they hang together. If one is rejected and the other accepted, Mr. Sethna's amendment becomes more or less unreadable.

The question before the Council is:

"That for the first paragraph* of Mr. Sethna's amendment the first paragraph† of the amendment standing in the name of Sir Deva Prasad Sarvadhikary on the paper be substituted."

The motion was negatived.

* Vide pages 371—72 of these debates.

† Vide pages 384—85 of these debates.

THE HONOURABLE THE PRESIDENT: The next question before the Council is:

"That for the last paragraph* of Mr. Sethna's amendment beginning with the words 'This Council further recommends' the last two paragraphs† of the amendment standing in the name of the Honourable Sir Deva Prasad Sarvadhikary, beginning with the words 'This Council further recommends' be substituted."

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question now before the Council is:

"That the amendment* in the form of a Resolution moved by the Honourable Mr. Phiroze C. Sethna be substituted for the original Resolution‡ moved by the Honourable Mr. Crerar."

THE HONOURABLE MR. YAMIN KHAN: May I rise to a point of order? As two days have been fixed and there are a good many Members who have not spoken on this question, I suggest that this vote may be taken on this motion to-morrow, or, if you like to continue the discussion after this hour, there might be some Members who would like to speak.

THE HONOURABLE THE PRESIDENT: I am not proposing to continue any discussion after this hour. I have not appreciated yet the Honourable Member's point of order. As far as I understand, the discussion on the Honourable Mr. Sethna's amendment is entirely finished.

No Honourable Member rose and therefore I rose to my feet to put the question.

The question is that the Honourable Mr. Phiroze Sethna's Resolution be substituted for the Honourable Mr. Crerar's original Resolution.

The Council divided:

AYES—10.

Ayyangar, Mr. K. V. Rangaswamy.
Borooah, Srijut Chandradhar.
Karandikar, Mr. R. P.
Khaparde, Mr. G. S.
Manmohandas Ramji, Mr.

Natesan, Mr. G. A.
Ramadas Pantulu, Mr. V.
Ram Saran Das, Rai Bahadur Lala.
Sarvadhikary, Dr. Sir Deva Prasad.
Sethna, Mr. Phiroze C.

NOES—29.

Abbot, Mr. E. R.
Aftab Ahmad Khan, Sahibzada.
Akbar Khan, Major Nawab Muhammad.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.
Chadwick, Mr. D. T.
Charanjit Singh, Sardar.
Commander-in-Chief, H. E. the.
Crerar, Mr. J.
Currie, Sir William.
Dadabhoy, Sir Maneckji.
Dutt, Mr. P. C.
Fazl-i-Husain, Mian Sir.
Froom, Sir Arthur.
Hadow, Mr. F. A.

Ismail Khan, Haji Chowdhuri Muhammad.
Laird-MacGregor, Mr. E. G. L.
McWatters, Mr. A. C.
Misra, Pandit S. B.
Mittra, Mr. K. N.
Mitter, Dr. D. N.
Parsons, Mr. A. A. L.
Roy, Mr. K. C.
Sarma, Sir Narasimha.
Sen, Mr. B. C.
Tek Chand, Diwan.
Thompson, Mr. J. P.
Umar Hayat Khan, Col. Nawab Sir.
Wacha, Sir Dinshaw.
Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

* Vide pages 371-72 of these debates.

† Vide pages 384-85 of these debates.

‡ Vide page 387 of these debates.

THE HONOURABLE THE PRESIDENT : The decision of the Council brings the Council back to the original Resolution moved by the Honourable the Home Secretary. As there are several other amendments on the paper to that Resolution, I think this will be a convenient moment to adjourn the Council.

The Council then adjourned till Eleven of the Clock on Saturday, the 12th September, 1925.

COUNCIL OF STATE.

Saturday, the 12th September, 1925.

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

RESOLUTION RE RECOMMENDATIONS OF THE MAJORITY REPORT OF THE REFORMS INQUIRY COMMITTEE—(contd.).

THE HONOURABLE THE PRESIDENT : The House will now resume the discussion of the Government Resolution moved yesterday by the Honourable Mr. Crerar. The amendments standing in the names of the Honourable Mr. Phiroze C. Sethna, the Honourable Mr. Ramadas Pantulu and the Honourable Sir Deva Prasad Sarvadhikary were disposed of yesterday by the House. The next amendment on the paper stands in the name of the Honourable Mr. Khaparde. Apart from the fact that this amendment does not make any specific recommendation in its terms, I think it raises substantially the same question which the House disposed of yesterday, and that it falls with the amendments which were then disposed of. The next amendment is in the name of the Honourable Mr. K. C. Roy, and it would be convenient if that were taken up next.

THE HONOURABLE MR. K. C. ROY (Bengal : Nominated Non-Official) : May I suggest for your consideration, Sir, that my Honourable friend Sahibzada Aftab Ahmad Khan has almost the same amendment as the one I have and I should like him to move his amendment first, if you will permit him to do so.

THE HONOURABLE THE PRESIDENT : The Honourable Sahibzada Aftab Ahmad Khan's amendment proposes to substitute a Resolution for the original Resolution. I have considered the point, and I think it would be more convenient to the Council to consider first the Honourable Member's addition to the Resolution which deals with the appointment of a Royal Commission at an earlier date than 1929.

THE HONOURABLE MR. K. C. ROY : I submit to your decision, Sir. I move :

"That the following be added the original Resolution :
'and that he do consider and recommend the appointment of a Royal Commission or any other suitable agency not later than 1927'."

Sir, I have made this proposition simply because it is in consonance with the Government of India Act. His Majesty's Government and the Government of India, as you know, Sir, have pledged themselves to appoint a Royal Commission not later than 1929, and in the speeches which were made in the other place, although many Members have not distinctly stated their demand for a Royal Commission, we know that some Members like Pandit Madan

[Mr. K. C. Roy.]

Mohan Malaviya and others have claimed that a Royal Commission might be appointed earlier and that this will be regarded as a gesture on the part of His Majesty's Government. The Honourable Sir Basil Blackett almost made a similar statement when he told the other House that if they agreed to co-operate genuinely for the life of the present Assembly and till the beginning of the next they would be materially contributing to the debate. And only yesterday, Sir, the Honourable Sir Alexander Muddiman was good enough to say that, if sincere and genuine co-operation and good-will were forthcoming, there was no reason to believe that a Commission would not be appointed earlier than 1929. I know, Sir, from my experience of the other Chamber as well as here, that a good deal of co-operation is forthcoming from all sides. I hear excellent reports of committee work done by Swarajist Members and as far as we know, the situation, so far as the Central Legislature is concerned, cannot be improved beyond what it is at present. Under the circumstances, I trust the Honourable Mr. Crerar who represents the Government of India in this House will accept my motion as a gesture on behalf of His Majesty's Government. I move my amendment.

THE HONOURABLE SARDAR CHARANJIT SINGH (Punjab : Nominated Non-Official) : Sir, I regret I have to oppose this amendment. The Secretary of State has rightly said that wise men are not slaves to dates. I cannot understand how the Honourable Mover can consistently ask this House to tie itself down to the year 1927. I do not know if this is meant as a compliment to this House. Have the Reforms been given a fair chance? If not, is it not too early to say that the reforms have failed. In view of what has happened in some provinces and even in another place, surely, it cannot be said that the reforms have been given a fair chance and that they have failed. Democratic government does not mean a change to autocracy. It would in that case mean only a technical advance, an advance shorn of experience which is at the back of the present Government. That might launch India into a turmoil of communal strife and personal jealousies. Capacity for self-government must mainly be measured not merely by the ability of its leaders but rather by the capacity of the electorates to become a reliable control upon the Councils. As soon as this is done, there is no reason why a Commission should not be appointed. If that state of affairs is arrived at before the year 1927, an inquiry may usefully be instituted before that year. But, on the other hand, if we fail to achieve that object by 1927, what good would it be to tie this House down to that particular date? The material in that case would not be such as to get the verdict of the Commission in our favour. For this reason, Sir, I am strongly of opinion that, instead of binding ourselves to any particular date, we should concentrate all our energies to educate the electorates and make them fit for advance. Then and then alone would be the proper time for further inquiry and advance. I therefore oppose this amendment.

THE HONOURABLE MR. YAMIN KHAN (United Provinces West : Muhammadan) : Sir, I support the amendment moved by the Honourable Mr. K. C. Roy. I do not see, Sir, that it would make much difference if a Commission came out in 1929 or in 1927. The object of fixing the date of the

Royal Commission for 1929 was probably based on one principle, and that was it was thought that within ten years it would be seen how the new reforms would work and how the constituencies which have been given the franchise would exercise their right of vote. There have been two elections since 1919. There will be a general election for the Council and for the Legislative Assembly in 1926, practically the test on which the Secretary of State postponed the consideration of this matter, and the objection advanced by him that the ability of the voters had not been tested would be met by the elections having taken place three times in the year 1926. If it is further postponed to 1929, there will be no chance of any further election in the beginning of 1929, because after the elections in 1926, the next elections will come off only at the end of 1929, and if the Royal Commission comes out in 1929, it will have no further material before it than what it can have in 1927. Now, as the minority report lays down, when the discussion of the Resolution moved by Rai Jadu Nath Muzumdar took place in the Assembly, the Government took upon themselves to forward the proceedings of the whole debate to the Secretary of State with a recommendation that a Royal Commission should visit India earlier than 1929. This principle was accepted by the Government of India, that is, to make a recommendation to the Secretary of State to appoint a Royal Commission.

But the Secretary of State for India did not accept this on three grounds only. One of them—the main ground—was that the ability of the voters had not been tested. As I have already said, Sir, their ability will be tested three times. Of course, we know on the first occasion that their ability was not tested at all because very few people contested the seats. The second time we had the Swarajists fighting everybody, contesting every seat, and we had the Liberals and the Independents also contesting these elections. Of course, we know in 1923 things were absolutely different from what they are to-day, and we found that the Swarajists gained a majority on account of a certain agitation in the country, so that that would not be a criterion or a proper test of the voters' ability to exercise their right of vote. Now, the country is peaceful. In these three years the country has learnt what the Liberals did, what the Independents did, and what the Swarajists have done. They are in a position to judge fairly and they are quite capable now of understanding how to exercise their right of vote. In 1926 they will use their votes and we will see what majority comes into the Councils. Of course, Sir, when this fresh material is before the Royal Commission, that will be the most proper time to see and judge, when the new Council will be sitting; the new Assembly will be sitting in 1927; they will be fresh from their electorates, they will have the mandates from their voters and they will be quite fit to lay before the Royal Commission the views of the whole country. I do not see, Sir, how my Honourable friend, Sardar Charanjit Singh, says that it will serve no purpose and I would like to know whose views he is representing in this House. I cannot understand his position. Sir, I see the whole of India united at present asking and demanding that the Royal Commission should visit India sooner than 1929. No dissentient view has been expressed on this point by any political party or from any corner of the country. I mean, Sir, that the persons who are concerned and who are returned on the vote of the people will,

[Mr. Yamin Khan.]

I am sure, Sir, support me in this matter; they will agree with me that their constituencies also desire that the Royal Commission should be appointed before 1929. As was suggested by my Honourable friend, Sir Maneckji Dadabhoy yesterday, the acceptance of the main Resolution as moved by the Honourable Mr. Crerar is absolutely a different thing from the suggestion that the wishes and the demands of the country may be put separately before the Royal Commission. Of course, Sir, the demands that have been put forward in the form of a Resolution moved by the Honourable Mr. Sethna and Mr. Ramadas Pantulu yesterday before the House in substitution of the main Resolution are the aspirations of India. We may accept them to-day or not. That is a different thing. We may not be willing to accept them to come into force at once. Some people may think that it would be injurious to the best interests of India if they were to come to-day to India. But, quite apart from this point, is it desirable or not that these demands should be properly investigated by a Royal Commission? Well, Sir, we find that all the Governments practically have said that dyarchy has to a certain extent been found to be unworkable. It is not a desirable system which is working. The United Provinces Government most emphatically said on this point that dyarchy was making the position of the Ministers very precarious when they had to defend the Government on the reserved side, and they had to be responsible to their supporters in the local Council. We find that this objection is coming from all quarters of India. All Governments practically want that this matter should be inquired into. And of course, as far as I see from the majority report, they do not feel that a sudden change is desirable. They do not make any recommendation because they were not given any power to make any recommendation by the terms of reference. But, if the terms of reference had been wider, I think we would have found this matter also included in the majority report. The minority went beyond the terms of reference and the majority differed from them only on a constitutional basis, not on the practical issue—not because they did not share the views of the minority, not because they did not think it practicable that there should be a Royal Commission earlier. I do not think that any member of the majority would have desired to suggest the postponement of the appointment of a Royal Commission later than 1927 if they had been given the option to deal with the matter in the report. We find, Sir, that the Government of India Act as it is worked has inherent difficulties and defects which are so numerous that they require a real consideration and overhauling. Now the Reforms Inquiry Committee had not the power to investigate and make a recommendation on this point. What other machinery is there that could be given this power? That is why my Honourable friend, Mr. K. C. Roy, suggests in his amendment that there should be either a Royal Commission or some other agency which may investigate this matter and make recommendations which the Reforms Inquiry Committee was precluded from doing by the terms of reference. And these wider terms of reference might be given to this agency which will come in 1927, and they will be enabled to deal with the wider issue. I have found, Sir, speaking from the Muhammadan point of view, that there are many demands which are quoted by the Muhammadan community and by the repre-

sentatives of the Muhammadans, the Moslem League, and other individuals who gave evidence, leaving aside certain others who never came before the Reforms Inquiry Committee, which demands of the minority Communities under the working of the present constitution are hampered, and they demand really further progress with a view to safeguarding their interests. What they really want is a Bill that will protect the minorities and secure their interests which are often checked by the majority and cannot be achieved, with the result that the minorities are not able to get what they want. For this purpose a Royal Commission is really desirable to give effect to this and to remove this defect from the present constitution. It has been laid down constantly, Sir, by the people who represent Moslem views that if two-thirds of the Muhammadans are not united on any Bill or measure or if they oppose a Bill which affects the Muhammadan community, then it should not become law.

In a similar way, I have found that the majority report has quoted the Resolution passed at Agra by a mass meeting of the Muhammadans. What is the safeguard? The Reforms Inquiry Committee had no power to deal with these questions. They made no recommendations at all. Therefore, Sir, in order to remove all these defects, I support the amendment moved by my Honourable friend that this Royal Commission should visit India not later than 1927 and that will be the most proper time for the visit.

THE HONOURABLE SIR ALEXANDER MUDDIMAN: (Home Member): Sir, before I deal with the actual amendment moved by my Honourable friend Mr. Roy let me take this opportunity of congratulating him on the wise and statesmanlike speech he delivered yesterday. I had not the opportunity of referring to that matter before this.

Now, Sir, the proposition in this amendment is of course a very harmless one at first sight. My Honourable friend proposes to do exactly what the Secretary of State and the British Government would not do. That is, he proposes to be a slave to a date—to the date 1927. I endeavoured when speaking in this House before to indicate that, at any rate in my own opinion, the date of the Royal Commission is of very little importance compared with what the Royal Commission is going to do when it is appointed. A premature Royal Commission obviously would not have results which would appeal to Indian opinion or to those who think that the best interests of India will be served by an inquiry at the right moment. My Honourable friend Mr. Yamin Khan has pointed out the incidence of the various times of the elections. That, Sir, is not in itself of very great importance. What is wanted is experience of the elected bodies. We may indeed hope that in the course of time the electorates will produce legislative bodies which will exercise their responsibilities wisely. But the test that the Royal Commission must apply will be, and obviously must be, largely directed to the work of those Legislatures. The electorate can only operate in the indirect way of securing good and suitable representation in the Legislatures.

Now, Sir, I must at this stage read to the House one or two passages from the Secretary of State's speech. The Secretary of State said:

"Even assuming co-operation, it was thought that a period of ten years would be required to afford the data for reliable conclusions and generalisations. But I do not hesitate to make clear my own view that it was not the intention of the Legislature to

[Sir Alexander Muddiman.]

attempt to shackle succeeding Governments, if a spirit of cheerful and loyal co-operation was generally exhibited on the one hand, or if upon the other, grave and glaring defects disclosed themselves."

And he went on to say:

"There will be—there can be—no reconsideration until we see everywhere among the responsible leaders of Indian thought evidence of a sincere and genuine desire to co-operate with us in making the best of the existing Constitution."

Now, Sir, I feel in addressing a House composed as this is, with the record such as it has, that it is an ungrateful task to me to press the question of co-operation. Had co-operation been received in other quarters to the extent that it has been received in this House, I have no doubt we should be far further on the road to the desired goal. Still, important as this House is, it is not the only legislative body in India, and in two Legislatures at any rate, there is even at the present moment no attempt whatever to work the reforms which were granted by the Government of India Act. What is wanted, if I may say so, is not statement but action, and the test for the acceleration of constitutional progress must be the test of fact and act. We cannot, here and now, and I am sure my Honourable friend does not really wish me to do so, commit ourselves to any date, certainly not to the date which is named in his amendment. He will, I think, agree with me that what we have to do is to endeavour by our actions to bring the date of the Royal Commission nearer. That date will be the appropriate date when India will be in a position to present facts to which the Royal Commission will be able to give full consideration. I hope, after what I have said, my Honourable friend will see his way to withdraw his amendment.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, it is difficult to see how the two parts of the proposition as they will stand if Mr. Roy's amendment was accepted would hang together. He proposes, in the first instance, the adoption of the Honourable Mr. Crerar's Resolution in its entirety, which is the acceptance of the principle underlying the majority report of the Reforms Inquiry Committee, and he proceeds to add:

"and that he do consider and recommend the appointment of a Royal Commission or any other suitable agency not later than 1927."

Sir, as was explained by the Honourable Mr. Crerar yesterday, and as Sir Alexander Muddiman also emphasised to-day and yesterday, the principle of the majority report is the full working of the machinery as it stands and as it may be improved by reason of the adoption of the recommendations of the majority of the Muddiman Committee's Report. The principle, as such, has never in the course of that long report been overtly laid down in the same way as the minority has clearly and unequivocally laid down the principle that the present measure within its limitations cannot work and should be changed early in the manner indicated. Sir, if the principle of the majority report as set forth above is to be accepted, Mr. Roy's amendment cannot from our point of view find acceptance. After effect has been given to those recommendations in the way invited by the Resolution, Mr. Roy's suggestion will have the chance of becoming operative.

Regarding insistence on the necessity of absolutely, and everywhere thoroughly, working the machinery which is now in existence as a *sine qua non* for further advance, reference must once more be made to the great divergence of opinion, and more than divergence of opinion, about even the possibility of working dyarchy by those who have themselves been working it for what it is worth, who have been giving their best in working it. Reference is also permissible to those who have been supporting the measure in spite of its admitted imperfection either in the Assembly or in this House in the earlier stages. The only question is: Can we now consistently with those opinions support the "principle" enunciated by the Muddiman majority report and yet in the same breath ask for the appointment of a Royal Commission within a certain specified short date? We have been told before and to-day—to-day with more purpose—that the Secretary of State and the Government must not be committed to the fetish of dates. Where and how then does Mr. Roy's amendment come in? Well, by the rule of elimination and by what has been often repeated, 1929 will probably not be the date of the Commission but some earlier date, if conditions are favourable. As we have just said the year of grace, 1927, suggested by Mr. Roy, is not acceptable by Government as the likely date of the Commission. That leaves only 1928 and by the theory of elimination one may expect and hope the Royal Commission may come in 1928 when the result of the election to the Assembly and the election to the Council of State will be perceived and also the views of the new legislators will have been ascertained so far as the period between 1926 and 1928 will have allowed. The Government say on the authority of what the Secretary of State and the Viceroy have pronounced that the results of further working must be awaited, and therefore they cannot say anything as to precise dates. If that is the position, I do not see how the acceptance of this amendment will help the situation particularly as it overtly commits us to the principle above indicated. And we are unable to accept and uphold those principles, having regard to the many and clear difficulties in the way. If I may for a short moment revert to the impossibility of working dyarchy, I would very rapidly place before the House what those who have been working it say. Sir K. V. Reddi of Madras has said that "dyarchy has absolutely failed." Sir A. P. Patro has said: "Transfer all the subjects to popular control". Messrs. Mehta and Jehangir of Bombay say that "no palliatives will be effective." Coming to some of the Executive Councillors, Sir Chimanlal Setalvad says "the only thing is to give provincial autonomy." The Rajah of Mahmudabad, than whom there is no more stalwart supporter of Government says "that dyarchy must go." Messrs. Sadaullah and Rajeswar Bali in the United Provinces say that "dyarchy should be brought to an end." Mr. Chintamani, who himself had to go, said that "dyarchy must go." Sir Sachidananda Sinha "can suggest no alternative to provincial autonomy". The Ministers of Bihar, Sir Fakruddin and Mr. G. Singh, say that "dyarchy is doomed and that it is not possible to work it successfully". But these gentlemen are still trying to work loyally and trying to run the "creaking coach" as it has been called. Mr. Joshi of the Central Provinces says that "all provincial subjects should be transferred." Mr. Chitnavis says "complete provincial autonomy is essential for progressive government." Mr. Kelkar, not the progressive in the Assembly, but the Minister of the Central Provinces, advocates "the transfer of all subjects." Sir Provash Chunder

[Dr. Sir Deva Prasad Sarvadhikary.]

Mitter, a late Member of Bengal, says that "dyarchy was unsatisfactory and unworkable and that it cannot be successfully worked any more as a democratic institution." Sardar Sundar Singh, another stalwart loyalist of the Punjab recommended "the transfer of all important subjects to Ministers," and Sir Fazl-i-Husain, who is with us here, and Chaudhuri Lal Chand asked for "the transfer of all subjects." Messrs. P. C. Dutt and Mr. Syedullah recommend "nothing shorter than full responsible government to be carried on by the Governor and the Ministers." The Ministers in Burma ask for "the transfer of all subjects to popular control."

I have advisedly limited this analysis on the basis of the opinion of those who are giving their best to the working of this defective machinery, not men speaking with outside knowledge, not men with "fantastic ideals", but men who have been every day of their life for the last three, or four or five years working the machinery and have made a piteous appeal for change. That being so, I do not see how Mr. Roy can ask us not to accept the principle of the majority report of the Muddiman Committee set out by the Honourable Mr. Crerar and the Honourable Sir Alexander Muddiman. I can understand the Honourable Sahibzada Muhammad Aftab's amendment better and yet suggest the advisability of a Royal Commission in 1926. Therefore, however, much we should like to have a Royal Commission earlier than 1929, I do not think it is possible for us to accept the proposition as it would stand even when amended by Mr. Roy who was "wise," yesterday and ceased to be so to-day.

Yesterday, I do not know, Sir, how exactly my Honourable friend the Home Member got the idea that with regard to whatever we had been suggesting in the course of either of the amendments that we discussed, we wanted to rule out all inquiry, even the statutory commission or the Royal Commission or any other agency that the Government might think fit to bring into existence for considering further reform. Simply the fundamental and the basic principles embodied in the amendments were laid before the House for acceptance on the basis of which further constitution framing would in the first instance be essayed by us. I do not think either of the amendments, certainly not mine, went any further than that. From that point of view we should welcome any suggestion for the acceleration of the Royal Commission but that cannot be at the expense of the adoption of what has been called the "principle" of working yet this machinery which has been so universally condemned by those who have worked it. Therefore, Sir, without being misunderstood and without for a moment suggesting that we do not want an early Royal Commission, I find it difficult to support Mr. Roy's amendment as a part of the original proposition.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Seeing all the amendments which came before the House yesterday and seeing those which have come to-day, one thing we can say and that is if the Members were satisfied with the original proposal brought forward by Mr. Crerar there would have been no amendments at all.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY : Of course not.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : The minority report, whatever it wanted, could not get it unless the Royal Commission came and all that is being tried is that the Royal Commission should come earlier than the date appointed. In this senior House, we have got a senior man in Sir Dinshaw Wacha and I think when he spoke yesterday he very clearly said that we should not hurry things. I think we ought to take his advice. Another reason why I am opposed to this amendment is that the Punjab came under the British Government much later than other provinces, and though I cannot say that we are backward at any rate it is not on a par with the other provinces. What has happened since the reforms have come ? We find that throughout the agriculturists are not properly represented and whenever their cause is brought up here it is defeated. We are progressing very slowly and the longer it takes for the Royal Commission the more we would be prepared and our constituencies will be prepared to ask for their rights. If it comes soon, we shall be as backward as before. I represent Muhammadans and zamindars. Zamindars, as I have said, have suffered. What have Muhammadans gained in my province ? We are 58 per cent. of the population and some of us have gone and admitted that we should be quite pleased if we get 40 per cent. in the franchise. Why on earth should we not get our rights and the actual proportion on the basis of population ? Now we have certain municipalities in our part of the country which are now being administered by our own men. Well, Sir, things cannot be worse than what is happening there. I mention this, Sir, by way of illustration. Now all that we have seen, Sir, with regard to these reforms is that some lawyers come and make clever speeches; and they no doubt then derive all the benefit and get the high posts. But we are concerned with the masses. In the course of the debate, Sir, there was one thing brought forward about people in various countries making fast progress, while it is said that we do not make such fast progress. But, Sir, if you take the British Parliament itself, you will see that the present stage has only been attained after thousands or perhaps hundreds of years. Yesterday it was said about the United States of America, which is another big country, that it progressed in 150 years. Well, they were all mostly men who went from Europe and who had already been very much advanced. Can we say that of our own people in India ? Then again it is said that Japan progressed rapidly in 50 years. Both America and Japan are countries which are bounded on all sides by the ocean, and they cannot be easily invaded ; but that is not the case with India. In India if we are not strong enough, we are always afraid of an invasion. We should therefore not always be experimenting, always having new reforms and new reforms, changing the Army, changing the administration, because when we are in the stage of transition, we are weak.

I will say one thing more, Sir. With the rapid communications, telegraphs and so forth, we at once learn perhaps on the same day everything that happens in Europe. In that way Asia is also progressing ; and there are powers—it is not a hidden secret—which are trying to get at a very big, populated country and trying to organize it. There is danger in the East. Well, if we are now in such a big Empire, which has got such a big navy and which is so strong that, if anything happens, it will come forward and fight for us, is it not better for us to remain under the protection of that Empire, than to become, through these reforms, like some Colony, because in the latter event we would have to

[Colonel Nawab Sir Umar Hayat Khan.]

do everything ourselves, and it would only be an act of kindness for that Government to come to our rescue, and most of the spade work would have to be done by ourselves? If all the affairs of State were put into inexperienced hands on account of these reforms, it would be very difficult for us to keep on a par with other nations. It is for these reasons, Sir, that we, in the present state of affairs in Asia, would not like experimenting in such matters of government.

Then, again, Sir, all the speeches that are made in India urging further reforms bring forward the same arguments, and nothing new is brought forward. So I hope I will be excused for repetition. It would be exactly the same thing to unite all Europe, which is as big as India, into one nation and to have one set of reforms for all the parts of Europe as for India. Moreover, the task is much more difficult in India than in the other case, for, to give an example, if there was somebody speaking in Bengali, I would not understand. The difference between religions and communities and castes and creeds and even nationalities is so great that it is impossible for us to be able to progress so soon as our friends want, in two or four or six years. If in such a short time we are given such a thing to play with, I think it would be a great blunder. For these reasons, Sir, I would like the Commission to come as late as possible so that before that Commission comes, some of the backward communities may be so educated that they are able to ask for their rights, so that they may not be caught unaware again by the legal and politically-minded people capturing the high posts, and we remaining behind, because such a result would be neither in the interest of the country nor in the interest of the Government. In that case you would give the wrong people the lead; those who are strong would naturally resent it, and you sow the seed of discontent. Directly you give us autonomy, what would happen? Of course those men who feel they are not getting their legitimate share will again fight with the others, and the stronger will win. As we would have to fight with each other, in that way, we would get weaker and weaker. I would therefore say that we ought to be very cautious, and not accept all these amendments which strike at the root of the main Resolution, which is quite good enough and should be accepted.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DASS (Punjab: Non-Muhammadan): Sir, I rise to oppose the amendment which has been moved by my friend, the Honourable Mr. Roy. My reasons for opposing this amendment are the same as those mentioned by my Honourable friend, Sir Deva Prasad Sarvadhikary. I am thankful to the Honourable the Home Member for complimenting this House for the co-operation which this House has extended in the past; and as now even the Swarajists have offered a promise of honourable co-operation, I think the difficulty which the Government anticipated in giving further reforms will be made easy. As for the request which my friend, the Honourable Mr. Roy, has made, if it could have been made without the rider which he has added, I think we would have supported his amendment, since our original amendment has failed.

My friend, the Honourable Colonel Nawab Sir Umar Hayat Khan, has made a few observations on which I should like to put in a few words. In

the course of his remarks, the Nawab Sahib said that agriculturists have not been very well represented in the various Councils. I might tell him, Sir, that in the Punjab the agriculturists form the majority in the Council. Then he said that the education of Muhammadans has been ignored, and I shall try to show.....

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Did I say so? I do not think I said so.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Then what did you say?

THE HONOURABLE THE PRESIDENT: Order, order.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Very well, he has said, I think, that the Mussalmans are backward in education. But he has not realised the efforts which have been made by the late Punjab Minister of Education, the Honourable Sir Fazl-i-Husain, in the promotion of education of Muslims and the results attained. He has also complained that two municipalities in the Punjab have failed to administer their affairs well. In this connection, Sir, I might say that in Lahore it has been due to communal tension only, and since one community had to clear out, the other community was unable to manage the affairs well. My Honourable friend has also said that other countries have progressed much more quickly than we possibly can. I do not agree with him there. The Punjab is progressing as fast as one can conceive; and I think when Japan has accomplished a great deal in 50 years, why should not India do the same? Although Japan is surrounded by water on all sides, India is surrounded by water on three sides and the argument of my Honourable friend Malik Sahib does not hold good. With these few remarks, I oppose the amendment.

THE HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras: Non-Muhammadan): Sir, we have had a Commission now and the reports of that Commission are being discussed now. Now, the amendment proposes another Commission, and that is a Royal Commission, and that is before 1927. Sir, if this amendment only means that we pass a vote of censure on the present Commission or on the Government that ordered the issue of the terms of reference, then it is permissible; but if it means any other thing, if it means really a Royal Commission in 1927, then we should oppose that amendment. Sir, human ingenuity could not devise a common way of going to the opposite poles at the same time. We know what we want, and what we want to retain is the wealth of India. We want a check on the economic drain of India, and it is for that that a Commission is wanted by the Honourable Mr. Roy. If that is so, I think the Government are perfectly aware of our demands; the Secretary of State is fully aware of what India wants, what the masses want, what the educated classes want, what the Congress wants and what the Council wants; and I do not think a Royal Commission can any more enlighten the points that are needed for the country at present. Sir, I reserve my remarks on the merits of the Resolution; but I oppose this amendment.

THE HONOURABLE MR. K. C. ROY : Sir, with your permission, I should like to withdraw my amendment. My purpose of eliciting the opinion of the House on the question of a Royal Commission has been served.

THE HONOURABLE THE PRESIDENT : Does the Honourable Member ask for permission to withdraw the amendment ?

THE HONOURABLE MR. K. C. ROY : Yes, Sir.

THE HONOURABLE THE PRESIDENT : Is it your pleasure that the Honourable Member be given leave to withdraw his amendment ? (Voices : "Yes".)

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

THE HONOURABLE THE PRESIDENT : The Council then comes back to the original motion moved by the Honourable Mr. Crerar. There is an amendment in the name of the Honourable Mr. Raza Ali. Does he propose to move that ?

THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Yes, Sir.

THE HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-official) : May I know, Sir, if my amendment has been rejected ?

THE HONOURABLE THE PRESIDENT : I think when the Council met this morning I ruled that on two grounds the Honourable Member's amendment did not arise. In the first place it was not specific enough. It proposed that effect should be given to the recommendations of the minority report. The Honourable Member was not specific in explaining what Government was to do when the recommendations of the majority report and the minority report were incompatible. In the second place, the amendment was not specific in that it contained the words "to attain the goal as early as opportunities occur". That may mean something very definite to the Honourable Member, but it did not seem to contain anything very definite to me. Thirdly, I think, the substance of the Honourable Member's amendment was disposed of by the debate which took place yesterday and the decision of the Council thereon.

THE HONOURABLE SAIYID RAZA ALI : Sir, to the Resolution moved yesterday by the Honourable Mr. Crerar in a very lucid and cogently reasoned speech, replete with literary skill, I beg to move the following amendment :

"That the word 'and' after the words 'Reforms Inquiry Committee' be omitted; the word 'effect' be substituted for the word 'consideration'; and at the end of the Resolution the following words be added, namely :

"and that he do take into careful consideration the recommendations contained in the minority report."

Sir, the points of difference between the majority and minority reports resolve themselves, briefly speaking, into two main heads. While the majority content themselves with making recommendations which would go to rectify certain administrative imperfections felt in the working of the Act and the Rules made thereunder, the minority proceed to recommend that by virtue of

the experience gathered during the last 4 years it is high time that steps should be taken to introduce in the first place provincial autonomy and, secondly, such alterations in the constitution of the Central Government as would introduce an element of responsibility therein. The reports made by both sections of the Committee are documents on which, if it may not be considered impertinent on my part to say so, I would like to congratulate both sections of the Committee. Both have reasoned out their points clearly; both have brought out the difficulties that have been experienced in the working of the Act and the Rules, and both have adduced a number of cogent and reasonable arguments in support of the recommendations they have made. The majority have admitted—and it cannot be easily denied by anybody—that Indian opinion has forcibly pronounced itself in favour of the present system being abolished and a unitary system being set up in its place.

I do not think it is necessary for me, after the many speeches that have been made, to quote the long catalogue of honoured and respected names, in Indian public life to-day, of persons who have had very considerable experience as

12 NOON. Executive Councillors of the Provinces or Provincial Ministers and who have unhesitatingly, definitely and strongly pointed out that dyarchy as a system has failed and it is time that a unitary system be adopted. Only a short while ago my friend the Honourable Sir Deva Prasad Sarvadhikary mentioned some of the names of *ex-Executive Councillors*, *ex-Ministers*, as well as the present Ministers who have taken that view. But, Sir, in view of the elevation of my Honourable friend Sir Fazl-i-Husain to the inner counsels of the Government of India, special significance, I dare say, attaches to the opinion with which he supported this view. That opinion will be found at page 198 of the Report of the Committee. The minority have thus referred to the opinion of our Honourable colleague :

"The Honourable Messrs. Fazl-i-Husain and Choudhuri Lal Chand (the latter had lately to resign office) in a Joint Note, dated the 1st May 1924, recommend the transfer of all subjects in the provinces except the nomination of members, because dyarchy prevents, in their opinion"—

and that is a quotation—

'(a) the creation of a united Government, (b) the development of the party form of Government, and (c) the developing of a sense of responsibility in the Legislature.'

The minority then go on to say :

"They also suggest that a certain amount of responsibility should be introduced in the Central Government."

I do not think it is worth while to tire out this Council with the opinions of other distinguished Indians who have expressed stronger views. The majority, while admitting the difficulties and the perplexities attendant on the working of a dyarchical system, point out that no doubt the difficulties are there, yet it was the intention of the framers of the reforms scheme that this system should work for a certain number of years and as such, apart from the removal of administrative imperfections, it is not wise to go at too rapid a pace. They have proceeded to point out a number of difficulties, the importance of which cannot be minimised by any reasonable person. I do not think, Sir, it is necessary for me to point out all the difficulties which the major-

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rity have pointed out, but I think I will be doing scant courtesy to the report of the majority if I refrain from saying a few words on two or three points that have been raised in their report.

In the first place, they point to the lack of education of the electorate. Now, Sir, that is a point which has also been noted by the minority. Unfortunately I cannot say that the attitude of a section of our countrymen has been such as to furnish an answer to this objection. Very little was done unfortunately, owing to the circumstances which are too well known to Honourable Members, to educate the electorate at the first general election in the year 1920. We fared better—and on that I congratulate the country—in the next general election held in the year 1923. The education of the electorate has not proceeded at that pace which the framers of the Act had a right to expect. But a very considerable change has occurred in our political atmosphere, and I do not think it is unreasonable to hope that at the next general election, in view of the encouraging experience of 1923, political leaders will set themselves in right earnest to educate the electorate in the proper sense of the term.

Another difficulty that has been pointed out by the majority relates to the big size of our provinces and their want of homogeneity. That, no doubt, is a valid objection as far as it goes. But, Sir, the objection does not go far enough. Assuming that the provinces are big, surely it ought not to be beyond the resourceful grasp of true statesmanship to tackle that problem. In fact, the question has already been discussed publicly whether we cannot redistribute our provinces on a linguistic basis. I do not say that the time has come for us to embark on that campaign. I simply suggest this as one of the solutions.

Now, reference has been made by the majority to communal differences. The majority, I am glad to notice, have not made much of that difficulty. And yet I am free to admit that that difficulty is there. That, again, is a matter which will, I hope, in the fulness of time be settled by the leaders of the communities as well as the masses realising the absolute necessity of their living in peace side by side. And, while I am on this question, I think it is my duty to point out that the criticism that is raised at times in a certain section of the Press that these communal differences are the outcome of the policy of the Government or of the attitude that is taken by Government in handling them, is without any foundation whatsoever. As one who has something to do with the law courts and who occasionally appears in criminal cases, I can say, basing my remarks on my own experience, that no case has hitherto come to my knowledge in which the responsibility for these disputes and conflicts between the two major communities could be laid at the door of the Government.

Another difficulty, which is allied to the one I am discussing, that has been discussed both by the majority and the minority, concerns itself with the rights of the minorities. On this question I do not think I need say much, since both the majority and the minority have made it quite clear in their reports that in any scheme of reforms that may be considered hereafter it will be the duty of the Government to give adequate and effective protection to the minorities.

And, I think, so far as this particular difficulty is concerned, I must leave it at that.

Another difficulty, and this is the last which I propose to discuss, that has been very lightly touched upon by the majority, is the question of the permanent services. Now I must acknowledge that after the inauguration of the reforms scheme, the permanent services, especially the Indian Civil Service, and other Imperial Services, were dissatisfied owing to two reasons. In the first place they were dissatisfied with the allowances, pay and pension that they were receiving at that time. Secondly, the inauguration of the reforms scheme produced a sense of insecurity in their minds as to their future prospects. Now both these difficulties fortunately have been solved. The Lee Commission was appointed, it came, made a report, and the recommendations contained in the report relating to the Imperial Services have been given effect to. As regards the question of allowances, pay and pension I think all their grievances have been remedied.

On the second question, there is no doubt left now that the reforms cannot affect their prospects, cannot operate prejudicially to their prospects. That difficulty which was one of the biggest has also been removed. Then what else now remains that stands in the way of the recommendations of the minority report being given effect to?

Sir, the Honourable the Home Member this morning said a few words with regard to the attitude taken up by this Council on public affairs. I am led to make a few observations on this point because of the amendment that has been adopted in the other House in place of the Government's Resolution. Sir, the other House consists of a large number of men who chose to non-co-operate with the Government in the year 1920. I do not propose to go into the rights and wrongs of that policy. Suffice it to say that it is open to Government to say now when they have chosen to return to the Councils that though they have come now they have come as defeated opponents, and it is open to Government to view the amendment in the light in which the proposals of defeated opponents are usually viewed. Speaking for myself, the amendment that has been adopted by the other House is no more than a tentative proposal that is to form the basis of discussion between the Government and the political leaders of the country. Whatever might have been said in the other House this is the view that I take of the amendment. There is at present no basis to go upon. Government take one view, and the people another. What is it that can form the basis of negotiations between the Government and the people? This amendment contains all that can reasonably form the basis of future negotiations.

Now I may remind Government as to what has been the attitude of, and the output of activity of, this Council. This Council stood by Government in the years 1921-22 when Government were isolated, and when Government felt all the weakness which is always due to isolation. I do not propose to read a long list of what has been the record of the achievements of this Council, yet I can fairly claim in the name of my Honourable colleagues that on important questions of disagreement between the other House and the Govern-

[Saiyid Raza Ali.]

ment, the Council of State has very frequently lent its support to Government measures. Take, for instance, the Princes' Protection Bill of 1922 which had been rejected by the Assembly. Take the Finance Bill of 1923 and the Finance Bill of 1924 which also had been rejected by the Assembly. Coming to the Repressive Laws Bill that came up for discussion only as recently as the 3rd September, the Council of State after going into the whole question carefully deemed it their duty to lend their support to Government. Even when this Council has doubted the wisdom of the attitude of Government on some of these measures, it has deemed it their duty, in the interests of ordered progress and stability of government, to lend their support to the Executive. And now in this Council, the record of whose achievements I have just described, a very inoffensive amendment is moved by one of its humble Members, who has been associated with this Council ever since its constitution, and what is the Government reply? In view of the services that this Council has always rendered to the Government, what is the reply that the Government Benches propose to make to this amendment? The amendment has not been drafted or proposed with a light heart; in fact from the very wording of the amendment it would appear that every conceivable effort has been made to take the Government's difficulties into consideration. This amendment does not commit Government to any definite line of action. We are entitled to ask that Government will give effect at an early date to the recommendations of the majority report, and to take into careful consideration the recommendations made by the minority. Let me make it quite clear that I mean what I say by the words "careful consideration", namely, that Government should not go to sleep over it and after some time come and tell us, "we have considered your proposal carefully and are of opinion that no action can be taken." I am sure that that is not the attitude that will be taken by Government. I have too much confidence in the good faith of Government to be suspicious of their attitude if they adopt my amendment.

Sir, I should like to make it quite clear that the amendment that I have proposed does not necessarily commit the Government to the acceptance of all the recommendations of the minority. The question of reforms is such a big question that it is very difficult, in the course of the limited time at my disposal, to make any detailed suggestions.

THE HONOURABLE THE PRESIDENT: I am glad that the Honourable Member has at last realised the limited time at his disposal. He has already far exceeded his time limit.

THE HONOURABLE SAIYID RAZA ALI: I will try to bring my remarks to a close in a few minutes.

Now the action that is to be taken by Government, Sir, will have to be action on a vast scale. In fact there are many courses that are open to Government in order to give effect to the wishes of the people. One of these is the appointment of a Royal Commission; another course that has already been adopted, on which I congratulated the Government, is the appointment of Sir Frederick Whyte

to investigate the question of the relations between the Provincial and Central Governments as obtaining in other countries, with special reference to Indian conditions. Sir, my own impression is this, that the question is so big that, if Government want to take up that question in right earnest and come to a definite conclusion, they will have to appoint, not one man, not one Committee, but many men and many committees before the Statutory Commission can come out to India with any usefulness to the cause of constitutional advance. Sir, my amendment simply requires that the Government will take into consideration the recommendations of the minority report, it may be by the appointment of a committee of the Central Legislature, it may be by the appointment of a mixed committee of both Houses and of the Provincial Legislatures or by adopting other means. The vitally important point is this, that the two main questions which I enunciated in the beginning, namely, provincial autonomy and responsibility in the Central Government, should be taken into consideration seriously and in right earnest. Sir, I appeal to the Government Benches to respond to this call that has been made upon them in this Council. I move the amendment.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, in explaining the attitude of Government towards the amendment moved by my Honourable and learned friend, I should like, in the first instance, to acknowledge very warmly the courtesy of the observations which he passed on the arguments which I laid before the House in moving the original Resolution. I should like to acknowledge, at the same time, the extreme moderation and impartiality, and indeed penetration and sagacity, which have distinguished my Honourable friend's review not only of all the matters contained in the reports of the Reforms Inquiry Committee, but of the general political situation in India to-day. I desire to make all those acknowledgments because it is with very genuine regret that I cannot intimate on behalf of Government an acceptance of the Honourable Member's amendment.

Now, Sir, let me invite, in the first instance, the somewhat close attention of the House to the precise implications of the amendment. The Government of India are invited to give early effect to the detailed recommendations contained in the majority report and to give consideration to the recommendations contained in the minority report. On the first part of that amendment the situation has been clearly explained by His Excellency the Viceroy in his address to the Legislature. He said:

"My Government are prepared to accept in substance the view of the majority that the constitution should be maintained and amended, where necessary, in order to remove defects in its working on the lines recommended by them. My Government cannot at present commit itself to all individual recommendations, or to the form or method by which they should be carried into effect, inasmuch as there has not been sufficient time for full consideration of them with the authorities concerned, or even by me with my Council. An opportunity will be afforded to the Legislature for debating this policy and every consideration will be given to the views presented to us before final conclusion are reached."

That, Sir, is the position with regard to the first part of the Honourable Member's amendment. With regard to the second part, I must once more invite the attention of the House to the fact that the main recommendation of the minority report was that the Act as it stands is radically incapable of working, and that the only remedy is an early or immediate inquiry by a Royal

[Mr. J. Crerar.]

Commission or some similar body. Now that issue has been fully debated by the House and it has been rejected. In view of the considered views laid by Government before the House, and in view of the degree to which they have been endorsed and ratified by the House, could we consistently undertake to take into consideration that part of the proposition? And that, Sir, is the main proposition. With regard to the other recommendations of the minority committee, and the recommendations of the majority, subject to the important exception which I have just made, I have before me a very careful analysis of those parallel series of recommendations, and after a very careful perusal of this and of the Reports themselves, I have been very much surprised by the extraordinary coincidence between the views of the majority and the minority on the points which really arise on this aspect of the question. In a few cases the minority did not perhaps go quite so far as the majority; in a few cases more the minority went further than the majority. Let me give an instance which is typical. I recently brought before this House a proposal to endorse the recommendations of the committee on the subject of women's franchise. Now I explained very fully the situation as it would be if the majority recommendation was accepted. The minority recommendation was that immediate steps should be taken to complete the grant of the franchise to women and to complete the removal of all restrictions upon their standing as candidates for the Legislatures. Now, the only difference between the two propositions is, that the majority deliberately intended to reserve the right of the local Legislatures and of the provinces to be heard in a matter of so much constitutional importance. The House then affirmed a general proposition which goes some way with the expedient proposed by the minority committee. So also the point of difference in a very large number of the recommendations that have been made by the majority and the minority is largely one of method and expedient.

Now, Sir, the Honourable Member referred in terms, which I am fully prepared to accept, to the attitude generally taken by the Council of State on propositions laid before them by Government, and he suggested that there ought to be some reciprocity in the matter. I will admit that the Honourable Member's proposition has at least one merit. He referred to the amendment which was passed in another place and which was very fully considered and rejected in this House. Well, Sir, one peculiarity of that amendment, in my opinion, is this, that it corresponds very much to a remark once passed upon another very important document, which says:

"This is a Book where each his dogma seeks.

And this the Book where each his dogma finds."

It was a protean and chameleonic proposition. It gave the Honourable Mr. Natesan a Pishgah sight of Palestine. It induced the Honourable Mr. Phiroze Sethna to hope for an immediate and almost cinematographic millennium. It filled my Honourable and learned friend opposite with the fear of certain dire consequences which led him into the slough of despond and the valley of the shadow of death. Well, Sir, it is of course difficult to address oneself to a proposition which, if it was correctly understood by any one of

the Honourable Members opposite who supported, was certainly not correctly understood by the others and was very imperfectly comprehended by any one of us.

My Honourable and learned friend's proposition by contrast is a perfectly comprehensible one, but for the reasons which I have put forward we cannot accept it. It is not that we do not desire to show the fullest measure of reciprocity to the reason and the goodwill displayed not only by the Honourable and learned Member himself but by the Council as a whole. It is because we cannot commit ourselves to the full implications of his amendment. It is true he promised that if we accepted his amendment he would not be too strict in his construction of the action which we took upon it. But after all, though I acknowledge very deeply the eminent reasonableness of the Honourable Member's own attitude, I would remind the House that what we should be committed to would be the actual letter of this amendment and the actual implications which it conveys.

I shall only say one word more. The Honourable and learned Member, in speaking generally of the question of co-operation and reciprocity, asked the Government Benches to say whether, in view of the acquisition to the Legislature of a Party which hitherto had stood out of it, we proposed to regard that Party as defeated opponents. My reply to that, Sir, is: "Most certainly not!" Government only rejoice in the thought that wiser counsels have prevailed in that Party and they will rejoice more if those wiser counsels prevail further yet.

I referred just now to the visions which were excited by the alternatives presented to the House. Those visions were iridescent to the eyes of some of those who supported the amendments and gloomy in the view of others. But what is embodied in the Resolution which I have had the honour to move is not a vision, it is not a dream, or at least if it is a dream it is that kind which an old poet calls a vision of the truth which is destined to be fulfilled!

THE HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): I am very glad, Sir, that certain circumstances have combined to keep me back because I appear to have the last word of it now which is very pleasant to me. The amendment moved by my Honourable friend Saiyid Raza Ali is nearly the same as mine but only put into different and perhaps better words. So I am able to say what I meant to say, though in a shorter time but I will do that.

One general observation I shall make is that it appears to me that we are like the old knights who had a shield between them. One side of the shield was painted red and on the other side it was painted white. The knights on one side of the shield said it was white while the knights on the other side said it was red; and on that they went to fight over it. It looks to me very much like that in the present case. It has been said and it is admitted, that the difference between the amendment which was carried in the other House and which was revived here by my Honourable friend Mr. Phiroze Sethna, who is unfortunately not here, and the report of the majority is merely a little difference of method and a difference of speed, I suppose. They want to have it done very soon and Government advise or the majority advises them to do it slowly. Well the difference of course is there but it is not so great.

[Mr. G. S. Khaparde.]

They admit also that it is right, but what we tell them is to go slowly which means of course that we approve of what they are doing but we think they should do it a little slowly and not go ahead as they try to do. Therefore I approach this subject in the same spirit as the passage from His Excellency's speech that was read out to us and I wish to take advantage of the permission given then to debate the matter. His Excellency expressed the view of his Government and that is embodied in the Resolution but with the permission given to us to talk about it and to suggest anything we like to suggest. That attempt I humbly endeavoured to make and my Honourable friend has made. It is the same in both cases, namely, that the proposals made in the original proposition as put here should be carried out, given effect to, and the proposals made in the minority report should be taken into consideration, and as they lead the same way we also say they may be given effect to. I can see nothing very great in this and nothing which Government need oppose in this amendment. It is a proposal in the same direction. Then why this opposition? That is the declared policy of 1917, that the people of this land should be more and more associated in all departments of Government. It is also part of that declared policy that we have got to come together and consider as far as possible how to do it best. And I believe the principle of this Reforms Committee to have been to find out how to make the reforms more acceptable and how to make them more cheerfully accepted and worked so as to secure the approbation of the people. The second paragraph of the reference it is true restricts the remedies to be suggested; those remedies must be within the structure of this law as it obtains. Well, I quite accept all those limitations, and the spirit of those limitations. The Resolution which I support says: "Will you kindly carry out the recommendations of the Reforms Committee, the recommendations of the majority, that is, and also take what the minority say into consideration as conveniently and as soon as you can." Surely there is no opposition between the two; the recommendations of the minority and the majority are not mutually exclusive. For that purpose I wish to give a short analysis. I shall not go into details because my time will not permit that. At page 187 of the report of this Committee I have counted that there are 34 proposals put forward by the minority. Out of this I find that 15 are the same as those made by the majority. Therefore these 15 measures which are contained in that report, 10, 11, 14, 17, 19, 21, 22, 23, 24, 25, 30, 31 and 32 made by the minority and by the majority, are practically identical. And being practically identical it is natural that we should say that the majority and minority have really unanimously passed at least these fifteen proposals, and that there is no difference of opinion worth mentioning about them. In that case, I suppose we are right in asking the Council to recommend to the Viceroy that at least these fifteen proposals may be carried out immediately, because the Committee is unanimous on these points.

As regards the rest there is a difference of opinion, but not so great as is believed. There is a little bit of difference here and there as to the pace at which the reforms are to proceed or the way in which they are to be popularised; and those may be left over for consideration later on and could be

taken into consideration as early as convenient. That being so, there is nothing revolutionary or extraordinary or very difficult that we are asking here. My Honourable friend, as Honourable Members will remember, made a distinction between taking into consideration and giving effect, when he spoke of giving effect to the majority recommendations. I do not think that that distinction exists. They are only two modes of expressing the same thing. When we ask the Government to do a certain thing, they do not say: "We will do it"; they say "We will take it into consideration." We say: "Kindly give effect to it"—it is really one and the same thing. Therefore, I support this amendment very heartily, and I want to draw particular attention to these paragraphs which I mentioned, which are really speaking the unanimous recommendations of the Reforms Committee.

There are two matters about which I should have liked to speak more, but I believe I can finish them in one minute. One is this: this question of franchise has to be considered, and when it is considered I agree with my Honourable friend, Sir Umar Hayat Khan, in thinking that the landowners' interests, both in the Central and in the Provincial Legislatures, are not represented in our Legislatures as they should have been. That matter may be taken into consideration. I attach importance to the representation of landholders because in all countries and in all places they form the permanent element, and that permanent element has certain views and those views are always worth considering, more especially in India where 80 per cent. of the people make their livelihood by agriculture. So they represent a permanent part of the country. The merchants of course are very rich people and they are a very useful class; but they partake sometimes of a floating nature; a millionaire to-day may speculate and next year he may not be able even to have a seat. So are the professional people including poor people like myself. But I am a landlord in a small way, on the same scale on which you can say that the domestic fly is a bird. It has got all the attributes of a bird, it has got wings and so forth. I am like that, but I am a landlord all the same, and I think that these permanent interests in the country should be more represented than the floating interests. The floating interests also ought to be represented; they are very much represented now, and the agricultural part is very poorly represented, more especially the aristocratic part, that is to say, the landowners who have been owning lands for generations. There are a few of them in this Council at any rate, there is no doubt about it—but in the other House they are in a very small minority and that ought not to be. This is a matter which ought to be considered but I do not want to talk about it further.

To bring my remarks, then, to a close, I recommend that those matters on which the minority and majority are agreed should be given effect to at once; and as regards the others they may be taken into consideration as early as convenient, as occasion arises; and, lastly, that the landed interests or the landowners' interests, which are very poorly represented at present, should, if possible, be better represented and more adequately represented here so that their views would be available to us. For all these reasons, Sir, I heartily support the amendment put forward by my Honourable friend, Mr. Saiyid Raza Ali.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rejoice most profoundly that the Government have opposed the amendment of my Honourable friend, Saiyid Raza Ali; and I welcome even more gladly the speech which the Honourable Mr. Crerar has made. It is clear from what the Honourable the Home Secretary has said that all the co-operation is to come from one side. I thought that the Honourable Mr. Raza Ali's amendment—a most innocent one—was one which the Government could easily see their way to accept. All that it asks for is that the recommendations of the majority may be given effect to and the recommendations of the minority may be taken into consideration. Well, Sir, if His Excellency the Viceroy has asked the Legislature to co-operate with the Executive and if the same appeal is made by the Honourable the Home Member, I do not see how it is possible to extend our hand of co-operation when even such a small amendment as this is opposed.

One of the Ministers of the Madras Government asked me what attitude I would take in the debate on the reforms in the Council of State, and he asked me one pertinent question. He said "It is very clear from the report of the Madras Government and from the evidence tendered before the Muddiman Committee that the party in power in the Madras Legislative Council have heartily co-operated with the Government and tried their best to make dyarchy a success. That fact is incontrovertible. Then, are the Government prepared to-day to transfer all the subjects in the Madras Presidency so as to abolish the distinction between the reserved half and the transferred half? After all in a federal system of government it is not possible to take the whole of India together. Therefore if their profession of sympathy for those who have worked dyarchy is genuine why have they not done something to give provincial autonomy to Madras?" I put it to the Home Member, Lord Birkenhead profoundly praised the Madras Ministers for their hearty co-operation with the Government. In that case what have you done for Madras? We are therefore, Sir, inclined to be sceptical as to the genuineness of the Government's appeal for co-operation, and I am strengthened in that view by the attitude of the Home Secretary towards this amendment. I am myself not inclined to accept it—I am equally opposed to the amendment, though for different reasons. My friend asks that the recommendations of the majority may be given effect to and the recommendations of the minority may be considered. Now, Sir, after reading the report very carefully, I see there is a certain amount of incompatibility between the two which cannot be really bridged over. The majority report insists upon working the existing system. That means that dyarchy has got to be worked for what it is worth. Many arguments have been addressed against the continuance of dyarchy, and I do not want to repeat them now. My own experience of dyarchy from what I have been able to observe of its working in the various provinces is this. It has brought three new evils into the constitution, which did not exist before the reforms. The first evil is the poison of communal representation and separate electorates, which is disintegrating our national life to-day. The second thing is that it has strengthened the position of the Services to such an extent that they are now placed practically beyond the control of the Indian Legislatures. Thirdly, in some provinces, of which I have personal experience, the position is this. Where the party in

power has not got the support of the elected portion of the House, they depend entirely for their existence upon the sweet will and pleasure of the bureaucracy. In my own province, Sir, the party in power has no majority, except with the help of the officials and the nominated Members, and so they win their point always with the help of the bureaucracy and their nominees. The result is that for the very existence of the party they have got to depend on the bureaucracy. Sir, on the very first day of the meeting of the present Madras Council, a motion regarding a vote of no confidence was brought, and every elected Member of the opposition voted against it, but the party in power succeeded in defeating it by one vote with the help of the bureaucracy. That shows that the bureaucracy is much stronger to-day than it was before the reforms, because even the party in power has to depend for its very existence upon the bureaucracy. These are the three things which the Reforms have brought to us. Therefore, we are opposed to dyarchy on broader grounds of principle and not merely upon the details of its working. While the majority report says that dyarchy can be worked smoothly and better by removing some of the administrative obstacles which now stand in its way, we not only hold that it is unworkable but also believe that the working of it will lead to more and more dangerous results, and that the constitution will be more and more impaired. The minority report, no doubt, as correctly pointed out by the Government, technically makes only one recommendation, to appoint a Royal Commission. But it lays down certain principles. The minority enunciate three fundamental principles. The first is the transference of power from the Secretary of State to the Government of India; the second is that while the Government of India are now responsible to the British Parliament for the good government of India, hereafter, the minority want to make the Government of India responsible to the Indian Legislatures; and the third principle is that the system of dual responsibility in provinces should be abolished, and in its place, a unitary form of government responsible to the Legislature should be established. These are the three fundamental principles which the minority lay down, though their recommendations tend to culminate in the appointment of a Royal Commission. Therefore, Sir, I see so much of incompatibility between the majority and the minority view, that it is really not possible to frame any amendment or Resolution to give effect to the proposals of the one as well as the other. You must have either the one or the other. But advance is not possible under either. I can accept neither the one nor the other as a Swarajist. Both are opposed to our demand. That is the view of Swarajists, and I for one make no secret of my view in the matter that I am opposed to both the majority and minority reports.

There is one thing more, Sir, which I would like to say. Yesterday when I was referring to the majority report, I said that a majority of the majority were officials. Out of the five, I believe, three are officials, and therefore much weight should not be given to the views expressed by them. The Honourable the Home Member was pleased to say that we have taken to condemning the capacity of officials and that we have not judged properly their services to the country. After all he said there is no reason why people who have grown grey in the service of this country and who mean well by the people and the country should be distrusted. Well, Sir, it is not a question of trust really. It is a question of our past experience. I will only quote,

[Mr. V. Ramadas Pantulu.]

Sir, two small opinions with regard to the British official in India. The late Mr. Gladstone, speaking of the "man on the spot" theory in the House of Commons said about Indian officials :

"It is a sad thing to say, but unquestionably it happens not infrequently in human affairs, that those who ought from their situation to know the most and the best, yet from prejudice and prepossessions know the least and the worst."

I will quote another statesman of India who is much respected, and who was not hostile, I should say, to the Government. The late Mr. Gokhale said :

"The worst features of the present system of bureaucratic rule are its utter contempt of public opinion, its arrogant pretensions to superior wisdom, its reckless disregard of the most cherished feelings of the people, its cool preference of service interests to those of the governed. So, an appeal to its sense of justice becomes a mockery."

These are the words of Mr. Gokhale.

Therefore, Sir, that is an opinion which is shared by a large portion of my countrymen. Therefore, we do not want any committees or commissions on which the advice of the officials prevails. That is the reason we have no faith in them. It is now further strengthened by the fact that before the Reforms the Services were against dyarchy because it meant at least the partial transference of power out of their hands into those of the representatives of the people, but they are now so much enamoured of it that they do not want to leave it. They want to stick to it, because any step forward would mean a further transference of power into the hands of the representatives of the people. Therefore, they say, let us stick to the position we have secured. And the second reason is that under dyarchy the position of both the Services and the bureaucracy in the Council has been immensely strengthened and they do not want to part with the advantages they have secured. Therefore, a very heroic attempt is being made by the bureaucracy to stick to dyarchy. Therefore, Sir, any amendment which seeks to give effect to the majority report is certainly not going to receive our support, and I rejoice that the Honourable Mr. Crerar has opposed this and given a very good reason for it by saying that he would not co-operate with the Honourable Saiyid Raza Ali because the amendment did not concede all that the Government wanted. Therefore, Sir, if we are unable to co-operate with you, we are not to blame. We have tried to extend the hand of co-operation to you on honourable terms. But if you say we should co-operate only on your own terms, I think we can do without it, and I think we have convinced the country that the Government are wrong and not those who have come to work the constitution to the best of their ability.

THE HONOURABLE SIR ALEXANDER MUDDIMAN (Home Member): Sir, I am very pleased that the Honourable gentleman opposite has been allowed to speak at length (although he has not dealt very closely with the amendment, if I may say so) for in the course of his speech he did bring out one or two matters on which I had remained in doubt. In the first place, I was distinctly amazed at the attitude of my Honourable friend in regard to the recommendations of the majority report. He says, he will have none of them. Yet he jeers at Government and at my friend the Honourable Saiyid Raza Ali

for putting up a Resolution dealing with them. In his view the majority report was worthless. We knew that from his first speech; we knew that from the amendment which the House has already rejected. However, he did raise one or two matters which I am very pleased to have an opportunity of referring to. It is his contention, as I understand it, that dyarchy has promoted communal differences. And when he said that he brought out the fact, for it is a fact, that dyarchy whatever may be its merits or demerits has at any rate given the people some sense of realities. If you hand over power—and dyarchy has handed over power, and the proof of it is exactly my Honourable friend's statement—if you hand over power, you get to facts; and his charge indicates we have got to facts. What has been the cause of these communal differences? Just this that power has been granted and the loaves and fishes are now being divided. People are feeling that the vote matters that they are getting something into their own hands, and that, Sir, is one of the greatest defences of dyarchy that is possible. Realities are what the Honourable Member should bear in mind and when he is reminded of them by facts he will have to take notice of them. It is not by controversy, it is not by speeches that these matters are brought to notice. It is by the hard logic of facts. So much for that portion of the Honourable Member's speech. I must further point out that it ill becomes him to try to make capital out of the attitude of Government towards the recommendations of the majority report. I was told in another place by one under whose banner the Honourable Member serves that I can take a gift of them. They were returned to me thrown back. I explained in that House, as I explained here again, that these are recommendations which I at any rate consider are of importance, for I myself was a signatory to the report. If they are returned to me, they are returned in a spirit of non-co-operation. They were made honestly and fairly but that is not to avail them?

As to the attitude of Government, that has been very carefully explained by my Honourable friend Mr. Crerar. He did not say he opposed the amendment except on the ground that it would commit Government to an extent to which Government cannot commit themselves. To give effect to the recommendations in terms of the amendment would mean that Government here and now accept all the recommendations of the majority report. That is not the case. There are many of them under consideration. Certain of them have been accepted and I have brought forward in another place Bills and moved Resolutions giving effect to them, and I understand that certain Resolutions have already been moved in this House. We are taking action. We have dealt with the most important recommendation, the investigation of provincial autonomy. We have been fortunate in securing the services of a Parliamentarian whose reputation has not yet been attacked in either House. Sir Frederick Whyte, the late President in another place, and who combines with his Parliamentary experience the advantage of a first-hand knowledge of the Indian Legislatures, has been good enough now at our request to undertake an examination of those points which are of primary importance in any serious consideration of provincial autonomy, namely, the relations between the Central and the Local Governments. My Honourable friend's amendment, as I say, would bind us beyond what we can be bound.

[Sir Alexander Muddiman.]

As to the second part of his amendment, I have not much to say. He recommends :

“and that he do take into careful consideration the recommendations contained in the minority report.”

In so far as those recommendations are recommendations dealing with the present constitution we have no difficulty. As regards the other recommendations, there is only one. The whole importance of the minority report is based on the fact that they recognise, as I hope this House has already recognised, that before you can have a great step forward in constitutional reform, you must have a Royal Commission or some inquiry of that nature. Therefore, subject to that reservation, there is no objection to that part of my Honourable friend's amendment. Indeed, there is not great difference at all between us. There is no rejecting co-operation.

I think that disposes of all I have to say on the amendment. But, as it is unlikely that I shall have another opportunity of addressing this House, I would ask you, Sir, to permit me to go a little out of order. Sir, as far as I can see, I shall not speak in this, the first Council of State, again. I was its first President and I think I may claim to have many friends in the House. First of all I must deal with the Chair. You have served with me, Sir, in many capacities, and you have succeeded me in several offices. Secondly, the Leader of the House. I knew him first as a personal friend, then as one of my masters, then as one who sat at my feet and now my colleague, but alas will not long remain so, though I hope he has been and will always remain my personal friend. And then those who sit behind me, to whose assistance and loyalty I owe so much both in the Chair and in my present position—the Home Secretary who puts forward the views of my department so ably in this House, Mr. Thompson and others. Then in this Council very old friends some of the stalwarts of the old Council—Sir Maneckji Dadabhoy, Sir Umar Hayat Khan, Raja Sir Harnam Singh, Mr. Sethna and Sardar Jogendra Singh who are not here to-day, Mr. Khaparde and last but not least that very old and dear friend of mine, the Nestor of the House, Sir Dinshaw Wacha who gives us the fruit of his long experience with the fire of youth. Long may he continue to do so! Then there are other friends whom I have met in this Council who attend its meetings so regularly and have done so much to give that corporate existence to this Council, of which I am so proud—Saiyid Raza Ali and Sir Arthur Froom who has set by his regular attendance a good example to some of his European colleagues and my distinguished friend from Bihar who speaks one word with great firmness.

It is not in the probability of things that we shall all assemble together. I therefore asked you, Sir, to permit me to break the rules of the House and I hope you and the House will pardon me. I have received from this Council the greatest kindness both in the Chair and as representing Government. The Council has been the means of my renewing many old friendships and making new ones, and I can honestly say that when I leave you to-day it is with a feeling of friendship for every Member of this Council.

THE HONOURABLE MR. YAMIN KHAN (United Provinces, West : Muhammadan) : I had no intention of speaking on this amendment as I have already given my reasons and the views of most of the people whom I have the honour to represent in this House, but certain remarks from certain gentlemen who spoke before me have made it necessary for me to stand here and to make observations on this motion. I think, Sir, when my Honourable friend Mr. Ramadas spoke about communal representation he said that it is dyarchy which is responsible for the tension between communities and communities. He is ignoring one factor that, if instead of dyarchy self-government comes, this tension will be stronger and stronger. (*An Honourable Member* : “Question”). My Honourable friend says that communal representation leads to these differences and he wants to abolish them. I wonder whose views he is representing. Is he speaking on behalf of the Swaraj Party to which he has the honour to belong or is he representing the views of his constituency? He did not make it clear. My Honourable friend, the Honourable Lala Ram Saran Das, said that it is communal representation which is responsible for these differences in the Punjab and elsewhere and further reforms should be undertaken to remove them. He has also said that these are the views of the Swarajist Party.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : No.

THE HONOURABLE MR. YAMIN KHAN : That is what he implied. The Leader of the Swarajist Party moved an amendment the other day in the Assembly. If he gets up as the Leader of the Swaraj Party and says that the views of the Swaraj Party are that communal representation should be abolished, I would like to see the fate of the amendment which he had put forward. They got the majority on their side simply because they found that they had laid down though very cleverly in hidden terms, that minorities should be respected, and that was the only point which led to my own people voting that side. If the voting had been on this point....

THE HONOURABLE THE PRESIDENT : Probably the Honourable Member may have been deceived by the occurrence of the words “majority” and “minority” in the Resolution and the amendment before the House into a discussion which is at present irrelevant. I must ask him to bring himself back to the amendment.

THE HONOURABLE MR. YAMIN KHAN : I am saying, Sir, that it is the minority report which has been interpreted in this way, that the further reforms which the minority recommend should be in this form, and that the majority has not recommended any further reforms in this direction. That proposition has been suggested by some of the Honourable Members, that the majority report should not be accepted because it does not recommend doing away with communal representation. This has led me to speak and show why I give my support to the majority report; it is because they are not doing away with communal representation; and if any gentleman here says that he wants to do away with that, then I shall make the most emphatic protest, and I will be the first to vote against him. It is communal representation, Sir, as far as I can see, which has mitigated the differences between the communities. It is communal representation which has stopped the racial questions which used

[Mr. Yamin Khan.]

to arise between candidates and candidates whenever any seat fell vacant, and there were two candidates from different communities appealing to their communities and to their co-religionists to give votes for them. Now that has been stopped by the system of separate communal representation. If that system is abolished again, the result will be that we will find the old story repeated again, that is, two opponents appealing to their communities and to their religion, as in fact we find even to-day. What do we find to-day even, Sir? If a Brahmin is standing and a Kshatriya standing, we will find that they are appealing to their respective communities to give a vote for them, and the Kshatriyas invariably will vote for the Kshatriya candidate and the Brahmins will vote for the Brahmin candidate; and if there is a Vaishya, he appeals to the Vaishya community to give a vote for him.

THE HONOURABLE THE PRESIDENT: I must really ask the Honourable Member to tear himself away from the question of the representation of majorities and minorities. He has already said quite enough on that subject. He must bring himself back to the amendment before the House.

THE HONOURABLE MR. YAMIN KHAN: I think, Sir, under these circumstances, if by these propositions my Honourable friends mean that a Royal Commission should come to investigate among others these things and that these points should be entrusted to them, then the country will be the last to support the amendments which have been put up by the Swarajist Leader or by anybody else.

THE HONOURABLE MR. J. CRERAR: I move, Sir, that the question be now put.

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

"This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

THE HONOURABLE SAIYID RAZA ALI: Sir, with your permission, may I say.....

THE HONOURABLE THE PRESIDENT: The Honourable Member has no right of reply.

THE HONOURABLE SAIYID RAZA ALI: No, Sir. I am not going to reply.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member wish to make a statement of personal explanation?

THE HONOURABLE SAIYID RAZA ALI: That is what I want to make, Sir. With reference to the Resolution, a very clear speech has been made by the Honourable the Home Member.

THE HONOURABLE THE PRESIDENT: The Honourable Member is making another speech.

To which an amendment has been moved:

"That the word 'and' after the words 'Reforms Inquiry Committee' be omitted; the word 'effect' be substituted for the word 'consideration'; and at the end of the Resolution the following words be added, namely:

'and that he do take into careful consideration the recommendations contained in the minority report'."

THE HONOURABLE SAIYID RAZA ALI: Will you put it, Sir, in two parts, the first part and the second part separately?

THE HONOURABLE THE PRESIDENT: The question is:

"That in the original resolution the word 'effect' be substituted for the word 'consideration'."

The question is that that amendment be made.

THE HONOURABLE MR. R. P. KARANDIKAR: I rise to a point of order, Sir. The question is that the question be put.

THE HONOURABLE THE PRESIDENT: As no Honourable Member rose in his place when the motion that the question be now put was made, it was clear that no one wanted to speak and therefore unnecessary to apply the closure.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question is:

"That the word 'and' after the words 'Reforms Inquiry Committee' be omitted, and at the end of the Resolution the following words be added, namely:

'and that he do take into careful consideration the recommendations contained in the minority report'."

The question I have to put is that those amendments be made.

The Council divided:

AYES—7.

Aftab Ahmad Khan, Sahibzada.
Borooah, Srijut Chandradhar.
Karandikar, Mr. R. P.

Khaparde, Mr. G. S.
Raza Ali, Mr.
Roy, Mr. K. C.

Yamin Khan, Mr.

NOES—28.

Abbot, Mr. E. R.
Akbar Khan, Major Nawab Muhammad.
Aman Ali, Khan Bahadur.
Chadwick, Mr. D. T.
Charanjit Singh, Sardar.
Crerar, Mr. J.
Dadabhoy, Sir Maneckji.
Dutt, Mr. P. C.
Fazl-i-Husain, Mian Sir.
Froom, Sir Arthur.
Hadow, Mr. F. A.
Harnam Singh, Raja Sir.
Ismail Khan, Haji Chowdhuri Muhammad.
Laird-MacGregor, Mr. E. G. L.

MacWatt, Major-General Sir Charles.
Manmohandas Ramji, Mr.
Misra, Pandit S. B.
Mittra, Mr. K. N.
Parsons, Mr. A. A. L.
Ram Saran Das, Rai Bahadur Lala.
Sarma, Sir Narasimha.
Sarvadhikary, Dr. Sir Deva Prasad.
Sen, Mr. B. C.
Tek Chand, Diwan.
Thompson, Mr. J. P.
Umar Hayat Khan, Col. Nawab Sir.
Wacha, Sir Dinshaw.
Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

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

"This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Sir, the amendment standing in the name of the Honourable Sahibzada Aftab Ahmed Khan has not yet been disposed of.

THE HONOURABLE THE PRESIDENT: The Honourable Sahibzada Aftab Ahmed Khan's amendment has, in my opinion, disappeared with that which the House disposed of this morning which was moved by the Honourable Mr. Roy. If the Honourable Member wanted to support the Honourable Sahibzada Aftab Ahmed Khan's amendment, he should have voted for Mr. Roy's amendment and then asked the Chair, if that amendment was accepted, to put the Resolution in two parts, to enable him to reject Mr. Crerar's portion and to accept Mr. Roy's amendment. That, I think, was the proper course for the Honourable Member to have taken.

The question before the Council is that Mr. Crerar's Resolution be adopted.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhammadan): With your permission, Sir, I should just like to say one word. Now that every amendment that was moved in this House has been rejected, there is no other alternative but to reject the Resolution as such.

THE HONOURABLE MR. YAMIN KHAN: I rise to ask for the ruling of the Chair. If two Honourable Members move similar amendments and one Member, after moving his amendment, withdraws it without leaving any option to the other Member who has got a similar amendment in his name and he does not want to withdraw it, what will be the procedure? I want the ruling of the Chair.

THE HONOURABLE THE PRESIDENT: If an amendment has been moved and after discussion has been withdrawn by the leave of the House, it is obviously the sense of the House that it does not wish to discuss the subject-matter of that amendment again.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: But Mr. Roy's and Sahibzada Aftab Ahmed's amendments were wholly different. Therefore, the course that you were pleased to suggest that I should have followed about Mr. Roy's amendment that the Resolution should be put to the House in two parts could not and did not arise, and would not affect the issue.

THE HONOURABLE THE PRESIDENT: Because the Honourable Member did not support Mr. Roy's amendment.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: I submit it was not necessary, Sir, for every one to speak in support of that amendment when Sahibzada Aftab Ahmed's amendment was still on the paper.

THE HONOURABLE THE PRESIDENT: Order, order. The question is that the following Resolution be adopted:

"This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

The Council divided:

AYES—28.

Abbott, Mr. E. R.
Aftab Ahmad Khan, Sahibzada.
Akbar Khan, Major Nawab Muhammad.
Aman Ali, Khan Bahadur.
Borooah, Srijut Chandradhar.
Chadwick, Mr. D. T.
Charanjit Singh, Sardar.
Crerar, Mr. J.
Dadabhoi, Sir Maneckji.
Dutt, Mr. P. C.
Fazl-i-Husain, Mian Sir.
Froom, Sir Arthur.
Hadow, Mr. F. A.
Harnam Singh, Raja Sir.

Ismail Khan, Haji Chowdhuri Muhammad.
Laird-MacGregor, Mr. E. G. L.
McWatters, Mr. A. C.
Misra, Pandit S. B.
Mitra, Mr. K. N.
Parsons, Mr. A. A. L.
Roy, Mr. K. C.
Sarma, Sir Narasimha.
Sen, Mr. B. C.
Tek Chand, Diwan.
Thompson, Mr. J. P.
Umar Hayat Khan, Col. Nawab Sir
Wacha, Sir Dinshaw.
Zahir-ud-din, Khan Bahadur Saiyid.

NOES—7.

Ayyangar, Mr. K. V. Rangaswamy.
Karandikar, Mr. R. P.
Khaparde, Mr. G. S.

Manmohandas Ramji, Mr.
Ramadas Pantulu, Mr. V.
Ram Saran Das, Rai Bahadur Lala.

Sarvadhikary, Dr. Sir Deva Prasad.

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): The Lists of Business for Monday and Tuesday next are already in the hands of Honourable Members. Thereafter the only business remaining for disposal will be the Honourable Mr. Crerar's Resolution regarding the amendment of the Indian Legislative Rules and Standing Orders to provide for the constitution of Select Committees to deal with Bills relating to Hindu and Muhammadan Law and the consideration of certain Government Bills which cannot now be passed by the Assembly in time to admit of their being laid on the table here before Tuesday next. When the Bills have been laid the question of the date on which they should be proceeded with—whether with short notice or otherwise—will be submitted for your direction. Mr. Crerar's Resolution, to which I have already referred, will be put down for the same day as the Bills in question.

THE HONOURABLE THE PRESIDENT: Should any Bills passed in the other House be laid on the table of this House on Tuesday, the question will then arise as to the date on which they will be proceeded with. I hope that Honourable Members will, in the meantime, bear this in mind, because I shall

[The Honourable the President.]

require the guidance of the House in the matter of deciding on what date those Bills should be taken into consideration here.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, is the Leader of the House in a position to tell us how many Bills and what Bills are likely to come up? That will be necessary for us to know in order to comply with the suggestion you have thrown out.

THE HONOURABLE SIR NARASIMHA SARMA: Three such Bills. One is a Bill to provide for the fostering and development of the Paper Mill Industry in British India. The second is the amendment to the Criminal Procedure Code, 1898, Section 109, in particular, and other sections. The third is the Bill further to amend the Indian Limitation Act, 1908, as reported by the Select Committee.

THE HONOURABLE SIR MANECKJI DADABHOY: They are all controversial Bills and will require a long time for discussion.

THE HONOURABLE SIR NARASIMHA SARMA: It is premature, I think, to say that they will be controversial.

The Council adjourned till Eleven of the Clock on Monday, the 14th September, 1925.

COUNCIL OF STATE.

Monday, the 14th September, 1925.

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

QUESTIONS AND ANSWERS.

ASSESSMENT TO INCOME-TAX OF JOINT HINDU FAMILIES.

113. (formerly No. 46) THE HONOURABLE LALA SUKHBIR SINHA: With reference to my speech in the last Budget debate, will the Finance Member please state whether he has considered the joint Hindu family question that I raised therein about the assessment of income-tax, and what he is going to do in the matter?

THE HONOURABLE MR. A. C. McWATTERS: The Government have fully considered the subject, and do not consider that any alteration of the law is called for.

RECOMMENDATIONS OF THE INDIAN MERCANTILE MARINE COMMITTEE.

114. THE HONOURABLE MR. MANMOHANDAS RAMJI: Will the Government be pleased to state whether they propose to give effect to the following recommendations of the Indian Mercantile Marine Committee; if so, when; if not, why not:

- (i) The reservation of the coastal trade of India to Indian-owned ships,
- (ii) The purchase by Government, as a going concern, of one of the British Lines operating on the Indian Coast and working of the same in the manner indicated by the Committee,
- (iii) The adoption of a system of State aid to encourage indigenous ship-building,
- (iv) The establishment of training ships to train up Indian youths as Deck and Engineer Officers?

THE HONOURABLE MR. D. T. CHADWICK: The recommendations of the Indian Mercantile Marine Committee are still under consideration, but it has been decided to obtain from England the services of an expert to draw up a detailed scheme for the establishment of a training ship in Indian waters. It is hoped that the expert will come out during this cold weather.

QUANTITY OF COAL BOOKED BY INDIAN RAILWAYS.

115. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will Government kindly state the total quantity (in tons) of coal booked by
M110CS (459)

the Indian Railways in full wagon loads and at owner's risk during last year for distance (i) of 300 miles and over; and (ii) of 500 miles and over?

(b) What is the total quantity of coal so booked in the slack season?

THE HONOURABLE MR. F. A. HADOW: (a) and (b). Government have not got the information, but a statement showing the total number of wagons loaded with coal on the East Indian and Bengal Nagpur Railways during the 12 months ending 30th June 1925 is placed on the table.

Statement showing the number of coal wagons loaded on the East Indian and Bengal Nagpur Railways during the year ending 30th June 1925.

Month.	NO. OF WAGONS LOADED.	
	E. I. Ry.	B. N. Ry.
July 1924	63,313	22,970
August 1924	63,702	26,811
September 1924	65,498	25,874
October 1924	59,994	24,474
November 1924	58,433	22,098
December 1924	63,781	20,399
January 1925	68,505	23,873
February 1925	60,978	21,319
March 1925	69,240	25,440
April 1925	60,618	22,893
May 1925	61,158	23,049
June 1925	54,947	20,273
Total	750,167	279,473

CONTRACT FOR BRINGING GOVERNMENT OF INDIA STORES FROM ENGLISH PORTS TO INDIA.

116. THE HONOURABLE MR. MANMOHANDAS RAMJI: (i) Will the Government be pleased to state:

- whether there is a contract with any Company for bringing the Government of India stores from the English ports to this country;
- if so, when was the contract made, for how many years and with whom;
- whether before the contract was entered into, any tenders were invited;
- whether the contract was given to the lowest tenderer;
- their reasons for not accepting the lowest tender, if they have done so;
- the total amount of freight paid annually on the stores for the last five years; and

(g) the total amount of rebate obtained by Government for those years?

(ii) Will the Government be pleased to lay on the table a copy of the contract, if any?

THE HONOURABLE MR. A. A. L. PARSONS: (i) The attention of the Honourable Member is invited to the replies given in this House to question No. 9 on the 23rd March 1922 and to question No. 78 on the 1st September 1925 and also to the reply given in the Legislative Assembly on the 16th January 1923 to the Honourable Member's own question No. 79.

(ii) Does not arise.

RETURN TICKETS ON THE EAST INDIAN RAILWAY.

117. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: (a) Is it a fact that the East Indian Railway does not issue return journey tickets as are issued by the other Railways?

(b) Has the attention of Government been called to complaints in connection with the non-issue of return journey tickets on the East Indian Railway and the stoppage of the issue of the same on a portion of the Oudh and Rohilkhand Railway which is now incorporated in the East Indian Railway?

THE HONOURABLE MR. F. A. HADOW: (a) The practice on different railways is not uniform but Government are aware that the East Indian Railway do issue return journey tickets between certain points.

(b) The reply to both parts of the question is in the negative.

NUMBER OF PERMANENT MUHAMMADAN DISTRICT AND ADDITIONAL DISTRICT JUDGES IN THE UNITED PROVINCES.

118. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: (a) How many posts of permanent District and Additional District Judges are there in the United Provinces?

(b) How many permanent posts of District and Additional District Judges are held by Mussalmans in the United Provinces?

THE HONOURABLE MR. J. CRERAR: I have no information beyond that given in the Civil List for the United Provinces of Agra and Oudh for the 1st July 1925. That shows that there are 31 District and Sessions Judges, and one permanent and three officiating appointments were held by Muhammadans on that date.

PAY AND ALLOWANCES OF THE STAFF OF ATTACHED AND SUBORDINATE OFFICES.

119. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: Will the Government be pleased to state:

- if it is a fact that the scale of pay of the ministerial and inferior staffs employed in the subordinate and attached offices of the Government of India is lower than that of the employees in the Secretariat Offices, and that it is pitched more or less on the analogy of the scales obtaining in the provincial offices of the Government of the Punjab;

- (b) if it is a fact that in view of the high cost of living and higher house rents prevailing in Simla, the Punjab Government have found the old winter allowance of 25 per cent. which was given only for 5 months in a year to be inadequate and have now granted a permanent monthly hill allowance of 30 per cent. on the pay of all employees serving in provincial offices in this hill station ;
- (c) if it is a fact that the employees of the Government of India serving in its subordinate and attached offices whom their duties keep in Simla throughout the year though receiving the same scales of pay as are paid by the Provincial Government to its employees, do not get any house rent from the Government and are given only winter allowance for 5 months in a year and this at the rate of 25 per cent. of the pay of the employees ;
- (d) if they are aware of the discontent and dissatisfaction which is working among the employees of their attached and subordinate offices who have to stay in Simla throughout the year on account of the denial to them of that treatment in matters of pay and allowances which is accorded to the ministerial and inferior staffs of the Secretariat Offices and Provincial offices, respectively, of the Government of India and the Provincial Government ;
- (e) if they are prepared to take early steps to equalize the prospects of pay and allowances of the employees in question with those granted by the Local Government to its employees serving in Simla ?

THE HONOURABLE MR. J. CRERAR : (a) The reply to the first part is in the affirmative and to the second part in the negative.

(b) The Government of India have no information in the matter.

(c) Yes. But it is not correct to say that they receive the same scales of pay as the employees of the Provincial Government.

(d) and (e). The reply is in the negative.

AWARD OF ARCHÆOLOGICAL SCHOLARSHIPS TO NON-MUSLIM AND MUSLIM SCHOLARS.

120. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN : Will the Government kindly state the number of non-Muslim and Muslim scholars who were awarded the archæological scholarships of the Government of India when those scholarships were available during the last 20 years ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : Eleven archæological scholarships have been awarded to non-Muslim and five to Muslim scholars in the period named.

CONVERSION OF THE SCHOLARSHIP FOR MUSLIM ARCHÆOLOGY INTO A SCHOLARSHIP FOR CHEMISTRY.

121. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN : Will the Government kindly state if it is a fact that the scholarship for Muslim archæology was converted into a scholarship for chemistry and awarded to

non-Muslim, while the scholarship for Hindu Archæology continued as ever to be awarded to Hindu scholars ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : Yes ; but 3 scholarships for Sanskrit are also in abeyance.

ARCHITECTURAL SCHOLARSHIPS.

122. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN : Will the Government kindly state the number of architectural scholarships awarded by the Archæological Department during the last 21 years and the number of Muslim scholars who were selected for these Scholarships ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : The architectural scholarships were created only 12 years ago ; since then five have been awarded. Only one Muslim has applied so far for an architectural scholarship and he could not be selected as he did not possess the requisite qualifications.

NUMBER OF CONSERVATION ASSISTANTS IN THE ARCHÆOLOGICAL DEPARTMENT.

123. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN : Will the Government be pleased to state the total number of posts of conservation assistants in the Archæological Department and the number of Muslims and non-Muslims holding these posts ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : There are four posts of conservation assistants in the Archæological Department, all of which are held by non-Muslims.

MUSLIM, HINDU, SIKH AND CHRISTIAN EMPLOYEES IN ALL THE ARCHÆOLOGICAL AND EPIGRAPHICAL OFFICES IN INDIA.

124. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN : Will the Government be pleased to state the number of Muslim, Hindu, Sikh and Christian assistants, clerks, draftsmen and photographers employed in all the archæological and epigraphical offices in India ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : The information asked for is not readily available and its compilation would entail an expenditure of time and trouble hardly commensurate with the result.

PAUCITY OF MUSLIMS IN THE EDUCATION DEPARTMENT OF AJMER-MERWARA.

125. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN : (a) Is it a fact that the Provincial Muslim League of Rajputana, Ajmer, passed a resolution in a meeting of the League in August 1925 with regard to the paucity of Muslims in the Education Department of Ajmer-Merwara ?

(b) Is it a fact that a copy of the above resolution was sent to the Agent to the Governor General, Rajputana, and to the Government of India ?

(c) If so, will Government kindly say what action, if any, has been taken on it ?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN : (a) The Honourable Member apparently refers to a representation made by the Rajputana Provincial Muslim League on the 31st July 1925.

(b) The Government of India received a copy of the representation and they understand that another was sent to the local Administration.

(c) The representation is under consideration.

PAUCITY OF MUSLIMS IN THE EDUCATION DEPARTMENT OF AJMER-MERWARA.

126. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: (a) Is it a fact that out of a total of 188 appointments in Ajmer-Merwara comprising inspection officers, professors in the Government College, Ajmer, Government High School, Normal Training, secondary and primary schools for boys and girls (excluding Moinia Islamia High School) 171 appointments have been held by non-Muslims and only 17 by Muslims?

(b) Is it a fact that there is not a single Muhammadan in the inspecting staff in Ajmer-Merwara?

(c) Is it a fact that since the creation of the Educational Department in Ajmer-Merwara there has never been any Muhammadan officer in the inspecting staff?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: (a) Excluding the staff of the Moinia Islamia High School, Ajmer, the total number of educational appointments of all classes in Ajmer-Merwara is 229. Out of these appointments 203 are held by Hindus, 23 by Muhammadans and 3 by Christians.

(b) and (c). Yes.

ALLEGED APATHETIC ATTITUDE OF GOVERNMENT TOWARDS MUSLIMS IN AJMER-MERWARA.

127. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: (a) Is it a fact that deputations of the Rajputana Provincial Muslim League, Educational Conference and other influential persons waited upon the Agent to the Governor General and other high Government Heads of Departments many times?

(b) Is it a fact that these deputations described the attitude of Government towards Muslims as apathetic?

(c) If so, will Government kindly say what, if any, action has been taken in the matter?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: (a) The reply is in the affirmative.

(b) The deputations brought forward the position of Muslims in Ajmer Merwara.

(c) A Committee of the Provincial Muslim League has been appointed to inquire into certain matters and to report on them to the local Administration.

ASSISTANT SUPERINTENDENT OF EDUCATION, AJMER-MERWARA.

128. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: (a) Is it a fact that a deputation of the Rajputana Provincial Muslim League and other

Muslim gentry waited upon Sir R. E. Holland, the then Agent to the Governor General, in February 1925 in connection with the newly created appointment of Assistant Superintendent of Education?

(b) Is it a fact that the Agent to the Governor General gave a sympathetic hearing to the deputation and promised that a local man will be appointed to the post?

(c) Is it a fact that the person appointed to this post is not a local man?

(d) Is it a fact that the person appointed is a resident of the Almorah district and does not possess any secondary and primary teaching experience and is not a trained teacher?

(e) Will Government kindly state reasons for this appointment?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: (a) and (b). The information asked for is not available.

(c) and (d). The official appointed, on probation, as Assistant Superintendent of Education, Ajmer-Merwara, though a native of Almorah, has been in residence in Ajmer-Merwara since July 1914. He is technically not trained but he possesses 15 years' teaching experience in college and school classes.

(e) No information is available regarding the reasons for this appointment, but it was presumably made in the public interests.

MUSLIMS IN AJMER-MERWARA.

129. THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: Has the attention of Government been drawn to the article by "Fairplay" in the *Muslim Outlook*, dated the 16th August?

If so, do Government propose to take any action in connection therewith?

THE HONOURABLE SIR NARASIMHA SARMA (on behalf of the Honourable Mr. J. P. Thompson): A report in the matter has been called for from the Chief Commissioner, Ajmer-Merwara. Until it has been received and considered I am unable to give any further reply to the Honourable Member's inquiry.

THE HONOURABLE MR. MOHAMMAD YAMIN KHAN: Will the Government be able to supply this information to me even after the Council of State is dissolved, if the Government receive this information this year?

THE HONOURABLE SIR NARASIMHA SARMA: I hope it will be possible to do so. The matter will be considered.

CARRIAGE OF GOODS BY SEA BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move that the Bill to amend the law with respect to the carriage of goods by sea, as passed by the Legislative Assembly, be taken into consideration.

[Mr. D. T. Chadwick.]

I explained the scope and purpose of this Bill to this Council earlier in this Session when moving a motion that Members of this Council should be appointed to serve on the Joint Committee to consider this Bill, and I do not think there is any need to repeat what I then said. The rules which are embodied in the Schedule to this Bill lay down briefly two things, namely, they practically make, where applied, a bill of lading compulsory and they define and lay down the minimum liabilities out of which a carrier of goods by sea will not be allowed to contract himself. As I said before, these rules are the result of an agreement and cannot in themselves be varied. As the Council will remember, when moving for a Joint Committee, I also said there was one point of substance to be considered by that Joint Committee. That point of substance was the extent of the application of these rules—to what trades and forms of carriage they should be applied. It is perfectly clear that they should be applied to the carriage of goods by steamers in foreign trade. There is no doubt about that.

But, as a result of the circulation of the Bill and the comments which had been received from all commercial bodies, it was clear that there was a strong desire on the part of merchant associations that the Bill and the rules embodied in the Schedule thereto should also be applied to the carriage of goods by sea on steamers in the coastal trade of India. It appeared that it was practically already universally the custom to issue bills of lading in that trade and ship-owners were also agreeable to the application of these rules to that trade. Therefore, Sir, the Joint Committee recast clause 3 of the Bill. The effect of this recasting is only to except from the operation of the Schedule goods carried in sailing vessels from ports in British India and goods carried by steamers from a specified port in British India to a specified port in Ceylon. The reasons for these two exceptions are, I think, clear. In the first place, in regard to goods carried on sailing vessels either on the coast of British India or from Indian ports abroad, as for instance, to the Persian Gulf and elsewhere, it is not customary for these carriers to issue bills of lading. At least, that is not invariably the custom and there is no need, therefore, for applying these rules to that class of trade. The second exemption, namely, giving power to the Governor-General to except the carriage of goods on steamers between one specified port in British India to another specified port in Ceylon was designed specifically to cover the case of the carriage of goods from Danushkodi to Talaimannar by the South Indian Railway ferry boat. That is a short voyage of about 1½ hours' duration and forms part of the railway system. The liabilities of the railway companies are defined under the Railways Act. There is no reason to bring that route within the scope of these rules. We have worded the clause in the form in which it now is in the Bill in order that in case the railway company alters its terminal port from Danushkodi to one close by, the alteration may be made simply by notification.

I do not think I need say anything more upon the Bill and its purpose or the changes that have been made. It is a very useful Bill which is accepted by the whole of the commercial community and the interests which are affected by it. It has been improved in the Joint Committee and it was passed by the Assembly unanimously. I commend it to the consideration of this Council.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the law with respect to the carriage of goods by sea, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: If any Honourable Member desires to speak on any clause of the Bill I hope he will rise immediately and I shall give him an opportunity.

(No Honourable Member rose to speak.)

Clauses 2, 3, 4, 5, 6 and 7 were added to the Bill.

Clause 1 was added to the Bill.

The Schedule was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE THE PRESIDENT. The question is:

"That the Bill to amend the law with respect to the carriage of goods by sea, as passed by the Legislative Assembly, be passed."

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I have much pleasure in supporting the motion of my Honourable friend Mr. Chadwick. Honourable Members may not all be aware that the rules embodied in this Bill are the outcome of active discussions between the representatives of ship-owners, shippers, and underwriters in most of the maritime countries on this matter which has been the subject of considerable controversy over a period of some 20 years. These various mercantile bodies came to an agreement and the result of their agreement was a Bill similar to this in the Home country. This measure has been adopted by the United Kingdom and by other countries and I think it is quite suitable that it should have been introduced into legislation in India. It is a useful piece of legislation, Sir, and I heartily support the motion, that it should be passed.

The motion was adopted.

PROVIDENT FUNDS (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the Bill to amend the Provident Funds Act, 1925, as passed by the Legislative Assembly, be taken into consideration.

This is a small amending Bill dealing entirely with points of draftsmanship which have come to notice during the course of the consideration of the measure which is now the Provident Funds Act, 1925. It will be in the recollection of the House that in September of last year I introduced the Bill which has now become that Act. The Bill, after very thorough discussion, was passed by this House and was remitted to the Legislative Assembly. The Legislative Assembly made certain amendments in the

[Mr. J. Crerar.]

measure, which once more came before us. We were unable to accept those amendments and we made certain further amendments ourselves. I am happy to say that these amendments have been accepted in the other House. (Hear, hear.) But, as I mentioned a few moments ago, during the course of these discussions, a certain number of administrative inconveniences arising from the phraseology of the original Bill have come to notice. These are fully explained in the Statement of Objects and Reasons and I, therefore, do not propose to detain the House by dwelling upon them in detail. I trust that the House will pass this Bill and will thus put the final touch on what I am sure every Member of this House will recognise is an exceedingly useful and beneficent measure.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

OPIUM (AMENDMENT) BILL.

THE HONOURABLE MR. A. C. McWATTERS (Finance Secretary): Sir, I move that the Bill further to amend the Opium Act, 1857, as passed by the Legislative Assembly, be taken into consideration.

The House will observe that the Bill which is now before them is in principle identical with the Bill which was passed by this House a few days ago regarding the central administration of salt in the Madras and Bombay Presidencies. The Bill which it is proposed to amend deals with the cultivation of poppy and the manufacture of opium, and the proposal embodied in this Bill is to take the administration of opium under the direct control of the Central Government.

At present it is administered as an agency subject by the United Provinces Government, but the House will realise that it is clearly an administrative convenience that this intermediate agency should, as far as possible, be eliminated, especially in a matter such as opium where all the important questions of principle have in any case to be referred to the Central Government. The details of the Bill are merely consequential apart from the elimination of some of the very antique terminology of this very ancient Act and they provide for the control passing into the hands of the Governor General in Council. The House will observe that no Department of the Government of India is mentioned, leaving the administration by any particular Department as an open question, which rests with the Governor General. I think that the House will realise that quite apart from the question of administrative convenience the question of principle at stake is really important. It is a further

step in the direction of separating the spheres of the Central and Local Governments and is a real step in the direction of provincial autonomy. In the case of opium I think it is particularly important because the questions of principle are exceedingly important and very much before the world at present, and it is the Central Government which is in a position to pass orders on those questions of principle which must affect the details of the administration in the provinces.

I move, Sir, that the Bill, as passed by the Legislative Assembly, be taken into consideration.

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. C. McWATTERS: I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

COAL GRADING BOARD BILL.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move that the Bill to provide for the grading of coal and for the grant of certificates for coal intended for export, as passed by the Legislative Assembly, be taken into consideration.

Sir, this Bill is designed to give effect to the chief recommendations of the Indian Coal Committee which sat during the last cold weather. The Council is well aware that the coal industry unfortunately is in a state of depression. The main facts with which the industry is at this moment confronted are very simply stated. Since 1914 there has been a very large increase in the production of coal in India. Since that date 330 odd collieries have been opened, an increase of over 50 per cent. of the collieries previously in existence, and whilst the average of the three pre-war years' production of coal in India was about 16½ million tons, in 1924 it was 21 millions. Concurrently with that large expansion in local production there has been a loss in our export markets. In the three pre-war years the export of coal to foreign ports was about 600,000 tons a year, to Indian ports 1¼ million tons, and bunker coal 300,000 tons, making a total of something over 2 million tons. I would emphasize that those are the figures by which they exceed the present exports. But the whole of that has not been lost because there is more coal carried to Indian ports by railways. I cannot give the correct statistics regarding the change arising from that alteration in routing, but at any rate the loss in our export market trade is somewhere in the neighbourhood of 2 million tons. We have therefore got an increased production of 4½ millions and a decrease in the overseas market of 2 millions, a total of over 6 millions altogether. Last year, therefore, a Coal Committee was appointed to visit most of these overseas consuming centres and to ascertain some of the causes which are militating against the recapture of those markets and to make recommendations. This Bill gives effect to their chief recommendations.

[Mr. D. T. Chadwick.]

In their inquiry, the Committee found that competition now is much keener than it was before the war. In the course of the last 10 years other competing countries have also developed very very largely their coal production, notably South Africa, Australia, and Japan. Also, as we all know, there is a much wider and larger market for oil fuel than there had been previously, and in some places where nature has been kind and considerate, there are opportunities for the use of hydro-electric power which has also been developed. All these mean harder work and keener competition for the Indian coal in eastern markets. The evidence which the Indian Coal Committee obtained in these different consuming centres was on the whole depressing. In some centres it was expressed more violently than in others, but taking it all in all it was remarkably unanimous. There was no question about the intrinsic quality of Indian coal. Coal for coal it is as good on the whole as those with which it has to compete. But the buyers, the large buyers frequently complained that they had no certainty when buying Indian coal that they would get the coal they expected or the coal that they thought they had contracted for. Owing to this, prejudice has undoubtedly grown up in many of those markets against the use of Indian coal, and the Committee came to the conclusion that in order to recover these markets it was not merely a question of price but also of quality.

We might pause here for a moment to see the character of the competition which Indian coal has to meet in these markets, such as Colombo, Singapore, Penang, Bombay, etc. A few years ago the South African Parliament passed a Bill making the grading of South African coal for export compulsory. No coal can be exported from South Africa which has not been passed by the South African Grading Board. That Board not only analyses the coals and grades of the different seams of the collieries, but also at the time of shipment gives a certificate to the effect that the coal shipped is from that colliery or seam from which it purports to come and has been shipped in good condition. The House will see in a moment what this means in any of those markets to which I have referred like Colombo or Singapore. The South African seller is able to say to the buyer, "Here is a certificate of analysis of the coal that I am offering, an analysis, etc. of the coal I am offering as granted by the Grading Board. Not only that, if you buy this coal you will get with it a certificate that it is coal of this character which has been shipped." Therefore, the buyer, through that service and otherwise has, unfortunately, greater confidence in the South African coal than he has at present in the Indian coal. Therefore, the Committee came to the conclusion that it was a matter both of price and of quality and they set themselves to try and devise means to give similar confidence to the consumer in regard to Indian coal which may be exported.

They recommend the establishment of a Grading Board, which recommendation is embodied in this Bill, but they have not gone so far as South Africa did, since they do not recommend that grading should be made necessary or compulsory for all coal exported. They advised that it should be left to the option of the collieries to come within the grading system if they wish to. But clearly those who wish to come in will have an advantage over those who stay out. The Committee made three recommendations in this part of their

report. One was that a Grading Board should be established. The second was that direct assistance should be given to the export of graded coal by means of additional rebates in rail freight to the docks. They also said that immediate action is necessary, since delay would only increase the difficulties which Indian coal was facing and would have to face. So impressed were the Committee with the need for immediate action, that they recommended that this Grading Board should be brought into existence and that additional rebates should be given by executive instructions. That, Sir, seemed pressing the Government rather too far. It seemed perfectly clear that for Government to give an additional rebate on railway freights as an inducement to collieries to come under this grading system was contrary to the spirit of those sections of the Railways Act which deal with undue preference. It therefore seemed that the straight and fair course to take was to defer action until the Government was in a position to place this Bill before the Legislature of the country and obtain their consent before adopting such measures. We have accordingly done so now in this Bill.

Not only does this Bill embody the recommendations of the Central Coal Committee but the principle of the Bill has also been accepted by the two chief trade organisations dealing with the coal trade. The Honourable the Commerce Member visited Calcutta and discussed the report of the Committee in detail with the committees of both the Mining Association and the Mining Federation. Both accepted it in principle. Over and above that, when the Bill was drafted and before it was introduced into the Assembly, we sent the Bill again to the committees of these organizations and asked them for their detailed criticisms on any clauses of the draft. It is clear that in a matter like this, it is above all things necessary that we should carry the coal trade or whatever trade is affected with us. The criticisms that were made were placed before the Joint Committee appointed to consider the Bill and each one of them was carefully taken into account. As a result certain alterations have been made in the Bill which improve it in the matter of its machinery and in its fairness of working. There is thus no doubt that the coal organisations accept the principle of the Bill.

There is only one point on which I must say there is a serious divergence of opinion, and that is in regard to the constitution of the Grading Board itself. A complete alternative scheme has not been submitted or proposed. It has only been stated that this Board should and ought to consist of technical specialists as geologists, combustion engineers, etc. Well, Sir, on that point there are three things to be borne in mind. The first is that the bodies which are specified in clause 3 of the Bill can nominate as members to the Grading Board whom they like. The nominees need not necessarily be one of their members. They can appoint as one of their nominees any man with technical qualifications whom they see fit to nominate. As they are the people most interested in the rehabilitation of this trade this we ought to be able for the time being to leave to them. The second point is that the Grading Board does not itself propose to analyse coal. Coal will be sent for analysis to the Government test house at Alipore. They simply put the coal in bags and label them and the test house does not know to which colliery or to whom the coal belongs. Therefore, under the system that we have followed, there

[Mr. D. T. Chadwick.]

will be an entirely independent system of analysis. The third point is that this organisation which we are setting up will be, I hope, of a temporary nature. The Coal Committee look forward to the time, and the Government certainly do the same, when the coal trade itself will undertake this work. Yet it would obviously be a matter of expense and delay to set to work and try to create at once an absolutely independent and new organisation, especially when we have for the moment one ready to hand in the Chief Mining Engineer and the staff under him. He is the only person, as it happens, who has already a grading list covering many of our collieries and who has an establishment already engaged and trained in the work which the Grading Board and its establishment will have to undertake. The Coal Committee therefore suggested that as a beginning that organisation and information should be utilised and to that Government have agreed. But we hope and trust that within two years, or within a short time not exceeding two years, the coal trade itself will come together and will have organised itself sufficiently to undertake this grading business entirely by itself.

I will only say one word about the additional rebate that it is proposed to give to the export trade in coal. That rebate is additional and above the rebate which is now given. There is no question of reducing the rebate now given on coal for export from Calcutta. There is no question of reducing the existing rebate, graded export coal will get an additional rebate.

Sir, I have explained in sufficient detail the origin, the purpose and the history of this Bill. We can claim that it carries out the chief recommendation of a Committee specially appointed to examine the present conditions of this trade. We can further claim that it has the support of the two chief bodies or organisations connected with that trade and that it comes to this Council with the unanimous approval of the Legislative Assembly. I therefore recommend it to the consideration of this House. There will be one amendment which I shall move later. It is due to a clerical error which somehow escaped notice.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, as one interested in the coal industry to a certain extent and as one who understands something of the coal trade, I welcome this Bill, but this Bill only affords a very partial relief to the coal industry of the country. Honourable Members are aware that during the last five years the coal trade, which is of tremendous national importance to India, has undergone trade vicissitudes of a very severe and unprecedented character. I shall not go into the genesis of the depression in the coal trade. It is now a matter of controversy whether, after the War, the Government of India were justified in putting an embargo on the export of coal from this country. It is too late now to inquire into the propriety of that decision. But the Honourable Members who have been in this Council for some time are aware that times out of number during the early part of the life of this Council the attention of Government was insistently drawn to the fact that the embargo which was put on the coal trade was likely to destroy the export coal trade of India and, despite the many recommendations that were made in this House

for the immediate abolition of that embargo, it was allowed to be continued up to the 1st of January 1923. However, it is a matter of gratification that, whatever may have been the mistakes in the past, Government have shown their determination to make amends for the same and have brought in this little legislation which has the effect of giving some measure of relief to the coal industry of the country. I therefore congratulate Government on the action they have taken in the matter. The Fiscal Commission were of opinion that the coal industry is the basic industry of the country and that it supplied the raw material for numerous other industries on which the foundations of greater industrial India could be based.

The Bill only seeks to give effect to the principal recommendation of the Coal Committee regarding the establishment of a Board for the grading of coal and follows in that way the example of Australia and South Africa primarily. The Bill itself is a workable one. The main provisions of this Bill are contained in clauses 3 and 4 of the Bill. The Honourable Mr. Chadwick has pointed out that there has been some discussion and some measure of variance of opinion on the question of the constitution of the Board, but I personally think that the constitution as embodied in clause 3 of the Bill seems to appeal to me and will appeal to any man who understands the principles underlying the coal trade of the country. I should like to welcome a constitution appointed by the coal trade itself—an organisation formed and established within the industry for the purpose of controlling the trade. But the matter of export trade needed the immediate consideration and attention of Government. If we are going to get back to some extent our export trade, it is necessary that immediate action should be taken. The growing competition of the world in the matter of the coal trade makes it almost impossible to my mind to revive our export trade at any rate for several years, and unless our coal in this country will be in a position to compete with that produced in other countries both in quality and price—particularly with South Africa, Japan and Australia—in the eastern markets, I do not see much hope of Indian coal from Bengal being exported to the eastern countries. However, the Government are to be thanked for having agreed to lay at the disposal of the country and the coal trade the services of the present organisation which they have got—a very efficient organisation—and I think that with the assistance of that organisation at any rate we shall be in a position to grade our coal in such a manner as at least to give an assurance to eastern consumers and outside purchasers that Indian coal can be safely depended upon and can compete with other coal. We have got the decisive opinion of the Coal Committee that our coal, if properly cleaned and properly screened, can stand any competition. There will be no difficulty in that matter. It is unfortunately due to the carelessness on the part of many of our coal owners and their great anxiety to make money by fair means or foul even by palming off bad coal where good coal was strictly guaranteed that have in great measure brought on us our troubles. There is no doubt as to that. If the quality of the coal can be improved, we shall certainly see at last a way to solve the present difficult problem. Over-production has been stated to be one of the supreme reasons which has prevented the sale of our total output. I quite agree with that. And if the Indian coal trade is

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to be rehabilitated in foreign and even internal markets, it will have to be rehabilitated only by securing for our coal a better reputation for quality.

The other important provision is regarding the grant of rebates, which is embodied in clause 8 of the Bill. I congratulate the Government, especially the Commerce Department, on having shown such consideration in this matter as will enable coal which is exported under licence to receive a further aid in the matter of rebate of 8 annas a ton. At present coal which is exported, I understand, gets a rebate of 25 per cent. (*The Honourable Mr. D. T. Chadwick*: "Yes"). And this is another 50 per cent. on that 25 per cent. (it works out to that figure), and I really think this policy of Government is very commendable and will prove beneficial to the trade. In the last clause it is laid down that preference may be given in the supply of wagons for forwarding coal for export from a graded colliery. I hope this principle will not be carried out to any great extent to the sacrifice of internal consumption. Preference certainly should be given, as far as possible, to the export trade under licence, and we must endeavour to recover our export trade. At the same time, I would certainly not like to see our export trade revived at the cost of our local and internal industries.

But, Sir, though I welcome this Bill, I must point out to the Honourable Mr. Chadwick that this measure of relief, though it is highly appreciated, will not solve the problems of the coal trade. This is a very opportune Bill and a very workable Bill, and I trust this Bill will ensure a certain measure of success. But there are other important matters so much intermingled with the question of the coal trade and, unless those matters receive the prompt attention of the Government of India, the coal trade is not likely to revive substantially. There should be in my opinion rapid development of railways. Railways should be carried to all coal areas which promise first class coal. The great need in the country is of first class coal. We have second, third and fourth class coal in the country—and many of these collieries are worked on a system which I may say is uneconomical and really employ and monopolise a large portion of labour which could be more profitably employed in developing the superior coal resources of the country. But already many large deposits of first class coal have been discovered in the country, and it is the duty of Government to develop those deposits by giving railway facilities to those places. And I say that even if crores of rupees are spent in the development of these deposits by railway connection, it will not only handsomely bring money back into the coffers of Government, but it will improve the general position of the country in the matter of the coal trade and also considerably add to the industrial prosperity and development of India.

Another important matter in this connection should also be borne in mind. What we want for the development of the coal trade is a reduction in railway freights. We want a substantial reduction in railway freights. Unless this is done, coal cannot be carried from one place to another. At present railway freights in this country are excessively high. You can bring coal from Africa to Bombay at a lesser rate of freight than you can send it from Bengal to Bombay to-day, and it is this difficulty which forms a great handi-

cap to the trade. The railway companies and the Government must profoundly bear in mind that coal is the basic industry of the country, and it is unnecessary that they should make money by the carriage of coal. Coal is the foundation of all industries in the country, and therefore, in my opinion, coal ought to be carried at an actual cost rate. The Railway Administration should not think of making any profit on the carriage of coal. At any rate, in the case of long distances, it is very necessary that the coal freights should be considerably reduced. I note that this measure has been partially effected in many quarters. So far as the Great Indian Peninsula Railway is concerned, I am very very glad to mention in this Council that that Railway has at present a very sagacious and expert Agent in Mr. Maclean. He has done his level best to reduce the railway freights as far as possible, and I hope other Railways in India will follow suit. This sort of impetus must come from the Railway Board and with Sir Charles Hindley at the head and with an expert railway administrator like Mr. Hadow, I am not at all disposed to take a despondent view of the matter and I hope that at an early date this consummation will be attained. Some critics have suggested even the imposition of an import duty on coal. In that connection I shall make one remark that the Fiscal Commission did not approve of putting an import duty on such a basic industry as coal and they recommended even the abolition of the small duty of 8 annas a ton which existed, and immediately after the acceptance of that report, the Government, I understand, did away with that duty.

THE HONOURABLE MR. D. T. CHADWICK: No, Sir. It is still in existence.

THE HONOURABLE SIR MANECKJI DADABHOY: Thanks, I speak subject to correction. The matter requires consideration now. The Fiscal Commission's Report was written some time ago, conditions are very rapidly changing in this country, and it may even be necessary at some future time to reconsider the matter if foreign coal comes in in increasingly large quantities. I am not personally in favour of putting any import duty on a basic industry of this country, but this and various other matters require a great deal of thought and consideration. It is our national industry. The two national industries all the world over are steel and coal. No country is great without the development of these two great industries, and every possible precaution should be taken by Government that the coal trade, like the steel industry, being a basic industry, is well preserved and well watched—vigilantly watched and every possible precaution should be taken for its regular and systematic development.

THE HONOURABLE SIR WILLIAM CURRIE (Bengal Chamber of Commerce): Sir, I rise to support this Bill. It has been brought in in accordance with the wishes of the coal trade and it is a genuine attempt on their part to recapture, without expense to the State, the markets which they once held in Colombo, in Singapore, in Bombay and other places, which are now held by Australian, Japanese and South African coals. The recovery of these markets will probably be slow but eventual success is confidently expected. As the Honourable Sir Maneckji Dadabhoy has said, the coal industry is the

[Sir William Currie.]

basic industry of the country and, if we can have a healthy export trade, our protection costs will become less, resulting in benefit to the internal consumer and to the internal industries of the country. It is also an important factor in the trade balance of India. Sir, I hope Honourable Members of this House will pass this Bill to enable the coal trade to put their house in order at the earliest possible moment.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal : Non-Muhammadan) : Sir, I think that in connection with the consideration of this particular motion we would do well not to anticipate what the Government or this House may in future have to say with regard to the imposition of an import duty on coal for reasons of protection such as have been mentioned here and for other reasons like those of reciprocity. At the present moment, Sir, talking of internal consumption, I think it is notorious that in and about seaport towns the weight of the railway freight makes it impossible for country coal to compete with incoming coal apart from questions of grading. Compare for example the recent Sukkur Barrage tenders. That is a very important feature of the question which has hurt Bengal more than any other part of the country. In Bengal, Sir, there are more people interested in coal and in the coal industry than is generally known. It is not merely the bigger companies that we hear of and who are interested in export; but the smaller people who have been pioneer workers and invested their all in coal companies, have come to grief. The need of authoritative grading like this, not for the larger reasons suggested is not a matter that helps one in feeling comfortable about the future of industries like coal, cotton and other stuffs that go out of the country. It is said that care of the kind that is sought to be provided for in this Bill should be necessary to see that adulteration, and undue admixture in handling is prevented. But what are the real and inner reasons for such a state of things? The difficulty about wagons which is now disappearing, added to the tremendous rates of railway freight, are some serious difficulties in the way of the coal owners. Then again take the recent gratuitous embargo on export which has been mentioned. Once you lose an export market, once others come in you take long to recover lost ground. And then come in questions of grading and other cognate questions that never existed before. All this contributed to demoralise at least the smaller men in the industry and have brought about a state of things which has unfortunately to be guarded against by legislation in the same way as we had to take steps with regard to cotton, in the same way as probably not in the distant future steps may have to be taken with regard to jute, frequent complaints about which have been coming from Dundee and other places about the way in which our jute is being handled for export. High standards must be maintained and the traders themselves must set the pace. It is a pity that the Legislature has to intervene in these matters.

Sir, in the other House, the question of higher freight and other disabilities was more directly raised than the Honourable Mr. Chadwick has raised it here, and an undertaking was given by Government, which I should like to see repeated in this House, that the larger question affecting the coal trade of the country will at no distant date be referred to the Tariff Board.

Of course, the Coal Committee could not go into these aspects of the question. This Bill cannot take all these matters into consideration, and as a temporary measure of relief, so far as the coal export trade is concerned, it is welcome. But there is the bigger question in which the whole country, and Bengal specially, is vitally interested and I trust, Sir, that my Honourable friend will see that the undertaking that was given in the other House is repeated here.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay : Non-Muhammadan) : Sir, I will just say a word. I am going to support this Bill. I am glad that the attention of the country and of the Government has been attracted to this very important subject. In my own district there are three concerns, (1) the Ogle Works, (2) Kirlorkar Works and (3) Bahadur Works. They want coal, and some time before I was apprised of the difficulty which the Ogle Works felt and certain representations have been made by these works to the authorities much nearer to them. Therefore, I am glad to support this measure.

THE HONOURABLE MR. D. T. CHADWICK : I am gratified by the reception which the Council has accorded to this Bill. It is perfectly true, as my Honourable friend, Sir Maneckji.

12 NOON.

Dadabhai said, that it deals only partially with the difficulties of the coal trade. It deals with one section of the coal trade, namely, the export coal trade. He raised the question, and my Honourable friend Sir Deva Prasad Sarvadhikary also did the same, of lowering the railway freights on the transport of coal inland in India. I do not propose to go into that question at all, because it will be the subject of debate on a Resolution to be moved to-morrow. We are further satisfied that this measure will not hamper the transport of coal inland. The Honourable Sir Deva Prasad Sarvadhikary was grieved over the necessity of the legislation we have had to take recently in regard to maintaining the quality of the goods for export. I agree with him. It is a matter of regret. But although it is a matter of sadness I do not think it is altogether a matter of surprise. It is not unusual in a period of very high prices and inflated demand that care for quality degenerates. It brings its own retribution. Trade has to be won back by care and fasting. The great point, however, is this that we want Trades to be able to manage these matters for themselves ultimately; to control and take a pride in the quality of the goods they send out and to see that in good times and in bad that quality is so maintained. Organizations for that purpose have been formed time and again in British history. My Honourable friend also asked me with regard to the promise that had been given in regard to reference to the Tariff Board. I will repeat here what my honoured chief said in another place :

"We are under a pledge to refer the question of tariff protection to the coal trade to the Tariff Board and we stand by that pledge. The trouble is that the Indian Tariff Board is a very busy body indeed. As my Honourable friend knows, it has been busy with steel, paper, cement, and other industries and I am afraid coal so far has been crowded out."

But whatever the Tariff Board could do, whatever it might do, that can have no effect whatever upon the export trade in coal, and this, Sir, is a useful measure dealing with that trade. I thank the Council for its acceptance of this measure.

THE HONOURABLE THE PRESIDENT : The question is :—

“That the Bill to provide for the grading of coal and for the grant of certificates for coal intended for export, as passed by the Legislative Assembly, be taken into consideration.”

The motion was adopted.

Clauses, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK : Sir, I beg to move as an amendment that in section 12 (2), sub-clause (a) of the Bill for the word and figure “section 4” the word and figure “section 3” be substituted.

I apologise to the House for having to bring forward this amendment. It is a clerical error which has escaped notice and therefore my apologies are certainly necessary. If the House will look at this sub-clause it gives power for the framing of rules regulating the nomination of members to the Board, that is, to frame rules with regard to section 3. Unfortunately it is printed as “section 4.”

THE HONOURABLE THE PRESIDENT : The question is :

“That in clause 12 (2) sub-clause (a) for the word and figure ‘section 4’ the word and figure ‘section 3’ be substituted.”

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK : I beg to move that the Bill, as passed by the Legislative Assembly and as amended by the Council of State, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 15th September, 1925.

COUNCIL OF STATE.

Tuesday, the 15th September, 1925.

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

QUESTIONS AND ANSWERS.

THE CINEMA INDUSTRY.

130. THE HONOURABLE MR. HAROON JAFFER : Will Government be pleased to state :

- (a) the amount of the production of cinema films in India during 1924 ;
- (b) the amount of capital invested in the cinema industry in India ;
and
- (c) the value of imported films from America, Germany and England ?

THE HONOURABLE MR. A. A. L. PARSONS : (a) and (b). Government have no information.

(c) The Honourable Member's attention is invited to pages 220-221 of the Annual Statement of the Sea-borne Trade of British India with the British Empire and Foreign Countries for the year ending the 31st March 1924, Vol. I, a copy of which is in the Library.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Would the Honourable Member please tell the House as to how Indian films are censured ?

THE HONOURABLE THE PRESIDENT : “Censuring films” does not arise out of questions which deal with “the amount of the production of cinema films in India, the amount of capital invested in the industry in India, and the value of imported films.”

ESTABLISHMENT OF AIR COMMUNICATIONS BETWEEN INDIA AND ENGLAND.

131. THE HONOURABLE MR. HAROON JAFFER : Will Government be pleased to lay on the table a statement of the present situation relating to the establishment of air communications between India and England ?

THE HONOURABLE MR. A. A. L. PARSONS : There are two proposals relating to the establishment of air communications between England and India. The first is for an Airship Service *via* Ismailia to Karachi. The Standing Finance Committee of the Legislative Assembly have agreed to the land required for the base at Karachi, which is estimated to cost about Rs. 90,000, being acquired by the Government of India and placed rent free at the disposal of the Home Government. They have also approved of a grant-in-aid of rupees

four lakhs being made by the Government of India to the scheme on the understanding that import duties at the ordinary rates will be paid on all materials imported into India for the works.

The second proposal is for the inauguration of a weekly heavier-than-air service between Egypt and Karachi. This service, which is the initial link in a future service to England, will replace that at present carried out fortnightly by the R. A. F. between Egypt and Iraq, and, as at present contemplated will operate weekly in each direction between Kantara and Karachi. A survey party is very shortly being sent out by the Air Ministry to inspect and report on the route. The Home Government have entered into an agreement with Imperial Airways, Limited, for the operation of the route.

COST TO GOVERNMENT OF THE STRIKE ON THE NORTH WESTERN RAILWAY.

132. THE HONOURABLE MR. HAROON JAFFER: Will Government be pleased to state how much the North Western Railway strike of June last cost the Government?

THE HONOURABLE MR. F. A. HADOW: It is impossible to frame a reliable estimate of what the recent strike on the North Western Railway cost Government.

OIL SUPPLIES OF INDIA.

133. THE HONOURABLE MR. HAROON JAFFER: Will Government please give figures showing:

- the present oil supplies of India;
- the amount of oil drawn annually;
- the amount of oil exported; and
- what means are being used for the discovery of new sources of oil?

THE HONOURABLE MR. A. A. L. PARSONS: (a) I am afraid that I am not clear as to what information the Honourable Member desires. If he wishes an estimate of the reserves of mineral oil in India, I regret that no accurate estimate is possible. If, however, he wishes to know the sources of our annual supply, the production of petroleum in India in 1923 was 294,215,053 gallons and particulars of the amounts imported will be found in the Annual Statement of Sea-borne Trade. This also answers part (b) of the question.

(c) During the year 1923-24 the amount of mineral oil exported was 16,841,325 gallons.

(d) Prospectors can obtain prospecting licenses and mining leases under the Mining Rules, and can ordinarily avail themselves of the advice of the Geological Survey.

INDIAN CADETS IN SANDHURST.

134. THE HONOURABLE MR. HAROON JAFFER: Will Government please state:

- how many Indians are at present in Sandhurst;
- how many Indians have completed their course at Sandhurst; and
- how many of (b) have been given commissions?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) There are at present 15 Indian cadets at the Royal Military College, Sandhurst.

(b) and (c). The number who have passed out of Sandhurst since 1919 is 32. These were all given commissions. In addition, six cadets have recently completed the course, and we are awaiting intimation regarding the grant of their commissions.

CONSUMPTION OF OPIUM PER HEAD IN EACH PROVINCE.

135. THE HONOURABLE MR. HAROON JAFFER: Will Government please give figures showing:

- the consumption of opium per head in each Province in 1924 compared with that in 1915 and 1905;
- the average price of opium in each Province in each of those years; and
- the amount of revenue derived from opium per Province in the three years above named?

THE HONOURABLE MR. A. C. MCWATTERS: (a), (b) and (c). Statements showing the information asked for are laid on the table. Figures have been given for financial years up to 1923-24, the latest available statistics are not maintained for calendar years.

A.—Statement showing the consumption of opium per head.

Province.	(In seers).		
	1905-06.	1915-16.	1923-24.
Madras	·001	·0009	·0008
Bombay	·0023	·003	·0017
Sind	·0028	·0026	·0018
Bengal	·0014	·0011	·0008
United Provinces	·0014	·001	·0005
Punjab	·0029 (including Delhi).	·0029	·0016
Bihar and Orissa	·0009	·0009	·0008
Burma	·0085	·0041	·0027
Central Provinces	·0032 (including Berar).	·0036 (including Berar).	·0022*
Berar	·0063	..	..
Assam	·0098	·0094	·0048

*Figures relate to 1923.

North-West Frontier Province	..	..	..	0015	0021	0012
Ajmer-Merwara	..	..	..	0064	0047	0057
Baluchistan	..	..	..	0018	0021	0008
Coorg	..	..	..	0002	0003	0002
Delhi	..	..	..	Included in the Pun- jab.	0056	0002

B.—Statement showing the average retail price (at which retail vendors sold opium to consumers) of opium per seer during the years 1905-06, 1915-16 and 1923-24.

	1905-06.	1915-16.	1923-24.
	Rs.	Rs.	Rs.
Madras	.. Varying from Rs. 35-8-11 to Rs. 72-10-10.	.. Varying from Rs. 58-1-10 to Rs. 101-9-11.	.. Varying from Rs. 91-14-0 to Rs. 170-13-4.
Bombay	.. Rs. 34 to Rs. 42.	.. Rs. 35 to Rs. 40.	.. Not fixed.
Sind	.. Rs. 40 till 15th March 1906 and Rs. 37 thereafter.	.. Rs. 40.	.. Do.
Bengal	.. Rs. 20 to Rs. 45.	.. Rs. 60 to Rs. 131.	.. Rs. 126 to Rs. 130.
United Provinces	.. Rs. 16 to Rs. 18.*	.. Rs. 23 to Rs. 25.*	.. Rs. 120.
Punjab	.. Rs. 18-13-2 to Rs. 40.	.. Rs. 27 to Rs. 60.	.. Rs. 90 to Rs. 240.
Bihar and Orissa	.. (This province was included in Bengal).	.. Rs. 25 to Rs. 75.	.. Rs. 95 to Rs. 130.
Burma	.. Rs. 40 to Rs. 80 for raw opium and Rs. 50 to Rs. 100 for cooked.	.. Rs. 70 to Rs. 100 for raw opium and Rs. 90 to Rs. 125 for cooked.	.. Rs. 135 to Rs. 170.
Central Provinces	.. Rs. 25 to Rs. 60.	.. Rs. 40 to Rs. 80.	.. Rs. 80 to Rs. 280.
Assam	.. Rs. 35 to Rs. 70.	.. Rs. 55 to Rs. 70.	.. Rs. 140 to Rs. 160.
North-West Frontier Province.	.. Rs. 33-5-4 to Rs. 40.	.. Rs. 32 to Rs. 53.	.. Rs. 120 to Rs. 140.
Ajmer-Merwara	.. Rs. 16 to Rs. 40.	.. Rs. 16 to Rs. 40.	.. †
Baluchistan	.. †	.. Rs. 40 to Rs. 70.	.. Rs. 140 to Rs. 200.
Coorg	.. Rs. 60 per Madras seer.	.. Not fixed.	.. Rs. 100.
Delhi	.. Included in the Punjab.	.. Rs. 45.	.. †

* Figures represent wholesale price at which opium was sold to retail vendors. Information relating to retail price is not available.

† Information not available.

C.—Statement showing the amount of revenue derived from opium (Provincial and Imperial) per Province for the years 1905-06, 1915-16 and 1923-24.

Provinces.	1905-06.		1915-16.		1923-24.	
	Excise revenue from opium creditable to provincial accounts.	Opium revenue creditable to Central Revenues Nett.	Excise revenue from opium creditable to provincial revenues.	Opium revenue creditable to Central Revenues Nett.	Excise revenue from opium creditable to provincial revenues.	Opium revenue creditable to Central Revenues Nett.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Madras	4,85,782	85,29,174	14,03,224	4,02,759	27,73,077	13,22,504
Bombay including Sind	8,40,925	4,30,44,111	15,59,347	7,77,471	27,42,481	15,03,488
Bengal	17,96,254	Figures relate to Lower Provinces of Bengal including Bihar and Orissa.	16,42,213	2,45,45,201	32,16,256	3,29,38,532
United Provinces	5,79,150	5,74,014	8,94,428	1,67,53,550	18,35,190	2,49,55,430
Punjab	1,74,678	73,499	10,46,894	6,15,630	32,49,738	16,74,190
Bihar and Orissa	40,26,600	6,08,306	10,77,012	3,32,338	22,25,563	10,20,575
Burma	6,96,252	3,07,789	32,90,854	3,65,554	39,23,727	9,18,740
Central Provinces and Berar	17,61,671	16,36,802	10,28,221	4,70,013	31,74,609	10,39,895
Assam	Figures relate to Eastern Bengal and Assam.	8,831*	21,82,216	5,35,523	38,00,246	10,89,741
North-West Frontier Province. (a)	8,831*	8,747	79,173*	39,227	2,75,792*	83,553
India General (b)	15,024*	—10,949	56,264*	19,185	2,16,776*	36,638
TOTAL	1,03,61,312	5,36,71,493	1,41,24,409	1,15,49,351	2,69,49,885	1,66,72,426*
TOTAL provincial revenue from opium	..	..	..	..	..	..

(a), (b). Central Revenue.

* Excluding charges in England which amounted to Rs. 70,331.

INDIAN REPRESENTATIVES AT THE INTERNATIONAL COTTON CONFERENCE IN VIENNA.

136. THE HONOURABLE MR. HAROON JAFFER: Will Government be pleased to state:

(a) whether any official representatives were appointed to the International Cotton Conference which was held in Vienna from June 4th;

(b) if so, who were the representatives; and

(c) was any official invitation received for this Conference by India?

THE HONOURABLE MR. D. T. CHADWICK: (a) and (c). No.

(b) Does not arise.

CONCESSIONS TO CIVIL ENGINEERS IN THE ORDNANCE DEPARTMENT.

137. THE HONOURABLE MR. HAROON JAFFER: Is it a fact:

(a) that Government are considering the question of granting civil engineers in the Ordnance Department concessions similar to those granted to Government engineers by the Lee Commission; and

(b) if so, when is a decision likely to be arrived at?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Yes, Sir, Government have under consideration the question of extending the concessions recommended by the Lee Commission to civilian gazetted officers of the Ordnance factories, who possess engineering or other technical qualifications, and are of a status corresponding to that of the officers in civil departments to whom the concessions have been granted.

(b) Government are not in a position to say when a decision is likely to be arrived at. Their proposals on the subject will shortly be placed before the Secretary of State.

REPORTED DISCOVERY OF A NEW RACE IN THE FORESTS OF SOUTH MALABAR.

138. THE HONOURABLE MR. HAROON JAFFER: Will Government please state:

(a) whether it has seen the report of the discovery of a strange new race in the forests of South Malabar;

(b) whether it has received any official information on the question; and

(c) whether it proposes to make special investigations into the matter?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: (a) and (b). No.

(c) Inquiries will be made.

STATISTICS SHOWING ENTRIES FOR THE I. C. S. EXAMINATIONS.

139. THE HONOURABLE MR. HAROON JAFFER: Will Government please give statistics showing:

(a) the entries for the Indian Civil Service Examinations for each of the past ten years;

(b) the number of Indians, according to caste, who sat for the examinations;

(c) the number of Indians, according to caste, who passed;

(d) the number of Indians, who have been given appointments in India; and

(e) the distribution according to Provinces of all Indians who have passed the I. C. S. Examinations?

THE HONOURABLE MR. J. CREPAR: A statement has been laid on the table giving the information asked for in parts (a) to (d), but I regret that we have no information as to the caste of the Indian candidates.

(c) Since 1915 Indians have been allotted to provinces as follows: Madras, 20; Bombay, 11; Bengal, 18; United Provinces, 15; Punjab, 7; Burma 3; Bihar and Orissa, 8; Central Provinces, 14; Assam, 1. If the Honourable Member wants similar information for earlier years he will be able to obtain it from the Provincial Civil Lists.

Statement showing the number of entries for the Indian Civil Service examinations during the last ten years, the number of Indians who sat for those examinations, the number who passed and the number who were given appointments in India.

Year.	Number of entries.	Number of Indians who sat.	Number of Indians who were successful.	Number of Indians appointed.	REMARKS.
1915 . . .	Not known	23	1	3	
1916 . . .	49	28	2	5	
1917 . . .	35	28	3	4	
1918 . . .	34	28	9	9	
1919 . . .	24	21	5	6*	*One resigned before joining.
1920 . . .	32	22	6	6	
1921 . . .	86	59	13	13	
1922 . . . L.	80	54	10	10	
A.	178	74	9	13†	†One died during probation.
1923 . . . L.	96	46	4	4	
A.	192	93	9	11	
1924 . . . L.	90	Not known	8	8	
A.	214	98	5	7	

N.B.—The term "Indians" includes statutory natives of India and natives of Ceylon.

L.—Means London examination.

A.—Means Allahabad examination.

EMIGRATION OF INDIAN LABOUR TO CEYLON, ETC.

140. THE HONOURABLE MR. HAROON JAFFER: Will Government please give statistics regarding the emigration of Indian labour to Ceylon and other places outside of India during the past ten years?

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN: A statement giving the information required is laid on the table.

Statement showing the number of Emigrants under the Indian Emigration Act to the various British Colonies during the years 1915—1924.

Year.	Ceylon.*	Malaya.*	Natal.	British Guiana.	British West Indies	Fiji.	Mauritius.*	Nombassa.	Persian Gulf Ports.	To other places.	REMARKS.
1915 . . .	94,828	54,881	..	2,248	1,905	2,509	..	187	767	14	
1916 . . .	115,713	72,091	..	830	1,945	1,756	..	234	2,603	10	
1917 . . .	47,296	78,407	..	..	..	..	..	239	789	..	
1918 . . .	43,184	55,583	..	..	..	..	..	352	..	29	
1919 . . .	112,391	88,021	..	..	..	..	..	201	..	20	
1920 . . .	45,946	78,855	..	..	..	..	..	184	602	398	
1921 . . .	25,496	15,413	..	..	..	..	..	66	840	141	
1922 . . .	78,106	38,336	..	..	..	..	1,080	..	23	181	
1923 . . .	90,289	30,234	..	..	..	..	..	165	3	144	
1924 . . .	100,250	43,147	..	..	..	..	..	(a)	..	..	

*Recruited and assisted labourers only; includes minors.

(a) To East Africa, Kenya, Dar-es-Salaam Nyasaland and Portuguese East Africa.

REPORT OF THE INSPECTOR GENERAL ON THE BENGAL JAILS.

141. THE HONOURABLE MR. HAROON JAFFER: Have the Government of India issued any orders to the Bengal Government in connection with the report of the Inspector General on the Bengal Jails?

THE HONOURABLE MR. J. CRERAR: No.

VISIT OF HIS MAJESTY THE KING EMPEROR TO INDIA.

142. THE HONOURABLE MR. HAROON JAFFER: Will Government be pleased to state:

(a) whether they have seen the report that His Majesty the King Emperor is visiting India this year; and

(b) whether any official announcement can be made?

THE HONOURABLE MR. J. CRERAR: Government have no information on the subject.

EMPLOYMENT OF INDIANS AS RAILWAY OFFICERS ON DIFFERENT RAILWAYS.

143. THE HONOURABLE MR. HAROON JAFFER: Will the Government be pleased to state:

(a) how many Indians have been employed as railway officers on different railway lines from January last when it was stated that the Railway Training School, Chandausi, was being organised for the Indianisation of railway service;

(b) did the Railway Board advertise three posts, one in the Superior Traffic Service and the other two in the Subordinate Traffic Service in July last;

(c) is it a fact that applications were invited from those who were Bachelors of Science of any Indian University;

(d) will the Government be pleased to state the names of the selected candidates for these three posts and their qualifications. Is it a fact that Mr. Sohan Lal, B.Sc., an Inspector on the Eastern Bengal Railway with railway training at Chandausi applied for the post but was rejected; and

(e) on what grounds was Mr. Sohan Lal's application rejected and in what particular manner was he inferior to the selected candidates?

THE HONOURABLE MR. F. A. HADOW: (a) The Honourable Member is under a misapprehension. The selection of officers for appointment as probationers in the Superior Transportation Service is made before they are sent to Chandausi for training.

(b) The Railway Board advertised for three posts; one in the Superior and two in the local Service.

(c) Yes: It is one of the degrees specified.

(d) and (e). Candidates have not been finally selected as yet. Mr. Sohan Lal's application was rejected as there were many applicants with superior qualifications.

GRIEVANCES OF SUBORDINATE EMPLOYEES ON INDIAN RAILWAYS.

144. THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Would the Government be pleased to state what action has been taken on the Resolution of the Legislative Assembly passed on the 5th February 1925 recommending to the Governor General in Council that an immediate inquiry should be held regarding the grievances of subordinate employees of Indian railways?

THE HONOURABLE MR. F. A. HADOW: The Government of India are not in agreement with the Resolution referred to by the Honourable Member and do not propose to initiate the inquiry suggested in that Resolution. They have drawn the attention of Railway Administrations to the debates not only on the Resolution, but also on the Budget, and they have no doubt that any genuine grievances which exist will be remedied by the Railway Administrations concerned.

THEFT OF GOVERNMENT CURRENCY NOTES.

145. THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: (a) Would the Government be pleased to state if they have information regarding the extent of Government currency notes stolen since the discontinuance of the practice of registration of the numbers of Government currency notes?

(b) Would the Government be pleased to state whether, since the discontinuance of the registration of the numbers of notes as before, a large number of notes have been stolen which have been neither traced nor recovered?

(c) Would the Government be pleased to state what the likely cost of restoring the former practice of registering the number of notes would be?

THE HONOURABLE MR. A. C. MCWATTERS: I must first correct a misunderstanding on the part of the Honourable Member. The practice of registration of the number of currency notes has not been discontinued. Currency offices do register the numbers of notes of the denomination of Rs. 50 and above which are issued and the date when each note on being paid is withdrawn from circulation. It is only the system of registering the number of notes reported by the public as stolen that has been abolished. As regards this I would refer the Honourable Member to the Government of India Resolution No. 523-F., dated the 12th November 1912, a copy of which will be given to the Honourable Member if desired.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Is the Honourable Member aware that owing to the discontinuance that he has referred to last, the public are being put to great loss?

THE HONOURABLE MR. A. C. MCWATTERS: The discontinuance of the system is fully explained in the Resolution to which I have referred the Honourable Member. Very strong reasons are given in that Resolution for abolishing the system, which the Government of India believed did not in the long run lead to the general advantage of the public and resulted in a good deal of harassment to innocent possessors of notes that were stolen.

[15TH SEP. 1925.]

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL : Sir, a Message has been received from the Legislative Assembly. The Message runs as follows :

"I am directed to inform you that the Legislative Assembly have, at their meeting of the 14th September, 1925, agreed without any amendments, to the Bill to consolidate the law applicable to intestate and testamentary succession in British India which was passed by the Council of State on the 2nd September 1925."

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill to provide for the fostering and development of the bamboo paper industry in British India and of a Bill further to amend the Indian Limitation Act, 1908, which were passed by the Legislative Assembly at its meeting held on the 14th September, 1925.

RESOLUTION RE WORK DONE BY THE CENTRAL GOVERNMENT IN CONNECTION WITH TRANSFERRED SUBJECTS.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal : Non-Muhammadan) : Sir, I would in the first instance ask your leave to make a slight alteration in the wording of the Resolution standing in my name and would, with your permission, move the Resolution in the following terms :

"This Council recommends to the Governor General in Council that he should consider the desirability of having a report prepared showing the nature and amount of work done by and in the Central Government for five years commencing with 1921 in respect of and connected with subjects ordinarily known as 'Transferred Subjects' and also showing the nature and quantum of work under these heads that remains to be done under the Devolution Rules or otherwise."

I take it, Sir, that I have your leave to make the slight alteration.

THE HONOURABLE THE PRESIDENT : The Honourable Member may proceed.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Sir, I should attach more importance to the administrative, and if I may call it, the academic side of this Resolution more than to its constitutional side, although undoubtedly there is a considerably important constitutional question connected with it under the Devolution Rules and otherwise. Sir, very useful work is undoubtedly being done in the provinces under the heads 'Transferred Subjects' even where the suspension of the constitution has become necessary. That class of work is connected with what ordinarily goes by the name of nation-building subjects, a term that, I do not know for what reason, has been unpopular in some quarters, but which I note with pleasure has been adopted by the Viceroy himself. Very important aspects of constructive work come under that category, and although they are largely, almost mainly, transferred and provincialised, I have always submitted, though not always with success, that a very large residual of central obligations with regard to

them continues in the Central Government, particularly in connection with subjects like Public Health, Sanitation, Education, medical work in its higher aspects, and also research in various departments particularly in connection with subjects like Agriculture, which has so long been looked upon as nearly entirely provincial. The answer to my suggestion on the few occasions when I raised this question either in this House or in the other, was that for the Central Government to attempt anything like even a suggestion regarding these subjects might amount to or be looked upon as interference. I submit, Sir, as I have submitted before, that that would not be so. As I have always contended and still contend and submit, the Central Government have and must continue to have considerable obligations with regard to these subjects. I have been encouraged to bring up this Resolution, particularly in view of what His Excellency the Viceroy in his opening address to the Legislature the other day said about the all-important subject of Agriculture. I shall read two short extracts from that address. His Excellency said :

"The direct responsibility of the Government of India for agricultural development in the Provinces ceased with the inception of the Reforms. In view, however, of the paramount importance of agriculture as the basic industry of the people of India, of the improbability of Provincial Governments being in a position to undertake research on the scale required and of the necessity for co-ordinating activities in the wide field of agricultural development, the Central Government must continue to play an important part in agricultural progress. Their present agricultural policy is mainly directed to fostering research and undertaking work which is outside the normal ambit of provincial activities by reason of its all-India character."

Then, Sir, details are given with which I do not want to trouble the Council now. His Excellency went on to say :

"But apart from direct activities I conceive that one of the most important functions of a Central Government in respect of a great all-India interest is to facilitate the co-ordination of provincial effort. My Government have for some time past had under consideration a proposal for the establishment of an all-India agricultural organisation which would help towards co-ordinating the activities of the various provincial Departments of Agriculture, promote research, agricultural education, co-operation and other established aids to agriculture and serve as a medium for agricultural propaganda throughout the country."

Sir, I should like to lay some emphasis upon the expressions "co-ordination" and "co-operation", which His Excellency has very fittingly introduced in this connection. Although provincial autonomy is our objective and we have asked for it and insist on it, although in the nature of things these subjects must largely be provincialised, yet co-ordination all over the country is absolutely necessary without which the building up of the nation's interest as a whole regarding these all-important subjects would be an impossibility. While the provinces are pursuing their own individual and necessarily isolated methods according to their own requirements and their own resources, it is of the utmost importance that the rest of the continent of India should know what is going on elsewhere, so that they may profit by the mistakes that are being made and profit also by the good results that are being achieved. From that point of view and from no other, from the point of view, to put it shortly, of mutual help and suggestive co-ordination, it is of the utmost importance that work of this kind that I suggest in all these subjects should be undertaken.

[Dr. Sir Deva Prasad Sarvadhikary.]

And what authority can do it with greater success than the Central Government? The subject of co-operation has been mentioned in His Excellency's address. I remember, Sir, attending co-operative conferences in Simla before the present regime came into existence, where most useful results used to be achieved by interchange of ideas between provincial representatives in the great department of public activity, namely, co-operation which I am afraid is somewhat in the background now, not in the political sense only but also in the economic sense. Take, for example, Sir, again a subject like excise, with regard to which different provinces have different ideals and different routine and procedure which at times go to work prejudicially against not only the interests and objectives of other provinces, but also against what must be regarded as all-India objects. My suggestion that officials and non-officials interested in the excise question should now and again come together in conference has not been yet given effect to.

These are, Sir, transferred subjects, yet I say from the larger point of view that they involve considerable central obligations, and work of the kind I suggest should not be overlooked or delayed. It may not be possible for the Central Government to do all that they would have liked to do but it may be possible to take stock of what is going on and to help the provinces with the information, suggestions and probably with active assistance now and again if the resources of the Central Government permit it. It is notorious that the Provincial Governments in their resources are helpless in many of these subjects, if not most. And with regard to subjects like research—I am not talking of medical or scientific research proper because that is a central subject—especially in agriculture, where research is and must be the basis of all future improvements, the Government of India can very considerably help, as His Excellency has been good enough to adumbrate. Here in passing—may more than in passing—I should like to refer to the good work done in the department which is responsible for agriculture and forestry in spite of the handicap—the seeming handicap—under the Devolution Rules. The other day, while speaking on emigration in this House I had occasion to remark that, when the later history of that question came to be written, no mean place will be assigned to the Honourable Sir Narasimha Sarma who presided over this Department for some time. I think it can be said with confidence that in regard to Agriculture and Forestry and the Civil Veterinary Department and other Departments that have a minor connection with his department, Sir Narasimha Sarma's services to the country have been very great. That is one of the departments where constructive work of some value can be undertaken and I am glad to say has been undertaken within the limitations with which the department is hedged in, which are not only financial but also constitutional. That Department, Sir, and the Department represented by the Honourable Mr. Crerar could, if they were inclined to do it, easily give us a fair amount of survey without having to engage, at least on this question, any extraneous machinery. The materials are all there. So, if only the will is there, I think it will be possible to present a very acceptable report as a result of some slight survey, which will be helpful not only to the Central Government in realising these obligations, but also to the provinces and the

public at large in realising what work has been done and what work remains to be done. The time will come when other aspects of the question will have to be considered. In view of further reforms, however delayed, this will not be a mean subject to consider, and if the Government collect all the material, I am sure a great deal of spade work and more than spade work will have been done.

This, I am sure, can be undertaken, without the slightest prejudice to the entire and absolute autonomic principles that may be claimed by the provinces from the intimate relations between the provinces and the Central Government that must subsist. Unifying results for all India would be of the utmost importance. We are fast losing the few links that had been left so long that kept the provinces together. For example, the All-India Services are nearly going and are being provincialised to the extent which I myself have not been able to contemplate with equanimity. We want to be together, while the provinces are growing from more to more we want to feel, realise and think that all the provinces make one united India. Towards that objective the proposed survey would be of the greatest importance. I had been told by some friends that the Government should not be put to this trouble and expense because these facts can be gathered from various blue books and statistical records that are published from time to time. Pusa, for example, publishes its own records; the Veterinary Department publishes its own records and in the same way other departments publish their own records. On a previous occasion, I had an opportunity of drawing attention to the scattered and the unavailable character, if I may so call it, of these statistics, although they are somewhere to be found. I suggested that the Publicity Department with its organization which is doing such useful work in regard to publications like "India" might be told off to make a collection of necessary statistics in an intelligent and intelligible fashion. But even that will not answer the purposes that I have in view. An organic survey and a self-contained report dealing with the whole question as one, as far as possible is the sort of report that I have in mind in making this proposal and I make a present of this idea to the Government.

We are about to close our deliberations and I should like to see them ended on a somewhat constructive note. We in this part of the House, at least some of us, have not been quite satisfying to Government views with regard to questions that have come up from time to time. By this demand, at all events, that I now put forth, it will be shown that the great constructive work awaiting us all in the country is never lost sight of amidst the heat and dust of passing events, and I want Government assistance with regard to the pushing on of questions connected with this all-important matter. I hope Government will find it possible to accept this Resolution in its modified form and in a reasonable time will be able to give us the benefit of their deliberations and researches and their survey.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I rise to oppose the Resolution, for this reason that had there been one minute more given to the agenda to-day when the questions were being asked, this whole subject would have been

[Colonel Nawab Sir Umar Hayat Khan.]

finished. If this Resolution was put in the form of a question, an answer would have been given and we would have got more time to debate on more important subjects. I have tried to get up early, Sir, for the reason that this Resolution should be thrown out before any amendments are moved. For this reason I hope Honourable Members will not speak on this Resolution and waste the time of the House which can be better utilised on other important subjects. In fact, I had a mind to get up during the speech of the Honourable Mover to say that the question be put, but did not do so.

THE HONOURABLE MR. K. C. ROY (Bengal: Nominated Non-Official): Sir, I shall not detain the House for more than five minutes. When I read the Resolution of my Honourable friend Sir Deva Prasad Sarvadhikary I wondered what it could be for and to what purpose this report could be useful. I wondered whether this report would be useful for his National Convention or for his round-table conference. If such a report is needed for this House, we have got it before us. You know, Sir, more than anybody else that you had this matter thoroughly examined by the Reforms Committee which sat about this time last year.

Briefly, I shall direct the attention of the House to the three different heads under which the Government of India exercise their control over transferred subjects. In the first place, they have control over the provincial Bills. The Government of India was represented before the Reforms Inquiry Committee by Mr. G. H. Spence and he was asked this question:

"Certain Local Governments have complained of this control exercised through section 80-A. Have they complained of the way in which the control has been exercised or of the fact that it is there?"

Mr. Spence gave a most conclusive answer. I shall not tire the House by reading extracts from his evidence. He said that the only cogent argument came from the Bengal Government, not on a point of law but on the interpretation of the law. Similar complaints came also from the Burma as well as the Central Provinces Governments. Then he gave another instance of the Oudh Rent Bill, and proceeded to give the following answer:

"The Government of India entered something in the nature of a protest against the very small period of time allowed for examination of the Bill, and the Local Government in apologising said that they had taken it that the effect of the introduction of the reformed constitution would be that legislation relating to provincial matters would be a matter for the provinces and not for the Government of India. Similar observations have been made in the case of other individual Bills but no reasoned argument."

I know from my own personal experience that the control of the Government of India over provincial Bills is limited. I know, and the House is no doubt aware, that at least one Provincial Government is proceeding with a certain Bill calculated to do a lot of harm to Indians in general and to certain communities in particular. That Bill is now before the Governor General for His Excellency's assent, and we are all waiting to hear the result; but in the end it will be found that the powers which the Government of India Act vested in the Governor General have been used for the common well-being of India. I should not like to see any change in that direction.

Then, Sir, next we come to the control which the Government of India exercise over transferred subjects in the matter of provincial taxation and borrowing. On that point Mr. Jukes, our present Auditor General, gave some very definite evidence. Mr. Jukes, after giving an exhaustive analysis, proceeded to make this observation:

"The Secretary of State and the Governor General have very limited powers over superintendence, direction and control over the administration of transferred subjects."

Then, lastly, he added:

"The powers of superintendence, direction and control exercised over transferred subjects by the Secretary of State and the Governor General are not susceptible to reduction."

What would be the result of the new inquiry? I think my learned friend will be able to enlighten the Council.

I now come to the administrative aspect. He talks of Agriculture, of Co-operation and of Emigration. We have nothing to do with Emigration as a result of this Resolution. As regards Agriculture, as we all know, we have the Pusa Institute, the Agricultural Adviser to the Government of India and a good deal of co-ordinating work done by that officer. As the House is aware, agricultural research is a purely central subject, and as the House is also aware from the press comments, any idea of the Royal Commission to look into agriculture in India has been strongly resented. They do not like the idea at all, and they regard it as unnecessary interference with ministerial authority. I have been reading some of the evidence given by the Ministers and they are not very anxious, however much we may be, of interference with central authority. In fact they are looking forward to more devolution.

I am glad that there is a common ground between my Honourable friend and myself in the matter of the Central Government. The best power that the Governor General in Council has got is his power of superintendence, direction and control. I am very glad that in this House there are Members who stand up for the Government of India. I have some experience of the other House where feeling runs high, and the Government of India are regarded as something of a negligible factor.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I must confess that when I received the first intimation of my Honourable and learned friend's Resolution, I shared the doubts entertained by the Honourable Mr. Roy as to his precise intention. We have listened to the very interesting exposition which the Honourable Dr. Sir Deva Prasad Sarvadhikary has given of the intention of his Resolution, and in the light of that exposition I am somewhat doubtful whether he really did intend to embark upon the difficult and delicate grounds, the dangerous possibilities of which have been so clearly pointed out by the previous speaker. I understand that it is not the purpose of the Honourable Mover to commit the Government of India to any serious constitutional implications; but in view of the possibility that his Resolution, when read without the interpretation which he has put upon it, might raise certain apprehensions, I think I had better, very briefly, explain to the House what the constitutional situation actually is.

[Mr. J. Crerar.]

In the matter of provincial transferred subjects, the administration of which under the Government of India Act is now committed to the Governors of the Provinces and their Ministers, the powers of superintendence, direction and control still retained by the Governor General in Council over Local Governments are extremely limited. Devolution Rule 49 is as follows :

"The powers of superintendence, direction and control over the Local Government of a Governor's province vested in the Governor General in Council under the Act shall in relation to transferred subjects be exercised only for the following purposes, namely :

- (1) to safeguard the administration of central subjects ;
- (2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement ; and
- (3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on, the Governor General in Council under or in connection with, or for the purposes of the following provisions of the Act, namely, section 29-A., section 30 (1-A), Part VII-A, or of any rules made by, or with the sanction of, the Secretary of State in Council "

Now, Sir, those prescriptions place very stringent limits upon the possibility of action by the Governor General in Council in these matters. In the matter of collecting information, the situation is also perfectly clear. Under Devolution Rule 5 the Local Government is bound to furnish to the Governor General in Council, from time to time, such returns and information on matters relating to the administration of provincial subjects, that is to say, both reserved and transferred subjects, as the Governor General in Council may require and in such form as he may direct.

I venture to remind the House of the constitutional position, because I think it is very necessary that, in considering this Resolution, we must avoid entangling ourselves in any course of action inconsistent with this position. I do not allege these facts as a ground for not accepting my Honourable friend's Resolution. I recite them in order that the House may be fully apprised of the situation.

As regards the second part of the Honourable Member's Resolution, I certainly did not understand it when I first read it, and listening to him I confess I am even now not perfectly clear what he intends when he refers to the nature and quantum of work under these heads that remains to be done. That may possibly suggest to the House that the Government of India have laid down some kind of programme, subject to some limit, of time or some other form of limitation under which, on the expiry of the limit, they will retire from and resign such responsibilities relating to transferred subjects as remain.

That of course is a misapprehension. So long as the present constitution continues, the Governor General in Council will certainly continue to exercise his powers in relation to transferred subjects subject to the limitations which are laid upon those powers. There is no question of the Governor General in Council resigning such powers as he still retains. Subject to these remarks, I agree that there is a certain residuum of central obligations, as the Honourable Member phrases it. I also recognize where you have important transferred

subjects such as agriculture and so forth, the sum and the resultant of the activities of the provinces in these subjects is undoubtedly a matter of the greatest all-India importance and is one which consequently concerns the Government of India. I should be the last to affirm that the Government of India are relieved of all responsibility and concern. But, as I say, these are matters on which we have to enter with the very greatest discretion and the very greatest deliberation. The Honourable Member has suggested that this is a light and easy task and he especially deprecated what he was pleased to call any extraneous assistance being invoked. I would venture however to point out that so extensive a review—and the review, if it can be undertaken, will be valuable largely in proportion as it is extensive—would be a very large task indeed ; and if the Honourable Member proposes to throw the burden of preparing this review on the shoulders of an already over-burdened Secretariat, I must enter a demurrer. That however, is by the way. What I wish to make quite clear to the House—because Government are prepared to accept the Resolution—what I wish to make perfectly clear to the House, lest there should be any misunderstanding, is that we undertake to examine the whole situation raised by the Honourable Member's Resolution, and we undertake to consider whether having regard to all the circumstances of the case, it would be advisable and practicable for us to enter upon such an inquiry and to draw up such a report. I hope that is perfectly clear. I cannot commit the Government definitely to embarking on the preparation of this report. All I can commit the Government to is that they will give a very careful and conscientious examination to the whole aspect of the case and will consider whether something on the lines suggested by my Honourable and learned friend is practicable. Subject to that clear exposition of what we do undertake, Government will accept this Resolution.

THE HONOURABLE THE PRESIDENT : The question is :

"That the following Resolution be adopted:—

"This Council recommends to the Governor General in Council that he should consider the desirability of having a report prepared showing the nature and amount of work done by and in the Central Government for five years commencing with 1921 in respect of and connected with subjects ordinarily known as 'Transferred Subjects' and also showing the nature and quantum of work under these heads that remains to be done, under the Devolution Rules or otherwise "

The motion was adopted.

THE HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : What about my amendment, Sir ?

THE HONOURABLE THE PRESIDENT : Before I rose, I waited to see whether my Honourable friend desired to speak. The Chair is not in a position to know what is in Honourable Members' minds, and if they want to speak, they must rise in their places. If Honourable Members will rise beforehand, the Chair will always take care to call them. The Honourable Member's amendment is now, I am afraid, out of order. The Resolution has been passed by the Council.

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RESOLUTION RE RAILWAY FREIGHTS ON COAL.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to move the following Resolution :—

“ This Council recommends to the Governor General in Council that special concession rates be granted by the different railway systems for railway freight on coal when booked in full wagon loads and at owner's risk—

(a) for long distances of 500 miles and over ; and

(b) during the slack season over various Railways ”.

Sir, it is a fact which cannot be challenged that coal is the very life-blood of industry. All progress and development in industry depends on the easy accessibility of coal. The industrial greatness of the British Isles is due to coal, and the gigantic strides made in industry by America is also due to coal. The recent industrial rise of Japan is also on account of coal. Sir, India too is richly endowed by nature with extensive deposits of coal. In spite of great handicaps, the coal production in India has during the past few years advanced from 16½ million tons to 21 million tons per year. The total amount of coal raised in the Indian coalfields is about 21 million tons. In 1923 it was 19·6 million tons. The total amount exported in this year was a little more than it was last year. The exports amounted to 46,031 tons. So the total amount of coal available for home consumption was 20·1 million tons in the year 1923. This 20·1 million of tons of coal consumed in India was distributed as follows :—

Railways	6,184,000
Royal Indian Marine	26,000
Bunker coal	819,000
Cotton mills	1,082,000
Jute Mills	981,000
Iron workshops	1,852,000
Port Trusts	202,000
Inland Steamers	554,000
Brick and Tile factories	452,000
Tea Gardens	230,000
Paper mills	146,000
Consumption at collieries and wastage	2,556,000
Miscellaneous	5,016,000

Out of the 195 lakhs of tons of coal raised from Indian coalfields, 157½ lakhs of tons is carried away from the collieries by the railways. Out of these 157½ lakhs carried away by railways, 40½ lakhs were carried by the Bengal-Nagpur Railway, and 117 lakhs by the East Indian Railway. Two-thirds of the coal carried by the Bengal Nagpur Railway were carried towards Bombay and one-third towards Calcutta. On the East Indian Railway half the coal is carried northwards and the other half towards Calcutta. This means that quite 72 lakhs of tons of coal, i.e., 46 per cent. of the entire coal carried by railways, is taken to Calcutta. Out of the remaining 54 per cent. of coal

carried, 37 per cent. is taken to Northern India and 17 per cent. to the Bombay side. The 58½ lakhs of tons of coal carried to Northern India is consumed on railways and other industries. Factories run by steam engines in Northern India number quite 1,200. All these 1,200 factories or more in Bihar, Central India, the United Provinces, Rajputana, the Punjab, Delhi and the Frontier Province depend on Bengal coal.

The factories run by steam engines in the Northern parts of India are distributed province wise in the following manner :

	434
Bihar	113
Central India	291
United Provinces	9
Delhi	64
Rajputana	289 and
Punjab	30
North West Frontier	
Total	1,213

In Gwalior, the Nizam's Dominions, the Central Provinces and Bombay there are another 1,000 factories, but as a very large number of factories in Bombay are run by electricity and a large quantity of Bengal coal comes to Bombay by sea, the total quantity of coal carried by railways in the direction of these provinces is 27 lakhs of tons. As Bengal coal has to compete in Western India with electricity, oil fuel and South African coal, it is necessary that the price of Bengal coal to consumers in these parts of the country should be lowered. The Great Indian Peninsula Railway in order to develop the new mines in the Central Provinces has already given a concession in coal freights for long distances. But, Sir, it is a pity that these vast natural resources cannot at present be utilised for our industrial progress fully. There are hundreds of industrial concerns in each province of India. Each province is capable of manufacturing goods essential for the well-being of this country, but they are seriously handicapped for want of cheap coal. Sir, take the Punjab for instance. We produce abundant crops of cotton, wheat and oilseeds. We have immense quantities of wool and hides and skins. And yet, Sir, for want of cheap coal we cannot sufficiently turn our own raw materials into finished goods. The same is the case with the United Provinces and Bihar. The sugar crops raised in these provinces could satisfy the needs of the entire country, and yet on account of the lack of cheap coal we are not able to a great extent to prevent the import of foreign sugar. In all the Indian provinces the common complaint is that the coal used by them costs so much that they cannot turn out their goods at a lower price. The result is that we are not only losing our markets outside India, but are also not able to retain our home markets. Sir, the problem therefore is how to cheapen coal? One reason why Indian coal is dear, is that the charges for its transportation are very heavy. Let me, Sir, just compare the railway freight charges for coal for the years 1919 and 1924.

[Lala Ram Saran Das.]

The different freight charges for some of the towns in the Punjab and in other provinces are as follows :—

	1919.			1924.		
	Rs.	A.	P.	Rs.	A.	P.
Ludhiana	9	1	0	12	2	0
Jullundur	9	5	0	12	7	0
Dhariwal	9	15	0	13	2	0
Amritsar	9	10	0	12	14	0
Lahore	9	15	0	13	2	0
Rawalpindi	11	3	0	14	9	0
Wah	..	..	..	14	13	0
Peshawar	11	14	0	15	9	0
Saragodha	11	3	0	14	9	0
Lyallpur	10	10	0	13	14	0
Multan	11	3	0	14	9	0
Kasur	9	12	0	12	14	0
Ferozpur	9	10	0	12	11	0
Bhatinda	9	3	0	12	5	0
Bhuvani	8	12	0	12	0	0
Delhi	8	1	0	10	10	0
Madras	13	15	0	10	14	0
Kolar Gold Fields	19	5	0	14	15	0
Surat	13	15	0	10	8	0
Ahmedabad	14	6	0	10	12	0
Agra	9	10	0	7	3	0
Sholapur	15	4	0	11	10	0
Lucknow	7	15	0	5	15	0
Cawnpore	8	1	0	6	1	0
Akola	11	4	0	8	6	0
Meerut	10	10	0	7	15	0

The average increase in the rates between 1919 and 1924 is 33 per cent. On the 26th February, 1925, we were told in another place by the Honourable Sir Charles Innes :

“that having regard to the increase in price we pay for our own coal, and having regard to the increase in running expenses generally, we are carrying coal at an extremely moderate rate”.

I would, Sir, just like to examine how far the railway rates are moderate. Sir, the East Indian Railway charges the public Rs. 13-2-0 per ton for carrying coal to Lahore. But for locomotive coal for the North Western Railway at Lahore the freight is Rs. 11-14-0 a ton. That is to say, it lowers the rate in the case of the railway by Rs. 1-4-0 a ton, a reduction of 10 per cent.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : That is in locomotive coal.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Yes, locomotive coal. I may reply to my Honourable friend, Sir Maneckji Dadabhoy, who says that generally locomotive coal has been carried at a cheaper rate. I want to say, Sir, that that coal, as far as I can see, is carried at cost price or at a little margin of profit. That is why I am comparing this with locomotive coal. When these railways carry coal for themselves at that rate, why should they not carry also at the same rate for the public ?

But, Sir, I ask whether the railways are carrying this huge amount of 6 million tons at a loss ? Surely the East Indian and Bengal Nagpur Railways in carrying railway coal at a ten per cent. reduced rate are not every year making a present out of their profits to other railways. We are told, Sir, that in 1923-24 the price of coal at the pit head was 123 per cent. higher than what it was in 1919. I have not been able to understand this argument. Do I understand that the transportation charges of the railways are based on the value of the commodities carried ? As far as the price of coal is concerned, I may inform the House that the price of coal since the beginning of this year has very materially gone down and the reduction amounts to as much as Rs. 2 to Rs. 3 per ton. The Honourable Sir Charles Innes told us that the railways are carrying coal at a loss. I would like to ask the Honourable Mr. Hadow how the railway authorities have calculated, that with the present rates, coal is being carried by the railways at a loss ? The railways are carrying all kinds of commodities. The East Indian Railway alone earns something like Rs. 10 crores per annum for carrying goods. I would ask the railway authorities to tell this House by what process they are able to calculate which rates on what commodities pay and which rates do not pay ? Everywhere in the world railway freights are fixed with the idea of promoting and developing industry. In this connection I would draw the attention of this House to a statement made by Sir W. W. Hoy, General Manager for Railways and Harbour, South African Government, in his evidence before a Commission of Inquiry in South Africa in 1916. He said :

“The broad features of the tariff policy of South African Railways are low rates for exports, raw materials for manufacture, agricultural produce, minerals and other raw products of the country, with a view to stimulating agricultural and industrial development”.

And the Associated Chambers of Commerce recently passed the following Resolution :

“That in view of the fact that the present high rate of railway freight on coal prejudicially affects the maintenance and development of industrial concerns in Northern India and those situated at a great distance from the Bengal and Bihar coalfields, this Association strongly urges the Government of India to take immediate action substantially to reduce the railway freight on coal carried over a long distance”.

Sir, I believe that it is in pursuance of this principle that a reduction of ten per cent. is made in rates for coal supplied to railways. It is perhaps in pursuance of this principle that a rebate is allowed on the carriage of raw materials of all kinds used for the manufacture of iron and steel. A rebate is also allowed on all finished products and bye-products of the cooking ovens to and from the Indian Iron and Steel Company's works. Only recently, Sir, a rebate of 25 per cent. has been given on coal carried to the dockyards at Calcutta. Under

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the new Shipping Bill we have proposed yesterday to give another rebate of 25 per cent. on coal exported from Calcutta. Sir, more than a million tons of

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coal are exported from Bengal to other provinces in India or to foreign countries. The Honourable Mr. Chadwick was telling this House that the exports to foreign countries during the recent years have fallen by a million and a half tons. The total freight amounts to somewhere about 90 lakhs and 25 per cent. of 90 lakhs is about 22½ lakhs. The amount of coal exported to Northern India is only about a million tons. And supposing the rates are brought to the level which the railways charge for their locomotive coal, a considerable difference in freight will not count very much. On a million tons carried to the Punjab and Northern India, the freight will be about a crore of rupees, and 10 per cent. of a crore of rupees will be only 10 lakhs. So, Sir, I am not asking for any great concession. I am not putting or limiting the concession to any amount. What I say is that the rates of freight should be considerably reduced. I leave the rate open to the railway authorities. It is for them to find out what they can possibly do in this matter. I would like to ask the railway authorities how, if the present rates for the carriage of coal do not pay, they are making a reduction of 10 per cent. in the rates to the railways on locomotive coal? How are they able to grant a rebate on the rates charged to Tata and Co. and how are they able to grant a 50 per cent rebate on coal meant for export? I have already given those figures. In the case of Tata and Co. they are giving low rates and concession rates for the carriage of raw material and for the carriage of finished products. I welcome that and I think the country ought to be grateful to the Government for doing that. But certain people think that these reductions were made when the policy of Government towards the industries was a little bit different. Now, since the reduction of freight has been hanging fire for some time, the people are beginning to think that perhaps the Government are making a change in their policy. The Honourable Sir Charles Innes replied to the deputation of the Indian Coal Federation that the reduction of railway freight on coal carried for long distances was under consideration. Nothing has so far been done. Time is passing and things are becoming hopeless. I believe, Sir, that the concessions granted in these rates pay the railways and that they do not suffer any loss in this. If they had suffered any loss then I am sure they would have applied to the Government for compensation. If they had suffered any loss in giving rebate to the Tata Company, they would have asked for this loss to be made good to them by the central revenues. After all, railways are run as a business concern and in case there is any loss to them they can approach the Government for contributions from the central revenues. They can say that you have protected the Steel Industry and the carriage of steel is also a portion of protection and so the Government must meet the loss of the railways from the central revenues. If they had suffered any loss in making a reduction of 10 per cent on Locomotive coal for railways, the East Indian and the Bengal Nagpur Railways would have asked other railways for some countervailing concessions for themselves in return. Nothing of the sort has happened. Sir, the only inference we can

draw from this is that the railways suffer no loss in granting these concessions. I would therefore ask this House to come to the conclusion that if railway freight charges are not reduced, this country's progress will be seriously retarded.

In South Africa, Sir, the coal fields are at a distance of 225 miles from Durban, the exporting port. The charge Rs. 4-2-0 per ton. Our coal fields may be taken to be 170 miles from Calcutta and our railways charge Rs. 3-4-0 per ton. The charge per mile per ton in South Africa comes to 2-4 pies. The charge in India amounts to 3-7 pies. This means that the rates of our railways are 50 per cent. higher than those prevailing in South Africa. I would ask Government to tell us why is that so? Sir, I have been in years past taking a considerable interest in railway tariffs. Sir, I know as a matter of experience that on many commodities extremely low rates are charged. On the export of grain very low rates are charged by the North-Western and other railways. We know, Sir, that on the import of many of the foreign manufactured goods low rates are charged. Sir, those of us Indians who are in trade and business know that the existing rates on railways promote and encourage the import of foreign manufactured goods. They encourage the export of raw material, but they do not help the home industries of the country. If the railway authorities had taken as much care of our manufactures as they are obviously taking of our export of raw materials, I am sure they would have fixed low rates for carrying coal which is the life-blood of industry. The Tariff Board dealing with the question of protection for the cement industry remarked and I am quoting this passage from their report because the Honourable Mr. Chadwick in this House said that the question of the coal industry is likely to be referred to that Board. The Tariff Board remarked as follows on the cement industry :

"A general reduction of coal freights would not be open to this objection for all industries would benefit alike"

They tell us :

"The conviction has been strengthening in our minds that the question of the cost of coal is vital if the end in view is a rapid industrial development in India. Over a large part of the country progress may be seriously retarded unless the freight of coal can be substantially reduced. We believe that no one would challenge the proposition that coal freights on the Indian railways should be kept at the very lowest point which is commercially possible. But more than this is required in the interests of industrial development. Sooner or later, the country may have to face the question whether it would not be worth while to secure a substantial reduction in coal freights at the cost of sacrificing part of the contribution which the railways make to the general revenues."

This is a quotation from the recommendations of the Indian Tariff Board in the Report on the cement industry.

Sir, I have given this long quotation from the Report of the Tariff Board to show how strongly they feel on the question of freight on coal. Sir, I have not asked for a general reduction of rates for all distances, and at all seasons. My demands are very moderate. I have only asked for a concession in rates for long distances. Sir, in the United Provinces there are large industrial centres like Benares, Allahabad, Cawnpore, Lucknow, Shahjahanpur, Rosa, Meerut, Muttra, Agra and Jhansi. Similarly, in the Bombay Presidency,

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there are large industrial centres like Bijapur, Sholapur, Bombay, Ahmedabad, Surat and Karachi. Sir, all these large industrial centres are at a great distance from the coalfields of Bengal and Bihar. The thousands of factories lying in these distant provinces are sorely in need of cheap coal. I would therefore request that at any rate for all these distant places the old coal tariff prevailing in 1919 should be restored. I know in the interests of industrial development reduction is required even in the rates of 1919, but in my present Resolution I do not demand that. Perhaps for that reduction a preliminary inquiry in which both the needs of the industries and the cost of the concession would be fully examined may be suggested by Government. For the present therefore I would content myself with the restoration of the old 1919 rates. The price of coal during the last year and more has considerably fallen. The working expenses of the railways on this account must have therefore also fallen. There is therefore no justification to keep up the new higher rates.

There is another concession, Sir, that I in my Resolution demand from the railway authorities, so far as the carriage of coal is concerned. Sir, we all know that the busiest season for the railways is when foodgrains, cotton and oilseeds are to be carried during the harvesting season. In the rainy season the goods traffic is not so heavy. During the months when the crops are standing and are not ready for export, the railways do not have heavy goods traffic. I ask the railway authorities, cannot these months, when a large number of railway wagons are lying idle, be utilised for carrying coal? I am sure the railways can make additional profits. The railway wagons instead of remaining idle can earn something. Even if very low rates, lower than what prevail ordinarily are levied, they can prove remunerative to the railway administration. If coal is carried during the slack season of the railways, the public can get coal at cheaper rates, and it would certainly prove of very great advantage to the industries.

My Honourable friends on the Government Benches may tell us that the coal fields at all seasons are even now full of wagons, and that no more coal can be moved in the coalfields. Sir, during the last few years we have increased very much the mileage in sidings in these coalfields. We have increased the number of stations. We have increased road facilities at the different railway junctions and in this way we have increased considerably the capacity of the railway lines for the traffic in the coalfields, and the railways cannot make any excuse now that they are unable to carry more coal every day from the collieries which they could not do last year. In this connection I might also mention that the amount of coal which is generally carried to all other provinces from Bengal and Bihar comes to over 6 million tons for railways and an almost equal amount for other purposes. I am giving these figures to show you that our.....

THE HONOURABLE THE PRESIDENT: Order, order. I might remind the Honourable Member that he has exhausted his time, and I trust that he will bring his remarks to a close.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I will conclude in a few minutes, Sir.

THE HONOURABLE THE PRESIDENT: I must ask him to conclude his remarks now and spare the Council the figures he was about to read.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: There is another concession that I am demanding, and that is regarding the reduction of freight in the slack season. I have explained fully what I mean by the slack season, namely, when the harvesting season is over.

Sir, I appeal to the Official Benches to accept my Resolution for the reasons I have explained. New railways will very soon be constructed and the output of coal very largely increased. Even now the coal industry is in difficulties. The Government of England have very generously given a million pounds sterling towards their own coal industry, but I do not know what will be our condition. Firms in Calcutta are now opening branches in the mofussil towns and are getting rid of their heavy coal stocks. The Honourable Mr. Chadwick has already said that we are exporting short by a million and a half tons, and so in the interests of the coal industry I hope the Government will see their way to accede to my request.

THE HONOURABLE DR. DWARKANATH MITTER (West Bengal: Non-Muhammadan): Sir, I desire to move an amendment to the Resolution of my Honourable friend. The amendment is with reference to clause (a) asking for a reduction of railway freight on coal booked for long distances of 500 miles and over. My amendment proposes that the freight should be reduced for long distances of 300 miles and over. The object of my amendment is to draw the attention of the House to consider the advisability of a still further and more liberal reduction in the coal rates. The objective I have in view is to place coal at a cheaper price within the reach of the industries of the various provinces in India situated at great distances from coalfields. I also rise to move this amendment because of the very precarious condition of the coal industry in Bengal at the present moment. I believe that the railway administration has so to conduct itself as to secure the growth and development of indigenous industries by giving special facilities in the matter of freight rates, wherever possible. The coal industry in Bengal, as Honourable Members might be aware, is holding its own at the present moment with very great difficulty. That industry certainly requires to be assisted not only for its own sake, but also for the sake of other industries that are dependent on it. It has to be recognised that the freights with regard to the carrying of coal remained unaltered from 1905 to 1919, but after 1919 the coal rates have been increased to what appears to be on the average a rate of practically 35 per cent., or it varies between 30 and 35 per cent, as my learned friend has just stated in the House. If we just take one instance, Sir, from Jharia to Ahmedabad, the freight before 1919 was Rs. 10-12-0. It has now increased to Rs. 14-6-0. From Jharia to Bombay, to take another instance, the freight was Rs. 11-4-0 before 1919, and it has now increased to Rs. 16-6-0, which really works out to an increase of more than 35 per cent. Now this is a demand which not only we, the Indian Members of the Council, are making but I may just ask the attention of the House to a demand which the Associated

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Chambers of Commerce made on a Resolution which they embodied in their proceedings and which runs as follows :

"That in view of the fact that the present high rate of railway freight on coal prejudicially affects the maintenance and development of industrial concerns in Northern India and those situated at a great distance from the Bengal and Bihar coalfields, this Association strongly urges the Government of India to take immediate action substantially to reduce the railway freight on coal carried over long distances."

which shows that this was a practically united demand of both the European and Indian representatives who are interested in coal. Then in a memorandum which the Mining Federation submitted before the Coal Committee which has just finished its sittings, they pointed out that the Natal coal, which has a lead of 320 miles from the coalfields to Durban, pays a net freight of 6s. 4d. per ton, which works out at Rs. 4-2-0, taking of course exchange at 1s. 6d. as compared with the rate of Rs. 3-4-0 paid by Indian coal with a lead of 170 miles. Yet without any bounty the South African Government is able to allow a much lower freight than what is allowed on the Indian railways. I submit, Sir, for these reasons—for I do not propose to travel over the same ground over which my Honourable friend the Honourable Rai Bahadur Lala Ram Saran Das has travelled, and after his exhaustive treatment of the subject—that the materials which I have placed before the House justify us in asking the Government of India to accept a reduction in the railway freight on coal. The industry has to be maintained, not only this industry but, as I have submitted, other industries, with particular reference to cement, also to the sugar manufactory in Bihar which lies at a distance of 300 miles from the Jharia coalfields. I submit, therefore, for these reasons that a case has been made out for asking the Government to accept this Resolution which asks for a reduction of freight with reference to coal carried to a distance of over 300 miles. I therefore, Sir, move this amendment.

THE HONOURABLE THE PRESIDENT: Amendment moved :

"That in clause (a) of the Resolution for the figure '500' the figure '300' be substituted."

THE HONOURABLE MR. F. A. HADOW (Chief Commissioner, Railways): Sir, I think it is advisable to clear the position at once by saying that Government are unable to accept this Resolution, although in many ways the fundamental idea expressed by the Honourable Mover is at one with the Government's own ideas on the subject. It has always been the accepted policy of Government that the carriage of coal on railways should be charged at the lowest rates commercially possible; and I can assure the House that there is no intention whatever of departing from this principle. Moreover, the House will recognize from the reply that was recently given by the Honourable Mr. Chadwick in this House about a fortnight ago that the possibility of reducing long-distance coal rates has been under consideration recently. That was in reply to a question asked by the Honourable Lala Ram Saran Das. The wording of the reply was that—

"railways are considering the possibility of a reduction in the rates for long-distance coal but a decision has not yet been arrived at."

I will enter a little more in detail into the reasons why Government cannot accept this Resolution presently. But the real, fundamental reason is that we are not ready to commit ourselves to it. The Honourable Member has not mentioned any time or date in his Resolution with effect from which he wants these rates to be reduced; presumably, he wants that done at the earliest possible date. Sir, that is what we intend to do as soon as we are satisfied that we can do it. There is one point about the Resolution itself; we do not quite like the use of the word "concession." The Honourable Member has used it several times during his speech also; he spoke about concessions to the export coal for the docks, concessions given by the railways to industries like Tatas in Bengal, but, Sir, they are not concessions, they are really business propositions. That is the way we look at this matter. It is a question of business, not of concessions at all, really. It is a question always of course how soon such a reduction in rate will take effect in producing the result which you want. I shall come to that presently.

As both the Honourable Mover and the Honourable Dr. Dwarkanath Mitter have mentioned, this subject was discussed at considerable length at a meeting of the Associated Chambers of Commerce last December under two headings, one of which was the subject of the Coal Committee, and the other was "railway freight on coal". It is unnecessary for me to repeat all the arguments then put forward by the Honourable Sir Charles Innes in replying to the points that were then brought up, but he arrived at two conclusions, and those conclusions more or less hold still. The first was that on our calculations the long-distance rates for public coal have increased on the average only 30 per cent. over those for 1905. There was, as the Honourable Member pointed out, no increase in coal rates between 1905 and 1919. We can compare therefore with 1919 or 1905, but it sounds better from our point of view to say 1905. He pointed out that this increase could not be considered unreasonable in view of the increased expenditure which railways have had to face in respect of their fuel, wages, and so forth, which amounted then to an increase of something like 106 per cent. The Honourable Sir Maneckji Dadabhoy in talking about the Coal Grading Bill yesterday seemed to imply that coal ought to be carried at a loss....

THE HONOURABLE SIR MANECKJI DADABHOY: No, not at a loss but at cost rate.

THE HONOURABLE MR. F. A. HADOW: It is an extremely difficult thing to calculate exactly what it costs the Railway to carry one particular commodity. We can get an average per wagon mile or per ton mile for all goods, but it is extremely difficult to analyse that further. So far as I am aware no country in the world has yet been able to design any arrangement for getting at that. But there is one point also in that discussion in the Associated Chambers, to which I should like to call the attention of the House. The representative from Karachi used these words:

"That is one matter, gentlemen, to inquire into the possibility of reduction of rates. But it is another matter to pass a Resolution urging the Government of India to take immediate action substantially to reduce the railway freight on coal carried over long distances."

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[Mr. F. A. Hadow.]

The Chamber I represent".—I am still quoting: "feels that this is introducing a dangerous principle. In other words, an industry should be self-supporting and not carried on at the expense of say other industries, the Karachi Chamber of Commerce's point being that, if an uneconomic rate for coal is granted, it will be accompanied by a corresponding increase in railway rates on other commodities."

Now, that brings me to the point of what I mentioned just now, of calculating what it costs to carry one particular commodity. The Honourable Sir Charles Innes at that meeting gave some figures which were the best that we could make out. He said the bare cost of carrying a wagon of coal one mile is 34 pies. Now, the earnings on a wagon for one mile would be 40 pies. But in that actual cost of 34 pies we have not included all the interest charges which are a very big item of course; and if interest charges were added, the average cost to a railway of taking a wagon one mile is 51 pies. That looks as if we were carrying below the actual cost rate, and it might be argued of course that we should not include interest charges in making such a calculation. As against that, Sir, it is very important to remember what an enormous expense is involved to the railways that serve the coalfields in providing facilities for the movement of this traffic. The Bengal Nagpur Railway made a certain calculation recently of the expenditure that they were involved in at the present moment in providing coal facilities and those coal facilities were going to cost them in capital about one crore of rupees. That expenditure will all be incurred just in these two or three years that are now in. I have not got a similar calculation for the East Indian Railway, but I feel convinced that it must be a great deal higher. But that is not the end. These particular coal facilities are required at various stations in the coalfields for marshalling, shunting, weighing arrangements and all the rest of it, but there is also the capacity which is required on the line which lead to and from the coalfields. Is it likely that the East Indian Railway would now be duplicating their grand chord line if it were not for all the coal traffic that it has to carry? That is a very big expense. There are various other things. A big marshalling yard at Moghalserai, not in the coalfields, is another item. The Bengal Nagpur Railway may be said to be incurring something like Rs. 136 lakhs of expenditure at the present time, mainly, for the coal traffic, though not entirely. Now, would it be fair in that case to leave out these interest charges in calculating what it costs us to carry a wagon of coal a mile? It is a question whether we are not rather near the bone already. It might be argued that railways are getting back to more normal conditions and there is no doubt there is improvement. We are very glad to see it of course. But though we had a very successful year last year, we have had a sadly disappointing time since last April. At the present moment our earnings on the first five months of this financial year are down by Rs. 120 lakhs as compared with last year. We had budgeted for an improvement over last year, so that after having planned to do that, it is very difficult to bring back your working expenses at once to a figure which would be suitable for the smaller traffic you are carrying. That is a very serious thing. We have had to revise our budget for the current year and bring down our estimated gross receipts for the year by

Rs. 2 crores. Is this a time when we can consider light-heartedly the reduction even of such an important thing as coal rates?

I was in some doubt, Sir, about the wording of the Resolution, whether the Honourable Mover meant that both these reductions should be made that he has mentioned in (a) and (b). He puts the word "and" in between (a) and (b). But I am not sure that he did not mean (b) to be an alternative if it was impossible to grant (a). I do not want to use the word "impossible", because we do not consider it that way. We hope that very shortly we may be able to make out a case for reducing these long distance coal rates. A calculation was made recently and is referred to in a reply that was given in another place. This was the reply given by the Honourable Sir Charles Innes to Diwan Bahadur Ramachandra Rao. He mentioned after replying to a part of the question:

"I have ascertained that a reduction of about 10 per cent. in our existing railway freights for distances over 400 miles would cost something over Rs. 30 lakhs".

It is a little bit difficult for us at the present moment to face an immediate loss of Rs. 30 lakhs while we are having a bad year and we are naturally in some doubt about it. The matter is, however, being considered at the meeting of the Indian Railway Conference Association next month, when I hope we shall get a little more light on the matter. I gathered that the Honourable Mover did not want to pay a great deal of attention to the exact mileage which was to be the limit between what he would describe as short distance and long distance.

In his Resolution he used the figure of 500 miles, but I gathered that he did not think it a matter of great importance. The Honourable Dr. Dwarkanath Mitter apparently did consider it a matter of importance because he has put a much lower distance in his amendment. I may mention that we have in all our calculations been taking 400 miles as our limit between the short distance and long distance, because our rates are so designed now that for any distance up to 400 miles the rate is so much for that 400 miles; if the coal is going to be carried more than 400 miles, the rate for the first 400 miles itself is lower. It is extremely difficult to vary our basis. We have, therefore, been making all our calculations on a 400 mile limit. The distance of 400 happens to be the mean between the Honourable Mover's Resolution and the proposal contained in the amendment of Dr. Dwarkanath Mitter.

There was one point and some remarks made by Sir Maneckji Dadabhoy yesterday which I would rather like to take up. He remarked on and praised the generosity of the Great Indian Peninsula Railway in having reduced their coal rates between the Pench Valley field and Bombay. Probably it was a very good thing to have reduced those rates, but there was no particular generosity about it. The rates that the Great Indian Peninsula Railway charge on coal from the Central Provinces are still more per ton mile than what they receive on coal from Bengal. So there was nothing very particularly generous about it. Sir, I have tried to show the difficulty which we are in at the present moment in effecting a general reduction of long distance coal rates. The matter is receiving constant—I may say daily—attention for

[Mr. F. A. Hadow.]

the last four or five years. It is too important a subject for us to forget even if we were allowed to forget it by the public and commercial bodies.

May I turn for a minute to the proposal that there should be a slack season rate. This point was examined very carefully last year. It was a proposition that was supported by the Indian Mining Association, the Bengal National Chamber of Commerce and the Indian Mining Federation, but it did not receive much support from distant consumers. In particular, the Punjab and the United Provinces Chambers of Commerce considered that upcountry consumers would not benefit by this unless the rates could be reduced by so much as to offset the loss of interest that would be caused by accumulating a reserve of any kind, by deterioration in the coal so accumulated and by other things. Moreover, we had a careful examination made of the margin of capacity that might be said to be available in the slack season as compared with the busy season. I have not got the statement by me but it was a statement that was prepared as a part answer to the question which the Mover ought to have put yesterday but was unfortunately not present. He asked :

“ Will the Government kindly state the total quantity (in tons) of coal booked by the Indian Railways in full wagon loads and at owner's risk during last year for distance (i) of 300 miles and over ; and (ii) of 500 miles and over ?

What is the total quantity of coal so booked in the slack season ?”

We could not answer the first part of the question as our statistics are not susceptible of being analysed in that fashion. But to the second part of the question I had figures got out for the last 12 months and gave them to him, that is, from July 1924 up to June 1925, to show the number of wagons despatched by the East Indian Railway and the Bengal Nagpur Railway month by month during the twelve months. It was fairly even all the year round. Certainly there was nothing to warrant us in thinking that the quoting of a lower rate between the months of July and October would be of very particular benefit either to the consumers or to ourselves. It was, therefore, given up. But we are quite open to reconsider the question and, in fact, we have got at the present moment a proposal of the same kind under consideration among others. In fact, we have three proposals under consideration at the present time for a reduction of long distance rates on coal. That is one of them that there should be a seasonal rate, at any rate, for certain places.

Sir, the Honourable Rai Bahadur Lala Ram Saran Das questioned the correctness of charging a lower rate for railway coal than for public coal. Surely, Sir, this is again a matter of business. Government are so much concerned in all these railways that they are really only carrying the coal for themselves even where the coal is being carried from Bengal for the North-Western Railway or where it is being carried from Bengal to Madras for the Madras and Southern Mahratta Railway. All these things affect Government money so much that they are really doing work for themselves. We do not see that there is anything illogical in Government carrying coal for their own purposes at a rather lower rate than we can do for the public. I hope the House now is more clearly aware of the Government's position in this matter. I have

shown that at the present time we are not making much over our coal as calculated by our earnings on and the cost of carrying a wagon of coal one mile. I have shown that our earnings are down this year, and that it is a very awkward time for us to begin giving what are called concessions but what we like to think of as reduction in rates for business purposes.

But, Sir, I do want to assure the House that this is a matter which is not allowed to drop, but is a matter which is constantly receiving attention.....

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : And it will go on receiving attention for another ten years, because five years have now elapsed and it has not been allowed to drop.

THE HONOURABLE MR. F. A. HADOW : I think it is a little unfair to say that five years have elapsed. It is only five years since with great reluctance it was agreed that the first increase should be put on the coal rates. A year after that we had to raise it further. Has not every commodity that everyone uses for everyday use or at his meals increased in value ? Surely it is not unreasonable that we should get a little more for carrying coal. We make it an average of 30 per cent. If we can bring it down by 10 per cent. for long distances we reckon it is going to cost us over 30 lakhs, and it is difficult for us to face that just at the present moment. But I am the last to say that there is no hope. Our operating expenses, by which we mean the relation between our working expenses and our earnings, are showing a tendency to drop. The rates which we pay for the coal that we can burn ourselves are going to be much less next year. The Honourable Member assumed that we were already getting the benefit from the drop in prices of coal which has taken place early this year. We have not yet profited by that owing to the form of our contracts and those contracts carry us on till next spring. From that time and from the fact that we shall be profiting by our own collieries we hope that there will be a distinct reduction in fuel cost. Therefore we have those hopes in our mind and are very much inclined to anticipate them to a certain extent, but it is impossible for me to commit myself at this moment or to commit the Government.

It is with considerable regret that the Government have to refuse to accept this Resolution. The Honourable Mover questioned my good faith just now when I said that we would reduce freights at a very early opportunity ; I hope, however, that the rest of the House will take it from me that it will come very soon.

THE HONOURABLE MR. PHIROZE C. SETHNA : (Bombay : Non-Muhammadan) : Sir, this is one of those subjects upon which, as the House is aware, both the Indian and the European commercial community are in perfect agreement. The best proof of that lies in the fact of a Resolution moved by the Associated Chambers of Commerce which was quoted by two Honourable Members who spoke before me...

THE HONOURABLE MR. F. A. HADOW : They were not unanimous.

THE HONOURABLE MR. PHIROZE C. SETHNA : There might have been one dissentient. So far as I know there was only one dissentient, namely, Karachi.

[Mr. Phiroze C. Sethna.]

I must confess to a sense of disappointment at the reply given by Government. The Government make out that they cannot afford this extra loss which would be incurred if the proposed reduction in freights on coal carried to long distances was given effect to. The Honourable Mr. Hadow pointed out that it was not right on the part of the Honourable Mover of this Resolution to refer to the facilities afforded the coal export trade as also to the Tata Iron and Steel Company as "concessions;" he called them "business propositions." May I ask the Honourable Member to consider whether the proposal embodied in this Resolution is not also a business proposition? I say it is a business proposition, and it is a business proposition in the sense that if a reduction were made on coal freight for long distances, it would mean the spread of industries which perhaps is at present retarded to some extent. Therefore, if the rate is reduced to some extent, it will mean not only the carriage of more coal to distant parts, but also the carriage of more goods made by such new industries which will grow up as a result of the decrease in freights. Therefore, we regard it as a business proposition and by no means a concession. I think that Government should adopt this far-seeing policy in the interest of the Railways in the country.

In February last, at the time of the discussion of the Railway Budget, an amendment was moved in the other House suggesting a cut of Rs. 100 under this head, and the Mover of the amendment pointed out that the average increase of freights on all commodities was 25 per cent., and that in regard to coal it varied from 33 to 37½ per cent. He said in the case of the carriage of coal from Jharia to Ahmedabad, the increase being from Rs. 10-12-0 to Rs. 14-5-0 worked out at 33 per cent., and the increase of the freight rate from Jharia to Bombay being from Rs. 11-4-0 to Rs. 16-6-0, the increase was 37 per cent.

The Honourable Commerce Member speaking in that House gave other figures of rates to different parts of the country, such as Delhi, Lahore, Madras, and stated that the average increase was 30 per cent. The Honourable Mr. Hadow to-day has also quoted the increase in coal rates as 30 per cent. and did not agree to the rate quoted by the Honourable Rai Bahadur Lala Ram Saran Das as an average increase of 33½ per cent. Even assuming that 30 per cent. is correct, I would like the Honourable Mr. Hadow to inform the House why it is that in all other commodities the increase is only 25 per cent. while in coal it is 30? I say so, Sir, because the statement made in the other House was not contradicted by the Honourable Sir Charles Innes. If, however, their contention is correct, may I ask if it is not a greater reason for Government to consider the proposal put forward by the Honourable Rai Bahadur Lala Ram Saran Das? He said that the difference of 10 per cent. would only mean a matter of 10 lakhs.

THE HONOURABLE MR. F. A. HADOW: I think he referred only to the case of the Punjab.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I said Northern India.

THE HONOURABLE MR. PHIROZE C. SETHNA: I stand corrected. I think the Honourable Mr. Hadow estimates 30 lakhs as the cost of the reduction. May I take that as at 10 per cent. on all coal carried to long distances?

THE HONOURABLE MR. F. A. HADOW: The calculation showed that it was over 30 lakhs. It is very difficult to get accurate figures.

THE HONOURABLE MR. PHIROZE C. SETHNA: If Government are not in a position to-day to make a reduction of 10 per cent., surely the public will be satisfied with even 5 per cent. to begin with. Half of 30 lakhs will be 15 lakhs and surely, when Government estimate the earnings at 10 crores in the whole year, a difference of 15 or 20 lakhs will not much matter. There is no reason for Mr. Hadow to be so despondent because there is a drop of 120 lakhs in the earnings of the first five months, as it is quite possible that in the subsequent months the railways may make up this deficit and more.

Sir, all that I can say, therefore, is that Government ought to treat this Resolution with greater consideration than was shown in the reply which we have received from the Honourable Mr. Hadow to-day. The only consolation which we have received from the Honourable Mr. Hadow to-day is that Government are still considering the matter, but from the figures quoted I do not know whether he made out a case for a reduction or an increase. The Honourable Mr. Hadow said that the cost to-day is 34 pies per maund and that the Railways received 40 pies, but if the fact of interest is taken into account he said the cost mounts up to 51 pies. The simplest inference to be drawn from that statement is that the railways are working at a loss and therefore people in Northern India must be prepared to pay a still higher rate than what they are now doing. I do not know if I have understood Mr. Hadow correctly, but the remark which he made is tantamount to, or will lead one to, that conclusion. On the other hand, he afforded us some consolation by telling us that the Department are considering, and they will probably give effect to, the recommendation as early as possible, but when that early date will be reached he has not given us any indication.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, there can be no gainsaying the fact that the coal trade in India is undergoing much depression owing to a great increase in the freight on coal. Since 1919 up to the present there has been an increase of 31 per cent. in railway freight on coal, and in the case of Bengal coal it is something near 35 per cent. This has greatly contributed to the rise in price of Indian coal, which consequently has lost its market in India and abroad in competition with coal from Australia and South Africa. It is growing fiercer every day, as the Honourable Member might know that the coal is every day coming more and more in competition with electrical power and oil fuels. Under the circumstances there is a great necessity of

[Major Nawab Mohamed Akbar Khan.]

making a reduction in the freight on coal. We hear that some weaker collieries are closing down and that there is a general complaint as to the selling of Indian coal. The reason of this difficulty is not far to seek, for it is no other than the immense increase in freight. Unless the railway freight is reduced and brought down to the pre-war rates, there can hardly be a possibility of the Indian coal industry recovering its market.

The Resolution as it stands seems to be a part of the Bill that the Honourable House had the pleasure of discussing yesterday with regard to the grading of coal and granting certificates therefor. The Bill, as stated in the Statement of Objects and Reasons, was based on the recommendations of the Indian Coal Committee, appointed for the purpose of devising measures whereby the Indian coal trade might be assisted to recover its market. The Committee recommended that the only possible solution of the problem could be made by making a reduction in the prices along with an improvement in the quality of coal. The recommendations so far concerned with the quality of coal have been given effect to in the Coal Grading Bill, whereas with regard to price nothing has been done save the grant of a rebate on freight and other charges on coal certified for export only. This clearly signifies that the concession does not apply to the coal trade within India.

Now Indian coal, as recommended by the Committee, must come down in price, as without the reduction in price it can hardly recover its market in competition with coal from Australia and South Africa. The competition is growing fiercer every day, and when legislative measures have been adopted to make the Indian coal compete with coal from abroad in quality, something ought to be done as regards bringing it down to a cheaper rate in India itself. Moreover, as I have already observed, it is more and more every day coming into competition with electrical power and oil fuel; some preventive measures ought therefore to be adopted at this juncture. Oil fuel particularly is becoming more popular on the west coast of India, and it is this competition which the Indian coal has now got to meet. This can only be met by lowering the price of coal which can be simply effected, if the railway authorities condescend to make a reduction in the present freight on it. I believe the railway authorities will have no hesitation in securing the growth and development of this industry by giving facilities with regard to the special freight rates. It is an easy matter for the people close to the coal mines to establish industries, but for people residing at long distances from the coal mines, it is hard to compete in the development and growth of their industries, especially in the North of India where people are made to pay high freights for the carriage of coal from the Bengal mines. We, the people of the North of India, will gratefully welcome any reduction in freight on coal whenever it is possible for the Government to do so. And I suggest that as the Honourable Mr. Hadow has already given us his assurance that the recommendations of the Honourable the Mover of the Resolution will be considered, there is no need for the Honourable the Mover to press the point any further.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I am not an industrialist and do not know

much about coal. I came here with an open mind. Since I have been here in this Council all these years, I think the House knows that whenever the Government have been attacked in season and out of season, I have been always with them, but in this case I do find that the answer given by Government is not convincing. I think there can be no two Indians here who will not support this Resolution. I think it is a great mistake not to accept this Resolution, because there are hundreds of Resolutions, I may say, which have been accepted by the Government but which have not been acted upon immediately. There have been many such propositions, so it would have been much better if this Resolution was accepted, especially as the Honourable Mr. Hadow has said that he is doing something towards it, that is the Government are considering the matter. They may have gone on considering the matter for about another six months; we would have been pleased, and everything would have been all right. In this matter, Sir, I think that none of us will be true to ourselves if we do not vote for this Resolution, and I do hope that our Indian *Namak Halals* (Servants of India) will do the same. I was astonished just by one remark where it was stated that Government are doing one thing for themselves which cannot be done for the public. Hitherto, I have always had the idea that Government were for the public, and that both were more or less one. I thought it would have been better to say this.....

THE HONOURABLE MR. PHIROZE C. SETHNA: Quite so.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Sir, there is something fundamentally wrong, because if India cannot produce its coal so as to stop coal coming from outside, I think somebody ought to be responsible for it.

THE HONOURABLE MR. F. A. HADOW: Did Bombay never get coal from outside before the War?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: It might have been done so, but the business of those who are responsible is that it should not get it from outside. For instance, as we are all very sorry that our people are being badly treated outside India, if the Government were simply to give an order and say hereafter "We will not take any more coal from South Africa" it would then be improper for those who have to obey it to say that "This is in the way and that is in the way in carrying it out."

I think for the good of the country and the good of the people you have to do it: and I think this is a proposition to which Government should no doubt yield. If they do not, at any rate the other Members of the House should show that they are on the right side and should not vote against it.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, we are very grateful to the Honourable Mr. Hadow for his sympathetic and decisive assurance with regard to the policy of the Government in this connection. Mr. Hadow has rightly pointed out the immediate difficulties of the Government, and I agree with that view. Mr. Hadow has stated that during the current half year the receipts have gone down by 120 lakhs over the earnings as compared with the previous year. I must at the same time point out that the railway earnings last year were of a somewhat abnormal

[Sir Maneckji Dadabhoy.]

nature and we could not always expect the same volume of income. I quite realise the difficulties indicated by Mr. Hadow that in considering the freights Government have to take not only the working charges which have considerably increased of late years by a rise in the price of stores, but also to take into account the interest charges. Even taking all these factors into consideration, it appears clearly to me that if a small and reasonable reduction is made in long distance railway freights, Government's revenues will not be seriously affected. We have obtained a very candid and frank admission from Mr. Hadow that even if a general reduction is made on all freights over 400 miles it would cost the Government a sum of Rs. 30 lakhs, and I ask with great respect to Mr. Hadow what is this Rs. 30 lakhs in the large and ever-growing income of the railways. (Hear, hear.) When the Railway Budget was separated last year from the general finances, it was clearly indicated that the object, the immediate object of the separation, was not only to give relief wherever it was possible in the matter of the reduction of railway freights, but also to enable Government to carry out their railway policy to its full extent in the matter of development and otherwise. I submit, Sir, that the railway finances are elastic enough to admit of a reasonable reduction in the matter of freights. The whole commercial community in India, I may say from the Himalayas to Cape Comorin, have with one voice for the last 5 years steadily demanded the reduction in coal freights in this country and Mr. Hadow by his candid statement to-day has confirmed that the Government realises the validity and justice of the arguments advanced for the reduction of freight. I quite conceive that it may not be possible to effect the reduction within the next few months. I quite appreciate that this Resolution is somewhat vague as it does not definitely state the period of time under which this reduction should be made. However, the policy of the Government has been definitely indicated by Mr. Hadow, and I do not see any objection to Government accepting this Resolution. Mr. Hadow has made it perfectly clear why Government are not in a position to accept immediately this Resolution, and if I can read between the lines of his arguments, I see that in the near future some sort of reduction will be made in general charges. I do not agree with the amendment of the Honourable Dr. Dwarkanath Mitter in view of the information given that the limit between long distance and short distance is prescribed to be 400 miles, and I trust my Honourable colleague will see his way to withdraw his amendment. I therefore support this proposition of my friend Lala Ram Saran Das because it will strengthen the hands of Government in carrying out this policy, and when they meet at the Railway Conference a month hence it will enable them to consider this matter with a greater degree of confidence than would otherwise be the case. It is for this reason and as I find that there is no difference between the Railway Board policy and the policy indicated in this Resolution, that I support it.

THE HONOURABLE MR. MANMOHANDAS RAMJI : (Bombay : Non-Muhammadan) : I move that the question be now put.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I am very sorry, Sir, that the Honourable Mr. Hadow has given a very disappointing

and a very unconvincing answer to the queries that I set forth in my speech. I cannot approve of the answers, Sir. Mr. Hadow has said that the coal freights could not be reduced at present because it was commercially impossible. The matter was under consideration. It has been under consideration for 5 years and nothing has come of it and it will still be considered.

The next point, Sir, is that after all the Resolution is a recommendation to the Government, and even in case the Resolution is accepted it is no more than a recommendation. As my Honourable friend Sir Maneckji Dadabhoy has said it will, if adopted, strengthen the hands of Government. I cannot see why Government should not accept my Resolution. The Honourable Mr. Hadow has said that I have invariably used the word "concession." Of course being a business man, I consider it as a concession, because railway people have already special rates; the present coal rates may be termed special rates and as I wanted a reduction in the special rates, I could not find any better word to use than concession rates. However, what I mean is that the rates should be reduced and they should be reduced soon.

The Honourable Mr. Hadow said that the cost of running a wagon per mile comes to somewhere near 51 pies. I asked certain questions. Government are giving a rebate on the export coal, which last year amounted to about 11½ lakhs. This year even in case only one million tons are exported, it will amount to 22½ lakhs. May I ask him how that Rs. 22½ lakhs is to be met when the Railway Board is forced to retrench 2 crores and when their revenue has so far gone down by 130 lakhs? That is inconsistent. On the one hand the Railway Department is prepared to give 22½ lakhs to 45 lakhs as rebate in freight on coal meant for export. When they are so very hard up, how can they afford to do it? No answer has been given to me on this point by Mr. Hadow. That is a very important point.

Another important point which I raised was that as far as the carriage of coal to Northern India was concerned it was calculated to be 10 million tons and the freight on 10 million tons on an average of Rs. 10 a ton, I calculate to be a crore of rupees. On that we wanted a reduction of 10 per cent. I say that when these railways are unable to sacrifice 10 lakhs for Indian industries, how is it possible that they are prepared to sacrifice 22½ to 45 lakhs for the export industry? That is most unjust for the Railway Board to say in the interests of the Indian industry that, although they are prepared to sacrifice 22½ to 45 lakhs in rebates on coal for export, they are not willing to reduce the coal freight by 10 lakhs. This is a very disappointing statement that has been made by Mr. Hadow.

Another point which I raised was that the Tata Iron and Steel Company were enjoying a railway rate of 1½ pies per ton per mile on their raw materials and upon other finished products to Calcutta while coal freight is 4 pies per ton per mile. I asked how was that rate paying to the railways? Mr. Hadow has given no answer to this.

Then there is locomotive coal upon which the railways are offering 10 per cent. concession or rebate or whatever you may call it to the railways.

[15TH SEP. 1925.]

[Lala Ram Saran Das.]

I do not grudge it. I welcome it. I say it is a good policy to protect your own industries, but I have got no satisfactory answer as far as coal is concerned.

Then, Sir, another point which Mr. Hadow made was that so far as the Karachi Chamber of Commerce was concerned, they were rather indifferent in their recommendation. If I rightly understand, Karachi is not much concerned. All the seaports can try to do away with Indian coal in case the railways go on raising their freights as they can depend upon the imported coal. It is for the people of Northern India, Sir, who are absolutely at the mercy of railways ruin because the railways cannot afford to give 10 lakhs as reductions in freights.

Then, Sir, Mr. Hadow said that in order to afford facilities for the carriage of coal crores of rupees have been spent on doubling the lines for providing sidings, etc. Well, Sir, that is a business proposition. After all, this investment will bring in a good traffic and return. If it is done in the interests of the coal traffic Mr. Hadow should find means to increase it in the coal traffic, otherwise that expenditure will be considered quite unjustifiable.

THE HONOURABLE MR. F. A. HADOW: I am not saying it is unjustifiable.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: After all, you will be getting a return on the extra capital that you have put in on these railways for coal traffic.

THE HONOURABLE THE PRESIDENT: Will the Honourable Member bring his remarks to a close?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, Mr. Hadow has been kind enough to give me a statement of figures in which he showed me that so many wagons were despatched each month in the last year. I did not raise that point at all. I said in my speech that I was not referring to the coal traffic as far as the slack season was concerned. I was referring to the number of empty wagons which were allowed to remain idle during the months which are not harvest seasons.

Another thing which I want to say is that in the Punjab the coal which is being carried for the purpose of railways is 723,685 tons and the coal carried for other purposes is 463,463 tons. The quantity of coal consumed by the railways is nearly double that consumed by the public and still the railways can afford to charge a lower rate for their own coal. But Mr. Hadow says: "It is our own convenience and it is required for our own selves." After all railways are revenue-making machines, though I do not want them to be revenue-making machines in the true sense of the word. But I see no justification whatsoever for Railways demanding a higher rate of freight from the public. After all, money comes and is spent from the same purse. It is that the railways are paying lower freight on their own locomotive coal and are, of course, paying from the treasury of the State. I hold, Sir, that the loss to the railways if the freight is reduced will not be 30 lakhs. In fact, I cannot

make out how Mr. Hadow has put it at 30 lakhs. In case he takes the coal carried for other purposes than that of railways, it will amount to not more than 15 lakhs at the most.

THE HONOURABLE MR. F. A. HADOW: Is the Honourable Member talking only about Northern India? His Resolution deals with all parts of India.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am afraid the time at my disposal will not permit me to go into details but I can give Mr. Hadow a statement for all India and that will convince him that whatever I have been saying is correct.

Sir, there is one more thing which I would like to say. It is this. In case this Resolution is thrown out by the Official Benches it will be a distinct proof that the Government have now adopted a certain definite policy towards the industries. I might also say, Sir, that early this year when a vote of censure was moved in another place, the vote of censure was only rejected by 4 votes. In case it was a Resolution, it would have been carried by a very heavy majority. Although it was a vote of censure, everybody had his say and in case....

THE HONOURABLE THE PRESIDENT: Order, order. I would ask the Honourable Member to what particular remarks in the debate he is now referring. He should remember that the right of reply is given to him for the purpose of replying and not for the purpose of making a new speech.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Very well, Sir.

What I say now is that if Government really want to promote and develop the industry, if they really desire to develop the manufactures of this country, they must reduce the coal freights. I think the points which I have put before the House are sufficiently convincing to appeal to the House to accept my Resolution.

THE HONOURABLE THE PRESIDENT: The original question was

"That the following Resolution be adopted:—

'This Council recommends to the Governor General in Council that special concession rates be granted by the different railway systems for railway freight on coal when booked in full wagon loads and at owner's risk—

(a) for long distances of 500 miles and over; and

(b) during the slack season over various railways.'

Since which an amendment has been moved

"That in clause (a) for the figures '500' the figures '300' be substituted".

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question then is that the original Resolution be adopted.

I think the Ayes have it.

(Non-official Members shouted "The Ayes have it.")

[The President.]

I must point out to the House that when I am myself declaring in favour of the Ayes, there is no necessity for any Honourable Member to continue to say "Aye".

I think the Ayes have it.

(A division was called for and the division bell rang).

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

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, as a result of events elsewhere the only Bills with which the Council will be asked to proceed are the two which have been laid on the table to-day, and I now ask for your ruling regarding the day for which they should be put down. Government have no desire to rush the Council, and it is only for the convenience of Honourable Members, many of whom are, I understand, anxious to leave Simla as soon as possible, that I venture to suggest a curtailment of the usual period of notice. The Bills in question which Honourable Members will find in their places are very short, and Honourable Members will have no difficulty in appreciating the effect of their provisions.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, many of the Members of this Council, as I understand, have definitely decided to leave on the 18th, and have booked their seats and accommodation. The two Bills which have been laid on the table to-day are very short, and I believe they could be easily disposed of to-morrow, if you, Sir, waive the rules of business. As far as I understand that is the general opinion of my colleagues, and I therefore request that the Bills may be taken up to-morrow for consideration.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): If that be the wish of the House, all that I desire to say is that I will be perfectly prepared on behalf of Government to receive amendments up to any time or hour fixed by you, Sir.

THE HONOURABLE THE PRESIDENT: As no Honourable Member has suggested that the full period or even a slightly curtailed period should be adopted for these Bills, I think I may take it that it is the unanimous wish of the House to proceed to the consideration of the Bills as soon as possible.

(Several Honourable Members: "Yes, Sir").

In that case I would be prepared to waive the full period of notice and allow the motions in respect of these two Bills to be made to-morrow. The Honourable Mr. Chadwick has asked me to fix a time up to which he should receive notice of amendments. I think it is only fair to the House to say that Government should be prepared not to raise objections to any amendments which are received up to eleven o'clock to-morrow morning, the hour at which we shall meet.

The Council then adjourned for Lunch till Ten Minutes to Three of the Clock.

The Council re-assembled after Lunch at Ten Minutes to Three of the Clock, the Honourable the President in the Chair.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT: I have a Message for the Council from His Excellency the Governor General.

(The Message was received by the Council Standing).

"In pursuance of sub-section (3) of section 63-A., of the Government of India Act, I, Rufus Daniel, Earl of Reading, hereby require the attendance of the Members of the Council of State in the Chamber at 11 a.m., on Thursday, the 17th September, 1925".

(Signed) READING,

Viceroy and Governor General.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhamadan): Sir, I beg to move that the Bill to provide that, when fire-arms are used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances, be given, as passed by the Legislative Assembly, be taken into consideration.

I will request this House to give a calm and very dispassionate hearing to this motion. The Bill in question is a very humane and absolutely essential piece of legislation. There are in the Statute-books of many civilized countries provisions like those contained in this Bill, regulating the use of fire-arms. Chapter IX of the Criminal Procedure Code, which deals with unlawful assemblies, nowhere specifically mentions the use of fire-arms, though I concede that the word "force" used in the Chapter is in legal parlance comprehensive enough to include the use of fire-arms. There has been a feeling in the country, for a long time, that the use of fire-arms, either by the civil authorities, or the military, should be regulated by Statute and should not be left to the discretion of the Executive and the operation of executive circulars. The potential dangers of the use of fire-arms are so grave that in England and other countries it was considered necessary to regulate their use by law in order to prevent any excessive or wrong use of the power vested in the civil and military authorities. In this country resort to fire-arms is not a very uncommon occurrence, and whenever there was a riot very frequently either the police or the military were called upon to open fire. In my experience as a publicist for nearly 25 years, I have found that expression was given to a feeling, by the public, that in many cases, I do not say in all cases, but in many cases, there was either an excessive or an improper use of fire-arms. I have read newspaper reports of such occurrences and I have also read reports of private inquiries and non-official inquiries conducted with a view to ascertain the truth of the allegations after a riot was suppressed. That feeling came to a head after the Punjab tragedies which culminated in the Jallianwala Bagh massacre. Since then there has been a demand in the country, which has grown in volume almost every day, that something should be done to prevent, if possible, a recurrence of incidents like the massacre in the Jallianwala Bagh, and this Bill

[Mr. V. Ramadas Pantulu.]

is the result of efforts made for a long time past to get into the Statute-book some provisions whereby it would be possible to prevent such tragedies.

I shall very briefly trace the history of the present Bill and try to answer as well as I can some of the objections urged against its provisions. I am glad to be able to say, as in the case of the repeal of the repressive laws, in this case also, the initiative came from this House on a Resolution moved by the Right Honourable V. S. Srinivasa Sastri on the 3rd March 1921. The Resolution which he moved was in these terms :

"This Council recommends to the Governor General in Council that the Code of Criminal Procedure and, if necessary, other enactments, be so amended
3 P.M. as to secure the following points in the suppression of riots and unlawful assemblies :

- (i) No fire-arms should be used except on the written authority of a Magistrate of the highest class that may be available on the spot ;
- (ii) In cases of grave emergency when no Magistrate is available in the neighbourhood, the chief police or military officer present on the spot may, if he considers that the riot or unlawful assembly cannot be suppressed otherwise, employ fire-arms ; but the onus of proving the emergency and the impossibility of securing the presence of a Magistrate within the proper time shall lie in the officer so acting ;
- (iii) Before resorting to fire-arms, the Magistrate or other civil or military officer responsible shall read or cause to be read a proclamation, both in English and in the local vernacular, similar to that contained in the English Riot Act ;
- (iv) Fire-arms shall not be used for one hour after such proclamation has been read unless, in the meantime, the assembly or crowd actually causes serious damage to person or property ;
- (v) Before the crowd is actually fired upon, the fullest warning shall be given ;
- (vi) The Magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary ;
- (vii) The sanction of the Governor General in Council should not be a condition precedent to the institution of a criminal prosecution against officers or other persons who have acted illegally in the suppression of riots ;
- (viii) Every such prosecution shall be instituted in and triable by the Sessions Court having territorial jurisdiction, with the previous leave of such Court or the High Court of the Province "

As a result of the debate on this Resolution, only two clauses were finally adopted, namely, clause (v) and clause (vi). The other clauses were negatived on divisions which were pressed for by the Government. The Honourable Sir William Vincent, then Home Member, assumed a sympathetic attitude towards some of the clauses and opposed some of the other clauses rather strongly. As a result of this debate, Sir William Vincent introduced in this Council a Bill to amend Chapter IX of the Criminal Procedure Code containing only a single clause with regard to the warning and it was passed in this House sometime in October 1921. That Bill merely said this :

"Where under the provisions of this Chapter any person determines to disperse any such assembly by the use of fire-arms, such persons shall, before directing that the assembly be fired on, warn the assembly by such means, if any, as may be available at the moment, that unless it disperses forthwith it will be fired on "

After the Bill was passed in this Chamber it was laid on the table of the other House. There, Diwan Bahadur T. Rangachariar tabled a certain number of amendments which were necessary to make the regulations regarding the use of fire-arms complete and he wanted that the Chapter in the Criminal Procedure Code should be self-contained with regard to regulations as to the use of fire-arms. But for some reason Government did not proceed with the Bill. I guess the reason—there is no official version as to the reason. I believe the fact was that amendments which were not liked by the Government would undoubtedly have been carried by the Assembly, and so I suppose they acted on the principle that "discretion is the better part of valour" and dropped the matter. Then Mr. Rangachariar made a further attempt when the Criminal Procedure Code was sought to be amended. When a Bill to amend certain portions of the Code was on the legislative anvil he tried to introduce these provisions by way of amendment. The amendments were overruled on the ground that they were beyond the scope of the Bill. Finally, he introduced the present Bill in its original form in January 1924 into the Legislative Assembly, and in September 1924 after a prolonged and informing debate it was referred to a very strong Select Committee consisting of a dozen able men and the Honourable the Home Member. The Select Committee had sent up their report sometime in August 1925 and the Bill had undergone material changes in the Select Committee, and then it was finally passed by the Assembly on the 9th of this month after undergoing further amendments. In the form in which it was passed by the Assembly it is laid on the table of this House. Therefore you will see that this Bill was before the country during the whole lifetime of this Council. It began almost simultaneously with the birth of this Council and it has been there practically to the last day of its existence, and the particular Bill in question has been before the country for nearly two years, and a strong Select Committee sat upon it and considered it very carefully. Therefore there was no undue haste or hurry in this matter; and the persons connected with the genesis of this Bill were the Right Honourable Srinivasa Sastri and Mr. Rangachariar who cannot be said to be actuated by any desire to weaken the hands of the Executive of this country. Of course if a wicked Swarajist was at the bottom of it, my friend opposite might have made a point of it. But I venture to say, Sir, that the gentlemen whose names are so intimately associated with the genesis of this Bill are themselves a guarantee against any such imputation. On a motion for a division it was carried by 58 to 45, and among those who voted for it were men like Sir Purshotamdas Thakurdas, Sir Sivaswamy Aiyer, Diwan Bahadur T. Rangachariar, Diwan Bahadur Ramachandra Rao and others. Therefore my request to you to consider this motion sympathetically and with due regard to the history of this Bill is not an unreasonable one. Further, in commending this Bill to your acceptance, I speak, Sir, with a full sense of responsibility. I am fully alive to the fact that there is no reason to suppose that the Government have any desire to allow their officers to inflict any more injury on a mob or to destroy more human life than is absolutely necessary to avoid a greater danger to the community. I am quite prepared to accept that. I am also willing to concede that an officer who is employed on such a task will not normally, do anything that is calculated to destroy human life except to the extent necessary; and I also recognise, Sir, that officers who are expected to take quick

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and decisive action in emergencies should get all the adequate protection which the law and the State can give to them in the discharge of their public duties. I recognise every one of these positions. But, Sir, bearing them in mind as well as I can, I cannot forget the duty which the State and the Legislature owe to the citizen in safeguarding his rights against the improper exercise or excessive use of the powers vested in the police and the military. The Bill tries to recognise and also to harmonise these conflicting interests, and I think it is a result of very considered judgment upon the subject. I may also state that this Bill does not touch the provisions of the Criminal Procedure Code so far as they relate to the dispersal of unlawful assemblies by the use of any other kind of force except that of fire-arms. The use of *lathis* or bayonets or other weapons for dispersing unlawful assemblies which are contemplated by the provisions of the Criminal Procedure Code are not sought to be touched by this; the use of force in these cases is not sought to be regulated by this Bill. It is in its scope entirely confined to the use of fire arms. With these preliminary observations as regards the history and the scope of this Bill, I will now proceed to deal very briefly with the various clauses of this Bill. It is placed on the table for your perusal and I would earnestly request your attention to the clauses, or rather to the sub-clauses of clause 2.

THE HONOURABLE THE PRESIDENT: I must remind the Honourable Member that at this stage he will only be in order in referring to the details of the Bill in so far as such reference is necessary to explain the principle of the Bill. Beyond that he should not go now.

THE HONOURABLE MR. V. RAMADAS PANTULU: I was not proposing to read the clauses, Sir, but I wanted to mention that it embodied four principles. Firstly, in order to disperse an unlawful assembly, fire-arms should be used as a last resort, and only when it is unavoidable. That is the first principle which the Bill embodies. There is a proviso which I will explain later. The second principle is that in all cases where fire-arms are used to disperse an unlawful assembly, warning should be given to the assembly. That is the second principle. The third is that as soon as an unlawful assembly is dispersed by use of fire-arms, the person who authorises the firing should make a full report of the circumstances which led to the use of fire-arms. And the fourth and the last principle is that a person injured by the firing or if he is killed his specified near relations shall have freedom to complain and take legal action against unlawful exercise of power. These are the four principles which this Bill embodies. I shall very briefly deal with each of these four principles in moving that the Bill embodying them be taken into consideration.

The first principle is that fire-arms should be used as a last resort. The reasons for this are to my mind very obvious. Fire-arms being the most deadly weapons whose use is attended with grave danger even to innocent people who are near and round about a riotous mob, their use should be the last expedient. Again, the second reason is that there is always the temptation to persons engaged in suppressing riots and in dispersing riotous mobs to do it as quickly as possible, and with as little risk to themselves as possible by the use of fire-arms although it may not be absolutely necessary, as other modes

of dispersal will be slightly more risky to themselves, but calculated to cause less bloodshed and are less risky to the community. Especially when the officer employed in doing this duty is not a man of very great nerve, he may be tempted to use fire-arms in order to save himself and the men under his command and quickly to get over the trouble and impending danger; that will be always a temptation. Then, thirdly, there are unfortunately some officers in India who believe that a little extra blood may be shed in order to prevent future riots, to produce a moral effect and to make an example to others. It is now well known from the contents of the Hunter Committee report and from other records that General Dyer himself acted upon this principle. I do not now propose to quote from his evidence which I have got before me, but he himself admitted that his immediate object was not to disperse the assembly but to produce a sudden and striking moral effect by an exhibition of force, by firing till his ammunition was exhausted. I have read the judgment of Justice McCardie in that famous trial, *O'Dwyer v. Sankaran Nair*, in which a shocking revelation is made that several military officers in this country approved of the action of General Dyer. Therefore my fears are not merely imaginary, that people who consider that striking and sudden effect should be produced by using fire-arms, are still to be found in India. I am thankful to His Excellency the Commander-in-Chief who the other day spoke in the other House and assured us that the soldiers in India are not actuated by any such desire and that they are as human as any other citizens. I am fully willing to accept His Excellency's assurance and I am also glad to recognise the fact that the Government of India dissociated themselves from the theory that General Dyer propounded; and the Resolution of the Government of India which followed the publication of the Hunter Report has also showed us that at any rate that is not the principle the Government of India propose to adopt in this country. I am thankful for these. But nevertheless there are well grounded fears entertained by my countrymen that the Jallianwala Bagh incident is not the last word in the episodes in this country. Therefore, it is the duty of the law to protect the people from recurrences of such misdeeds. However well meaning the officers may be, it is but right that we should have safeguarding provisions. It is, I submit, considerations of this kind that induced great English lawyers to lay down that the use of fire-arms shall always be resorted to as the very last expedient. I shall only read one sentence from the famous report of the three English lawyers in that *locus classicus* known as the Ackton Hall Colliery dispute. Lord Bowen, Sir Albert Rolit and Lord Haldane said in their report on the Featherstone riots:—

“A soldier can only act by using his arms. The weapons he carries are death; they cannot be employed at all without danger to life and limb and in these days of improved rifle and perfected ammunition, without some risk of injuring distant and possibly innocent bystanders. To call for assistance against rioters from those who can only interpose and under such grave conditions ought of course to be the *last expedient* of the civil authorities”.

Sir, I lay stress upon the last words that the use of fire arms should be the last expedient of the civil authorities. I am also told that there are certain executive instructions issued to officers that force should be resorted to generally only as a last expedient, though it is not obligatory under the rules. Therefore,

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the first principle that this Bill seeks to establish is not a very astounding one. It is a well recognised principle based upon very humane and sound considerations.

Two objections have been raised by the Government, so far as I can gather from the Select Committee's Report as well as the debate in the other House. They say that if fire-arms are to be used only when it is unavoidable who is to decide the question of fact whether the officer using them acted under the circumstances which may be legally described as being unavoidable? My only answer is that it is not an innovation which the Bill makes. Section 129 of the Criminal Procedure Code, as it stands, authorises the use of military force. It says that, if any such assembly cannot otherwise be dispersed, military force should be resorted to. The Assembly made a change in favour of the officer by substituting the word "unavoidable". The same authority will also decide the question as to whether the circumstances were such as to render the use of fire-arms unavoidable. Therefore, there is no substance in the objection because it is really a mere reproduction in a different language of all the limitations that already exist in section 129. The other objection I understand is that why should fire-arms be resorted to in the last instance? Why should they not be preferred to other modes of dispersing an assembly if the officer in charge feels that other kinds of force will cause less injury in dispersing the assembly more effectively than the recourse to fire-arms? For instance, why should not an officer resort to a bayonet charge and relegate the fire-arms to the background? My answer is this; that in the case of a bayonet charge you injure such of the rioters as are determined to make a stand against the authorities who are trying to disperse the crowd. The bayonet charge will not touch the people who are not determined to oppose the authority. Secondly, in the case of a bayonet charge people know that the military and the police are marching; they know what the impending danger is and they quickly disperse. But in the case of fire-arms which are used from a long distance it will not be possible to scent the impending danger. It will not be known to the rioters. Therefore, there is a greater risk. Thirdly, the use of fire-arms as has already been said is likely also to affect innocent bystanders and others who will be shot and killed. It will not be the case in a bayonet charge. So these objections are not very sound. I have already informed the Council that in other countries and also in Executive instructions generally the use of fire-arms is relegated to the last resort and that is a good and sound principle. That is the first principle.

The second principle is that the assembly shall not be fired upon without a previous warning. Then, this Bill makes it very clear that the warning can be given by such means as are available. If no means are available, it does not preclude an officer from firing. All that is necessary to say is "unless you disperse you will be fired upon". This clause of the Bill makes it very elastic in favour of the officers using fire-arms by using the words "such means as may be available". Therefore, it is not a very stringent rule. Moreover, I beg to remind this House that this clause about the giving of warning was accepted by this House and it was embodied in the Bill. I am not therefore asking for any new provision. It is a clause which was accepted in a Resolu-

tion and subsequently embodied in a Bill which was also passed by this House. To that extent, therefore, this Bill does not seem to depart in any way from the intentions of this House once expressed in 1921 both in the Resolution and in the Bill. The provisions of the English law regarding the reading of the Riot Act and giving time to the assembly to disperse are more stringent against officers, in that they lay down that a certain time must elapse before the assembly can be fired upon. Besides this act of warning will also serve as a protection to the very officer who is ordering the use of fire-arms, because, once it is proved that he had given the necessary warning and the crowd did not disperse, any allegation made against him will be without substance. Once he has given the warning, it will put him in a very safe position. Therefore, I submit that the second principle embodied in the Bill does not need much to commend it to the acceptance of the House.

Then, Sir, the third principle is that a person authorising the firing shall send an immediate report of the occurrence to the nearest first class Magistrate. From the debate in this Council and the recent debate in the Assembly I find that the Honourable the Home Member has not seriously disputed the correctness of this position. He only said why should the report be confined to the use of fire-arms? Why should it not be extended to the case of dispersing assemblies by other means? I have no objection to making a report in other cases also, but this Bill deals with the case of fire-arms only. Therefore, I do not think the Government will oppose the necessity of sending the report on the principle involved in this case.

I now come to the last and the most important clause of this Bill, namely, giving liberty to a person who is injured and in the case of an individual who is killed to his parent or guardian or to wife or husband to make a complaint without the previous sanction of the Local Government. You are now aware that under section 132 of the Criminal Procedure Code no such prosecution can be launched without the previous sanction of the Local Government or the Governor General in Council. It is an absolute provision. Now, what does this Bill say? It says:

"Notwithstanding anything contained in section 132, no sanction shall be necessary for the institution of a prosecution by any person injured by the use of fire-arms or any parent or guardian, husband or wife of a person killed by the use of fire-arms against any person in respect of any offence committed by him by reason of any act purporting to be done under this Chapter".

On this I know there is a great deal of controversy and I would therefore like to say a few words. This is an elementary right of a citizen to proceed against an officer of the Government for exceeding his powers. It is not an innovation which is sought to be introduced for the first time. I shall read one small sentence in Dicey's Rule of Law. He says:-

"In every legal system the right to proceed against a servant of Government for wrongs done to individuals in his official capacity exists in some form or other. The right corresponds to the instinctive impulse of the legal victim to seek compensation from the immediately visible wrong-doer".

This is a fundamental rule of every legislation and it is only enacted here. Then, Sir, English and American laws do not require any previous sanction to prosecute any wrong-doer. It is, humanly speaking, too

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much to expect the Executive Government to sanction the prosecution of one of its own officers who has purported to act in the discharge of his official duties. I am not aware of any instance in which sanction was given, and I was told by men who have considerably more experience than I, men like my friend Mr. Jinnah, that they never came across any case in which sanction was accorded. And I may tell you that this clause only tries to remove the restrictions contained in section 132, and that it does only very partially. It does not do away with the necessity for sanction when force other than fire-arms is used. In all other cases the necessity for sanction still remains. Secondly, unlike in England and America the power or liberty to complain is not sought to be given to any person. There any person can complain against excessive use of force, but in this case it is restricted to the injured person, and in the case of death to his nearest relation. Honourable Members will therefore see that this clause very much restricts the English law and also modifies section 132 to a very limited extent.

Then, Sir, I shall deal with two objections which I have come across regarding this provision, which have been raised to the principle embodied in this clause. The first is that fear of impending prosecution might unnerve an officer and prevent him from discharging his duties efficiently in an emergency. In this matter I can only say this. It is a question of human psychology. If officers in England and America and other places, where similar liberty exists in much wider terms, are not unnerved, I do not see why officers in India should be treated in an exceptional manner, and why it should be considered that they should be unnerved by this provision. I do not think human nature differs very widely in this matter, and I do not think the assumption underlying it is correct. Secondly, it is said that there is a certain amount of hostility, unreasonable hostility, towards the police and the Executive in India and that the liberty is likely to be abused by the institution of frivolous charges against officers in the discharge of their duties, and supporting them in some cases by false testimony. There seems to be no justification for making such an assertion, and it would be a libel on the character of the whole Indian nation. People realise and are thankful for the help that the military and police render them when a furious mob attacks their home and hearth, and it was handsomely acknowledged by the Honourable Home Member that in Delhi and other places where riots had occurred, people offered fruits and things to eat to the soldiers and police in charge of the operations. Everyone is interested in seeing that their property, home and hearth are safeguarded, and when the police and troops are discharging their duties in the interests of the community, it is difficult to believe that people would be so wantonly wicked as to bring false charges.

Then, Sir, it is not as if the officers had not got safeguards. The Indian Penal Code gives them so many safeguards, in addition to safeguards in the Criminal Procedure Code. The Indian Penal Code deals very favourably with cases relating to officers in the discharge of their duties. All acts if *bona fide* and done while acting in the public interests are exempted from the category of offences. That is a very great safeguard which ought to be sufficient. In case a complaint is filed under section 202, a Magistrate may not take

on his file a complaint without previous inquiry and may dismiss it under section 203 without notice to the accused. There is also section 494 of the Criminal Procedure Code under which a complaint may be withdrawn and a *nulli prosequi* entered by an officer of the Crown

THE HONOURABLE SAIYID RAZA ALI: That is a disputed point whether the case can be withdrawn.

THE HONOURABLE MR. V. RAMADAS PANTULU: So that even in the face of so many safeguards, if you say that a person who makes improper use of the powers and kills human beings without justification should not be brought to book, then I can only say that the law of this country seeks to set very little value upon the sanctity of human life. I do not say that such incidents will be of frequent occurrence, but all the same it is possible. I know that is a very difficult and delicate duty which an officer discharges, but I do not see why he should not submit himself to the consequences of the law just as any other citizen. The law as set out in England is very clear. I will only make a brief reference to two English authorities. The first is a judgment delivered in England in the case of the Bristol riots. It is in the case of *King versus Pinney*, in which the judiciary took into consideration the very unenviable position of the Magistrate or officer, and at the same time imposed on him duties which you may consider to be extremely difficult to discharge:

"Now"—said Mr. Justice Littledale—"a person whether a Magistrate or an officer who has the duty of suppressing a riot, is placed in a very difficult situation, for if by his acts he causes death, he is liable to be indicted for murder or manslaughter; and if he does not act, he is liable to an indictment or an information for neglect. He is therefore bound to hit the precise line of duty, and how difficult it is to hit that precise line will be a matter for your consideration"—that is to say for the Jury's consideration—"But that"—continues the Judge—"difficult as it may be, he is bound to do".

That is the view which an English Judge has taken of the duties of a Magistrate or an officer as a citizen. I will only quote one more passage from Dicey's book:

"A General, an officer, a Magistrate or a constable, who, whether in time of war or in time of peace, does without legal justification any act which injures property or interferes with the liberty of an Englishman, incurs the penalty to which every man is liable. It is a breach of the law."

When a man accepts the office of Magistrate or Justice of the Peace, he, like any other citizen, takes the same risk. I daresay every Honourable Member of the Government of India takes a risk in arriving at a decision, but they are responsible for their actions, and upon their decisions depend the fortunes of many people. Therefore a Magistrate ought not to be an exception in this case, and he ought, like any other citizen, to take risks, provided that he is safeguarded under the law, and the law has so many safeguards. Therefore, Sir, to hem in an officer with further provisions in the Criminal Procedure Code is most unjustified. Section 132 of the Code is still there operating in his favour to a large extent.

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I have practically said all that I need say on the principles of the Bill and I am fortified in my position by the views that the Right Honourable Srinivasa Sastri has expressed. I quote him because I consider him to be a public man whose opinion might carry very great weight in this House.

He said, Sir, on this particular matter :

"A grave occurrence is the subject of a communication to the Governor in Council or the Governor General in Council. His police officers, probably the military, his Magistrates, are accused of having used unnecessary force. His sanction is sought for a prosecution. We know how these things go in such cases. The Governor in Council has hitherto tried every means even of avoiding a public inquiry. Is he likely to afford the sanction for a criminal prosecution? Is that the way things go on in England? When one officer errs and you wish to bring him to book, do you go and ask the permission of his immediate superior? Or do you go and sue him in a court of law? It is something that Indian law cannot be proud of. It belongs, if I may say so, to a barbarous age. It ought to go out of the Statute-book. To require the sanction of the Governor General in Council or the Local Government to prosecute an officer for what would be murder or man-slaughter is to ask, I think, for the impossible. When an officer is accused, the whole of his department with all its moral force comes down whether in a court of law or in the public or anywhere to prove that the officer is in the right and the complainant is in the wrong. To make a prosecution conditional on that superior giving his previous sanction to it, is effectually to close the jurisdiction of the court. Now I object to all legislation which shuts courts out of their natural and proper jurisdiction."

That is the position Sir.

In conclusion, Sir, I will urge one or two reasons why this Bill should be taken into consideration. My friend Mr. Crerar will tell me that I proceeded on *a priori* reasoning and on Juristic principles, and not upon real facts; but I am not shutting my eyes to the realities of the case. It is possible to exaggerate or to invoke the aid of any particular incident of a very exceptional character; but we can neither of us be benefited by having recourse to or by invoking the aid of exceptional circumstances. Generally speaking, I may venture to say that the crowds in India are not very dangerous. We are a disarmed nation and the way in which you have administered the Arms Act for half a century has completely disarmed us, and in this country riotous mobs are not likely to be as dangerous as in countries where arms may be used. Therefore, it may safely be said that ordinarily the police or the military can face these crowds without grave risks without resort to the indiscriminate use of fire-arms. Secondly, Sir, as I have told you already, there is this fear that some officers are likely to use fire-arms to produce a sudden and striking effect. Lastly, in England the soldiery understand the habits and customs of the people; in this country there is great danger that the soldiery, which is employed to suppress riots, may not understand the customs of the people. I have read of an incident in connection with the Punjab tragedies, that when a group of men was walking to the Deputy Commissioner's house to make a representation to him, a company of Gurkha soldiers mistook their having bare feet as a mark of disrespect to the Government and as a mark of insolence and fired on them killing some people. This incident which I have read of shows that even Gurkhas, who live on the borders of India, know so little about the customs of the people. It is little wonder if European soldiers, who come from Scotland, Wales, Ireland and England, mistake customs and without understanding the temper or manners of the group, open fire, under

circumstances which would not be justified. There are grave dangers involved in this, and all that we seek to do is to regulate the use of fire-arms by having the same prohibitions as those which are well recognised in other countries. With these words I beg to commend this motion to this House and hope that this House will not go against the widespread feeling in this country in the general desire to prevent the recurrence of such unhappy incidents as I have mentioned, by the undue and excessive use of fire-arms. I appeal to you to recognise the sanctity of Indian life in the same way as human life is protected all the world over.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, despite all the persuasive and conciliatory language used by my Honourable and friend opposite, I regret that it is my duty to oppose his motion. In so far as the Bill is intended to protect the public against the unnecessary use of fire-arms and to instruct the officers of Government in their duties and their liabilities, I take no exception to the intention, which is unquestionably based upon humane principles. But on that intention the Government themselves have already repeatedly and consistently acted, and of the prescriptions contained in this Bill which are likely to be of the slightest advantage either to the public or to the forces of the Crown, all are already contained in the Executive orders of Government, both in those addressed to the civil forces of the Crown and in those addressed to the military forces of the Crown. My objection to the Bill is that, in respect of what it purports to do and what, as a matter of fact, it would effect in operation, as well as in respect of the expedients it proposes, it is entirely misconceived. Its fundamental misconception is that it is either practicable or advisable to provide by Statute for the manifold contingencies of any one event of a class which presents almost infinite possibilities, which must commonly arise suddenly and either unexpectedly or in some form impossible to foresee, and which demands action which must be not only prompt and resolute but cool, responsible and intelligent. Now the Bill gives no directions whatsoever to assist the officer, which are not, as I have already said, at least equally well provided elsewhere, and it is in the highest degree calculated to impair these primary requirements—good judgment in assessing a situation, intelligence in considering the action to be taken, in respect both of its necessity and of its sufficiency, and promptitude in taking that action. There are, Sir, I believe, certain Chinese Manuals of the art of war which set out to instruct the aspiring soldier in every possible contingency of an action or campaign, and which lay down most rigidly the specific action in each which alone is orthodox and permissible. They are very ingenious, but I confess, in any particular problem of military action, I should prefer to be guided by the science, experience and judgment of His Excellency the Commander-in-Chief or one of his officers. There is a most interesting treatise on the art of government commonly known as the Arthashastra of Kautilya, and this is also an elaborate codification of this character, which in respect of its warlike precepts, was drawn up, I imagine, by the Brahmin for the use and execution of the Kshatriya. We have something of the same kind here, a Bill drawn up in seclusion, by the sole light of the Palladian oil, for the admonition—I regret I cannot say the use or the instruction or the encouragement—of the

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executive officer, who works in the dust and heat, and who bears the burden, the odium and the peril on his own head. Well, Sir, the Bill is not quite so elaborate as the instances which I have adduced, but it does suffer from the same defect of endeavouring to stereotype into a Statute matter which is inappropriate for a Statute. Further, and more, it is calculated not to instruct, but to deter.

Now, Sir, my Honourable and learned friend informed the House that prescriptions regarding the use of fire-arms dealing with an unlawful assembly have in England been drawn up in Statute form. There, I must say—and I say so with the utmost submission and deference to my Honourable and learned friend's legal attainments—there, I venture to submit, he is gravely incorrect. Allow me in the first instance to remind the House,—and though I speak as a layman, this is naturally a matter which I have had to study very closely,—let me, Sir, endeavour to remind the House very briefly of some of the main features of the English law in this matter. In the first instance, I must say as a preliminary, that practically the whole body of English law in the matter is contained not in any Statute at all but in the common law of England and in the judgments of the Courts. Now, Sir, in my judgment the most important and the most significant prescription of the English law in the matter of the responsibility of all classes of persons in regard to public disorders is the following, laid down in the well-known charge to the Grand Jury after the Bristol riots of 1832 delivered by Chief Justice Tindal:

“By the common law every private person may lawfully endeavour, by his own authority, and without any warrant or sanction of the Magistrate, to suppress a riot by every means in his power. He may disperse, or assist in dispersing, those who are assembled; he may stay those who are engaged in it from executing their purpose: he may stop and prevent others whom he shall see coming up from joining the rest; and not only has he”—and I invite the special attention of the House to this—“the authority, but it is his bounden duty as a good subject of the King, to perform this to the utmost of his ability”.

You will observe, therefore, that, firstly, the law in England lays on every citizen, whether he is an officer of the State or a private citizen, the positive obligation of acting and, if necessary, taking the initiative in suppressing a disorder. Now the rest of the law is very simple in substance. The principal prescription is that the force used must be strictly proportionate to the necessities of the case. The law in England is simply this:

“The degree of force, however, which may lawfully be used in their suppression depends on the nature of each riot, for the force used must always be moderated and proportioned to the circumstances of the case and to the end to be attained”.

Sir, during the course of the debate in this House in 1921 cited by my Honourable and learned friend, it was actually stated, and if I heard my Honourable friend correctly, I believe he repeated that statement to the House on the present occasion, that the effect of the English Riot Act was to make it unlawful to fire until after the expiry of a certain period. Nothing, Sir, could

be more remote from the facts. The reading of the proclamation under the Riot Act is not by any means a necessary preliminary to the use of force in dispersing an assembly in England. The only effect of the Riot Act proclamation is to make it a felony on the part of any persons constituting members of an assembly who do not disperse within one hour after the proclamation by the Magistrate. The Act imposes no restrictions whatsoever on the officers concerned; what it says is that to remain in an assembly after the proclamation is read by the Magistrate:

“shall be adjudged felony without benefit of clergy and the offenders therein shall be adjudged felons and shall suffer death as in case of felony without benefit of clergy”.

That, Sir, is the operative provision of the Riot Act which has been represented to us as an Act which forbade the use of fire-arms in dispersing an assembly until an hour after the Magistrate had read the proclamation.

Now, Sir, let me come back to what is really the important, practical proposition before the House. What benefit is this Bill likely to confer, and on whom? If it is going to benefit anybody in any way at all, it seems to me that it makes a very strange and irrational choice of its beneficiaries. In a riot, apart from those immediately responsible for order, there are at least two parties interested,—the law-abiding citizen and the rioter. The interest of the law-abiding citizen is the protection of his own person and property and the speedy termination of the disorder. The rioter, I presume, conceives his interest to be license to do as his passion dictates and to do it with impunity. Which of these interests is this Bill calculated to serve? And why this extraordinary favour shown to the breaker of the law? As regards the officer of the Crown, the Bill obviously is not designed for his advantage. It is to instil into him a salutary dread of any error of judgment or mischance, which may be imputed as malice by an *ex hypothesi* highly prejudiced party. Now that really must have the effect of impairing his confidence and therefore his efficiency. And who, in the end, is likely to suffer most? The officer no doubt suffers to a certain extent, because if he fails to do his duty, he will have to answer a very rigorous departmental inquiry; but he will not suffer so much as the other party whose interests seem to have been so singularly neglected by the promoter of this measure, the law-abiding citizen.

Now, Sir, I will proceed to examine very briefly the effects as I conceive them to be of some of the principles of this Bill in operation. The Honourable Member has informed the House what in his conception would be the effect of clause 1 (a) of this measure. Well, the first observation I have to offer is that I can see no rational basis for the discrimination of force which has been introduced. I presume the idea was that the use of fire-arms is necessarily the most dangerous and most destructive kind of force which could be used, and we had the Honourable Member giving us his own views as to the comparative innocuousness of a bayonet charge.

The real objection from the practical point of view to that argument is that a bayonet charge is a form of force the use and the limit of which it is far more difficult to control. That is a matter which can be much more authoritatively explained to the House, as I trust it will be explained, by His Excellency the Commander-in-Chief.

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There is another consequence of that clause which I do not think my Honourable friend has really considered. It places necessarily, in all circumstances and without qualification, or with very little qualification, the whole responsibility for the initiative on a Magistrate, if a Magistrate is present. Now, a position which is very likely to arise, a position which frequently has arisen, is that a riot occurs and you have on the spot possibly a third class Magistrate. I do not wish to disparage him in the least. The third class Magistrate discharges very important and very useful functions; but in the ordinary course of events that Magistrate will be a man who has not had very much experience of the law at all and none whatsoever of carrying out the executive action laid down by the law. He is unfamiliar with situations of this kind, and it would not be surprising if his judgment were very seriously affected by the critical character of the circumstances. On the other hand, there may be present on the spot a very senior Superintendent of Police who, I will not say has grown grey in suppressing disorders, but who during the course of a long police service has had opportunities of learning how to deal with a situation of this kind. My Honourable friend says: "No, that Superintendent of Police should not be allowed to exercise his superior judgment in this matter, and the action to be taken by him should depend entirely on what the inexperienced Magistrate who happens to be there authorises him to take, though the Superintendent of Police knows much better what action is immediately, urgently and imperatively necessary."

Then, Sir, we have the second proposition, that on all occasions the fullest warning shall be given. This is what the Bill lays down:

"The person who directs that the assembly shall be fired on shall, before so doing, warn the assembly by such means as may be available that unless it disperses it will be fired on."

That does seem a very reasonable prescription to make. The only question is whether it is more conveniently to be made in the form of the imperative executive orders which are now in force or in the form of a Statute. Moreover, if you proceed to embody a prescription of this kind in a Statute, you will find yourself involved in very serious difficulties. It seems a very plain, simple and obvious proposition. But it is a matter of almost daily occurrence in this country that armed dacoits are pursued by what is possibly an inferior police force. The police force pursues this body of dacoits. Now, according to the Bill, that police force is bound to give notice of firing before doing so. It is not a case in which there is any physical impossibility of conveying the warning. It can perfectly well be done. But what is going to be the consequence? The police force having probably spent days in pursuit of this body of dacoits, when it finds itself in a position of tactical superiority, for which it has laboured hard and long, is compelled to surrender that superiority and possibly involve itself in a very serious disaster. There is no sense in that proposition, innocent as it appears and laudable as its motives no doubt are.

Then, Sir, I come to the question of the statutory report. There again, I contend that though the prescription is in itself quite proper, it is not a proper one to be embodied in a Statute and more particularly, I contend,

that its value will be absolutely nil. First of all, it is one of the commonest experiences of those who have had anything whatever to do with the suppression of serious disorders that it is exceedingly difficult to ascertain the authentic facts in any short period of time. You will possibly have rioting going on simultaneously in different parts of a large city. It takes sometimes three or four days before the officer in supreme charge of the operations can get from his various outposts and stations even preliminary, to say nothing of correct and authentic, information of what is actually happening. That is one objection. Then, I take another, which to my mind is really more fundamental, because it touches on the value of the report itself. I ask Honourable Members to put themselves in the position of an officer who has made himself responsible for the use of firearms in the suppression of a riot. What does the Bill require him to do? It requires him to send a report within twenty-four hours of the occurrence. That report will moreover become a public document. It will be matter which can be used against this officer in precisely those circumstances contemplated by my Honourable and learned friend in the last clause of his Bill. Can you really expect that an officer in those circumstances will report facts which might be used subsequently to his own disadvantage in a Criminal Court? I appeal to my Honourable and learned friends opposite, I appeal to the learned doctors of law in this House and ask them, if they were advising a client in that position, what advice would they give him? I venture to predict that they would say to that officer: "Comply with the Statute and no more." Well, Sir, if that was the advice given to the officer in question, as it is the course obviously dictated to him by the necessities of the case, I ask of what value is that report likely to be and to whom? I submit it will be an absolutely valueless document.

Finally, Sir, I come to the question of sanction. The Honourable Member has very truly said, and I entirely agree with him in the statement, that this is the most important provision in the Bill. Let us examine it. I take it that the purpose of this Bill and of this particular provision is to ensure that any officer, civil or military, who has been concerned in the dispersal of an unlawful assembly by the use of firearms can be prosecuted on a criminal charge without the sanction of the Local Government or the Governor-General in Council. If that is not the intention of the Bill, I trust my Honourable and learned friend will correct me here and now. I assume therefore that it is the intention. Now, Sir, let us examine some of the consequences. There is a general provision in the Indian criminal law, section 197 of the Criminal Procedure Code, which lays down:

"When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government."

Now, Sir, that is a general rule of law in this country and the House will observe the very grave derogation from this rule which is contemplated by the Honourable Member's Bill as he himself interprets it. Whether the Bill would precisely have that consequence is another matter. But as the Honourable

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Member has made it clear that that is his intention, let us see to what class of officers and of official acts section 197 of the Criminal Procedure Code applies. It applies to every public servant who cannot be removed from his office without the sanction of a Local Government. And the kind of action covered is that taken every day in the ordinary course of Government business. It may be an ejection, it may be the realization of arrears of revenue or the execution of the decree of a Court. In doing this the officer concerned can consider at his leisure what his rights and liabilities are and he can, if he so desires, take legal advice or obtain the directions of superior authorities. In performing those actions you very rightly extend to this officer, not an indemnity nor an immunity, but a certain limited protection. But when you have the case of an officer who has to take decisive and immediate action, who has, without any opportunity for reflection, to act forthwith on the dictates of his duty, his conscience and his judgment, you propose to deprive him of such measure of protection as the law now provides. I can see, Sir, neither the reason nor the equity of that distinction. Moreover, I must point out that the class of officers I have myself more particularly in mind is not the European officer of the Crown, whether civil or military, but the Indian officer. I regret very much that I am compelled by this measure to advert to a melancholy fact. During the course of the last few years the greater part of the disturbances that have taken place have been communal riots. In certain of these we have had a Hindu police officer dealing with a case in which the rioters were mainly Muhammadans and in others we have had a Muhammadan District Magistrate dealing with disorders in which both Hindus and Muhammadans were concerned. Now, Sir, into what kind of a position do you propose to put such an officer? We all know, and it is perfectly natural, that when riots take place popular passions are violently inflamed and it is easier to inflame popular passions than to alleviate them. It takes some time before the bitterness, the acrimony and the hatred engendered by these riots subside. And, while that exacerbation of public opinion continues and the odium of having to fire upon a mob or to take any other course of action to suppress it is still raging in all its virulence, my Honourable and learned friend proposes to expose an officer in that position to the prejudicial attacks of those who may find it convenient to take advantage of the situation, possibly to vindicate some old revenge or personal malice. Again, I say that is not a reasonable or an equitable proposition.

I fear I have delayed the House already too long and perhaps I have spoken with a warmth which will contrast not very favourably with the calm demeanour of the Honourable and learned gentleman opposite. If I must make some excuse for that it is, that I have had a considerable amount of personal experience of dealing with disorders and of the position of the officers whose duty it is to deal with such disorders. And I can hardly speak on these matters without a certain amount of warmth when I see a proposition to lay so heavy and so dangerous a burden on shoulders which already are bearing a very great burden of responsibility and danger.

Finally, Sir, let me say quite plainly and candidly that the consequence of passing this Bill would unquestionably be to raise apprehensions regarding

the sense of responsibility of the Indian Legislature in matters relating to law and order, apprehensions which will be very widely noted in many quarters and very severely construed. I cannot refer to them more specifically at this stage of the debate, but I am happy to note from the list of business to-day that there are individual Members of this House who have displayed a very active and individual sense of responsibility by amendments to the Bill which would certainly have the effect of importing into it valuable safeguards. That active and individual sense of responsibility will, I feel sure, be fully shared by the House or by a great majority of the House. One word more, Sir. I spoke of the inference in regard to the Legislature which would be likely to be drawn from the passage of this Bill. Let me also briefly give my judgment as to what the impression drawn outside the Legislatures will be. It will be simply this that, whatever the intentions and whatever the designs of the framers may be, the effect of the Bill would be generally interpreted as directed to the encouragement of the law breaker and the discouragement of those responsible for maintaining the law.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I am afraid I cannot see my way to support the consideration of this Bill. It has been my practice for several years during which I have occupied a seat in this Council that I shall not be a party to any legislation which will curb or restrict in any way the ordinary statutory powers for the maintenance and preservation of law and order. The genesis of this Bill has been fully explained by the Honourable Mover of the Bill. This Bill has emanated out of the Resolution moved by the Right Honourable Srinivasa Sastri on the 3rd March 1921 in this Council. I have looked forward in vain for some explanation from the Honourable Mover for the introduction of this Bill. I thought that he would assign some reason or some justification for reviving a dead controversy after full four years that have elapsed since the moving of that Resolution. I thought he might refer to any events or incidents in which a further abuse of the power in the matter of the use of firearms had taken place. At least there has been no reason ascribed either in this House or elsewhere as to the immediate motive for changing the ordinary machinery of the law as provided in Chapter IX of the Criminal Procedure Code and substituting in its place a machinery of doubtful utility.

Sir, before I analyse the Bill and the principles embodied in it, I would like to dispose of some of the arguments which have been urged in this Council by the Honourable Mover. He first stated that the Bill was referred to a very strong Select Committee and has received its full support. That is not a fact. It was certainly a strong Select Committee, but it was by no means unanimous.

The two members, Sir Alexander Muddiman and Mr. Tonkinson distinctly stated in their dissenting note :

"We are not in favour of any alteration"—I am quoting their words—"in the existing sections of the Criminal Procedure Code. The alterations proposed in sub-clauses (1) and (2) of proposed section 131-A, of clause 2 of the Bill are in the nature of executive instructions, and if not included in any executive instructions, it may well be so."

Even Mr. Jinnah did not give his wholehearted support to the Bill. With

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reference to the important clause, clause 4 he stated :

"I substantially agree with the report, save and except clause 4, as I am very doubtful as to the real use that might be made of it".

Then my friend has invoked support and sympathy by mentioning certain names and said that the original Resolution was brought forward by the Right Honourable Srinivasa Sastri, and the Bill was introduced in the Assembly by Diwan Bahadur Rangachariar. He added that when the division took place, men of the type of Sir Purshotamdas Thakurdas, Mr. Ramachandra Rao and other stalwarts gave their support. I am sorry that a reprehensible practice has been growing up of late in this Council of obtaining support for measures by the sanctity of certain names. Sir, I am no respecter of persons in this Council when the question to be decided is of momentous importance. I only look to the justice of the cause. I think in this Council there are men entitled to as much respect, authority and weight as the Honourable names which have been cited by my Honourable colleague there. I do not make these remarks in any spirit of disparagement of those gentlemen, but I say that that argument will not count with this Council in coming to a right decision in regard to this Bill.

Then also two important points were raised, and an appeal was based on the strength of some specious arguments. It was pointed out in a feeling of despondency that we are a disarmed nation and therefore there could be no great and consequential results out of riots, etc. In that connection I would only mention that the history of the last five years belies that assumption. The terrible riots at Malabar and the horrible scenes that took place lately in the Punjab do not permit of our making such assumptions. Further, it was stated that some officers are likely to abuse the powers in regard to the use of fire-arms and that it is the duty of this Council to prevent such abuses. There may be many abuses in this country, but this is not a tribunal for the prevention of all abuses. It is a task beyond the power of this Council. We are only concerned with the immediate effects of this Bill and we must view the Bill from that standpoint only.

Sir, I am opposed to any legislation which attempts to deal with the use of fire-arms by a number of statutory provisions crystallized in an Act. There are serious objections to that procedure. The first and foremost is that a Bill of this character takes away from the men concerned in the suppression of riots full liberty of judgment and action. I say full liberty of action, because the Magistrate or the police officer who is present at the time of the riots, in my opinion, is the best judge of the situation. He, in my opinion, is the sole judge of the critical circumstances. He is the only person who can realize whether a serious mischief is likely to ensue, and whether the tumult or the riot should not be immediately stayed by the use of fire-arms. If we pass this legislation we make the Executive absolutely impotent in my opinion. Have we any right, I ask, to prevent the liberty of action of a police officer or Magistrate who comes to a conclusion that an emergency has arisen and in that emergency fire-arms should be used?

Sir, I am wholly opposed to deprivation of such liberty of action. It is a matter of common knowledge that when we discussed the repeal of the repressive laws we were often emphatically told that the ordinary machinery of the criminal law was sufficient and adequate to meet all manner of offences. We have out of thirteen penal Statutes already repealed seven and we are to-day asked to take away by an act of State the powers which a Magistrate or a police officer has of suppressing riots under the ordinary machinery of laws. There seems to be no consistency in politics. When it suits us that certain steps should be taken for the repeal of certain Acts we come forward and very vehemently urge that our ordinary criminal law is quite sufficient and yet in the same breath we at another moment say that that very criminal law, the ordinary criminal law of the country, should be emasculated by some ridiculous and unwarranted piece of legislation. It is on that ground of indefensible inconsistency also that I oppose this Bill.

I further oppose this Bill because many of the provisions are covered by the executive instructions that are issued by Government, and in a matter of this nature I think executive instructions should form rather the method and guide by which discretion is to be exercised, than setting up unalterable rules and injunctions by legislation. In matters of emergency it is impossible to act or give strict effect or adherence to provisions of law, howsoever salutary and just they may be. My main objection to this Bill is that if it is passed, it will deter officers from doing their duty in serious emergencies. Do you really expect that, with a Bill of this character existing any Magistrate or any police officer will take the responsibility of acting on the spur of the moment when a call is made upon his judgment to decide whether fire-arms are to be used or not? This legislation will be hanging over his head and he will be first contemplating whether, by giving the order to fire, he would not be placing himself within the penal provisions of this law. And what will be the result? The result will be not the suppression of the riot, but the loss of many lives among the rioters themselves, the loss of property, and a serious destruction of the place where this riot has taken place. Sir, I am not at all in favour of placing unreasonable limitations upon the powers of our executive officers. I wish to keep them free and untied to any strict forms or the strict letter of the law and allow them to act as their best judgment dictates in moments of emergency. Another effect of passing legislation of this nature is that you destroy all sense of responsibility in a man. You make him the creature of the specific provisions of the adjective law. Many disastrous consequences might ensue as the result of that officer refraining from discharging his duty in a moment of grave emergency. Further, I have not been at all satisfied that this power has been abused in the past. In the last four years many instances have taken place where fire-arms have been used, and I do not know of one case—that case would have been undoubtedly cited by my Honourable friend here if it existed—to show that there was an abuse in the exercise of that power. Why should we then change the ordinary machinery of our criminal law and substitute for it a law of doubtful importance and utility? Sir, this is not the time to speak about the several provisions of the Bill. I shall only refer to clause 4, which takes away the necessity of obtaining the sanction and subjects any Magistrate or police officer who has done his duty, to a criminal

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prosecution. With the dispensation of such sanction is it likely that any man will perform his duty and rise to the occasion? I do not believe so. I see also the gross injustice of depriving a Magistrate or police officer of the protection which the ordinary law gives them. My Honourable friend Mr. Crerar has already referred to section 197. If Judges and Magistrates can ordinarily claim such immunity, I do not see why a Magistrate or a subordinate police officer, who does his duty gallantly and bravely under circumstances involving personal danger, should be deprived of that privilege. I cannot see either the justice or the force of argument in a retrograde proposal of this nature. My friend stated that such a law does not exist in England. That is true, but pray do not compare England with India at present. In England I know there are political and economic riots. In India we have got communal riots, religious riots, where fanaticism often finds itself supreme and uncontrolled. There are occasions which I need not refer to here, when it would be indispensable that some power to make prompt and unfettered decisions should be preserved in the hands of the police. Moreover, in the later history of this country communal differences have led to many sanguinary skirmishes such as the riot which recently took place in Delhi only a few months ago, which justify the maintenance of some sort of protection for our police officers. My friend also stated that there is the provision of section 202, which enables a Magistrate, after a preliminary investigation, to dismiss the complaint, and he also referred to another provision of the law. But after all, why should a police officer be even subjected to the indignity and harassment of a prosecution of this character without the sanction of Government? I am not therefore, Sir, in favour of making any change in the existing provisions of the law. In my opinion Chapter IX of the Criminal Procedure Code makes ample provision, together with the executive rules issued on the subject. The present legislation embodied in the Criminal Procedure Code is the outcome of many years of very careful investigation, discussion and experience, and unless there are very very substantial reasons given for changing the law on the subject, I am one who is opposed to the adoption of such a course.

*THE HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan): Sir, I have listened to the speech of my Honourable friend Mr. Crerar with that attention with which his eloquent speeches are generally heard in this House.

(At this stage the Honourable the President vacated the Chair which was taken by the Honourable Sir Maneckji Dadabhoy.)

Sir, it will serve no useful purpose to go through all the principles that have been embodied in the Bill. They have been briefly summarised by the Honourable Mr. Ramadas Pantulu in his carefully worded speech. The basic points of the Bill, Sir, are, as the Mover of the Bill pointed out, four in number. Now I must at once say that so far as the last of these four points is concerned, namely, the necessity for sanction to institute a prosecution against a person who has been engaged in suppressing a riot being waived and every injured man being allowed to institute prosecutions against such officers,

* Speech not corrected by the Honourable Member.

I do not think it is necessary for me to say much, inasmuch as my friend has very carefully and impartially gone through the subject. Let me at once point out that unfortunately the Bill, as it has been sent up to this Council, is open to the great objection that the poison is contained in its tail, and that tail is clause 4 which proposes to add section 131A. That is the poison that can never be tolerated by any reasonable man. All the same, Sir, I was not quite in a position to follow what was the Government's position, as pointed out by the Honourable Mr. Crerar. Honourable Members of this House no doubt will generally agree that when the next stage comes, it will be open to this House to amend the Bill according to its wishes, but that stage has not arrived yet.

Now what are the other three points which are contained in the Bill. The Honourable Mr. Crerar made a few general observations, and since I find myself in agreement with him on the most important and vital point in the Bill, I do not think it is necessary for me to go over the same ground. I would like however to point out to the Council that the law relating to the dispersal of unlawful assemblies as contained in Chapter IX of the Code of Criminal Procedure very closely follows the English law, and in connection with the reference of the Honourable Mr. Crerar to the Judge's charge to the Grand Jury after the Bristol riots in 1832, Honourable Members will find that we have got an almost corresponding section in the present Act, and that the English law and the Indian law on the point are substantially the same and there is no difference...

THE HONOURABLE MR. J. CRERAR: May I interrupt the Honourable Member? The point I wished to make in regard to that was that the English law definitely lays a responsibility for initiative on the private citizen: the Indian law empowers the public authorities to require his assistance.

THE HONOURABLE SAIYID RAZA ALI: That was exactly the point I was making. If I understand my Honourable friend, the point is this, that if a riot is in progress, it is the duty, according to the Indian law, of every subject of His Majesty, of every male subject of His Majesty, to help the authorities, be they police or military authorities or Magistrates, to exert himself and do all he can in the suppression of a riot. Now I do not think, Sir, it is necessary for my purpose to go in greater detail into the point at this late stage. All the same there are three important points to which I hope this Council, before giving its verdict, will give its very careful thought and dispassionate judgment. Now, Sir, the first point is that the present Bill makes it necessary that before fire-arms are used, every care should be taken to suppress the riot by the use of other arms. Now, so far as this point is concerned, Sir, with the exception that the sub-clause mentions fire-arms specifically, there is nothing new so far as the basic principle on which the sub-clause is based is concerned. If Honourable Members refer to section 129, they will find that the present Code of Criminal Procedure definitely lays down that unless it is absolutely necessary that force should be used, no force should be used. The words are:

"If any such unlawful assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed."

the Magistrate will use force. So with the exception of this small point that this sub-clause allows the use of other arms, there is absolutely no difference

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in the sub-clause as drafted in the Bill and the existing Indian law. I would like to know where the objection on the part of the Government to this sub-clause comes in? It may be perhaps that I was not quite able to follow the very elaborate and carefully worded speech of my Honourable friend, but I do not see where the substantial objection lies. Well, if the point of my Honourable friend is, "why should it be necessary to use fire-arms last of all and why should they not be used in the first instance," the answer was supplied by the Honourable Mr. Ramadas. He gave the reasons—it is open to my Honourable friend and the Government to agree with them or not—but he adduced a number of reasons, and I do not think any reply was made by my Honourable friend. The points were these, that by the use of fire-arms you are likely to injure the innocent as well as the guilty, whereas if you make a bayonet charge, in all likelihood you will be injuring those who are determined to have a fight. That is one of the reasons. He adduced one or two more reasons, and I say that so far as the use of fire-arms comes last of all, I do not think any very reasonable objection can be urged. Now here the Honourable the Home Secretary criticized the powers that are proposed to be given to a Magistrate of the highest class. There again he talked of the efficiency of third class Magistrates and he spoke of those powers being vested in Magistrates of the highest class at present. Now there again let me point out that the Bill makes no innovation. If my Honourable friend will refer to section 129, he will find that it says that the Magistrate of the highest rank who is present may disperse by military force. The proposed clauses very closely follow the plan of the existing law and make no departure except in two respects, namely, they allow the use of fire-arms in certain contingencies, and, secondly, in the direction set forth in sub-clause (4) on which I do not find myself in agreement. Now so far as the giving of warning is concerned, Honourable Members will find that no departure from the existing law has been introduced in the Bill. What is the existing law? If you take sections 127 and 128 together, you will find that these two sections read together.....

THE HONOURABLE THE CHAIRMAN (SIR MANECKJI DADABHOY): Order, order. My Honourable friend is going into a detailed examination of the provisions of this Bill. At this stage only the principles can be discussed. I have already allowed considerable latitude to the Honourable Member to go into the provisions. I request him now to confine himself to the principles of the Bill.

THE HONOURABLE SAIYID RAZA ALI: It is my duty, Sir, to follow your ruling, and I do it, in fact, if I am not mistaken, I have been doing so already. My point is this, that so far as the existing law is concerned—quite apart from the clauses and sub-clauses of the Bill—the law as laid down in sections 127 and 128 lays down that you are to give a warning to an assembly before you disperse it. That is the principle that has been incorporated in one of the sub-clauses to the proposed section. That was my point. Let me not omit to mention that a certain word has been slightly altered. The word used in section 127 is "may", whereas in the Bill before us the word "shall" is used. But that is a point in favour of my Honourable friend and therefore I specially bring it to his

notice. Then, again as regards the interpretation of the words "may" and "shall", as my Honourable friend very well knows, on such occasions the word "may" means "shall". If you take the case law into consideration, there is no departure. Though there is a slight departure, practically there is no departure in this matter.

Then, Sir, I come to the last point and that last point is that a report is to be made immediately after the suppression of the riot by the officer who has suppressed it to the nearest Magistrate of the first class or to the District Magistrate or to the Local Government, as the case may be. I for one, Sir, attach no very great value to this report. But if the last clause, namely, sub-clause (4) is omitted, then sub-clause (3) will be rendered entirely free from all the objections that were raised against it by the Honourable Mr. Crerar. His one point which had great force in it, I must admit, was that if you are going to take this report into consideration and if you are going to use this report in a subsequent judicial proceeding against the very man who has submitted this report, you cannot expect him to make a true, faithful and accurate report. I entirely agree with the reasoning of my Honourable friend. But my point is this. Suppose we do not take this report into consideration in any judicial proceeding, suppose in fact we do away with the judicial proceeding as proposed in the Bill, where is the objection to the officer who has suppressed the riot making such a report? If I am right and if Honourable Members agree with me that the last sub-clause should be deleted, then it will be absolutely harmless to have a report.

THE HONOURABLE MR. J. CRERAR: What is the value of the report? What purpose would it serve?

THE HONOURABLE SAIYID RAZA ALI: My Honourable friend's intervention is very timely, Sir. The value is this. I have known cases in which riots have occurred and no report has been made for several days. Now, that is a thing which is very highly objectionable. My Honourable friend knows it. In fact he has been an administrator; he might as well have been at the Bar. I am sorry really that he is not at the Bar. My Honourable friend knows what great value is attached in criminal cases to the first report. The first report, as my Honourable friend is aware, is the report that is recorded without unnecessary loss of time by the complainant or by somebody on his behalf at the police station. In big riots, there is no first police report. This is a report that gives you for the first time the facts and circumstances of the case. If a riot has happened and if you make no report for 3 or 4 days, if you sleep over it disregarding what has been going on, and then after 4 or 5 days' careful consideration you sit down to make a studied report, I need hardly say that that report will be of very little help either in the prosecution of the offenders or to the Government from its executive view point. Therefore, my Honourable friend will realise that, so far as the making of this report is concerned, it will be very helpful to the Government inasmuch as it is not going to be used in any judicial proceeding against anybody. If it is decided that the report contains true, accurate and faithful information and that therefore the offenders could be brought to justice, it may be put in; otherwise there is no legal obligation for this report to be used. Sir, these are the considerations.

[Saiyid Raza Ali.]

My Honourable friend Mr. Crerar while criticising some of these points went on to say that if you insist on warning, it will be necessary for the police to give notice to the dacoits who have been pursued by the police for a whole day. I believe I am right in interpreting the argument of my Honourable friend. Now, Sir, I am really surprised at this expression of opinion from a gentleman of the legal acumen of the Honourable Mr. Crerar. If he will please see section 54 of the Criminal Procedure Code, he will find that a band of dacoits hotly pursued by the police could be arrested without any notice whatsoever. Even when this Bill is passed it could be done under more than one of the sub-clauses of section 54 of the Code of Criminal Procedure. You do not require any notice; they are men who have committed an offence and they can be arrested without any warning.

There is only one other point which I may be allowed to specifically state. It is this. It seems to me that the insertion of sub-clause (4) has prejudiced my Honourable friend's mind against the whole frame-work of the Bill that is before the Council, and I submit, Sir, that that could be the only explanation why a man of the learning of the Home Secretary, who takes a very keen interest in legal questions, has been forced to advance an argument of this character. Then, my Honourable friend has referred, towards the end of his speech, to the sense of responsibility that has been constantly displayed by this House. Sir, I entirely endorse the remarks of my Honourable and learned friend, of my Honourable friend. (Laughter.) Sir, I enjoy this joke that the Council has enjoyed at my expense, but I give expression to my real feeling that perhaps my Honourable friend is more entitled to be called learned than many of the gentlemen who belong to the legal profession. (Laughter.)

THE HONOURABLE PANDIT SHYAM BIHARI MISRA (United Provinces: Nominated Official): The word "learned" was withdrawn.

THE HONOURABLE SAIYID RAZA ALI: Will you please restore it, Sir, to its place for me?

So far as that argument is concerned, I agree with my Honourable friend. But, Sir, there is one danger and the danger is this, that it is our duty in fact as citizens to revise everything that comes from the other Chamber—I will not use the words "Lower House"—that comes up before us from the other Chamber and to record our opinions in a most independent and patriotic manner. But at the same time, there is a limit and there ought to be a limit to our so-called sense of responsibility. I say so-called, because at times it is not used in a right and proper sense. Sir, it is no longer our duty to reject everything that is promoted by a private Member and is passed by the other House and that comes up before this House for revision and concurrence. We will be failing in our duty if we allow our minds to be over-weighted and obsessed by our sense of responsibility to such an extent that we shut our eyes to the fact whether a certain measure that is before us and that has been promoted in the other House, was proper or improper or whether it is a combination of things which are proper and improper. Sir, if it is an improper measure, it should be thrown out. Sir, if it is a proper measure, it should receive sanction from this House.

Sir, if it is a proper and partly improper combination of both, it is our duty to separate the proper from the improper. We
5 P.M. will reject the improper and we will give our sanction to the proper. If we fail to do this,—and it is high time that the fact were taken into consideration by us—I am afraid we shall not only be not adding to the reputation which, I hope, we have rightly earned in the past, but we will be painted in colours in which no Honourable Member of this Council would like to see his picture painted. Already the general criticism that has been offered is—and here I am not referring to the opinion of any particular individual—that we are in our dotage and are incapable of forming a rational judgment, and that we are merely an instrument for the registration of Government decrees.....

THE HONOURABLE MR. PHIROZE C. SETHNA: Question?

THE HONOURABLE SAIYID RAZA ALI: I entirely agree with my Honourable friend. I am very glad my Honourable friend has interjected something. My own view is exactly the same as that which is held by my Honourable friend. It is no part of our duty to register the decrees of Government. At the same time, it is no part of our duty to reject everything that comes from the other House whether it is good, bad or indifferent. My plea, therefore, is that if this House is really jealous of its reputation and if the Government really want to help this House because it has been helping the Government for a considerable number of years in the past, then the duty of my Honourable friend is to vote in favour of leave being given for the consideration of this Bill. When this Bill is put before us clause by clause, we know that our clear duty will be to reject the objectionable clauses and to accept those clauses which are unobjectionable. Sir, I support the motion that the Bill be taken into consideration.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF (Who was greeted with applause on rising to address the House): Sir, I think Honourable Members are aware that I have already spoken upon this Bill in another place. Since then I have had an opportunity of further considering the views I gave, and I have not in any way departed from those views. I am also aware that some of my Honourable colleagues have been kind enough to read what I said and have discussed the matter with me. I therefore fear I must apologise to them if I again repeat some of the arguments I then used. I would begin by saying to all my Honourable colleagues, that we soldiers are first and foremost citizens of the British Empire. That is a title which we attained at our birth and of which we cannot be deprived until our death. I emphasise this point because, I think, there is often a tendency among civilians to look upon us as "peculiar people," to look upon the soldier as a rough and coarse creature, who possibly is not fit for decent society. I can assure you, Sir, that there is no reason to regard soldiers as such. We are intensely human creatures and we know no military castes. We are like you all just citizens of the Empire throughout our lives. During such period as we are soldiering we realise that one of our first duties is to do what we can to ensure the safety and well-being of our fellow civilian British subjects, and to see that all members of the Empire shall be able to go where they want, and to do what they wish upon their lawful occasions. I know all will agree with me when I say that

[His Excellency the Commander-in-Chief.]

in performing those duties we, soldiers, are faced with many and great difficulties. One of the duties which we all detest and which we look upon with the utmost dislike is when called out in aid of the civil power, and the reason for that is very obvious. To begin with, the soldier realises that he is generally called on in aid of the civil power when matters have reached a crisis and as a last resort. He knows, therefore, that he may have to take drastic action immediately. Moreover, it often happens both in England and in India that the soldiers who are so-called upon, will have to act against their own friends and relations. Then probably what influences him more than anything else, is the fact that at the back of his mind he has got the feeling, that whatever he does he has very little chance of being credited with having done the right thing. He is almost certain to be told later on that he has done the wrong thing, because it is so easy for the armchair critic later on at his leisure and after the event to say exactly what should have been done. If he takes a very serious view of the situation when he arrives to take over, and considers it essential to take drastic action he is almost certain to be held up to execration. If, on the other hand, he takes too optimistic a view and the situation gets beyond his control, if in consequence a robbery, arson or bloodshed takes place, he is at once told that he is a poltroon and a fool and he will certainly be tried by court-martial. It is very unlikely that there can be two episodes which will present exactly the same features. And, unlike the Chinese, as the Honourable the Home Member informed us, we are not able to draw up exact regulations that will cover every possible situation. I will however read with your permission, Sir, a short extract from the latest instructions relating to martial law. It runs as follows :

"When an officer is required by a Magistrate or himself determines that a serious situation arises when there is no Magistrate within reach, to disperse an assembly by force, he will before taking action, adopt the most effectual measures possible to explain to the people that, if necessary, fire will be opened and that, if firing becomes necessary, the fire of the troops will be effective. If he is of opinion that it is necessary to fire but that the fire of a few men will attain the object of dispersing the assembly, he will personally give the command to a few specified men to fire. If a greater effort be required he will personally give the command to one of the sections to fire."

You will, I think, observe from this extract that it is definitely an obligation laid upon him both to give notice and to fire as little as he possibly can. The instructions further go on to elaborate, (and I may mention that these rules have been based upon long experience and upon the highest conception of the sanctity of human life). Certain principles which are to be followed and which I have summarized as follows :

- (1) When a Magistrate determines that force is necessary to disperse a crowd, he calls upon the officer commanding the troops to do so.
- (2) The officer commanding troops thereafter is empowered to take such action as he deems necessary for this purpose. He is the sole judge of what action to take, and what weapons to use.
- (3) He is bound to use the minimum possible force for the purpose.
- (4) No statutory warning is laid down previous to the opening of fire.

(5) He is responsible for the safety of his command, and

(6) The officer can only be prosecuted for his action with the sanction of Government.

I think Honourable Members will be able to gather from these instructions that I have mentioned, that there are four main principles which emerge. They are as follows :

- (1) If ordered by due authority to disperse a crowd, the officer commanding troops will do so in such manner as he thinks fit and of this he is the sole judge.
- (2) He will always give warning before opening fire, if it is possible to do so.
- (3) He is definitely responsible that he uses as little force as possible, and
- (4) He is definitely responsible for the safety of his own command.

Honourable Members will, I am sure, join with me in realising what extraordinary sound judgment, great discretion and very often considerable personal self-control and restraint must be necessary for an officer who is called upon in a sudden emergency to reconcile what may at times appear to be conflicting principles. But running through them all there is one definite idea of personal responsibility. The officer commanding realises that once he has received his orders on him devolves a definite duty and he alone is responsible for the results. It seems to me, Sir, that that sense of personal responsibility is probably the very best possible safeguard that can be devised to ensure that when the troops are called out, their duties shall be performed both efficiently and without unnecessary loss of life.

I will now turn, Sir, to the alterations that would be made if effect should be given to the proposed legislation. The three main proposals under this which affect the soldiers, are (1) that the Magistrate must decide on the weapon to be used. Responsibility for the particular kind of force to be used is thrown on him, (2) Warning must invariably and *under all circumstances* be given in any case before fire is opened, (3) An officer may be prosecuted for any offence committed by him in this connection without Government sanction for such prosecution. I will take those three points in turn, Sir.

The first is that the Magistrate is to decide what weapons are to be used. By bringing in a rule of this sort, you at once take away from the executive officer, the officer who will carry out the order, the responsibility previously laid upon him. In fact by taking away the responsibility, of the *method* by which he will carry out his work, you reduce him to a machine, and from a machine you are going to get nothing but mechanical results. No human thoughts are governed by a machine. Further, and this is probably the most vital point of all, we must remember that, if the officer in command is not responsible for the *methods* employed, he cannot possibly be held in any way responsible for results. That is a point I would like Honourable Members to realise very clearly. In fact under the proposed legislation the decision as regards the weapon to be used

[His Excellency the Commander-in-Chief.]

is taken away from the soldier and placed upon the civilian who can not be as competent to judge of the effects likely to be produced by the various weapons at his disposal, as the soldier, expert in arms. Surely, it is not fair to impose that responsibility upon the civilian officer. The Deputy Commissioner, Magistrate or *tehsildar*, how can he possibly be able to judge of the results of different classes of fire? It is, Sir, with much diffidence, as I know it is so hard to prove, that I say that the experience of many senior officers in many lands is that the restraining influence is that of the experienced soldier and not of the inexperienced and often somewhat perplexed and harassed civilian officer.

The Honourable Mover of this Bill has talked about the terrible effect that may result from rifle fire, but he does not anticipate that there would be anything like this effect from the use of the bayonet, or *kukri* of the Gurkha soldiers. It is quite true that in modern battle, rifle or gun fire is the deciding factor and the bayonet does not cause the enormous number of casualties inflicted by the bullet, but that is absolutely different from the situation which is likely to occur, when troops are called out in aid of the civil power. I imagine that the Honourable Mover of this Bill in his own mind thinks that, when firing is ordered, he contemplates the possibility of say a hundred men bringing their rifles to their shoulders and firing continuously volley after volley. That would be by no means the case. One or two individual men would probably be called upon, in the first instance, to fire two or three shots when the crowd might melt away. But suppose the Magistrate says, you are not to fire, you are to use your bayonet. The slaughter would then certainly be greater, and the casualties far heavier than could happen from one or two rifle shots, which the military officer from his experience realises might well save the situation.

I will turn to the second point, Sir. The second point lays down that definite warning must *invariably* be given before fire is opened. From what I have quoted, it will be seen that the present regulations do compel an officer to give warning *whenever it is possible to do so*. I wonder if, when the framer of this Bill made this proposal, which emphasised the word "*invariably*" and omitted the word "*possible*" he could realise what would happen? Let us just take one or two possible instances which might happen at any time. You sometimes get a sudden rush by a maddened crowd upon what may be innocent citizens or upon the troops themselves. Remember the officer commanding is responsible for the safety of his command, as well as of the citizens. He may have only a small handful of men, and one or two shots from that handful of men may, and probably will, save the situation. If, on the other hand, he does not fire, there is every possibility of his small command being enveloped by the mob (even if they were only armed with *lathis*) when he and his men might eventually succumb to overwhelming numbers, if they did not use rifle fire. Then again can we imagine, any of us here in this room, suddenly seeing a crowd advancing with torches and firebrands and on the point of setting fire to our houses in which our wives and families are. The troops have just arrived and able to save the situation by a few shots, but are

unable to fire because the necessary warning cannot be given. I do not think I can see any of my Punjab friends there saying:

"*Ghar phuk tamasha vekh,
Bhulai din awenga.*"

I am convinced that there would be not one of us here in such a situation who would not implore the officer commanding to fire straight away to save the situation.

I come, Sir, to the third clause. The third clause, as far as the soldier is concerned, permits an officer to be prosecuted without Government sanction. I am sure that everyone here will sympathise most deeply with us soldiers when we are called out to perform duties of this nature. You will realise that we are entitled to the full possible support that Government can give us. These duties are most repugnant to us. We do not carry them out as individual citizens but as servants of the Government, and we do feel that we are entitled to that support. It would indeed be intolerable if in such circumstances an officer's action should be at the caprice of any individual who might see fit to lay an accusation against him. If an officer who has these duties to perform has a feeling at the back of his head, "I am liable to prosecution for whatever I do", he cannot devote his whole attention and energies to the matter in hand. He must be able to approach these duties, which are abhorrent to him, with an absolutely detached mind, feeling that he is carrying out the orders of Government for the well-being of his fellow-citizens, and Government should see that he is not laid open to prosecution or unduly harassed as a result of an honest attempt to perform his duties.

Putting it briefly, it seems to me that there are three sections of the community who are likely to be affected by the proposed legislation—

- (a) Innocent and law-abiding citizens who, through no fault of their own, find themselves and their property liable to be destroyed by an unruly mob.
- (b) The equally innocent and law-abiding soldiers who have been sent out against their will to protect the lives and properties of their fellow-citizens.
- (c) The law breaking mob, who take the law into their own hands, who are deliberately out to do all they possibly can to endanger the life and property of peaceful citizens.

It seems to me that the proposed legislation contemplates, I will not say willingly, but it would certainly result in the safeguarding of the last mentioned section of the community at the expense of the two former, because if passed it is bound to hamper the soldier in the discharge of his duties, and consequently lead to the more likely loss of life and property of innocent citizens. I need hardly say, Sir, how grateful I, as the representative of the soldiers in this country, shall always be for any help which this Council can give us; but being convinced, as I am, that the duties of the troops in aid of the civil power, and the duties of the police in aid of the civil power can be most efficiently and harmoniously carried out by placing a definite responsibility upon the executive officer on the spot, I would urge that we do nothing to tie his hands, nothing which will make his already most arduous duties more arduous and more complicated.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay : Non-Muhammadan) : Sir, even after the very eloquent and lucid explanation given by His Excellency the Commander-in-Chief, I say, even after that, I feel I must support the Bill, with certain reservations. I do so because there is another side to the question, and it is that side which I propose to place before the Council in as few words as possible. More than one previous speaker has stated that the question of regulations for the use of fire-arms for the dispersal of menacing crowds was brought before the Legislature for the first time in 1921 by the Right Honourable Srinivasa Sastri soon after the new Councils were formed. He did so from a humanitarian point of view. He was induced to bring forward his motion because of the record of previous cases of premature shooting. The suggestion was not lost on Government as we learn from His Excellency the Commander-in-Chief that regulations have been framed, and one of the objects of the Bill is no more than to legalise those regulations.

The Bill in the other place was referred to a Select Committee, and on the report of the Select Committee we find dissentient minutes from three European members, two officials and one non-official. It appears that the arguments of the European members of the Committee were not convincing enough to make the other members veer round to the opinion of the minority. If they did not do so, it must have been because they thought it was necessary to provide statutory regulations in order to prevent any repetition of the abuse of premature shooting, which there was no denying had occurred in the past. The Bill does not forbid the use of fire-arms when occasion demands it, but only emphasises the necessity of providing precautions against hasty and reckless resort to them when less drastic means would suffice.

His Excellency the Commander-in-Chief stated that the military officials recognise themselves first as citizens of the Empire and next as soldiers. He further told us that if an officer used greater force than was necessary, he would be held up to execration, and, on the other hand, if he used less force he would be regarded as a poltroon. I quite admit that, but His Excellency will admit that, because the use of fire-arms is in the nature of his calling, he certainly will have less hesitation in the use of fire-arms than a civilian....

HIS EXCELLENCY THE COMMANDER-IN-CHIEF AND ANOTHER HONOURABLE MEMBER : No.

THE HONOURABLE MR. PHIROZE C. SETHNA : A difference of opinion.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : I think he knows the results too well.

THE HONOURABLE MR. PHIROZE C. SETHNA : It has not always proved so as far as I know. However, the Bill says fire-arms shall not be used unless it is unavoidable and unless a Magistrate of the highest class present specifically authorises such use. The Honourable Mr. Crerar said you sometimes had to deal with third class Magistrates who were not competent to decide a question like this. Surely if that is the objection, Government could have brought forward an amendment to the effect that only a first class Magistrate could give such orders, and, in the absence of such Magistrate, the senior police officer or the military officer, as stated in the proviso, would be

able to give the order. But Government have not done so, and object to the Bill wholesale. Therefore it is that I do not see what harm there is in accepting the principle and I think the addition that has been proposed to the existing law is a sensible one, and the objection advanced by Government is to me unintelligible.

The main point, of course, is the last clause, and I am quite in sympathy with what has been said not only by Mr. Crerar, but also by His Excellency the Commander-in-Chief. Mr. Crerar particularly referred to this clause, and said that the officer would always stand in dread of any action taken against him. I know there is a serious objection to this clause and that it exposes an officer who discharges perhaps a very urgent and painful duty, to harassment and loss, but in all the arguments that have been advanced against it, it has been presumed that injustice was going to be done to the officer, as if he was going to be dragged into a court of law through spite and as if the courts of law would never decide in his favour, and as if the public would in all cases be against him. That is an entirely wrong assumption. But I certainly am of opinion that sanction should be required from a proper authority. I mention as the authority the Advocate General, and if it is possible for me to move my amendment to that effect, I would further propose that such sanction should be obtained from the Advocate General and within a period of six months. We should not allow the officer to remain in suspense for a longer time. If this last clause in the form in which it is, or in any amended form, is not included in the Bill, then its absence would give immunity to an officer in all excesses, and that is the intention of the promoters of the Bill to safeguard against, and particularly so because of the incidents which did occur some years ago. I do not for one moment say that any military officer without good cause would give the order to fire. I hope he may not do so now or in the future ; but in the past, as we know, there have been some instances, and it is therefore that this clause is included.

Now Sir, His Excellency has told us to-day that soldiers generally exercise a very great restraining influence. It may be so ; I admit it. But is the temperament of every officer and is the judgment of every officer alike, so that the country may trust them on all occasions uniformly to do what His Excellency the Commander-in-Chief believes the soldier would always do ? I may be allowed to narrate my own experience in a case of this kind. This happened at the time of the Prince of Wales' visit to Bombay, when, as the House will remember, there were riots in that city. There was a lunch given in honour of His Royal Highness at which he was present at a well known Club in that City, and just as we rose from lunch, word was brought that there was a large, unruly crowd with *lathis* and stones gathered together at the foot of Bellasis Bridge, Tardeo. I mention the place because I am sure His Excellency knows it. I was one of those who hastened to the scene. I saw for myself that the soldiers were almost ready to fire. And one of the crowd, a person whom I had never met before, came to me and appealed to me to dissuade the military officer from firing and he was supported in his appeal by several others whom I well knew. He said that if he was given the chance he would in five minutes be able to disperse the crowd. It seemed to be a tall order, but he gave me his name as Mr. Banker. Now I knew Mr. Banker by

[Mr. Phiroze C. Sethna.]

reputation as a person with much influence over the masses. This is the same Mr. Banker who was put on trial along with Mr. Gandhi at Ahmedabad later on and was sentenced. I therefore appealed to the officer present, who said he had his orders from the Honorary Magistrate. The Honorary Magistrate present was an Englishman whom I knew and I begged of him to withhold his order. I mention his name because there are Bombay Members in the House who will know him. He was Mr. Barracrough. At first he was reluctant but subsequently he yielded to my persuasion, with the result that Mr. Banker, surprising to say, in five minutes succeeded in dispersing that crowd of 5,000 people, certainly a remarkable feat to my mind, as was acknowledged by the military officer present and by Mr. Barracrough, and it proved the influence Mr. Banker commanded over these people.

I have quoted this instance in view of what fell from His Excellency the Commander-in-Chief, because it shows that if firing had taken place as intended, there would certainly have been some loss of life, and if not loss of life, certainly serious injury. This is a typical instance of what did happen and may happen elsewhere, and because of such cases it is that this measure has been introduced. This Bill therefore is a very necessary safeguard against the impetuosity of the votaries in this country of that principle, known as Martial law and no silly nonsense.

The HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: (West Punjab : Muhammadan) : Sir, I think, after His Excellency the Commander-in-Chief and the Honourable Mr. Crerar have explained the position the best thing is that our friend, the Honourable Mr. Ramadas should deem it proper to withdraw his Bill. But if he does not, I think all of us who have heard all these speeches are convinced that the necessity for this Bill does not arise when the Government orders are already there to the same effect. Sir, I would not have got up at this hour but I am doing so as I come from the Punjab, which is connected not only with soldiers but with martial classes. This is a typical Bill showing to what length some of the politically-minded people can go, and it proves beyond doubt the necessity of this House, as it has been many times proved. The Indian Legislature without this House is like a ship without mooring. The words used in the Bill, Sir, are "to disperse an assembly". Well I think, there the word simply means the "Assembly" where such a Bill has been passed (Laughter) and I should have thought that so far as that body is concerned, fire-arms need not be used, but an ordinary cracker on the floor would be quite sufficient for the purpose (Laughter). Sir, the Bill in itself is quite a bad omen from the very beginning, and is inconsistent in itself. On the one hand it says "notice shall be given", on the other hand in the very same place it says "in certain circumstances". Now who is the man who will judge the circumstances? Each man would have to think for himself what these circumstances are. Now if an honest man after thinking over the matter comes to the conclusion that it is his duty to do a certain thing and he does it, it will be wrong that this honest man should be prosecuted. Then, Sir, such assemblies or mobs can only be of two kinds. One is that which is harmless. If they are harmless, there is no use firing on them at all. But if those people once decide that

they are going to do mischief and they start doing it, is there any use to parley with them? It has been said that there should be a warning. A man in such a situation is told by his conscience not to do wrong. I think directly he begins to do such a thing, first warning is given to him by his own conscience which tells him that he is doing wrong. Then, Sir, the law of the land lays down that unruly mobs shall not do mischief. Now ignorance of the law is no excuse. But they do know that there is the law, and if they ignore it and do mischief they will suffer. The existence of this law is another warning. The next warning is that the mob in question sees the soldiers or policemen with fire-arms. They are not blind. They know that if they do mischief, they may be fired on. That is another warning. If in spite of all these warnings, the mob does not come to its senses, there is a fourth warning and that is afforded when firing in the air is resorted to to tell them to stop doing mischief. Then, Sir, some people who have been under fire know that when the bullets pass, they whistle, and if they are still nearer, they rattle in a different way, which again shows to them that this is a warning. And I think if all these warnings are not sufficient, then the only warning left is through the medium of the metal which it conveys to the body.

The Honourable Mover when he was moving his Bill went back to a time which we thought had been forgotten. He has spoken about the Punjab troubles. Well I happen to be one of those who were in the thick of them, and I must correct him if he makes any mistakes. The *Jhallianwala Bagh* has been spoken about. Well this is not the only affair, but there are many other instances like that. I think in most of these troubles, wherever they were, it was decided by competent authorities that all that was done was generally quite right. In that very place, some British men and women were killed, and I think that the community is still angry to-day that the police did nothing, that they were inactive, while these people were being killed and places were being set on fire, and while our politicians were trying to create trouble at that time....

THE HONOURABLE THE PRESIDENT: Will the Honourable Member please confine himself to the principle of the Bill?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: It has been said that this Bill is only brought forward in connection with such occurrences. Well, there have been other troubles at Nankana—and, there is always danger, wherever there are fighting classes and when there are communal troubles, that one side will go for the other. Now in such a case where one party is helpless you have two things to do. One is to parley with the offending party and tell them: "don't do it", and thereby lose time. The other is to fire on them or they will get at the innocent people and when they are together fighting, to fire on them at that juncture will be to kill the innocent along with the guilty. If one has to fire one should do so before they begin mischief. The same mob instead of killing members of some community goes straight for the very authority which is there to quell the disturbances, and they are armed with clubs and "Chhavies." I am sorry that some down-country people have not seen our "Chhavies" and clubs. I can assure them, Sir, that if once the men

[Col. Sir Umar Hayat Khan.]

with these things mix with riflemen, their arms are very much more effective than bayonets and swords. If one has to stop them, one has to stop them not only at arms length but at a greater distance and especially if the party is a very small one, as the police party at Chauri Chaura, if they do not start making the impression on the mob at the right time, then they are done for. Sir, I also know that there is something in the law which is called self-defence. Where does that self-defence go? If the mob is going to kill one and if he does not in self-defence save himself, when is he going to do so? If that very body is killed, i.e., the officer and the small party, how are they going to disperse the assembly after they are killed? It is just the same case with one who parleys with his assailant. What will happen? The man can say "if you kill me, take care I will kill you". How is it to be done. If one is killed how can he kill another afterwards. A man finds that a mob is coming. Would he fight and save his life or would he think that as afterwards he would be prosecuted, would go to jail or would be humiliated he should not fight. Even if this Bill is there, a man will use his discretion, and fight and kill before he is killed. If an officer when charged with the duty of dispersing a mob did not do it, and Muhammadans killed Hindus or Hindus killed Muhammadans, there would be such a trouble in India that the offended party will accuse the officer and will never advise again to parley and wait and lose time. I think, Sir, under the circumstances, I would ask the House to unite and leave my friend the Honourable Mr. Ramadas alone as he is generally left and side with law and order, which will be the best thing for us to do and not allow the Bill to proceed to the extent of amendments being moved to it, because this is not a Bill that should be mended but I think it is a Bill which should be ended. (Applause.)

THE HONOURABLE MR. P. C. DUTT (Madras : Nominated Official): Sir, I rise to oppose consideration of the Bill. As a District Magistrate I am keenly interested in the Bill, and as District Magistrates are primarily and principally responsible for the peace and order in the country, I think this House will give me an indulgent ear. I feel that this House could not do a worse disservice to the country than to pass the Bill which has been moved by my Honourable friend Mr. Ramadas. Sir, I have in my time held charge of some of the most turbulent and most populous districts in the Madras Presidency outside Malabar. Cuddapah is perhaps the most turbulent district in my province and the districts of Tanjore and South Arcot are the most populous containing a population of more than 22 lakhs in each of them. I have been in charge of these districts for years and I have also been for over 9 years in charge of the agency tracts of Vizagapatam and Ganjam inhabited by wild tribes; and I can conscientiously say that the administration of these districts and these tracts will be seriously affected and very great difficulties will arise if the Bill before the House is passed. More than once I have had to lead Mohurram processions with a revolver in my pocket expecting a riot to break out at any moment. Once in the course of such a procession there was a disturbance but we did not fire off our rifles and revolvers as those who support the Bill think that we are apt to do. Sir, I can tell the House—and I speak as an Indian with 25 years' experience as an executive officer—that I have never heard of any authentic instance in which fire-arms were used by the police to disperse a mob unless

they were absolutely obliged to do so in self-defence or in defence of persons or property. (Hear, hear.) I may be told that there have been such instances of unnecessary use of fire-arms. But I would ask the Honourable Members to remember how reports often lie and are always exaggerated in this country and I doubt very much if any Honourable Member of this House is in a position to say that he was present when such a case happened or took part in an inquiry into such a case. Supposing there have been such cases occasionally are we going to legislate for such exceptional cases and in doing so tie the hands of those who have to face very difficult situations?

Sir, those who have passed the Bill in the other House must be lacking not only in experience but also in humour. What are the police to do when a mob charges a police station, say to rescue a prisoner, as a mob did at Kumbakonam when I was the District Magistrate of Tanjore? In a serious matter like this. I do not want to be flippant, but do you expect the police to go and tickle the mob and make it laugh? The Bill is to regulate the use of fire-arms. The police are to warn, send a report within 24 hours and at the end of this to lay themselves open to prosecution at the instance of anyone who may have a grudge against them. If they use bayonets, or what are called regulation lathis, they are not obliged by this Bill to warn, to send a report within 24 hours and need not fear prosecution without the sanction of Government (Hear, hear). Is the House to imagine that a bayonet charge is the more humanitarian procedure to adopt in a case like this? Well, Sir, if I was in that position and if I had no other option I would rather like to have a bullet wound than a bayonet thrust.

(At this stage the Honourable Sir Maneckji Dadabhoy vacated the Chair which was resumed by the Honourable the President.)

I wonder whether those who supported the Bill in the other House thought that the police were allowed to fire on a mob just for the pleasure of firing. There are very stringent regulations and executive orders on the subject. I have been trying to get hold of some of these executive orders here, but I have not been able to procure any at Simla. I just got one Police Order of the Government of Madras. It runs as follows:

"In every case in which the police use fire-arms in suppressing a riot or in self-defence an express report or telegrams—whichever is quicker—shall be sent to the Sub-Divisional Magistrate. In this report the number of persons killed or injured, if any, shall be stated."

I think this goes further than what my Honourable friend would like to legislate for. I dare say in other provinces there are similar orders. In any case it may be said that these being merely executive orders need not be obeyed. These who think so are very much mistaken. Every Magistrate, every police officer knows that, if he violates these orders, he incurs considerable risk. These orders lay down that force should not be used except when it is absolutely necessary, that no more force should be used than what is absolutely necessary, and that warning, whenever possible, should be given before force is used and the report should be sent as expeditiously as possible after the occurrence of such unfortunate events. I ask what more is wanted? It is not proposed to legislate for more in the first three sub-clauses of section 2 of the Bill. I can say from my own personal experience that these orders are obeyed. What, therefore, I ask, is the justification for this proposed legislation? It may be

[Mr. P. C. Dutt.]

asked that, if there are these orders in existence, then what is the harm in enacting this legislation? That question has already been answered by the Honourable the Home Member in his minute of dissent. He says :

"A statutory inhibition of this kind will always render the question in issue 'could the assembly have been otherwise dispersed'. I think it a matter very difficult for the courts to deal with".

He adds :—

"Finally, clause (4) is far too wide in granting a right to make complaints without sanction of any public authority and will inevitably lead to much harassment of officers who have to perform these unpleasant duties."

Sir, as my Honourable friend Mr. Saiyid Raza Ali remarked, the sting of the Bill lies in its tail. Nothing could have been conceived which was more calculated to paralyse the hands of the local authorities raised to protect the persons and property in their charge than the threat that they were liable to be prosecuted without sanction by an injured person or the father, husband or wife or guardian of a person killed in quelling a mob. The police and the Magistracy will be at the mercy of any law tout who may see in this a chance for levying blackmail. There will be a trial. What sort of a trial will it be? The evidence produced will be very conflicting and extremely unreliable. The trial will be a huge farce and it will be a cruel mockery to subject a public officer, or for the matter of that anybody, to a trial of that kind. Sir, human nature, especially Indian nature, being what it is, I shall not be surprised if a subordinate Magistrate or an Inspector of Police is reluctant, after this Bill is passed, to defend the people and the property he is paid to protect for fear of prosecution. It should be realised that the Bill if passed will not affect so much the European as the Indian officers. The European officers are very few in the districts and are getting fewer and fewer. A mob does not attack after giving the same period of notice as the Honourable Members of this House do when they attack Government on a Resolution. The Indian officers being numerous and also being on the spot will have to quell these disturbances. It is the Indian officers who will have to suffer and this Bill will be quoted as another lamentable instance of the Indians' distrust of their fellow Indians.

Sir, I trust that the House will clearly realise what it is asked to do when it is asked to support the Bill. When a riot is imminent, officers of the Government are forced to undertake a very unpleasant task and they do their duty at the risk of their lives. They save persons and property by exposing themselves to great danger. They prevent a temple or a mosque from being desecrated, a bazaar from being looted, and men and women from being killed or maltreated. As a reward for this they are to be prosecuted at the instance of any man who may take it into his head to set up the injured person or the relatives of a killed person to do so. Could ingratitude go further?

Sir, it has already been mentioned in this Council as to how this Bill originated. But the real origin of the Bill lies in the psychology of the people. The Bill has its origin in the curious belief of many Indians that, whenever a disturbance occurs, the police are and must be in the wrong and all the authorities from the Sub-divisional Magistrate to the Governor of the province conspire to shield the police. Sir, this belief is absolutely and wholly

inexcusable. In any case such a belief cannot be allowed to hamper the administration of districts as this Bill will undoubtedly do if it is passed into law. For these reasons I oppose consideration of the Bill:

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I will very briefly reply to the points raised in this debate and I shall certainly endeavour not to take much time of this Council at this late hour. Sir, I should like to begin with my Honourable friend Nawab Sir Umar Hayat Khan. He has very kindly advised me to withdraw this Bill on the ground that I cannot get the support for it in this House. I may assure him that I was not under any delusion when I made this motion in this House. But I certainly expected that the Government at least would have the courtesy of not opposing the Bill at the consideration stage, and that it would at least allow the Members of this House an opportunity to move amendments and bring it into line with what the Government and the Members consider to be a proper piece of legislation. Even this the Government have not done and I regret very much the attitude they have adopted. But I can assure my friend Nawab Sir Umar Hayat Khan that I have not got his implicit faith in the wisdom of this House and I certainly have much greater faith in the wisdom of the Legislative Assembly which consists of the accredited representatives of the people of this country. And when that body passed this Bill by a large majority, I have every faith that they represented the views of the country much more than this House....

THE HONOURABLE SIR MANECKJI DADABHOY: Why are you here?

THE HONOURABLE MR. V. RAMADAS PANTULU: Every Member who sits in this House, I submit, need not share the views of the Honourable Sir Manekji Dadabhoi. People may differ from him and still they may be in this House. And I claim to be in this House to represent the views of my constituency and my country as I understand them to be. Sir, as I said, the country is there to judge between the views of my friend Sir Umar Hayat Khan and myself, and I shall leave it there.

Then, Sir, I come to the Honourable Mr. Crerar's observations. He said that he put warmth into his speech on account of the experience he had as a District Magistrate for a number of years and he spoke feelingly because of the experience which he gained of riots as a district officer, and I see that my Honourable friend Mr. Dutt has done the same thing. But I must point out that I adhere to the view that the "man-on-the-spot theory" is a very fallacious one and that the people who ought from their very situation and experience to know the best and the most know the best and the worst. These are the words of the great statesman, Lord Gladstone. And I also rely upon the observation of Lord Morley that the Executive in this country have an inherent repugnance to law and lawyers. Therefore, Sir, I am not prepared to give any great weight to the opinions that they express.

6 P.M.

My Honourable friend Mr. Crerar has pointed out that I made a mistake in stating that the rules regulating the use of fire-arms are on the Statute in England. When I was speaking of bringing Indian law into conformity with English law, all that I meant was that the Bill seeks to embody in it the provisions of common law laid down in the Ackton Hall Colliery dispute and other

[Mr. V. Ramadas Pantulu.]

decisions and the King's Regulations. If I used the word Statute it was merely a slip of the tongue.

Then with regard to this question of the English law being applied to India, the Government do not seem to know their own mind. One member of the Government tells us that the English law need not be adopted in India, and His Excellency the Commander-in-Chief has very pointedly objected to clause 1, because as a matter of fact what is sought to be enacted in this is not consistent with English law, namely, the necessity of the Magistrate to give orders with regard to the firing. Very probably His Excellency is right, but I should like to draw attention to the fact that the Queen's Regulations which he quotes have undergone some change as the result of the circumstances reported in the Ackton Colliery case. I know as a matter of fact that the regulations before they were amended, some time ago, did incorporate provisions like the one incorporated in this Bill. I shall read from the King's Regulations:

"All commands to the troops are to be given by the officer. The troops are not, on any account, to fire excepting by word of command of their officer, who is to exercise a humane discretion respecting the extent of the line of fire, and is not to give the word of command to fire, unless distinctly required to do so by the *Magistrate*."

That was the law. If it has subsequently been changed in England, there is no reason why we should adopt the change in the English law, only in this matter, when the Honourable Mr. Crerar tells us that we need not adopt the English law in regard to the other provisions of the Bill. Therefore it seems that doctors seem to differ; some ask us to follow the English law and some ask us not to follow the English law.

The Honourable Mr. Crerar asked me a question for whose benefit this Bill was intended, and what the benefit was? My answer to that is that it is intended for the benefit of both the citizen as well as the officer who acts under its provisions. The citizen is to be protected against improper and excessive use of the powers vested in the hands of an officer who purports to act under the authority conferred on him, and the officer is protected from being harassed or otherwise unduly interfered with in the discharge of his duties. Both these principles are well borne in mind by the author of this Bill which has received the sanction of the Assembly. I also make no secret of my belief that unless some such provisions are enacted, Indian life will be considered somewhat cheap. Even sometimes the bureaucracy may not hesitate to use unconstitutional violence to put down constitutional political agitation, and I accordingly consider it a very sound measure.

With regard to the question of the warning, I have not heard any new arguments. I only heard one from the Honourable Nawab. He says either the crowd is dangerous or it is not dangerous. If the crowd is dangerous, fire, if it is not dangerous, don't fire. He does not think that there is a possible alternative. The crowd may be dangerous but not so dangerous as to require immediate firing upon without warning. It reminds me of a case where a question was put by a lawyer: "Did you cease beating your father, yes or no." I regret that a soldier like the Honourable Colonel Nawab Sir Umar Hayat Khan could not see the possibility of a crowd being not sufficiently dangerous to warrant immediate firing. I think it is a common occurrence.

As I have not heard anything against the remarks I urged in my opening speech with regard to the necessity for "warning" that it is recognised in the common law of England, that it is consistent with the spirit of the King's Regulations, that it is consistent with the spirit of executive orders, I do not think it necessary to labour the point any further.

Then with regard to the next thing about the report to be submitted of the occurrence within 24 hours. Mr. Crerar has objected to that very simple provision in this Bill. I find the Home Member, Sir Alexander Muddiman, in the debate in the Assembly, accepted the principle of that provision, and throughout his speech the Honourable Home Secretary took up a much more militant attitude than his Chief took in the Assembly. I suppose it is a compliment to the pliability of this House.

Then with regard to the last and most important provision, namely, freedom to prosecute; the arguments that I have heard are not legal but psychological. My friends Mr. Dutt and Mr. Crerar think that all humanity stands apart from Indian humanity. Human nature is similar all over the world; therefore to transgress the bounds of law and go into psychological conditions is indefensible. I refuse to admit that Indian humanity differs in any way from humanity elsewhere. It has been said more than once that whenever this freedom is given to Indians to prosecute a man, it is immediately abused. May I ask why? May I put the same question which Mr. Jinnah put to the Home Member in the other House: "Why does he think that this country is composed of such wicked people and such undesirable people, that when you come to an honest judgment, a *bona fide* decision in the best interests of the people over whom you are appointed as an officer to exercise your authority, human nature is so low that you will not be vindicated by the people of this country?" Are we so ungrateful, so wicked, so immoral, so low and undesirable? My emphatic answer is that such a charge is unfounded and unworthy of a House like this.

Then, Sir, I will only refer to one statement made by the Honourable Sir Maneckji Dadabhoy. He said that this is an attempt to make the Executive entirely impotent. He said that there were Executive orders that would suffice, and any attempt to fetter executive action by legislation would make the Executive impotent. The Honourable Sir Maneckji Dadabhoy affects to be more loyal than the King. I never heard such an argument. Are executive orders intended to be obeyed or not to be obeyed? If they are intended to be obeyed, where does the harm lie in embodying them in the Statute? If they are not intended to be obeyed, all the more reason to take steps to see that they are obeyed by putting them in the form of a Statute.

Therefore Sir, I really do not see any point in what Sir Maneckji Dadabhoy said. We are all equally anxious that the peace of this country should be preserved, and that our homes and hearths and our women and children should be protected from the violence of infuriated mobs. Therefore there is no reason why we should be less anxious about the peace in this country than he is. I assure him every Indian in this country is equally as anxious as he is that executive officers' hands should not be weakened and that the peace of this country should not be disturbed by riots.

[Mr. V. Ramadas Pantulu.]

We have also got the welfare of the country at heart, but at the same time we desire to see that, while we have peace and order, we do not unnecessarily or unjustly inflict injury upon citizens. I have already alluded, Sir, to the various safeguards the executive officers have got under the law. The *Exceptions* in the Penal Code practically give them immunity. There is section 494, and section 202 and section 203 in which a complaint can be dismissed, and sections 54 and 132 which require previous sanction, and section 197 under which Magistrates are exempt from prosecution. All these sections are there and practically make it impossible for a citizen to proceed against an officer, and what you want is that the safeguard that you must invoke the aid of the Executive Government, on whose behalf the officer is really acting, to sanction this prosecution, should not be slightly relaxed. Human nature being what it is, in India as elsewhere, it will be impossible to get the Executive Government to sanction the prosecution. What you are really doing is you are depriving the Courts of their legitimate jurisdiction to punish offenders, and if you are not content with all these safeguards, it shows you are not attaching sufficient value to the sanctity of human life.

Sir, I have very little more to say. I only wish to point out that it seems to be by some strange coincidence that this Council, which began with debates on the repeal of the repressive laws, and the enactment of a Bill for the regulation of fire-arms, is closing with the consideration of the same measures, and that the Right Honourable Srinivasa Sastri, whose place I have the honour to occupy here to-day, moved in these matters and inaugurated legislation in both these matters. But this Council seems to have had better notions about the liberties of the people then and gave the Right Honourable Srinivasa Sastri greater support than they have been pleased to accord to me to-day. I hope we shall not be liable to the charge that we ended worse than we began. I hope that even now, the Government will allow the consideration of this Bill to be taken up so that they will give the Honourable Members of this House an opportunity to move amendments to certain clauses so as to remove objectionable features, if any, and if the sting is in the tail, the tail can be cut off. It will be for Honourable Members to do so. I hope this Bill will not be killed in its infancy. Many of the Bills which were given birth in the Assembly have been killed here ruthlessly, and I hope you will not add to your past record of infanticide in this House, and I earnestly hope that this Bill will be allowed to be considered on its merits, whatever changes it may undergo in the course of the debate. With these words, I commend the motion to the consideration of this House.

THE HONOURABLE MR. J. CRERAR: Sir, the hour is late, the merits of this Bill have been very fully discussed from every point of view, and I think the House has made up its mind. I therefore do not propose to detain it except to make one observation. Two Honourable Members—and I regret that among those two should be my friend Saiyid Raza Ali, who in other respects spoke in terms of the greatest courtesy and consideration—have suggested that Government, in opposing this motion, have rejected in a summary, or propose to reject in a summary, in a contemptuous manner, a Bill emanating from another place, and promoted in that other place by a

very eminent lawyer. Now, Sir, the only observation I wish to make is that that imputation is entirely undeserved. I leave it to the justice of the House to determine whether the grounds on which this measure has been opposed from these Benches have not been grounds relating solely to the merits or demerits of the measure itself, and not to any other extraneous consideration whatsoever. Secondly, it is surely perfectly well known to such experienced lawyers as my Honourable and learned friend from Aligarh and the Mover of the motion that, if this House passed the motion for the consideration of this Bill, the House would be committed to the principles of the Bill. My Honourable friend complains that by refusing to pass this motion, we are refusing even to take the Bill into consideration. He knows perfectly well, if the House passes the motion for consideration, it definitely commits itself to the principle of the Bill. I endeavoured to explain why the principles of the Bill were objectionable, and it is because I think the principles of the Bill are in the highest degree objectionable that I have asked the House to reject the motion for its consideration.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to provide that, when fire-arms are used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances, be given, as passed by the Legislative Assembly, be taken into consideration."

The motion was negatived.

PHOTOGRAPHIC GROUP OF THE COUNCIL.

THE HONOURABLE THE PRESIDENT: A desire has been expressed by several Honourable Members that, before the Council disperses at the end of this Session, prior to its dissolution, a photographic group should be taken of as many Honourable Members as are in Simla at the moment. Arrangements have accordingly been made that a photographer shall be in attendance on Thursday morning at half past 10, that is to say half an hour before His Excellency the Viceroy comes to address the Council. I hope as many Honourable Members as possible will be present on that occasion. I am sure our Honourable friend the Leader of the House, Sir Narasimha Sarma, would like as complete a memento as possible of his long association with this Council.

The Council then adjourned till Eleven of the Clock on Wednesday, the 16th September, 1925.

COUNCIL OF STATE.

Wednesday, the 16th September, 1925.

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

QUESTIONS AND ANSWERS.

APPOINTMENT OF INDIANS AS DEPUTY SECRETARIES TO THE GOVERNMENT OF INDIA.

THE HONOURABLE MR. PHIROZE C. SETHNA : Sir, I have given private notice to the Honourable the Home Secretary of the following question :

Will Government be pleased :

(a) to make a statement to show what effect has been given so far to the recommendation made in the Resolution moved by the Right Honourable Srinivasa Sastri in March 1923 that, as far as possible, at least one Indian be appointed as Secretary, Joint Secretary or Deputy Secretary to every Department of the Secretariat of the Government of India ?

(b) to state :

(i) how many permanent vacancies in the grade of Deputy Secretary have occurred since the date of the Resolution, and

(ii) if any such vacancies have been filled by Indians, and if not why not ?

THE HONOURABLE MR. J. CRERAR : (a) I would refer the Honourable Member to the orders, a copy of which I laid on the table on the 16th July 1923 in reply to his question No. 13. In pursuance of those orders, the names of qualified Indian officers, if any, have been considered whenever vacancies have occurred in the posts in question and the officer considered most suitable has invariably been chosen. A reference to the Statement No. 1, which I have now laid on the table, will give some idea of the progress made. I would point out that an important aspect of the question is the extension of our sources of recruitment from the Provincial Secretariats. The position in this respect is indicated in Statement No. II.

(b) Including 5 posts of Director in the Railway Board which rank as Deputy Secretaries in the Government of India, there have been 17 permanent vacancies in this class of posts since the Right Honourable Srinivasa Sastri's Resolution was passed. Two of these have been filled by the appointment of Indians.

I

Statement showing the number of superior posts in the Government of India Secretariat held by Indians in February 1923 and August 1925.

Appointment.	FEBRUARY 1923.		AUGUST 1925.	
	Total.	Indians.	Total.	Indians.
Secretaries (including Joint and Additional Secretaries) and officers of similar status	17	3	17	2
Deputy Secretaries and officers of similar status	18	3	21	3
Under Secretaries and officers of similar status	11	3	12	9
Assistant Secretaries and officers of similar status	20	6	21	17
Total ..	66	15	71	31

II

Statement showing the number of superior posts in Provincial Secretariats held by Indians in October 1922 and August 1925.

Appointment.	OCTOBER 1922.		AUGUST 1925.	
	Total.	Indians.	Total.	Indians.
Secretaries (including Joint and Additional Secretaries)	74	5	74	9
Deputy Secretaries	13	1	23	7
Under Secretaries	44	15	39	15
Assistant Secretaries	45	26	44	35
Total ..	176	47	180	66

CLOSING OF THE GOALUNDO RAILWAY STATION, ETC.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : I have given private notice of a question to the Honourable Mr. Hadow which he was good enough to accept. The question is as follows :—

1. Has the attention of the Government been drawn to the protest of the Narayanganj Chamber of Commerce regarding the closing of the Goalundo railway station and the opening of the new route. Would the Government please state :
 - (a) what the reasons of such closing are ; and
 - (b) what the changes of the new route would be both financially and from the point of view of passenger and goods traffic:
2. Is it a fact that the new arrangement will prove a considerable handicap to the jute houses represented in Narayanganj and would result in serious restriction of the work of a number of important firms and would tend to decrease the amount of business ?
3. Would the Government please state the amount of revenue derived by the Railway from the terminal charges levied both on goods and passengers at Goalundo for the last five years ?
4. Is it a fact that steamer companies assist by the levy of a tax on their own passenger traffic ?
5. Would the Government please state the annual cost of maintaining the connections at Goalundo as well as the amount of through and local traffic and the amount of revenue derived from levies imposed on passenger and goods traffic.

THE HONOURABLE MR. F. A. HADOW : Government are aware that the question of abolishing Goalundo has been raised because it is a specially difficult and consequently expensive station to keep open owing to its situation at the confluence of two very large rivers. Nothing has however yet been decided and it is recognised that the matter will have to be considered from all points of view before anything is settled. A copy of the question and of this reply will be sent to the Agent, Eastern Bengal Railway.

I regret, Sir, I cannot answer the Honourable Member's question more categorically as there was no time, but I understood he was prepared to accept an answer in that form sooner than not ask the question.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : I would like to ask a supplementary question, Sir. Has the Honourable Member any information as to what the alternative route is ? Has that information reached the Government ?

THE HONOURABLE MR. F. A. HADOW : The alternative route under consideration is an elaboration of the existing route *via* Khulna.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL : Sir, a Message has been received from the Legislative Assembly. The Message runs as follows :—

"I am directed to inform you that the Legislative Assembly have, at their meeting held on the 15th September, 1925, agreed without any amendments to the Bill to supplement the Oudh Courts Act, 1925, which was passed by the Council of State on the 31st August, 1925."

BAMBOO PAPER INDUSTRY (PROTECTION) BILL.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move that the Bill to provide for the fostering and development of the bamboo paper industry in British India, as passed by the Legislative Assembly, be taken into consideration.

Sir, with this Bill I bring before the Council another of the recommendations of the Tariff Board. I propose to deal with it much on the lines of a company meeting and I hope the Council will take that report as read. That leaves me free to concentrate on the conclusions of that report and the reasons behind the Bill which I am now recommending to the Council. The Tariff Board came to three conclusions. The first was that the market in India for paper of the kind which could be made in India is limited. The Indian mills are entirely unable to make paper of a quality that is used for newspapers and known as newsprint. In fact the applicants for protection withdrew their claim for any protective duty on newsprint. Therefore from the Bill newsprint has been excluded. The next conclusion the Tariff Board came to was that in present circumstances with the prices at which imported paper enters India the industry cannot at present carry on without protection. The third conclusion which they came to was that those mills which use mainly grass have failed completely to make out their claim to protection. Therefore, Sir, had it not been for some very recent developments the whole case for protection of paper might have stopped at that point, and we would not have been asked to consider this Bill to-day. But during the last three years there have been striking developments. For some 15 to 20 years technical specialists have been at work trying to devise means for making paper satisfactorily on a commercial method from bamboo; and in 1922 a mill was completed and started at Naihati for using commercially one of these processes known as the sulphite process. That was only three years ago. The mill had new machinery but is described by the Board as an ill-balanced mill. It is not, as built at present, an economic mill. It requires another paper machine in order to get the best outturn of paper. Yet in those three brief years the results which have been obtained by that mill are sufficiently striking. In the first place, the quality of paper which has been made is of such a character that it is of more general utility than paper which is made from grass. In fact it is a paper more nearly allied in character to paper made from wood pulp. The second result, which is more striking, is that the bamboo mill has been able to get its works costs down to Rs. 50 a ton below the best that has been achieved by any of the grass mills since the War.

The last result, Sir, I think is a striking one. You have got a new process and a mill which the Tariff Board says is not a real economic unit—yet its working cost is Rs. 50 a ton below the best grass mill. Yet the case goes still further. As the Council knows the chief sources of raw material for paper are the coniferous woods of the northern latitudes and the consumption of paper is increasing in the world at such a rate that those woods are rapidly being cut into, so much so that many paper manufacturers are nervous and anxious about the certainty of the supply of the necessary raw material. It seems to be only a matter of time when other and alternative sources of raw material will be required. If by the time that happens—one does not know when it will be—the

methods of utilising bamboo have been thoroughly mastered, it is clear what this would mean to India with its extensive bamboo forests, at present of no commercial use. The Board is impressed by the results already attained by this small mill at Naihati and also by the potentialities which its ultimate success might mean to India. Yet they came definitely to the conclusion that, unless something was done to help the industry, the industry would fail under stress of foreign competition. As they put it the issues are clear. I shall read a passage from their report:

“The issue which the Government of India and the Legislature would have to decide is clear and well-defined. If no assistance is given it is probable that the manufacture of paper in India will cease, with a somewhat remote prospect of revival when wood pulp has grown very dear. The question for decision, therefore, is whether it is worth while to keep the industry going at what in all the circumstances is a moderate cost or whether it must be left to its fate. For our part we feel strongly that the disappearance of this industry at a moment when the use of bamboo shows every promise of development in the future would be very regrettable.”

That, Sir, is the issue; but the Board was in a difficulty in making final recommendations. That difficulty arises from two sources: One, owing to the want of an additional paper machine at Naihati, the real economic works costs of producing paper in the best conditions from bamboo are not ascertainable, and secondly, the process which is still being used there is capable of further improvement; and moreover the sulphite process is not the only one in the field. In these circumstances, they do not make final recommendations but they recommend assistance to enable the possibilities of bamboo to be tried out. They recommend protection for five years for writing paper and certain kinds of printing paper. The rate that they recommend is a specific duty of one anna per pound instead of the 15 per cent. *ad valorem* duty. They also recommend a loan of 10 lakhs to the Naihati Mill to enable it to erect a second paper machine. But as the sulphite process is not the only process, they also recommend similar loans, gifts or subsidies, call them what you will, to other approved mills which might be prepared to try the other processes. They also say that these two separate portions of their proposals hang together; one without the other is insufficient.

Government, Sir, accept the general conclusions of the Board that this is an industry worth going on with. But the proposals of the Board regarding loans presented great difficulties to Government, for many different reasons: firstly, the sulphite and soda processes are covered by patents which are the private property of the patentees who are private companies. Secondly, in both the sulphite and soda processes there might be many variations. We do not know how many there are—all of which may be covered by subsidiary patents. If we were to accept this loan proposal we would either be in the difficulty of distinguishing between the value of one patent and another on *a priori* grounds or of helping with cash everybody who produces a patent for treating bamboo. Where would it end? Further, we should be placing the company which we assisted by such loan in an advantageous position in regard to its competitors. As far as the grass mills are concerned, the claim for protection has failed; but that is no reason why they should be further handicapped by Government assisting their competitors with cash.

[Mr. D. T. Chadwick.]

Therefore, the Government do not consider that this general offer of loans or subsidies is an advisable policy to follow. Yet the Board definitely say that it is useless to give the protection recommended merely for five years. The proposal which is embodied in this Bill and which the Government therefore place before the Council is that the period of protection be extended up to the 31st March 1932. That should be a length of time sufficient for the owners of these patents to try them out if they are really serious about them and truly believe in them. It should also be sufficient to allow the Nailati mill, if it immediately installs its second machine, to earn an amount roughly equivalent to the loan suggested for it by the Board. It also gives time and opportunity to those who are interested in the soda processes to develop those.

But in making this recommendation the Government add very distinctly one reservation, and that is, that if none of these interests make serious attempts to develop the processes in which they are interested and which they own, within a reasonable time, then the Government will be free to come back to the Legislature and propose that this measure of protection should be withdrawn. This course appears to the Government the fairest and the justest course to all parties concerned in this industry. It is this principle which is embodied in this Bill, which I now recommend to the consideration of this Council.

Before I sit down, Sir, there is one little point to which I wish to allude, because it has attracted attention both here and in another place. That is the proposal that super-calendered paper imported on reels should be excluded from the scope of the Bill. It was claimed that super-calendered paper imported on reels was only used by newspapers, and that since it is imported upon reels, it was easy of identification by the customs authorities. The Board went into this question of super-calendered paper very carefully and said that super-calendered paper as a whole could not be excluded from their proposals. However, this small question of reels seems to afford a method of distinguishing super-calendered paper which is used by newspapers from that which was used by the general public. There was something plausible about this proposal that super-calendered paper on reels should be excluded from the scope of the Bill. No sooner, however, did that proposal attain publicity than we heard from many quarters throughout India that many newspapers and publishers imported super-calendered paper in sheets. If this distinction had gone through it would simply have meant that one or two newspapers were likely to be favoured, to gain an advantage from the tariff over others. Consequently it was dropped; but an undertaking has been given by my honoured Chief in another place that the question whether super-calendered paper on reels should or should not be included within this Bill would be examined during the next two or three months, in consultation with paper manufacturers, newspapers and publishers. Their reports will be laid before the Advisory Committee in the Commerce Department and the conclusions reached will be communicated to the Legislature in the next Session. That seems to be the fairest way of

dealing with this question. With this additional explanation I commend this Bill to the consideration of the House.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, there are one or two points in connection with this Bill on which I should like to have some information. The tenour of the speech made by the Honourable Mr. Chadwick shows clearly that the Bill seeks to give protection to the paper industry generally. But I find that in the Preamble it is distinctly stated that this protection is extended for the purpose of fostering and developing the industry of making paper from bamboo by increasing the import duties leviable on certain kinds of paper. His speech also made it perfectly clear that not only paper manufactured from bamboo but also from grass and other materials would receive protection under this Bill. I cannot therefore understand these words of limitation in the Preamble. The Preamble is always a guide to the contents of the Bill, and as such, I am unable to understand why these words of limitation or restriction have been used. I should like to know if they have been deliberately used, and if so, for what purpose.

Secondly, Sir, I should also like to know what is the amount of revenue which the Government hope to raise by substituting one anna per lb. for the present rate of 15 per cent. *ad valorem* duty. The Council would have been in a better position to judge of the propriety of this Bill if this information was laid before it.

Sir, as regards the merits of the Bill itself, I may say at once that I am in full sympathy with this Bill. I am a protectionist, and I am always ready and willing to extend the measure of protection not only to indigenous industries, but I would welcome any measure of protection to industries established in this country even by foreigners. I think, Sir, that in the interests of the development of this country, foreign capital is indispensable, and I would not only like to have English capital, but I would welcome capital even from America, Germany, Italy or any part of the world, because I believe that if industries are freely started with foreign capital, they will conduce to the well being and prosperity of this country, not only by finding avenues of employment for the natives of this country, but they will also add to the general wealth and prosperity of this country. I therefore welcome this Bill. Though most of the paper mills, except one or two, have been started by English people in this country, I say that where protection is needed, it should be given cheerfully and readily as in the case of an indigenous industry.

Sir, the paper industry needs our special consideration. This industry, as far as I know, since the year 1916, has been asking for some sort of State aid or assistance. The Government were not in a position to help this important industry, because all these years we had not on the Statute-book any Act empowering the Government to render State aid to any decaying industry. Now this enactment which is on our Statute-book permits us to offer such assistance.

Another important consideration which entitles this particular industry to our sympathy is the fact that during the last war, it rendered a great service to the country. We are all aware that but for these paper mills

[Sir Maneckji Dadabhoy.]

which supplied paper to many of our newspapers during the war, it would have been impossible to carry on the journalistic business. Further, it has an educational value. If cheap indigenous paper is manufactured in this country and made available to the general public, independent of all foreign imports, it will help, in my opinion, in the general dissemination of knowledge, information and education. Further, Sir, it is a well known fact that most of the European countries which are now manufacturing paper are selling paper in this country not only at competitive rates but what I may call at cut-throat rates. What the foreign paper manufacturers do is, they manufacture paper in large quantities in their own factories in order to bring down their overhead charges, and when they get large accumulations of paper, they dump it into this country even at less than their cost price. It is this competition which India has to dread, and I think that this Bill rightly seeks to give protection to a very deserving class of industry. All foreign countries which are manufacturing paper to-day have extended protection to the industry. I find by a reference to the Directory of Tariffs that France, Germany, Italy, Australia, Canada, America, Japan, Scandinavia and even Belgium, all these places where paper is more or less manufactured on a large scale, have gone in for a policy of protection. I therefore see no reason why India also should not protect this industry. Of course, if State aid is not forthcoming at present, it will cause a serious disaster. I understand that if this paper industry fails at this critical juncture, the result will be that several thousands of people in Bengal will be out of employment. I find that the loss in wages alone will be nearly 30 lakhs of rupees annually and that the direct loss to Government of revenue will be something like 17 or 18 lakhs a year. Is it not necessary, therefore, considering all these matters, that we should extend protection to a very deserving industry of this nature? Sir, I have great pleasure in supporting this Bill.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, if the protection that is sought to be afforded to the paper industry in this country really can be given, then I would gladly welcome this Bill. But I have my serious doubt as to whether such protection will be really forthcoming. In connection with the other industry which we have tried to protect so far, we have seen that, whatever the reasons may be, apart from exchange questions, the protection that we want to give is not adequate, because other countries that want to dump their goods here take steps against which we are powerless.

I do not attach much importance to the word "bamboo" in the Preamble. Preambles have been agitating us somewhat unduly of late. I do not however attach importance of the kind that my Honourable friend Sir Maneckji Dadabhoy apprehends in connection with this particular Preamble. My friend forgets his old botanical days when he must have been taught that bamboo and grass are of the same family, and I do not think that the lesser grass will necessarily be excluded by the big bamboo at the time of reckoning. All kinds of pulp require protection and the Preamble, I am sure, will not be allowed to stand in the way.

THE HONOURABLE SIR MANECKJI DADABHOY: I did not say anything. I wanted an explanation regarding it.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Well, what I have suggested may be the botanical explanation. About the legal explanation we need not trouble ourselves because the officers concerned will not stay to examine what the origin of the pulp has been but will impartially exact the duty on the stuff coming from abroad. That will send up the price of paper in general.

Sir, we are beginning to be protectionists or free traders, as may suit the purpose of some for the time being. I do not really understand the difference between the two Schools, when particular questions affecting adverse interests come up for consideration. Be that as it may, the line must be drawn somewhere for the protection of the public also. It is not only the industries that require protection but the public also. We may go on amplifying the field of protection for steel, paper, cement, coal, textiles, and everything else that can find capable advocacy. But the people who have been accustomed to them at somewhat cheap rates are being gradually made to pay higher prices even regarding un-basic Industries, if one may so call them, without knowing when the *quid pro quo* will come.

Sir, the other day I tried to make a vigorous appeal for securing a larger measure of protection to steel because, having taken it up, we are bound to see it through and not be content with help of a kind that will do no good to it and will at the same time do a great deal of prejudice to the country's finances and prospects. I do not want to raise a discordant note on this occasion; but I do want to raise a warning voice as to how we go on extending the sphere of protection whenever a particular enterprise succeeds in getting its point of view taken up. Sir, the last observations of the Honourable Mr. Chadwick, though they may be reassuring to some, give me reason for some apprehension. Newspapers of the larger dimension want paper of a particular kind which it is proposed to exempt from the purview of the protective tariff after further examination. But I want the House very much in this connection to think of the case of the smaller papers which do not get their supplies on that large scale and may therefore not benefit by the exemption given under the protective measures that we are adopting with regard to it. It is the smaller papers and magazines really that reach the country; the vernacular papers have very great difficulties of their own. Added to them there ought not to be that of the higher price of paper which they can ill-afford to pay. If newspapers are to be taxed, I submit they ought to be taxed on the same basis and protection ought not to be allowed only to those which can without any serious difficulty pay the higher prices. That is a matter of prejudice that will seriously affect the smaller newspapers and magazines against which I want to have the country guarded.

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Sir, I am one of those business men engaged in the printing and publishing line who will be hit by this measure. Though I suppose I would like to get ultimately what I pay in excess out of my consumers,—I mean those who purchase the books and periodicals that I produce—yet I feel that this is a measure which should get support at my hands as well as at the hands of others, because it is

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an attempt to protect one of those industries which ought to be protected, quite apart from the fact whether a large share of the capital is held by Europeans or Indians. There are large numbers of people at present who buy and consume a lot of writing paper, note-paper, note-books, and these and others will no doubt be hit. But the question we have to ask is, whether ultimately this little sacrifice to which they are subjected to is for the benefit of the country or not? And it is because I am convinced that it will ultimately benefit the country that I consider that this industry which has great possibilities in the future ought to be protected, and that, apart from the fact that it gives work for thousands of people who work in the paper factories, it will ultimately be a great source of strength to the country.

My Honourable friend Mr. Chadwick referred to the fact that in the other place an attempt was made to exempt super-calendered paper imported in reels. I am glad subsequently nothing more was heard about it, and that even in the other place they have come to the conclusion that it is proper to leave this matter in the hands of the Commerce Department. I would like to point out, for the information of those who may not be aware of the fact, that, if you propose to exempt those who import super-calendered paper imported in reels, you will be benefiting perhaps only one section of publishers and you will lay yourself open to the charge that you are helping a monopoly. Those newspapers and publishers who can count several thousands of subscribers import paper on reels. Others too get this, who have the machinery to use imported paper on reels. But there are other business men, not only in my province, but in other provinces as well who, on account of inadequate machinery or perhaps a limited circulation, use super-calendered paper in reams. And therefore I am glad the Government have been able to persuade those who in the other place first put forward the suggestion to exempt super-calendered paper on reels. I think, Sir, that no obstruction or hindrance should be placed in the way of people who use paper in reams, but, if you propose to give the benefit, let it be given to all alike, the people who have a large circulation and the other people who have a small circulation and who perhaps are struggling with competition. Personally, I would welcome the exemption of super-calendered paper imported into this country. I should like to be spared this import duty, but, if you are going to do it at all, please give it to all so that the benefit will be felt by all. I have nothing more to say. I would only add that I am glad that my Honourable friend Sir Deva Prasad Sarvadhikary, who took objection to my statement on the last occasion that when we give protection to any industry we have always to remember that the money is being obtained out of the pockets of the tax-payers in some shape or form; to-day he has thought fit, in connection with this Resolution, to sound a similar note of warning. I think it is always useful in a country like this that, when protection is given, it should be given after very careful consideration, and I can further say that at present I am not averse to the suggestion that, when the State gives protection it should take care to see that a certain amount of check or supervision is exercised in the control and management of these industries which seek protection. They need not necessarily go and act as a sort of watch dog. It is not unreasonable to say that Government, which are parting

with a certain amount of money, are entitled to see that these great concerns which ask for protection must manage these concerns economically and efficiently, and this should always be borne in mind by the big capitalists who manage these concerns.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhamadan): Sir, in according my support to this Bill, I beg to associate myself with what my Honourable friend Sir Deva Prasad Sarvadhikary has stated with reference to the doubts that exist in regard to the adequacy of the protection that is proposed and the probability of its achieving the purpose in view. In addition to that I wish to point out one thing, namely, that I do not share the view expressed by the Government regarding the grant of loans and subsidies in the Statement of Objects and Reasons to this Bill. However, I hope that the Government will be able to reconsider the principle of loans and subsidies in the light of the suggestions made by the Tariff Board. I think in developing the infant industries of India, loans and subsidies are as important as protective duties, and I hope the Government will be able to see in future the necessity for at least helping some of these industrial concerns. I would draw the attention of the Government particularly to a company in my part of the country. In paragraph 140 at page 90 of the Tariff Board's report it is said :

"If the results of the inquiry we have suggested are satisfactory, it would be reasonable, we think, that the Carnatic Paper Mills, Limited, should receive either a loan or a Government guarantee of the extra capital required for the manufacture of bamboo paper at Rajahmundry. What the amount necessary would be we are unable to say, but the assistance given should be limited to Rs. 10 lakhs as a maximum as in the case of the India Paper Pulp Company. If, on the other hand, an unfavourable verdict is returned and the grant of assistance to the Rajahmundry mill is held to be undesirable, it is difficult to see how the soda process, as applied to bamboo, can be tested on a commercial scale in the near future."

I wish to draw pointed attention to this recommendation, and I hope the Government will be pleased to revise their opinion as to the grant of loans and subsidies and do something for this industry, as well as for similar industries which are in a developing state in this country.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I listened with much interest to the speech of the Honourable the Secretary of the Commerce Department, but charmed he never so sweetly he did not convince me of the policy of protection. No doubt he will be followed by the Honourable the Commerce Member with suave plausibility. I will not say that he will not be able to convince me because he has not yet spoken, but what I should like to bring before the Members of this Council is a warning, and this warning arises from the policy of protection. Protection means payment of money, and somebody has got to produce the money. Who produces it? The consumer every time. You may listen to any amount of speeches about protection, but protection means payment and the money has got to be found from somewhere and the consumer pays. This Bill may not be of very paramount importance, but of course we have all got to pay more for our paper individually. It may not be a very severe strain in this case, but I would just like to emphasise my warning, because once the thin end of the wedge is inserted we may not know where it is going to stop. The

[Sir Arthur Froom.]

cry is for protection, protection, protection, and where will it land us? It will land India where protection has landed many countries before, and that is a very considerable increase in the cost of living for the inhabitants of that country.

THE HONOURABLE MR. MANMOHANDAS RAMJI (Bombay : Non-Muhammadan) : Sir, I rise to support the motion. I am a protectionist qualified, not out and out. The Honourable Sir Arthur Froom told us just now that it is the consumer who pays. Quite right. Either the consumer should pay or the country should remain dependent. Now I would like to ask Honourable Members whether they would like dependence or they would like a little contribution to make one independent. This is the question, Sir, which ought to weigh, and rightly weigh, with the country and with the Members of this House.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, as we have to vote later on I do not want to give a silent vote. The House knows that last year I was strongly opposed to protection for steel. If I have changed my views this year it is simply from sheer necessity, that in the event of a crisis we cannot get steel from outside and we may have a reserve to fall back upon. If I vote for paper protection also, I will only do it for this—that if any day our supplies are cut we may have to fall back upon some other supply in connection with this industry also. But I think, Sir, that on the whole we should be at any rate free traders within the Empire. What is the good of calling ourselves one Empire if we are not one. If there is a man who does one thing, for instance, he is a shoemaker, to be an independent man he need not become a blacksmith also and everything we ought to get the benefit of it. So generally I want to say this, that I am a free trader and if I vote to-day for protection it is only from sheer necessity.

THE HONOURABLE SIR CHARLES INNES (Commerce Member) : Sir, as usual I have to begin my speech in this Council with an apology. Not many days ago a very important Bill which I introduced in the Legislative Assembly came up to the Council of State and it was a matter of very great regret to me that I was unable to be present in the Council of State when it considered that Bill. I hope the House will accept my apology when I say that my absence on that occasion was due to circumstances over which I had no control and to very important preoccupations elsewhere.

Now, Sir, I do not think that in this debate there have been many points to which I may reply. My Honourable friend from Bombay, Sir Arthur Froom, suggested that possibly I might be able to convince him as to the merits of this Bill. Sir, I know my Honourable friend too well. I know it is quite useless to attempt to convince Sir Arthur Froom against his will; and if the Tariff Board's report has not convinced Sir Arthur Froom, then I am quite sure it is useless for me to attempt to do so. But I should like to say that I welcome very much the sort of speeches that we have had from Honourable Members in this Council. They have made speeches in which they sounded a note of warning in regard to this policy of protection. I quite agree that it is a

policy which is fraught with very important consequences for India, but what I do claim for the policy of the Government of India in this matter is that at any rate we are going about the matter on the right lines. No industry can get protection from the Government of India without laying its claim before the Tariff Board. It is there subjected to an impartial examination in detail and it has to make good its claim. When we get the Tariff Board's report, if we accept its recommendations, we embody them in a Bill; then that Bill is subjected to the criticism of the Legislative Assembly and of this House; and I think that at any rate the House will agree with me that we do adopt every possible safeguard and that we do advance with the utmost caution in this matter.

As regards this particular Bill, Sir, I agree that we are asking the consumer to bear a burden which is estimated at 20 lakhs a year. But, Sir, we are satisfied, after very careful consideration of what I make bold to say is a very excellent report, that we are right in asking the consumer to bear that burden as a temporary measure. I myself hope that the time may not be far distant when India will not only be able to supply her own requirements of paper from her own resources, but will be able to build up a very important export trade in bamboo pulp. I do not think that the Tariff Board have gone a bit too far in what they have said about the depletion of supplies of wood pulp. They have pointed out, as the Honourable Mr. Chadwick has told us, that it is a well known fact that supplies of coniferous woods are getting less and less in comparison with the very greatly increased demand—not only for timber but also for pulp—and that every paper manufacturing association has been regarding with serious apprehension the prospect of these supplies becoming more and more depleted and the prices of wood pulp becoming greater and greater and the price of paper increasing. Sir, that is our main justification for placing this Bill before this Council. We admit that it will increase the price of paper for a period of years, but we do it in the hope that it will secure the supply of paper for India at a reasonable price for all time, whereas if we do nothing the time may come—and it may not be a very far and distant date—when we shall have to pay more and more for our supplies of imported paper without being able to supply our requirements from our own resources; and that, Sir, is the main justification of this Bill to-day.

The Honourable Sir Maneckji Dadabhoy asked why it was that the Preamble of this Bill limited the scope of the Bill to bamboo pulp. Now, it is perfectly true that the operative part of the Bill, namely, the Schedule of import duties, operates in favour of all kinds of paper made in India, whether made from grass or made from bamboo. But the Honourable Member will observe that the Tariff Board have definitely told us that subject to one reservation, namely, the mill that is projected in Saharanpur in the United Provinces, the existing grass mills in India have not made out their claim to protection. They said that in so far as the paper industry in India depends upon grass, its prospects are not very bright and a case for protection had not been made out because the Tariff Board do not see any prospect when the time would ever come when those mills would be able to subsist without protection. But it was different in the case of bamboo for reasons

[Sir Charles Innes.]

which Mr. Chadwick has already explained when he examined the question whether we could not protect the bamboo pulp industry by giving subsidies to the bamboo mills. However, for the reasons explained in their report, they came to the conclusion that that was not possible, and therefore they came down in favour of the opinion that, if we are to protect bamboo paper at all, it must be by means of enhanced import duties; and from the nature of things when you enhance your import duties you send up the prices of paper imported into India, and that means that all mills in India, from whatever material they make their paper, must get the benefit of that increase. But, Sir, I would like the Council to observe that there is a real point of substance in our action. We make it perfectly clear in the Preamble that our object and our intention is to protect the bamboo paper industry, because as the Honourable Mr. Chadwick has told us, the Tariff Board made out a complete scheme. Their idea was that we should by means of enhanced import duties give a temporary protection to the bamboo paper industry in order that certain experiments in regard to making paper from bamboo, whether by the sulphite process or the soda process, might be tried out. Now, Sir, that is one of the main objects of this Bill and as Mr. Chadwick has said, if in a reasonable period of time we find that the bamboo mills in India are not making any effort to try out those experiments, then we in the Government of India will hold ourselves free to go to the Legislature and say that we propose that this Bill should be repealed. We cannot do that of course without coming to the Legislature and the whole case will then be threshed out. But that is the reason why we have limited the scope of the Preamble to bamboo paper.

The Honourable Sir Maneckji Dadabhoy then asked what amount of extra revenue we expected to get from these enhanced duties. The answer to that question is contained in paragraph 161 of the Tariff Board's Report, where it will be found that the Tariff Board, making the best estimate that they could, think that the amount of extra revenue we shall get will be about Rs. 3-4 lakhs a year.

THE HONOURABLE SIR MANECKJI DADABHOY: What is the Government estimate?

THE HONOURABLE SIR CHARLES INNES: We accept that estimate as being the best estimate that can be made. Sir Deva Prasad Sarvadhikary made a special plea for the small newspaper. Sir Deva Prasad Sarvadhikary and the Tariff Board have, we think, met the requirements not only of the small newspaper but of all newspapers by excluding from the scope of these enhanced duties newsprint, that is to say, this Bill of ours should not send up the cost of newspapers in any way at all.

There is only one other point that was raised in the debate and that was the point raised by my Honourable friend, Mr. Ramadas. When I heard the Honourable Member's speech I realised that the Honourable Member came from the Northern Circars, and I think, Sir, that it was a very natural sense of local patriotism that induced the Honourable Member to put in a special plea for the

Rajahmundry Mill. Well, Sir, I should just like to say this. As Mr. Chadwick has explained, we were definitely of opinion that as the Government of India we could not agree to the subsidies proposed by the Tariff Board, nor to the proposed subsidy for the Indian Paper Pulp Company, nor to the conditional subsidy proposed for the Rajahmundry Mill. Mr. Chadwick gave the main reason that we did not think it was right for the Government of India, when you have several mills competing with one another in one market, to come down, on whatever plausible reasons, and give special assistance to two of those Mills. We did not think that was fair. There was another reason which Mr. Chadwick did not mention and which I shall therefore mention now. There was another reason why we came down in favour of that conclusion, and that is, that we felt that if we gave those subsidies to these particular mills, we could hardly stop there. No sooner had the report of the Tariff Board come out than we received telegrams from certain grass mills saying that they also proposed to change to bamboo and that since we were going to give assistance to the Indian Paper Pulp Company we should also give assistance to them. Sir, in another place I had some Members from the Punjab getting up and asking Government to give a loan to a Punjab mill, and Members from Bombay getting up and asking "Are you going to assist the Deccan Mill"? I am quite sure that if we had agreed to these subsidies, great pressure would have been put upon us, not merely to subsidise these particular mills, but to go farther and support practically every mill in India.

But, Sir, I should just like to say that though we in the Government of India are bound to take that view, because we have to look at the paper mills in all parts of India, I would remind the Honourable Member that his own Government has got an Act which enables them to assist particular industries; and if the Madras Government desire to give any assistance to the Rajahmundry Paper Mill there is nothing in this Act that will prevent them from doing so.

Sir, before I sit down may I just take this opportunity, since this is the last time that I shall probably address this Council, of expressing my great gratitude to the Council for the patience with which they have always heard me and for the very helpful criticism that I have got in respect of every proposal that I have placed before this Council.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (Punjab: Non-Muhammadan): Sir, I rise to support the Bill and I welcome every measure which goes to protect Indian industries. I had no mind to speak to-day, but as the Honourable the Commerce Member is here I might make one suggestion as far as the paper industry is concerned, which I think will be found very useful to the Government as well as to the industrial public. My suggestion is that, in the interests of the paper industry, Government which have practically the monopoly of the forests in this country, should start pulp making by mechanical process from Silver Fir and similar kinds of trees which are available in abundance in the Punjab forests and which are of not much commercial value then I think the paper industry will flourish and people will welcome it. The pulp thus made from these trees will make very good paper, and its cheapness will be a very great factor in encouraging and developing the paper industry.

12 NOON.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to provide for the fostering and development of the bamboo paper industry in British India, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK: (Commerce Secretary): Sir, I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN LIMITATION (AMENDMENT) BILL.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, I beg to move that the Bill further to amend the Indian Limitation Act, 1908, as passed by the Legislative Assembly, be taken into consideration.

This is a very short Bill dealing with the law of limitation. The objects of this Bill are mainly two-fold. Firstly, to remove certain doubts which have arisen as to the exact period of limitation for suits instituted under the summary procedure under Order XXXVII of Schedule I to the Civil Procedure Code. These doubts have arisen from a drafting defect which crept in when the Limitation Act of 1908 was enacted. The second is to extend the period of limitation prescribed for such suits from six months to one year. Sir, the Civil Procedure Code prescribes a special summary procedure for the recoveries of monies due on negotiable instruments. Such suits were specifically dealt with under Chapter XXXIX of the Civil Procedure Code of 1882. Those provisions were relegated to Order XXXVII, Schedule I, of the Civil Procedure Code of 1908. About the same time, the Limitation Act of 1877 was amended, and an amended Act was passed in 1908. The period of limitation prescribed for suits brought under the Chapter of the Civil Procedure Code of 1882 was six months. The amending provision of this Limitation Act as drafted provided that where a suit is instituted under the summary procedure, the period is to be six months. But the two Bills had been taken into consideration at the same time, and inasmuch as a special provision was made in section 128 (2) (f) of the Civil Procedure Code, Part X, enabling the High Court under certain conditions to prescribe a summary procedure in the case of suits generally for the recovery of a debt or liquidated demand and also in a certain class of suits between landlords and tenants, the Limitation Act provided that in the case of suits for which a summary procedure is provided under that section and where a summary procedure is sought, the period should be six months. It was later discovered that there was an omission of Order XXXVII of the Civil Procedure Code. That is the drafting defect to which I have already referred, and that has been rectified in the present Bill by the inclusion in Article V of suits dealing with the special procedure under section 128 as well as with suits falling

under Order XXXVII, this has been done merely for removing doubts which have been raised in several quarters as to the exact effect of the provisions of the Limitation Act. Well, when this question was taken up some time before the Civil Justice Committee sat or came to its conclusions, the Government asked for the advice of the various Local Governments and the High Courts as to whether the period of limitation for such suits should be only six months or it should be higher than six months. There was a difference of opinion, and the Government came to the conclusion that in order to encourage suitors to bring suits under the special procedure and in order to encourage also the framing of rules under the Civil Procedure Code prescribing a summary procedure in the case of suits other than suits under the Negotiable Instruments Act, it was desirable to extend the period from six months to one year. But they felt that it was undesirable to proceed further, because where a suitor desires to seek the benefit of the specific provisions providing a summary procedure, there was no reason why he should not come in within one year from the date his claim falls due. We were not therefore in a position to accept the exact recommendation of the Civil Justice Committee with regard to the period of limitation. But we have made it clear by an amendment in this Bill that this period of one year is prescribed only in the case of suits where the ordinary procedure is not shut out and the benefit of the summary procedure is sought. Therefore, it is perfectly open to a suitor to come in within the ordinary period of limitation provided in the Limitation Act, if he chooses the ordinary procedure, or he can come in within one year if he wishes to have the benefit of the provisions of the summary procedure. The Bill has been approved and accepted, after reference to a Select Committee by the Legislative Assembly, and I commend it to the favourable consideration of this House.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR NARASIMHA SARMA: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

RESOLUTION RE. STANDING COMMITTEES TO DEAL WITH BILLS RELATING TO HINDU LAW AND MUHAMMADAN LAW.

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

"That this Council recommends to the Governor General in Council that in order to give effect to the recommendation in paragraph 120 of the Report of the Reforms Inquiry Committee the Indian Legislative Rules and the Standing Orders of this House be amended so as to provide as follows:

(a) two Standing Committees, one to deal with Bills relating to Hindu Law and the other with Bills relating to Muhammadan Law shall be appointed;

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- (b) appointments to these Committees shall be made by a Committee of Selection the Members of which shall be appointed at one of the first meetings of the Council to be held in each year and should hold office for one year from the date of nomination;
- (c) the Committee of Selection shall consist of the President, and the Leader of the House supplemented up to a total number of 6 members on a motion moved by the Leader of the House so as to represent the main divisions of opinion in this House;
- (d) the Standing Committee for Bills relating to Hindu Law shall consist of the Honourable the Home Member, the Honourable the Law Member, if they are Members of the Council, and 15 Hindu Members nominated by the Committee of Selection, so as to include persons well versed in Hindu Law and representatives both of the orthodox and reforming sections of the Hindu Community;
- (e) the constitution of the Standing Committee for Muhammadan Law shall be similar to that of the Committee on Hindu Law except for the substitution of 10 Muhammadan Members for the 15 Hindu Members;
- (f) the Members of each Standing Committee shall hold office for one year but may be renominated by the Committee of Selection in successive years;
- (g) a Bill which has been referred to the Standing or a special Select Committee in one House shall not be referred to the Standing Committee or a special Select Committee in the other House;
- (h) as soon as leave is given to introduce a Bill other than a Government Bill and subject to paragraph (g) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House, if the Bill is certified by the President to relate to Hindu or Muhammadan Law, it shall be referred to the Standing Committee concerned without further motion;
- (i) the Standing Committee shall have power to examine witnesses and to circulate a Bill, but when it directs circulation the fact shall be reported to the Council;
- (j) the further procedure in the Council after the report of the Standing Committee is received shall be the same as the procedure on receipt of the report of a Select Committee."

This, Sir, is a somewhat lengthy Resolution and raises a question of great practical importance, but nevertheless it is not one on which I need detain the House at any very great length. The origin of the recommendation which was made by the Reforms Inquiry Committee and which is now put in precise and detailed form before the House really goes back to a condition of things which has long been the cause of concern and attention to those interested in our legislative processes. It has frequently been complained by members of nearly every community in India having a special code of religious rites and usages or of social rites and usages that the safeguards provided by our constitution for premature and ill-considered legislation are in some respects defective. Those safeguards, as Honourable Members are aware, are principally two: first of all, the necessity, in the event of any measure involving the rites and usages of communities in India being

moved, of obtaining the sanction of the Governor General. Furthermore, in respect of provincial measures having the same bearing on social or religious rites and usages, there is a certain provision for reservation. That, however, it has been contended by the critics of our legislative procedure, is not enough. Government have been diversely criticised from two points of view. They have been criticised by advanced opinion for an alleged hesitation and reluctance themselves to bring forward important measures of social reform affecting the usages of Indian communities. They have been criticised and perhaps even more stringently criticised for acquiescing in, or promoting, what has been represented as premature and ill-considered attempts at innovation in these matters. Now, Sir, it is not for me at this stage—nor am I concerned at this stage—to pronounce upon the rights and wrongs of that particular controversy, but it is a difference of opinion which is reflected in almost every great community of Indian society and in almost every phase of opinion. It is reflected even in this House. I have myself been reproached by my Honourable and learned friend opposite with the fact that Government legislation in these matters no longer recalls those spacious days when drastic and summary legislation was brought in to abolish such usages as *sati* or female infanticide. On the other hand, it was only a few days ago that my Honourable friend, Lala Ram Saran Das, took entirely the opposite point of view. Well, Sir, the real solution of these two divergent points of view will necessarily be a matter of time and development. It will be necessary I think for the zeal of the more ardent reformers to realise—as Government have themselves realised—that they like Government must accommodate themselves to the forces of public opinion. Legislation on these matters may be easy enough to put upon the Statute-book, but it will not become really effective unless it is supported by a reasonable preponderance of effective public opinion in the communities concerned. On the other hand, those who take the strictly orthodox point of view will, I think, in due course learn that they also will be compelled—I will not say entirely—to abandon their position and to move with the times. Perhaps the solution will be that orthodox opinion will in the end be best exercised, not in obstructing but in guiding and moderating the activities of those who desire more rapid reforms, and this will perhaps in the end give us as a resultant progressive but at the same time prudent legislation.

Now, Sir, the proposition which I have to lay before the House, as I have explained, does not purport to offer any solution, or at least any complete solution, of that fundamental controversy. But it does afford a practical means of ensuring that some of the complaints which have been made with regard to our legislative methods and with regard to some of the measures which have actually come before us—of ensuring that these measures will receive an expert examination by persons really qualified to examine and to pronounce upon their merits. It will ensure further that all opinion—I will not say enlightened opinion, nor will I say obscurantist opinion,—but all opinion legitimately concerned in these matters will have a full, a fair, and an impartial hearing. The procedure which we propose is borrowed from the procedure of the House of Commons. Briefly speaking, it involves the appointment by this House of a Selecting Committee on the

[Mr. J. Crerar.]

motion of the Honourable the Leader of the House. That Selecting Committee will be charged with the duty of nominating two Committees who will be concerned respectively with Muhammadan and with Hindu Law. The members of those Committees will hold office ordinarily for one year, but may be continued in their membership if it is considered desirable by the Selecting Committee.

The procedure proposed will refer only to Bills brought in by private Members, that is to say, Government measures for reasons which I do not think I need enlarge upon,—will not come within the operation of these rules. It does not follow that, if a Government measure is brought in which does impinge upon matters of religious or social usage, such a measure will not or cannot be referred to a Committee of this kind. In the ordinary process of reference to Select Committee it might be perfectly practicable in any particular case to arrange that a Select Committee should be the same body though under a different title as the Standing Committee for which these proposals provide.

I have only one word more to say and it is this. It will be observed that these proposals are intended to apply in the first instance only to the Indian Legislature itself. It will depend a great deal upon the result of the experiment whether we shall proceed further and suggest that the same procedure should also be adopted in the Provinces. The principles however of the measure are such as to promise that the experiment will attain a very considerable degree of success. It is in that hope and in the hope that the House will concur in my general conclusions, that I leave the matter entirely open. I only wish to ascertain the sense of the House in this matter, and I hope it will concur both in my anticipations and in my conclusions.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, after listening to the very careful and able speech of the Honourable Mr. Crerar I regret I cannot accede to the principle of this Resolution. First of all, Sir, I am frankly and very strongly opposed to the creation of these communal compartments in the Legislature. I do not concede for a moment that in matters of legislation on Hindu and Muhammadan jurisprudence, these committees which are to be constituted should consist of either wholly Hindus or wholly Mussalmans. I should certainly not forego the services of eminent Muhammadan lawyers in matters relating to Hindu law, nor do I think that our Muhammadan friends could be so exclusively communal in their outlook as to deny themselves the services of such Hindu jurists as their committee may need. After all the Legislature has to act as a whole and ought not to set up expert bodies on communal lines. I know enough of such experts in various bodies on which I serve and I do not want to see the principle applied here.

Secondly, Sir, if the Honourable Mr. Crerar hopes that representative opinion will be secured by a sort of double distillation—the House appointing 6 gentlemen to constitute a selection committee and the 6 appointing 15 members of the Hindu community in their turn, who will be representative of the

Hindu community—he is very much mistaken. It depends on who the 6 gentlemen on the Selection Committee are and which 15 members they will select for the Standing Committee. If he thinks that either those 6 gentlemen on the Selection Committee or the 15 gentlemen they choose will command the confidence of the country, I should say he is not calculating aright. Only the other day we passed a very important measure dealing with testamentary and intestate succession which affected most largely Europeans and Indian Christians. That emanated from a committee of Hindu and Muhammadan lawyers and there was not a single complaint about the value of the work turned out by them. Therefore I think on principle this thing is very vicious. I have read very carefully paragraph 120 of the Reforms Inquiry Committee's Report which deals with this question and the reasons they adduce there are not convincing. They point out at page 98:

"The existing constitution does already contain general protections against legislation affecting the religion or religious rites and usages of any class of British subjects in India. Previous sanction for the introduction of any such measure in the Central Legislature is required by section 67 of the Act. If it has not been previously sanctioned any such measure passed in a local Legislature must be reserved for the consideration of the Governor General under the Reservation of Bills Rules."

They go on to say however:

"The further provisions which we consider are required are provisions to secure that such legislation shall not be passed without thorough examination by persons well versed in the law of the community concerned."

I cannot follow this later statement. Their recommendation about the constitution of Committees is not followed. The majority report says:

"It might be found advisable for the Standing Committee and the Selection Committee to be Joint Standing Committees and a Joint Selection Committee of the two Chambers."

I do not think that is proposed now. I think each House is to have its own Standing Committees and its own Select Committee. If the proposal was that of the Reforms Inquiry Committee, that the Standing Committees and the Selection Committees should be set up at least as Joint Committees of both Chambers, there might be some sense in the proposal; but if the two Houses are to have their own Selection Committees and their own expert bodies, I think the result will be really disastrous. Then I may also point out that the minority, which consisted of such very eminent jurists as Sir Sivaswamy Aiyer, Mr. Jinnah and Dr. Sapru, were opposed to this. At page 193 of the report the minority oppose this proposal and say:

"As regards the recommendations of the majority in paragraph 120 of their report, we have considered their recommendations. While we appreciate the importance of the subject we feel that under the present Constitution section 67(2) provides a sufficient safeguard against any hasty or ill-advised measure affecting the religion or religious rites and usages of any class of British subjects in India. We recognise that, having regard to the conditions in India, it is not easy at all times to draw a sharp line between social and religious usages. While we understand the spirit of caution which has led the majority of our colleagues to recommend the appointment of Standing Committees of the Legislature for social legislation, we do not feel ourselves justified in committing ourselves, more particularly because we think the subject has not been sifted in the manner in which it might have been. We think that the importance of the subject should be borne in mind when the Constitution is revised and the Legislature are made truly responsible."

[Mr. V. Ramadas Pantulu.]

I entirely associate myself with these weighty observations of the minority report and this attempt to legislate piecemeal, to give effect to the recommendations of the majority report according to the resolution brought forward the other day which some of us very seriously opposed, is I think a procedure which ought not to commend itself to this House.

Coming to the details of this Resolution, I will only deal with two of its clauses. Clause (g) is one to which I am particularly opposed.

Clause (g) says :

“a Bill which has been referred to the Standing or a Special Select Committee in one House shall not be referred to the Standing Committee or a Special Select Committee in the other House ;”

I really do not see why it should be so. Supposing a Bill originates in this House and is referred to a Standing Committee of this House, I do not see why the Assembly should forego the advantage of having a Select Committee of its own or a Standing Committee of its own to consider a Bill which may be of considerable importance. It is a matter of opinion and I know that in this matter the Honourable Sir Maneckji Dadabhoy and myself differ very greatly. He has very great faith in this House, I have little or none. Sir Maneckji Dadabhoy may not attach any importance to a report of a Committee of the other House. He said so on many occasions. On the other hand I have faith in the Committees of the other House. But when it comes to a difference of opinion between a man like myself and Sir Maneckji Dadabhoy, the House may probably agree with him. But there is no reason to deprive each House of the benefit of the advice of its own Committee. So it is a provision which will not work harmoniously and will not be in the interests of the Legislature. Indeed I am unable to see what was at the back of the mind of the Honourable mover of the Resolution. I for one do not see the principle involved in the suggestion.

Then again, Sir, in clause (h) there is one matter to which I take serious exception. It says :

“As soon as leave is given to introduce a Bill other than a Government Bill and subject to paragraph (g) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House, if the Bill is certified by the President to relate to Hindu or Muhammadan Law it shall be referred to the Standing Committee concerned without further motion”.

Sir, the object of this I understand is that in matters of social legislation the matter would be sifted by the Standing Committees. Even if Government undertake social legislation I do not see why they seek to exempt themselves from the operations of this Resolution. In fact the people object more strongly to legislation by Government in social and religious matters than to legislation by private individuals. If my Honourable friend Sir Deva Prasad Sarvadhikary brought forward a Bill relating to Hindu law it would necessarily go to the Standing Committee although my Honourable friend knows the position and knows the sentiments of the Hindus and their customs and usages ;

yet if my Honourable friend Mr. Crerar brings in a Bill on behalf of the Government in this House, it need not go before this Committee. Therefore all the advantages that are claimed for this Committee and all the benefits which are said to be secured by this representative opinion of the experts on this body, are cast away to the winds as soon as Government try to legislate in social matters. If there is any sense in this Resolution, it is the Government that ought to protect themselves by the opinion of experts in Hindu and Muhammadan law when they seek to legislate on these matters and should be anxious to strengthen their hands by the opinions of experts sitting in these Committees. Instead of doing that they exempt themselves from the operation of these Committees and they claim a right to proceed with social legislation without the necessity of reference to the Standing Committees. I think that is putting things in the reverse order.

Further, Sir, I do not like this compartmental system in the Indian Legislature and this kind of piecemeal legislation. I have already said that there are safeguards in the Government of India Act in matters of social and religious legislation. If the Government do legislate, then the Legislature must act as a whole even in Committee stages and should not function in communal compartments as is proposed in the piecemeal legislation. I do not like the exclusive character of this so-called expert opinion ; moreover the way in which the Committees are to be formed is also very objectionable. For all these reasons, Sir, I strongly oppose this Resolution.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal : Non-Muhammadan) : Sir, this Resolution is not covered by the canon that I tried to suggest to this House and which I sought to lay down, that where the majority and minority reports agree action should be taken by Government forthwith. In some ways, Sir, the Resolution is too late, in others it is too early. For five years what the Hindu community has strongly objected to has gone on since the new regime came into existence, and legislation interfering with the religious rites, ceremonies and convictions of the people has been passed by both the Houses unmindful of their wishes in the matter. It is therefore too late, so far. From the point of view of this House, Sir, this Resolution is too early, for it can be of no practical assistance to us, we who will soon disappear. Our successors might have taken up and shaped this work as they thought fit. From these points of view possibly it would have been better if the Resolution had been brought forward for consideration later and after the matter had received fuller consideration.

From another point of view, however, although it is not covered by the canon that I indicated before, the Resolution is helpful, whether it is carried here to-day or not. It will in some measures assure my co-religionists, who are beginning to be very nervous about the future of their religious rites, ceremonies and convictions, and give them the feeling that after all an intermediary body consisting of Hindus or Muhammadans, as the case may be, is likely to be set up, representing all their points of view, whether orthodox or advanced, which will be expected to bestow more considered deliberation upon legislative measures affecting them than has hitherto been possible. I do not agree with my friend, the Honourable Mr. Ramadas, that

[Dr. Sir Deva Prasad Sarvadhikary.]

such a measure is to be deprecated. The Honourable Member will have noticed that so far as further procedure in Council after the report of the Standing Committee is received is concerned, it will be the same as the procedure on the receipt of the report of the Select Committee under the present practice. Therefore, the larger consideration that he wants to be ensured for these measures, which he has wrongly called communal measures, will still be there for what it is worth.

As a point of principle, therefore, as a reassuring gesture, I welcome this Resolution although for the reasons I have stated I do not see eye to eye with the Honourable Mr. Crerar with regard to all the points of the Resolution. I quite agree for example with the Honourable Mr. Ramadas that there is no reason why Government measures should be excluded from the survey of this body if it comes into existence. I find nothing in paragraph 120 of the majority report which will support that point of view and the minority report certainly does not.

Then, Sir, with regard to one Standing Committee in one House excluding consideration of the contemplated kind in another House, it is a matter seriously to be objected to. I have had frequent occasions of inviting your attention and the attention of this House to the handicap under which we are labouring, when a Select Committee is appointed in one House and when thereby under the present rules, the other House absolutely loses all seisin with regard to the Bill unless it can successfully resort to dilatory measures of an undesirable kind when the Bill comes up for consideration. I do not want to see that handicap and disability repeated in these rules if they are to be adopted. A Joint Committee or Joint Standing Committee of both the Houses with regard to these matters would be an ideal more to be aimed at than these water-tight compartments excluding the one House by reason of the other House having more enterprise.

There is one objection also, Sir, to the indirect election or nomination that is provided in clause (d) of the rules to which my Honourable friend, Mr. Ramadas has already referred. If it is to be a Committee of the House, let it be elected by the House itself. This further intermediary body for the purpose of bringing a new special body into existence introduces complications of a kind that I do not quite understand, and the necessity and justification for which have not been made quite clear. No doubt Parliamentary procedure has been followed, but there questions of this kind are not dealt with. Questions of the peculiar kind attempted to be dealt with by these rules do not exist there and therefore that analogy will not help us.

These rules are however a reassuring gesture welcome to my community and I believe with due amendments at a later stage—because there is no time for them now—they may be made more acceptable than they appear to be at present. I quite realise that the minority has not been able to see its way to recommend this measure, but reading between the lines of the last paragraph at page 193 of the minority report, the minority does not appear to be wholly opposed to the idea. They appreciate the importance of the subject; at the

same time they feel, what many of my co-religionists do not, that under the present constitution the Law provides efficient safeguards against any hasty or ill-advised measure affecting the religion or religious rites and usages of any class of British subjects in India. There ought to be no objection to an intermediate body of the kind suggested being set up, which will calmly and dispassionately review the whole situation as legislators and will advise their fellow-legislators who do not happen to be cognisant of the whole of the difficulty of a particular question.

In any event, these rules are bound to be of a temporary and tentative character, and I think that, as an experiment, there should be no objection to accept them within the limitations I have indicated.

THE HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, when I first read this Resolution, I thought there was nothing objectionable in it, but I have been somewhat surprised by the objections raised by my friends here. The first of the objections is that by appointing these Committees we shall be scattering the Legislature. I do not see where the scattering comes in. In my own time, Sir, I have seen that laws were wholesale abolished or new laws have been made legalising inter-caste marriages and so on, and it was very difficult to deal with those questions. Fortunately, the advocates of such reform did not completely succeed in all cases, though sometimes they did succeed. Therefore, I think the present proposal for the appointment of Select Committees or rather communal committees, as they have been called, is very welcome to me. For this reason, that it is in the nature of all reformers, whether in this country or elsewhere, to be rather over-enthusiastic about their reforms, and when they conceive a reform, they try to push it through as fast as possible. I have personally, so far as it lay in my power, opposed the rapidity or the tremendous pace at which some of these reformers want us to go. My idea is that they should concentrate their attention on impressing their views on the society, because when the society agrees, the measure can easily be brought to the Legislature, and the Legislature will be glad to pass it. Instead of that, a good many of our reformers have at present forced on us by legislation some reforms, but as I mentioned previously in another connection, when a reform is enforced by the Legislature on the society, it raises a great deal of opposition and spreads a great deal of discontent. As to the first objection about scattering the Legislature, I do not think it is correct. I think the Legislature will be concentrating its attention on one point.

Then the next objection advanced is as to who is going to elect the Select Committee. Of course the House will elect the Select Committee. But again the question asked is, why should a Select Committee consisting of a few members, say five or six, nominate 15 members? I say it is for the very obvious reason that you will get a few people who understand the case, and then they would like to have the assistance and opinions of others, and there will be others who will be able to help the Committee by putting forward their views and opinions so as to enable the Committee to arrive at right conclusions.

Then the third objection raised was that there should be a Joint Committee of both the Houses. This objection has been raised by some, though

[Mr. G. S. Khaparde.]

two of my Honourable friends have commended it. But to me it appears that in the present state of things a Joint Committee would not be a useful body. It has become customary now in the House of Commons in England to appoint Joint Committees consisting of an equal number of Members from both the House of Commons and the House of Lords. But here in India—I do not know if it is an accident,—it has become the custom to nominate fewer Members from this House and a far larger number from the other House. It comes to this, that the Members of the Council of State will be always in a minority, and therefore, however, opposed we may be to a measure, it will still be carried against us. Therefore, Sir, unless the convention which obtains in England is established here also, the Joint Committees would be of little use. In England whenever Joint Committees are formed, an equal number of Members is chosen from both the House of Lords and the House of Commons. Therefore, unless that convention establishes itself here, I for one am unwilling that there should be Joint Committees for these matters.

Then the other objection taken was why discrimination should be made in regard to legislation introduced by Government. The reason which strikes me is that Government generally consult the Local Governments in the first instance before social legislation is undertaken. The Local Governments consult a number of persons within their jurisdiction. Thus when the Government of India introduce legislation, they have always got a great body of opinion before them, they exercise their mind over it, and then the Bills are drafted by trained draftsmen. In that way when Government undertake legislation of this character, there are a great many advantages which private Members do not enjoy. Now, what happens usually in the case of a private Member is this. I know of at least one Member who had conceived the idea of legalising marriages between Brahmins and Sudras; he sat down and drafted a Bill containing only one section saying that all inter-caste marriages should be valid and lawful, and that Bill was brought before the old Council. When it came there, I opposed it as much as I could. Eventually it was referred to a Select Committee of the old Council, but the whole Council went into a Committee. Then the Government said that they would give the assistance of their ablest Civil Servant and so on. We agreed to the proposal and we had a large Committee. When the Bill came before it, I again raised my objections, and ultimately the gentleman who had drafted the Bill consented to withdraw it, and we parted with very amicable relations. Such a thing should not be permissible. Private Members are generally prone to bring in their measures without consulting anybody, without consulting the convenience of anybody, and probably bring in their measures at a time when their opponents are not present, and therefore the measure is passed with what is called "unanimous" consent. Government cannot do this, because they consult all classes of people, the various Local Governments and other bodies, some discussion takes place in the public Press, and then only Government bring forward their measures. In my opinion, Government Bills are properly discriminated; they do not do anything in a hurry; especially in social legislation they are rather slow to move. Many reformers may say that the Government is a tyrant and so on because it is slow to accept their proposals. I have

heard these objections up to this time, but I have not changed my opinion of the favourable impression which this Resolution made on me when I read it at home. The more I read this Resolution the more I welcome it. I think this is exactly the Resolution which we should pass unanimously, for this reason that we shall be able to moderate the enthusiasm of some of the ardent reformers.

Then the next thing is that, after all, this is an order of our own making, and if we find it is inconvenient to us, it will always be possible for us to amend our own orders. There will be no difficulty in that matter. It is not a piece of legislation which will require sanction before it is amended, nor does it require any very great formality.

Lastly, and the most important reason is that both in this House as well as in the other there will be a certain number of persons directly concerned with Hindu and Muhammadan law. In the case of Hindu law, there will be Hindu Members, and in the case of Muhammadan law, there will be Muhammadan Members who will sit together, and if they approve of a Bill, then there will be something for the Legislature to go upon. That will be a Committee appointed by both the Houses which will approve of these Bills previously, and therefore once a Bill is approved by the Select Committee, it need not go again to another Select Committee, because it will mean delaying the measure. It is one of those things which carries things much further than we want them. Room left must be for progress. For all these reasons, Sir, I am very strongly impressed with this Resolution, and I therefore heartily support it.

THE HONOURABLE SAIVID RAZA ALI (United Provinces East: Muhammadan): Sir, only last night talking to a friend I came to know that the Committees which the Resolution before this House proposes to set up were known in certain circles, in certain quarters, as communal committees. We, Sir, afterwards had a short discussion, but I am glad to say that the objections taken by the school of thought which had characterised these Committees as communal committees have been succinctly set forth by the Honourable Mr. Ramadas Pantulu. Sir, let me say in passing that, without committing myself to every detail that is contained in the Honourable Mr. Crerar's Resolution, I find myself in agreement with the broad principles that have been embodied therein. No doubt, criticism has been made, and serious criticism has been made, as to certain details that we find in the Resolution. But quite apart from that criticism, let us see whether we can have something like a consensus of opinion or the majority of this Council can give support to the Resolution as it is, leaving it to Government to modify its terms hereafter in the light of experience that may be gained afterwards. Sir, to me it seems that the words "communal representation," "communal rights," "communal share in the services" and "communal committees," are unfortunately in these days to certain people what a red rag is to a bull. People unfortunately take pleasure in introducing these expressions even when there are no communal questions involved. If I followed my Honourable friend, Mr. Ramadas Pantulu, correctly, he is opposed to the setting up of these Committees because he thinks that they will be communal committees which will not lead to the fostering of a spirit of nationalism in the country or to the fusion of communities. His point was, if I followed him correctly, "Why have two Committees?"

[Saiyid Raza Ali.]

Why not have one Committee and entrust both tasks to that Committee?" Now, I am free to admit that there is some force in that argument, but I think my Honourable friend is entirely wrong when he says that under the terms of the Resolution one Committee will consist exclusively of Muhammadans and the other of Hindus. If my Honourable friend will look at the terms of the Resolution, he will find that it will be open to the Committee that is to deal with Hindu law to have one or two Muhammadans. Similarly, it will be open to the Muhammadan Committee to have one or two Hindu members. In fact, it may be that some of those members will be officials. All the same it is not correct to say that they will consist exclusively of Hindus and Muhammadans. But making a present of that fact to my Honourable friend, I ask—is there any great harm really if Hindus are appointed to deal with Hindu social rites and customs and usages and Muhammadans to deal with Muhammadan rites and customs and usages? I do not think my Honourable friend will find that these Committees on the whole, if they are constituted on these lines to which he is opposed, will work less satisfactorily than would be the case if his objections were to find acceptance at the hands of the Council. My Honourable friend is strongly opposed to the constitution of these Committees as foreshadowed in the Resolution. The Honourable Sir Deva Prasad Sarvadhikary accorded his strong support to him on that point. The short point, Sir, is this. It appears from the terms of the Resolution that these Committees will be appointed in all likelihood—the point is not clear—by the Government and that the elective principle will not be put into force so far as the constitution of these Committees is concerned. Now I am free to admit that the terms of the Resolution are rather vague. It may be that the personnel of the Standing Committees will be in the hands of the Committee of Selection and they will fill all the posts by a process of selection and appointment, or it may be that the Government will give the right to this Council to elect a large proportion of the members of the Committee. As I have submitted, the point is rather vague, but so far as I am concerned I am for the two Houses of the Indian Legislature being certainly given the right to elect at least half of the members of the Standing Committee or Committees as the case may be. The Honourable Mr. Khaparde also made that point. Sir, it is very important that all these Committees should not be appointed either by Government or by the Selection Board or by any other body, but the two Houses should certainly be given a right to elect a large proportion of the members. In the third place, objection was taken by two of the Honourable Members, the Honourable Mr. Ramadas Pantulu and the Honourable Sir Deva Prasad Sarvadhikary, as to how these two Standing Committees will set to work. The question was put, I believe, by the Honourable Mr. Ramadas Pantulu very clearly, "Will each House have Standing Committee of its own or will there be a Joint Committee of the two Houses?" Now, Sir, if each House is going to have its own Committee, we could no doubt make a beginning, but for obvious reasons difficulties will certainly be experienced in the working of the system. It would be much better if we were to have a Joint Standing Committee of the two Houses for each system of laws. And I think each House would be in a better position to help to improve all rude, crude, and undigested matter that is sometimes put forward before this House and especially before

the other House by some Members in the form of Bills. I for one, Sir, would suggest to the Government to give careful consideration to the last words of the majority report contained in paragraph 120. They say:

"It might be found advisable for the Standing Committees and the Selection Committee to be Joint Standing Committees and a Joint Selection Committee of the two Chambers."

I find that that particular portion of the recommendation has not been given effect to in the Resolution proposed.

One objection put forward by my Honourable friend, Mr. Ramadas Pantulu, was that this Resolution should not find acceptance at our hands because the minority portion of the Muddiman Committee was opposed to it. He cited a certain passage from page 193. Now, Sir, on looking into the report of the minority it appears that the minority made some casual remarks on this suggestion which was definitely made in a careful manner by the majority. The reason why the minority was opposed—if my Honourable friend will look at page 193—is that according to the minority, the majority had not sufficient material, had not sufficient evidence at its disposal to make any specific recommendations on the subject. We are not bound by the report either of the majority or the minority. We are to go into the grounds on which their opinions are based. Now, if Honourable Members will analyse the grounds, they will find that that is the sole ground that has been assigned. I for one am not prepared to accept this particular suggestion of the minority. After all, these committees are going to be an experiment and as my Honourable friend, Sir Deva Prasad Sarvadhikary has pointed out, we have allowed five years to elapse without doing anything. It is high time that we set ourselves to work in right earnest. If this experiment works out all right, so far so good. It

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will be open to us to consider improvements on it. If it works to the disadvantage of the community we will certainly discontinue it.

Another objection was taken by my Honourable friend Mr. Ramadas Pantulu particularly to clause (g) which says:

"A Bill which has been referred to the Standing or a Special Select Committee in one House shall not be referred to the Standing Committee or a Special Select Committee in the other House."

He said that was very unsatisfactory and it would work to the prejudice of the other House. Now my Honourable friend will see that this recommendation in all likelihood is based on Rule 29 of the Legislative Rules which are in force to-day. That particular rule, rule 29, says that any member may move as an amendment that the Bill be referred to a Select Committee, and, if such motion is carried, the Bill shall be referred to a Select Committee provided that the Bill has not already been referred to a Select Committee of the originating Chamber or to a Joint Committee of both Chambers. I believe that is the principle that has been accepted; that is the principle I believe on which the Resolution is based. Then as regards the troubles of private Members who are used to promoting Bills my Honourable friend has pointed out that this Resolution will work hardship so far as they are concerned, whereas it would leave intact the arena of legislative activities of Government. This point has already been answered by my Honourable friend Mr. Khaparde. Government

[Saiyid Raza Ali.]

legislation as a rule is undertaken with great care and after consultation with public opinion and certainly with Local Governments; whereas if a private Member takes it into his head to bring forward any legislative proposal, he sometimes drafts his Bill on a postcard. Bills have actually been drafted on postcards and have been sent to the Legislative Department; and if he gives one month's notice to the Legislative Department he has the right to bring it forward. For that reason it is by no means unreasonable that the activities of private Members be included in the scope of the Resolution. Sir, I think on the whole the Resolution seeks to introduce an improvement on the existing system. It may be that some of the provisions can certainly be improved and bettered. Yet I think looking to the fact that this is the last but one day when we are sitting, I hope my Honourable colleagues will give their support to this Resolution, leaving it open to Government and this Council to modify its scope in the light of the experience that may be gathered after it has been in force for some time.

THE HONOURABLE MR. G. A. NATESAN. I move, Sir, that the question be now put.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I do not propose to detain the House for more than a very few minutes; but I wish to explain rather more explicitly than I did in my opening speech that if there had been any considerable opposition to this Resolution it was not my purpose to have pressed it. But in view of the preponderance of opinion on behalf of the Resolution which has been clearly shown by the House, I think I can properly and in accordance with the preponderance of opinion expressed, ask the House to adopt the Resolution.

I have only one or two words to say in reply to the criticisms which have been made on the Resolution by my Honourable and learned friend opposite. I have only a few words to say because the work of replying to the greater part of these criticisms has been taken off my shoulders by the speeches of my Honourable and learned friends Mr. Khaparde and Saiyid Raza Ali, and I gather that my Honourable friend Sir Deva Prasad Sarvadhikary was on the whole disposed to accept the general proposition without committing himself to the particular details. Indeed, Sir, a course we at one time contemplated was to submit to the House a Resolution merely endorsing in general terms the recommendations of the Majority Committee; and from the course of the discussion I think I may infer that a proposition of that character would have been adopted practically unanimously and practically without modification. We took the other course of putting a more detailed scheme before the House because we deemed it fair that the House should have a very clear conception of what they committed themselves to in modifying and regulating their own procedure. With regard to the suggestions which have been made on the matters of detail I am very much indebted to Honourable Members who have made them, and I can assure the House that in any further action which we may take upon the Resolution, assuming as I venture now to assume that the House will adopt it, we shall pay very close attention to all these criticisms and all those suggestions.

THE HONOURABLE THE PRESIDENT: The question is:—

“That the Resolution* on the paper be adopted.”

The motion was adopted.

* “This Council recommends to the Governor General in Council that in order to give effect to the recommendation in paragraph 120 of the Report of the Reforms Inquiry Committee the Indian Legislative Rules and the Standing Orders of this House be amended so as to provide as follows:—

- (a) two Standing Committees, one to deal with Bills relating to Hindu Law and the other with Bills relating to Muhammadan Law shall be appointed;
- (b) appointments to these Committees shall be made by a Committee of Selection the members of which shall be appointed at one of the first meetings of the Council to be held in each year and should hold office for one year from the date of nomination;
- (c) the Committee of Selection shall consist of the President, and the Leader of the House supplemented up to a total number of 6 members on a motion moved by the Leader of the House so as to represent the main divisions of opinion in this House;
- (d) the Standing Committee for Bills relating to Hindu Law shall consist of the Honourable the Home Member, the Honourable the Law Member, if they are Members of the Council, and 15 Hindu Members nominated by the Committee of Selection, so as to include persons well versed in Hindu Law and representatives both of the orthodox and reforming sections of the Hindu Community;
- (e) the constitution of the Standing Committee for Muhammadan Law shall be similar to that of the Committee on Hindu Law except for the substitution of 10 Muhammadan Members for the 15 Hindu Members;
- (f) the Members of each Standing Committee shall hold office for one year but may be renominated by the Committee of Selection in successive years;
- (g) a Bill which has been referred to the Standing or a Special Select Committee in one House shall not be referred to the Standing Committee or a Special Select Committee in the other House;
- (h) as soon as leave is given to introduce a Bill other than a Government Bill, and subject to paragraph (g) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House, if the Bill is certified by the President to relate to Hindu or Muhammadan Law, it shall be referred to the Standing Committee concerned without further motion;
- (i) the Standing Committee shall have power to examine witnesses and to circulate a Bill, but when it directs circulation the fact shall be reported to the Council;
- (j) the further procedure in the Council after the report of the Standing Committee received shall be the same as the procedure on receipt of the report of a Select Committee.”

VALEDICTORY SPEECHES ON THE IMPENDING RETIREMENT OF THE HONOURABLE SIR NARASIMHA SARMA.

THE HONOURABLE THE PRESIDENT: With that decision this, the first Council of State constituted under the Government of India Act, has disposed of the last item on the last list of business which will be laid before it for its consideration and disposal. Before the Council of State reassembles for the transaction of business it will have gone through the turmoil of a general

election. I should like to take this opportunity of wishing Honourable Members goodbye and all happiness whatever they may be doing and wherever they may be. No one can foresee what will be the constitution of this House when it reassembles, but I for my part would like to say that if I am here myself, the more old friends and the more familiar faces I see on these Benches, the happier I shall be. Whatever may be the constitution of the House on that occasion there will be so far as we know one notable absentee. I think I am correct in saying that the record created in this House by the Honourable Sir Narasimha Sarma is in one respect unique. He is at all events the only official who from the day of the inception of this Council has without a break to the day of its dissolution been a Member of the House. I do not intend to detain the House but I think Honourable Members will agree with me that they individually and the House as a whole owe to the Honourable Sir Narasimha Sarma a deep debt of gratitude. I think that it is largely due to his sober and dignified demeanour, to the invariable courtesy which he has shown towards the House and towards individual Honourable Members, and I should like to add also towards the Chair, that this House has acquired a reputation for possessing a calm and dignified atmosphere. I think the House would agree with me if I say that some time we should like to see the Honourable Sir Narasimha Sarma back here. (Hear, hear.) As to that he knows his own mind. I wish the Honourable Member and our Honourable Leader goodbye and all prosperity and happiness in the life to which he is now retiring.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal : Non-Muhammadan) : Sir, but for your concluding remarks I was going to have the temerity of differing from the Chair, which we are not permitted to do on questions of rulings, though at times my reasoned private inclinations are to question them. I did not want to agree with you, Sir, that that notable absence to which you have referred should materialise, but taking the cue from what you concluded with I sincerely trust that Sir Narasimheswara Sarma, to give his full name, will once more be, I shall not say, with us,—for “few few shall part where many meet”—but will once more come back, not on those Benches that he now adorns but with those who will be taking our places on this side of the House and give the House that lead that it sometimes lacks.

Sir, in dispersing to-day we do not disperse with the assured conviction and firm assurance that those of us who came here on behalf of our constituencies have been able to do our duty by them according to our lights. Our defeats have been many, our victories few; but the defeats have had environments that gave them the credit of more than victory. We have done our best to discharge difficult and delicate duties and if we have failed oftener than not it was because of odds over which we had no control. With regard to Sir Narasimheswara Sarma's services I have had occasion during the last few days to refer to them not merely by way of farewell laudatory remarks but as a business proposition. Not merely as the amiable gentleman, and the hospitable host that we have known him to be, will this House miss him but much more. The Departments of which he has so successfully been the

Chief for a long time will miss him much. Though he is not in the Agricultural Department now, his achievements there still inspire it. His services with regard to agriculture, to forest research, and veterinary research have been considerable, and last but not the least his loyal, noble and strenuous efforts to get India better honoured and more respected abroad though they will never be known to their fullest extent have been invaluable. Even what little we are permitted to know entitles him fully to the gratitude which you have already bespoken on our behalf. We wish him goodbye and all success and prosperity, not merely in his distant home, but once more in the turmoil of public life from which he had been absent for some few years, but to which he will assuredly come back.

Sir, I referred to his full name. I have now and again looked upon him in the way that our philosophers contemplated his tutelary deity after whom he takes that name—Ugram, Veeram, Mahavishnum, Jwalanlam, Sarvatomukham—Nrisenham, Vishanatham, Vadram Rudra Murtim, Namamyahatim. Gentle yet firm, looking at all sides, fearsome at times but quiet, he watches all interests. That was how the devotion of man conceived his tutelary deity and he has been true to the ideal. We thank you, Sir, for the kind wishes that you have extended to us. Those of us who will come back will, I am sure, be pleased to see you in the Chair, helping us in the difficult duties here.

THE HONOURABLE MR. PHIROZE C. SETHNA : (Bombay : Non-Muhammadan) : In the lives of all of us there comes a time of sorrow and also of great joy. All those who have worked in this Council with Sir Narasimha Sarma have regarded it as a matter of joy to have been associated with him and naturally there is sorrow to-day at losing him from the Official Benches. One who has led so active a life as has Sir Narasimha Sarma is bound to return to public activities after a few months of well deserved and well earned rest, and those of us who may be able to recapture our seats at the coming election or may secure recommendations will be more than delighted to welcome Sir Narasimha Sarma to the non-official Benches of this Council, for by his presence on this side of the House he will greatly strengthen our ranks. Sir Narasimha Sarma is one of those who has always endeavoured to go to the furthest length he can to meet the non-official Members in their opposition or in their demands. He is one who to the virtues of firmness and of judgment adds the companion virtue of fairness of dealing. To him service rather than self-interest has been the watchword of life. He has a sweet tolerance and a kindly courtesy which has greatly endeared him to us all. In the definition of one's character it is perhaps well to eliminate “ifs” and “buts”. The “ifs” and “buts” in Sir Narasimha Sarma's case are negligible. He has throughout been an unostentatious worker and has believed in doing his duty with a sincerity of purpose and according to his best lights. Life's greatest joy is in the anticipation of each day's accomplishments and the truest contentment comes in the momentary satisfaction of work well done. Such satisfaction must have come to Sir Narasimha Sarma from day to day during the six strenuous years of his Membership of the

[Mr. Phiroze C. Sethna.]

Executive Councillorship of the Government of India, where he will leave behind the impress of his good work. Sir Narasimha Sarma has still many years of great usefulness before him. We trust all his hopes and expectations will be realised and we wish him all that he wishes himself.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I desire to say only a few words on this occasion simply to associate myself as a European official member of this House and on behalf of my colleagues with everything that has been said regarding the parting which we so sadly apprehend with our Honourable Leader. An official Member of this House, especially a Secretary to the Government of India, is necessarily brought into very close contact with Members of Government, and more particularly with the Member of Government who is the Leader of this House.

And, Sir, if I may do so without presumption or impertinence, I should like to say that we, who have been brought so closely into contact with Sir Narasimha Sarma, not only in this House but in the discharge of his great responsibilities in the Government of India, have been most profoundly impressed by his consistent and unfaltering sincerity of purpose. (Applause.) It has necessarily happened,—and I reveal no secrets of State,—that a Secretary to Government and an Honourable Member of the Executive Council,—do not always see eye to eye. But if on any such occasion we had differences of opinion with Sir Narasimha Sarma, whichever view prevailed, we have never had the slightest doubt that the view for which he contended was a view on which he had long and deeply reflected, and that it honestly and deliberately arrived at on conviction. On the other hand, we have come very closely in contact with Sir Narasimha Sarma in his private life owing to his lavish and kindly hospitality. (Applause.) As a near neighbour of Sir Narasimha Sarma, I have constantly shared, and I may particularly mention, if I may be permitted to mention that, my small family has regularly shared, in Sir Narasimha Sarma's hospitality. That is a characteristic which those who have met him frequently will never forget. Strong, honest, persistent and sincere in his public life, Sir Narasimha Sarma has also held up to us a high ideal of private life.

"His life is gentle and the elements so mixed in him that nature may stand up and say to all the world 'This is a man'".

THE HONOURABLE SAIYID RAZA ALI (United Provinces: Muhammadan): Sir, I associate myself with the remarks that have fallen from you and from my Honourable colleagues as regards the Honourable Sir Narasimha Sarma. The only additional remark that I can perhaps usefully make on this occasion is that at Delhi and Simla, when Sir Narasimha Sarma leaves us, he will leave a host of friends and enemies hardly any. (Applause.)

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, I am deeply touched by the generous manner in which very kindly references of appreciation have been made to me by you, Sir, and by all sections of the House, official as well as non-official, and I do not know how in adequate terms to convey my grateful feelings to the House and to its President for all the good things they have been pleased to say of me. If I were a vain man,

I should certainly think that there is something in me which entitles me to the generous consideration of my friends and fellow-workers. But I know the innate, gentle and cultured disposition of both the Indian and the European Members of this House, and I shall not be certainly so vain as to imagine that I deserve even a fraction of what has been said about me. But, Sir, I appreciate in the fullest degree the generosity of disposition, the warmth of heart, and the kindness of manner which have dictated the expression of those sentiments. I am proud indeed to have been associated with the work of this Council throughout its life, during the first term of its existence. The Council has eminently fulfilled the functions for which it has been designed. It has been designed to be a revising Chamber, to be a reflection of India as she is, to bring within a small focus all interests, commercial, landholding, intellectual, official and otherwise, in their true proportions, so that, when the work of the Assembly comes up to it for revision, it may exercise its judgment in such a manner as will secure confidence in every one interested in the stable progress of this country. We have had distinguished soldiers—we have now a distinguished soldier sitting on these Benches,—need we say that we are proud to own a Field Marshal, the first Field Marshal belonging to the Indian Army (Applause),—we had the late Lord Rawlinson, one of the most distinguished soldiers who adorned these benches, we have a Colonel and a Major who are unofficially in charge of the protection of the frontiers. We have had commercial magnates from Calcutta, Bombay and Madras, reflecting the commercial opinion of all classes, European and Indian alike. And the Government have not failed to notice, I may assure the House, the rising patriotic sentiment amongst the commercial classes, both European as well as Indian, which makes them unite in the defence of their interests and what they conceive to be the national interest. We have had distinguished lawyers in the past, and we have them now; we have many eminent officials who work the real machinery of the Government of India and of the provinces, and we have representatives of the Press notable for their achievements.

Sir, the landholding interests are, I think, one of the stable factors of society in this country, and they cannot complain that they have been omitted. I am referring to these factors merely for the purpose of showing that India, as she is, is represented in true proportions, and, if sometimes Members as a whole are unable to see eye to eye with others, who wish to see the pace of reform a little more brisk and forward, the country is likely to regard that the deliberate judgment of this House truly reflects Indian opinion as it is, although some may think that Indian opinion as it is is not as progressive as perhaps they may wish it to be. Men from this House have been chosen by the Government to fill distinguished places and have earned distinction for this House. The Right Honourable Srinivasa Sastri has been sent by the Government from this House on a mission abroad and has brought notable distinction to this House. Sir Alexander Murray, Sir Maneckji Dadabhoy, Mr. Kale and others have served upon committees directly interested in the future material progress of this country. There have been others who have been appointed to do work in other directions. Sir Arthur Froom has been appointed Member of a Committee which sat to evolve a progressive line of policy with regard to constitutional reforms. Mr. Phiroze Sethna, I am sure, will distinguish himself on the

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of Sir Narasimha Sarma.]

Skeen Committee and elaborate for our benefit a progressive line of policy, to which I hope His Excellency the Commander-in-Chief will be able to give his consent. These are distinctions of which any House may be proud, and I am sure that those who have adorned these Benches will have the good fortune to be returned to this House to work for the benefit of the country. May I, Sir, join you in wishing them God-speed in their endeavours, in wishing them success in their efforts to come back here to serve their country and their constituencies, and I hope that when the House next meets, the House will under your able guidance be able to show even greater progress than it may be able to claim during the past five years of its activities.

As a Member of the Government who was for sometime in charge of Education and Agriculture, let me say, Sir, that I have derived the greatest assistance possible from this House—greater perhaps than has been possible for the other House amidst its manifold activities to give for the constructive regeneration of this country. The criticisms, the constructive help given by the Members, have been very helpful to me in securing funds from that hard-hearted Finance Department, whose representative sat here, a few minutes ago. I cannot complain of Mr. McWatters. He has been very generous to us in our attempts to advance the sugar industry. I may repeat that your criticism has always been helpful and I welcomed it and it is one of the most notable achievements of this House, of which I am more than has been possible elsewhere, and I hope that in its future activities this House will devote its attention even to a larger degree than in the past to spheres of activity, which are calculated to promote the economic development of this country. There are men and there will be men here eminently suited for that task and if only the commercial men, the landholders, and the representatives of all other classes put their heads together to evolve constructive schemes of progress, I think this House will, in addition to discharging their function of a revising Chamber, be undertaking tasks which will ensure far more for the benefit of this country than may be recognised in other quarters.

Sir, I have taken up your time and the time of the House rather unduly. I thank you all once again from the bottom of my heart for all your kindly feelings so eloquently expressed and I wish you once again success in your endeavours to employ yourselves usefully as Councillors for the benefit of the State. With regard to myself, the Councils have had a peculiar fascination for me. I have lived in their midst for the last twenty years and I am sure that with a little rest that fascination will come over me again, and I shall be enabled to toil and work for the benefit of the country along with you and side by side with you. I have been a servant of the public for sometime and I hope during the few short years that may remain to me I shall continue to serve my country and the Crown in the same humble capacity as I have done in the past.

The Council then adjourned till eleven of the clock on Thursday, the 17th September, 1925.

COUNCIL OF STATE.

Thursday, the 17th September, 1925.

The Council met in the Council Chamber at Eleven of the Clock.

FAREWELL ADDRESS OF HIS EXCELLENCY THE VICEROY TO THE FIRST COUNCIL OF STATE.

His Excellency the Viceroy with the President of the Council having arrived in procession, His Excellency took his seat on the dais.

HIS EXCELLENCY THE VICEROY: *Gentlemen of the Council of State.*—As you will have surmised, my purpose in summoning you to-day is to bid farewell to you, who by to-day's proceedings are bringing the final Session of this Council to a conclusion. You came into existence shortly before I arrived. I have had the opportunity of meeting most of you on many occasions both public and social. I have made the acquaintance of nearly every member, and this acquaintance has led in various cases to a more intimate relationship, even to friendship. I bid you farewell with regret. As is inevitable, the coming elections must bring some changes in the composition of your body. Whether these are many or few, I do not doubt that the record of this, the first Council of State, will bear honourable comparison with any of its successors and will endure as an example and a lesson in the sober and temperate exercise of the wide powers entrusted to it by the Constitution.

It is interesting to pause and recall some of the developments connected with the birth of this Chamber. Those of you who have followed the fortunes of the Government of India Act, 1919, from the time of the introduction of the Bill in the House of Commons, will remember that as originally planned the Council of State was intended to be a body in which the Government of India would be assured of a majority, for under its constitution the Council of State was to consist of the Governor General and 56 Members, of whom as many as 28 might be officials. Had this conception prevailed, it would have enabled me to have taken part in the deliberations of this House instead of having to summon you when I wished to address you. But the Joint Committee on the Bill revised this proposal and, to use their language, "re-constituted the Council as a true Second Chamber." This point was also emphasised by His Royal Highness, the Duke of Connaught, in his speech on the inauguration of the Indian Legislature, in the following passage:

"In the Council of State it has been the intention of Parliament to create a true Senate, a body of elder statesmen endowed with mature knowledge, experience of the world and the consequent sobriety of judgment. Its functions will be to exercise a revising but not an overriding influence for caution and moderation, and to review and adjust the acts of the larger Chamber."

Your numbers are 60, of whom 33 are elected, and of the nominated members not more than 20 may be officials. Of those nominated members, one,

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the representative of Berar, is for all practical purposes an elected member and the number of officials has been reduced as low as 17. I cite these facts for the purpose of showing that, as the discussions on the form of the new constitution developed, it was decided that the Government of India should surrender its majority and trust the Council of State, and further that after the constitution of the Council of State was finally settled by Parliament, the Governor General advanced again on the path of trust by refraining from nominating the full number of officials allowed by the Act and nominating non-officials in their place.

It has been a source of great gratification to myself as Governor General, in whom the right of nomination is vested, and to my Government that this policy of trust has been amply justified. At the same time it should be observed that the nominated non-officials have not sacrificed their opinions to their position. The division lists of this Council furnish an abiding record that the nominated non-officials have not hesitated to vote against Government at the dictates of their reason or their conscience. On the other hand, they have not shrunk from shouldering the burden of temporary unpopularity, which too often is incurred by those who, undisturbed by waves of passion and prejudice, have applied a calm and sober judgment and have voted with Government when they were convinced that the higher interests of the country required it, when they were satisfied that these interests were being faithfully served by Government. The nominated non-official members have, in fact, exercised their functions with the same sense of independence and responsibility as the elected members of the Chamber, and I can therefore, in what I am about to say regarding the work of the Council of State as a whole, deal with all the non-official members of this Council as forming one body of men with firm principles and broad outlook, keenly alive to the responsibilities of their position as members of a Second Chamber in which they command an overwhelming majority.

I am well aware of the wide field of the interests you represent. I see here what I may almost call the hereditary element represented by the great Zemindars, I see the leaders of the learned professions and I see men who have climbed the steep ladders which lead to success in the regions of commerce and industry. I am grateful to you, Gentlemen, who have given liberally your valuable time; and who have made personal sacrifices to this end, and I am grateful to those great commercial concerns which have allowed their members to attend this Council. To no small number of you also I have to render thanks on behalf of my Government for services ungrudgingly rendered on Commissions and Committees of the utmost importance. I must include in these expressions of thanks, not only those who are at present members, but also those who by reason of other duties, or because of ill-health, have been precluded from retaining their seats in the Council. I also include those who have been removed by the hand of death, whose memories are cherished by their families and friends and colleagues.

So far I have referred only to non-official members and for obvious reasons; but I should indeed be failing if I do not pause to pay my tribute of admiration

and gratitude to the official members of this Chamber, who have throughout striven ardently and persistently to ensure success for the Reforms and have given their valuable assistance in the deliberations of this Chamber.

It has been a matter of great regret to me that, in the comparatively short space of less than five years, circumstances have compelled me to appoint no less than three Presidents. My only justification for taking away so quickly that which I had given was the interests of the public service of India. You will admit, I am sure, that on each occasion I have sought to give again of the best that was available for my selection. To Sir Alexander Muddiman, your first President, we owe much, for he occupied the Chair for a sufficiently long time to carry the Council well on its way, and to establish for it a worthy tradition of dignity and courtesy and no less a record of high efficiency. He will be remembered as the first President of this new Chamber who set an example which others will assuredly be glad to follow. To find a suitable successor to fill his place was a difficult task, and I had no alternative but to give you one of the Secretaries of the Government of India. Hardly had I had time to congratulate myself on the success of Sir Montagu Butler as President of this Council when he became Governor of the Central Provinces, and again with much regret and searching of heart I did what I could to make amends to you by surrendering yet another of the trusted Secretaries of Government—Sir Henry Moncrieff Smith, who now presides over your deliberations with the serenity and distinction fully expected by all who had become familiar with his capacities and with his efforts since the inception of the Reforms. Alas! that there must be so many farewells! The Leader of your House, Sir Narasimha Sarma, has more than completed his term of office and will soon be leaving you and, to our regret, me and my colleagues in the Executive Council. We shall miss him very much, not only at our meetings but generally in the work carried on by the Executive Government. No Viceroy ever had a more loyal, honest and independent-minded colleague who, whilst never forgetting his obligations as a Member of the Council, always remained true to his duty to his Indian compatriots, and faithfully presented their views in a manner that not only commanded great respect, but also deserved and received the closest attention. He is a genuine Indian patriot and a true servant of the Empire, with a broad outlook on human affairs aided by a zeal for research in the dusty pages of blue books and the keen and fearless judgment of a man whose paramount desire is to advance the interests of India and the Empire.

In dealing with the measures that have come before it this Council has shown alike qualities of fearlessness and sobriety. Whilst you have been loth to interfere with measures which did not involve any vital principle, you have not hesitated to reject measures which in your calm and considered judgment and according to your conscience threatened the foundations of good government and would not truly serve the best interests of India. The need for the exercise of your powers for either of these reasons has fortunately been infrequent. The functions of a Second Chamber have already been indicated in the quotation I made from the speech of His Royal Highness the Duke of Connaught. There should be no tendency to vexatious interference with the proceedings of the other House, and yet the Second Chamber must not

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shrink from exercising the powers entrusted to it when matters of vital interest are at stake. In other respects it may often be able to make suggestions which may be recognised by the other Chamber as improvements. You have performed these difficult functions with a due sense of responsibility and have brought your judgment to bear upon the problems that confronted you with the sole desire to serve your country to the best of your ability.

The Indian Legislature, as constituted by the Government of India Act, consists of the Governor General, the Council of State and the Legislative Assembly. Looking back on the history of the Indian Legislature during the past four and a half years, it is to be recorded that there has been a large measure of agreement achieved between the component bodies—a result as creditable to the one Chamber as to the other. Differences there no doubt have been; often they concerned practical measures which were being discussed on their merits, and these have usually been found capable of adjustment. It is mainly on questions of Finance and of the Constitution that the Chambers have found themselves in disagreement. I shall not dwell on the differences relating to finance which in the opinion of many competent observers rather presented a vehicle for the expression of political views than revealed any fundamental divergence of opinion on questions of revenue and expenditure.

You have within the last few days given expression to the opinions you hold regarding the Constitutional problem. When I addressed you in conjunction with the other Chamber at the opening of this Session, I strove to make plain what were in my view and, be it observed, also in that of the Secretary of State, the necessary conditions for an advance. I shall not to-day repeat the arguments or enter into controversial discussion. The Resolution proposed by the Government and accepted by this Chamber will, in accordance with the statements made to this effect, be duly considered by my Government together with the amendment carried by the Legislative Assembly. The conclusions of the Indian Legislature must be considered as a whole, attributing due weight to that part which proceeds from the Council of State and, I believe, represents no inconsiderable proportion of the intelligent and stable elements in the country. Whilst I do not intend further to discuss the Constitutional question with you to-day, I desire to express my satisfaction that from the reports to me of your debates you have rightly interpreted the observations I made regarding my earnest desire for the development of a spirit of friendly co-operation and good-will. My object, as you have understood, was not merely to emphasise that this was the quickest and the surest way of obtaining the appointment of a Royal Commission earlier than 1929, but also—and of even greater importance—of creating a more favourable atmosphere for the holding of this momentous inquiry whenever it may take place.

In times of special difficulty, as times of transition must necessarily be, you have rendered a high service to your country by fulfilling to the best of your judgment the responsible role assigned to you by the Constitution. You have dealt with the important affairs which have come before you according to your conscience and in a spirit of good sense and moderation. As I

understand your views, you stand for progress and the political advancement of India as rapidly as can be achieved with due regard to the dictates of prudence and wisdom and the special conditions appertaining to India. It is upon these broad-based foundations that you desire to construct the road to advance and to erect the superstructure destined to crown the efforts for the greater contentment and happiness of the Indian people. In the knowledge that you have throughout acted in full accordance with these ideals and have been animated by a lofty sense of duty and a steadfast determination to advance the interests of India, I regretfully bid you farewell and cordially wish you all happiness.

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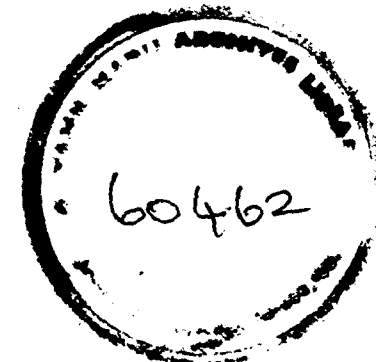
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